

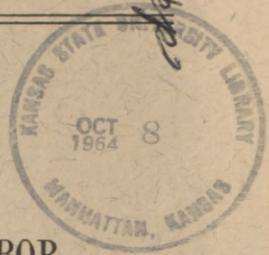
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OVERTIME PENALTY PAY ACT OF 1964

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HEARINGS BEFORE THE SELECT SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES EIGHTY-EIGHTH CONGRESS SECOND SESSION

ON
H.R. 1680 and H.R. 9802

BILLS TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938,
AS AMENDED, TO IMPROVE THE ACT'S OVERTIME STANDARDS

HEARINGS HELD IN WASHINGTON, D.C.

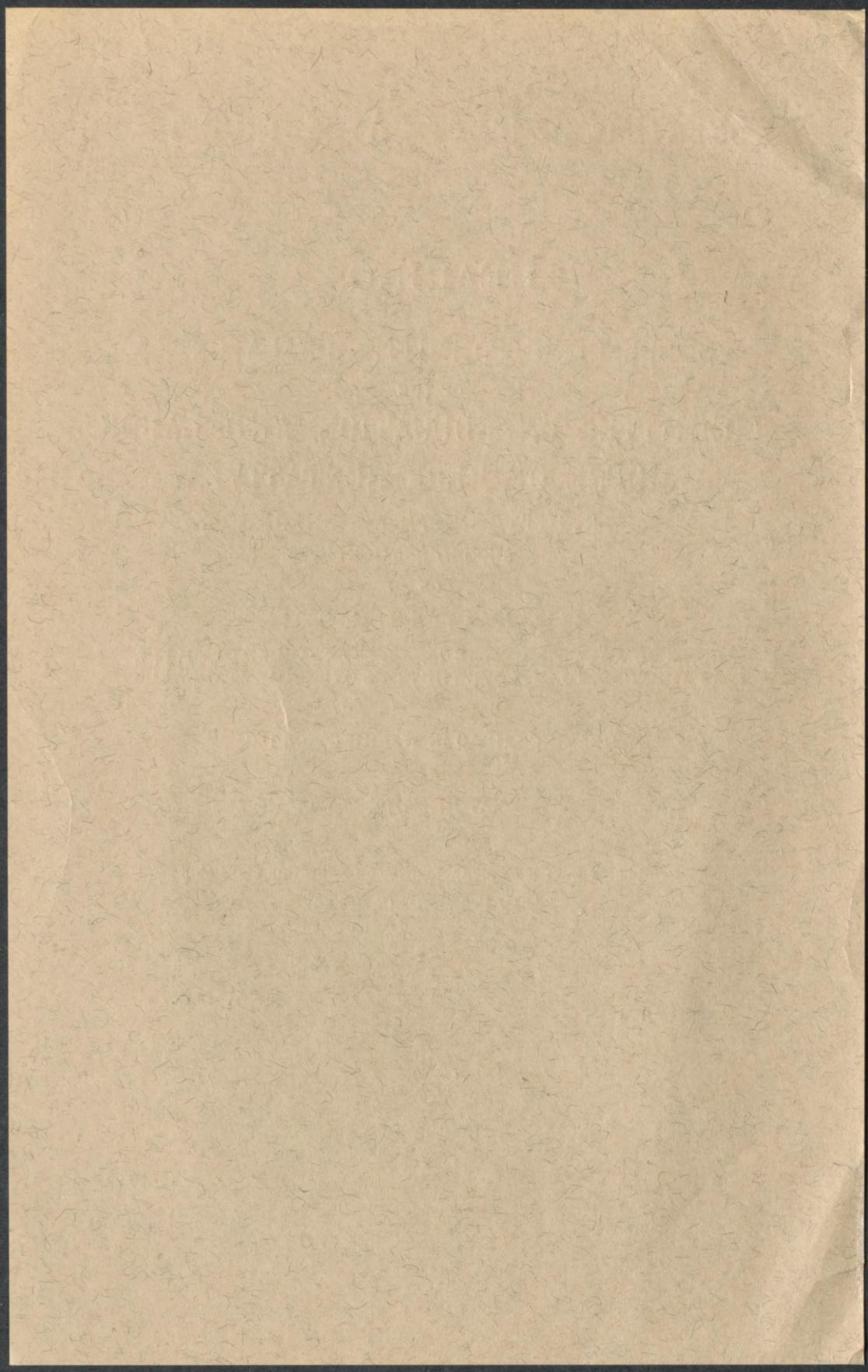
APPENDIX

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ADAM C. POWELL, *Chairman*

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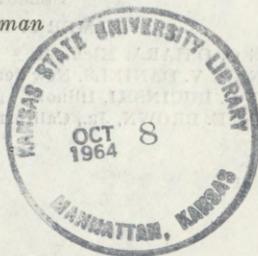
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CONTENTS

	Page
AFL-CIO Executive Council, statement by.....	976
Aicher, W. Michael, vice president, industrial relations, United States Brewers Association, statement of.....	1125
Allen, Dudley C., industrial relations manager, electric department, Public Service Electric & Gas Co., Newark, N.J., letter to Chairman Holland, dated February 24, 1964.....	1108
Aluminum Co. of America, statement of the.....	1092
American Apparel Manufacturers Association, Inc., statement of.....	1171
American Association of Industrial Management (National Metal Trades Association), statement of.....	923
Ames, John B., Ames Bag & Packaging Corp., Marion, Ala., letter to Chairman Holland, dated March 3, 1964.....	1035
Anderson, Charles E., general manager of industrial relations, Rayonier, Inc., statement by.....	947
Anderson, Hon. John B., a Representative in Congress from the State of Illinois:	
Aldeen, Norris A., executive vice president, Amerock Corp., Rockford, Ill., letter from.....	1206
Bjorklund, Ray, corporate personnel administrator, Sundstrand Corp., Rockford, Ill., letter from.....	1210
Collin, E. L., president, Greater Rockford Tool & Die Manufacturers Association, Rockford, Ill., letter from.....	1211
Geddes, Leslie H., president, Greenlee Bros. & Co., Rockford, Ill., letter from.....	1203
Kardell, Wallace, president, K. & K. Machining Specialties Co., Loves Park, Ill., letter from.....	1212
Lee, E. L., works manager, W. F. & John Barnes Works, Rockford, Ill., letter from.....	1212
Lentz, Vern E., vice president for manufacturing, Camcar Screw & Manufacturing Co., Rockford, Ill., letter from.....	1213
Lidbetter, Ward P., vice president of manufacturing operations, Rockford Screw Products Co., Rockford, Ill., letter from.....	1206
McLeod, Ralph H., director of employee relations, J. L. Clark Manu- facturing Co., letter from.....	1208
Mincemoyer, John F., director of industrial relations, Rockford Clutch Division, Borg Warner Corp., Rockford, Ill., letter from.....	1208
Sommer, John R., executive vice president, National Lock, Rockford, Ill., letter from.....	1207
Wemple, Harry, executive vice president and general manager, Elco Tool & Screw Corp., Rockford, Ill., letter from.....	1205
Anderson, Robert E., president, Corinth Machinery Co., Corinth, Miss., letter to Chairman Holland, dated March 10, 1964.....	1096
Armstrong Cork Co., Lancaster, Pa., statement of.....	1014
Austill, W. H., Austill Waxed Paper Co., Jacksonville, Fla., letter to Chairman Holland, dated March 19, 1964.....	986
Automation Engineering Laboratory, Inc., Stamford, Conn., statement of...	1213
Aymond, A. H., chairman of the board, Consumers Power Co., Jackson, Mich., statement of.....	1020
Baker, B. J., president, Comet Feed Mill, Ardmore, Okla., letter to Con- gressman Belcher, dated March 23, 1964.....	1088

	Page
Baker, Burke, Jr., president, Gulf Atlantic Warehouse Co., Houston, Tex.:	
Statement of	1270
Telegram to Congressman Bob Casey	984
Baker, Thomas F., executive vice president, American Bottlers of Carbonated Beverages, letter to Chairman Holland, dated April 9, 1964.....	986
Ball, Russell C., Jr., president, American Gear Manufacturers Association, letter to Chairman Holland, dated April 13, 1964.....	925
Barnett, John V., executive vice president, Indiana State Chamber of Commerce, letter to Chairman Holland, dated February 27, 1964.....	1133
Barringer, Paul B., secretary and treasurer, Eastern North Carolina Lumber Manufacturers Association, Inc., Weldon, N.C., letter to Chairman Holland, enclosing article in Dun & Bradstreet.....	1030
Bass, Robert O., president and general manager, Morse Chain Co., Ithaca, N.Y., statement by.....	1100
Bauer, Cecil, president, Nashville Area Chamber of Commerce, Nashville, Tenn., letter to Chairman Holland, dated March 31, 1964, enclosing report of congressional action committee.....	1065
Beatty, A. W., president, Flowline Corp., New Castle, Pa., letter to Chairman Holland, dated February 26, 1964.....	1081
Beaver, C. J., president, the China Grove Cotton Mills Co., China Grove, N.C., letter to Chairman Holland, dated February 28, 1964.....	1029
Beckel, Arthur F., vice president, Robbins & Myers, Inc., Springfield, Ohio, letter to Chairman Holland, dated February 26, 1964.....	1134
Bennett, David, Modern Millinery Box Corp., Brooklyn, N.Y., statement by.....	978
Bergstrom Paper Co., Neenah, Wis., statement on behalf of the.....	1106
Bison, Henry, Jr., general counsel, National Association of Retail Grocers of the United States, statement by.....	1137
Bixby, H. G., president, Ex-Cell-O Corp., Detroit, Mich., letter to Chairman Holland, dated March 3, 1964.....	1021
Black, Hugh A., director of industrial relations, the Mead Corp., statement of.....	962
Blair, Paul C., vice president and treasurer, Webster Brick Co., Inc., letter to Chairman Holland, dated March 2, 1964.....	1124
Boxley, Abney, president, Blue Ridge Stone Corp., Roanoke, Va., letter to Chairman Holland, dated March 3, 1964.....	1165
Brooks, Sanford M., president, the Tool Steel Gear & Pinion Co., Cincinnati, Ohio, letter to Chairman Holland, dated March 2, 1964.....	1109
Brown, Duncan C., treasurer, Marshall Supply & Equipment Co., Tulsa, Okla., letter to Congressman Belcher, dated March 10, 1964.....	1064
Brown, Russell L., Brown Manufacturing Co., Oklahoma City, Okla., letter to Chairman Holland, dated March 17, 1964.....	1026
Buehler, A. C., chairman and president, Victor comptometer Corp., Chicago, Ill., letter to Chairman Powell, dated March 31, 1964.....	1045
Burns, A. Lincoln, corporate personnel manager, West Virginia Pulp & Paper Co., New York, N.Y., statement of.....	949
Butler, H. H., director of government relations, United States Independent Telephone Association, letter to Chairman Holland, dated March 12, 1964.....	1111
Byrd, Tom, president, the Lau Blower Co., Dayton, Ohio, letter to Chairman Holland, dated April 1, 1964.....	1089
Cabin Crafts, Inc., Dalton, Ga., statement of.....	1121
Cameron, Walter L., assistant treasurer, New England Metal Culvert Co., Palmer, Mass., letter to Chairman Holland, dated March 11, 1964.....	1097
Carter, Henry Z., president, Avondale Shipyards, Inc., New Orleans, La., letter to Chairman Holland, dated March 2, 1964.....	1166
Cartun, W. P., vice president and general manager, Westinghouse Air Brake Division, Westinghouse Air Brake Division, Wilmerding, Pa., letter to Chairman Holland, dated March 5, 1964.....	1255
Central Supply Association, statement of.....	1066
Clapp, W. J., president, Florida Power Corp., St. Petersburg, Fla., statement of.....	1081
Coffey, Harold F., president, Kent-Coffey Manufacturing Co., Lenoir, N.C., letter to Chairman Holland, dated March 4, 1964.....	1048
Coleman, Robert I., Woodbury, Conn., letter to Chairman Powell, dated April 6, 1964.....	1044

	Page
Collins, George F., Jr., president, Liberty Glass Co., Sapulpa, Okla., te le gram to Congressman Belcher-----	1063
Columbia Gas System, Inc., New York, N.Y., statement of the-----	1184
Commerce & Industry Association of New York, Inc., statement of the---	1082
Confer, Ogden P., president, Hubbard Milling Co., Mankato, Minn., letter to Congressman Nelsen, dated March 16, 1964-----	1070
Cotabish, Matthew I., labor and community relations director, Clevite Corp., Cleveland, Ohio, statement by-----	1140
Counihan, Donald M., general counsel, American Corn Millers' Federation, letter to Chairman Holland, dated April 6, 1964-----	1091
Crawford, Raymond F., personnel manager, Mackintosh-Hemphill, Pitts- burgh, Pa., statement on behalf of the National Foundry Association----	978
Crenshaw, A. D., president, Magnet Mills, Inc., Clinton, Tenn., letter to Chairman Holland, dated March 3, 1964-----	1024
Crowley, Vincent C., Crowley's Milk Co., Inc., Binghamton, N.Y., letter to Chairman Holland, dated February 12, 1964, enclosing article in In- dustrial Relations News-----	1197
Cummings, Thomas L., Jr., president, Cummings & Co., Nashville, Tenn., letter to Chairman Holland, dated March 4, 1964-----	1061
Davis, C. W., president, Southern Coal Producers' Association, letter to Chairman Holland, dated February 27, 1964-----	1143
Davis, Hugo H., president, Koken Cos., Inc., St. Louis, Mo., letter to Chairman Holland, dated March 4, 1964-----	1019
Day, V. B., vice president, General Electric Co., New York, N.Y.: Letter submitting views-----	949
Dendy, Carl V., vice president, Southern Bakeries Co., Atlanta, Ga., letter to Chairman Holland, dated March 2, 1964-----	1145
Diez, Everett E., executive vice president, Shoe Service Institute of America, Chicago, Ill., letter to Paul Courtney, National Association of Wholesalers-----	1216
Dodds, Robert B., president and treasurer, Safety Electrical Equipment Corp., New Haven, Conn., statement submitted by-----	1018
Dodge, Afton S., vice president, industrial relations, Taylor Instrument Cos., Rochester, N.Y., statement of-----	1117
Eckrich, Henry C., president, Peter Eckrich & Sons, Inc., Fort Wayne, Ind., letter to Chairman Holland, dated March 10, 1964-----	1117
Etzel, W. T., Jr., vice president and economist, First Federal Savings & Loan Association of Miami, Miami, Fla., letter to Chairman Holland, dated March 20, 1964-----	1088
Falk, Ernest, manager, Northwest Horticultural Council, statement of----	924
Farabaugh, John G., director of industrial relations, Wheelabrator Corp., Mishawaka, Ind., letter to Chairman Holland, dated April 16, 1964-----	1047
Farmer, James W., labor relations administrator, Simpson Timber Co., Seattle, Wash., statement of-----	1108
Farrell, Leonard B., director of industrial and public relations, the Ruberoid Co., New York, N.Y., statement by-----	971
Fenninger, L., Jr., assistant to vice president, Bethlehem Steel Co., Inc., letter to Chairman Holland, dated April 9, 1964, enclosing a "Study of Overtime Work During 1963 at the Bethlehem Steel Co. Plant at Spar- rows Point"-----	1260
Chart A.—Total, daily overtime and weekly overtime hours worked, 1963-----	1268
Chart B.—Weekly overtime hours in percent of total worked, 1963----	1269
Table 1.—Total and overtime hours worked by hourly-paid employees----	1263
Table 2A.—Blast furnace department—Total and overtime hours worked by hourly-paid employees, 1963-----	1264
Table 2B.—Hot sheet mills—Total and overtime hours worked by hourly-paid employees, 1963-----	1265
Table 2C.—Rod and wire mills—Total and overtime hours worked by hourly-paid employees, 1963-----	1266
Table 3.—Hourly-paid employees by number of hours worked, 1963----	1267
Fischer, R. P., executive vice president, the Cuneo Press, Inc., Chicago, Ill., letter to Chairman Holland, dated March 12, 1964-----	1113
Fisher, L. H., vice president, personnel and industrial relations, 3M Co., St. Paul, Minn., statement by-----	1037
Frankovich, George R., executive director, Manufacturing Jewelers & Silversmiths of America, Inc., Providence, R.I., statement of-----	1115

	Page
Fullerton, David C., executive manager, National Telephone Cooperative Association, letter to Chairman Holland, dated March 20, 1964.....	1100
Gray, Charles M., manager, Insulation Board Institute, Chicago, Ill., letter to Chairman Holland, dated April 28, 1964.....	1050
Gray, F. B., president, Gray Concrete Pipe Co., Inc., Thomasville, N.C., letter to Chairman Holland, dated February 27, 1964.....	1080
Greer, Don S., president, J. W. Greer Co., Wilmington, Mass., letter to Chairman Holland, dated February 28, 1964.....	1132
Gwaltney, H. W., president, chief executive officer, Gwaltney, Inc., Smithfield, Va., letter to Chairman Holland, dated February 18, 1964..	1132
Harr, Karl G., Jr., president, Aerospace Industries Association, statement of.....	1073
Harris, J. D., president, the Warren Co., Inc., Atlanta, Ga., letter to Chairman Holland, dated February 28, 1964.....	1145
Hathway, Clifford N., vice president, Caterpillar Tractor Co., Peoria, Ill., statement of.....	907
Henderson, Mike, president, Henderson Homes, Edmond, Okla., letter to Congressman Belcher, dated March 9, 1964.....	1062
Herrmann, R. L., executive vice president, the Williamson Co., Cincinnati, Ohio, letter to Chairman Holland, dated April 9, 1964.....	1076
Hoffman, Eugene A., director of personnel, Weyerhaeuser Co., Tacoma, Wash., statement by.....	1161
Hood, Edwin M., president, Shipbuilders Council of America, letter to Chairman Holland, dated March 6, 1964.....	1036
Hooper, Arthur W., executive director, National Association of Electrical Distributors, New York, N.Y., letter to Chairman Holland, dated March 20, 1964.....	985
Hopkins, L. R., vice president and chairman of Washington Committee, National Confectioners Association of the United States, Inc., letter to Chairman Holland, dated February 28, 1964.....	1180
House, Malcolm G., manager, industrial relations, Clark Equipment Co., Buchanan, Mich., letter to subcommittee.....	1059
Howe, Harold K., manager, Washington office, American Institute of Laundering: Letter to Chairman Holland, dated March 24, 1964.....	927
Statement of American Institute of Laundering.....	927
Hulse, John B., managing director, Truck Trailer Manufacturers Association, letter to Chairman Powell, dated March 17, 1964, enclosing resolution.....	1195
Humphreys, B. L., president, the Barton Salt Co., Hutchinson, Kans., letter to Chairman Holland, dated March 5, 1964.....	1062
Ingersoll Milling Machine Co., the, statement of.....	1202
Johnson, W. A., plant manager, Pollock Paper Co., Columbus, Ohio, letter to Chairman Holland, dated March 5, 1964.....	1060
Jones, Louis P., president, Canton Cotton Mills, Canton, Ga., letter to Chairman Holland, dated February 28, 1964.....	1120
Kamph, H. N., president, Business Systems, Inc., Los Angeles, Calif., letter to Chairman Roosevelt, dated March 9, 1964.....	1176
Kayser, Paul W., vice president of personnel, Anderson, Clayton & Co., Houston, Tex., statement of.....	1103
Keen, Everett M., president, Keen Manufacturing Corp., Millville, N.J., letter to Chairman Holland, dated March 31, 1964.....	1164
Kellar, Kenneth C., statement on behalf of the American Mining Congress.	1083
Kelly, Frederick G., president, Servometer Corp., Clifton, N.J., testimony by.....	1025
Kerberg, Lewis B., administrative secretary, Louisville Chamber of Commerce, letter to Chairmen Roosevelt and Holland, dated February 21, 1964.....	1178
Kern, H. G., Record American and Sunday Advertiser, Boston, Mass., letter to Congressman Thomas P. O'Neill.....	981
Kigar, Donald F., executive vice president, Detroit Edison Co., statement submitted by.....	1026
Killick, John A., executive secretary, the National Independent Meat Packers Association, statement of.....	943
Kimberly-Clark Corp., Neenah, Wis., statement by.....	1114
Kinsey, B. T., Jr., president, Titmus Optical Co., Inc., Petersburg, Va., statement by.....	1167

	Page
Knauer, A. R., vice president, general manager, Frank Bancroft Co., Inc., Dearborn, Mich., letter to Chairman Holland, dated February 21, 1964	1165
Koch, Robert M., president, National Limestone Institute, Inc., statement of	1148
Kreutzer, Arthur C., vice president and general counsel, National LP-Gas Association, Chicago, Ill., letter to Chairman Holland, dated April 15, 1964	982
Lacke, Warren A., general manager, Industrial Relations, Continental Can Co., statement by	918
Lang, Charles, president, North American Folding Box Co., Inc., Brooklyn, N.Y., statement by	1047
Lay, Ira V., president, Lay Packing Co., Knoxville, Tenn., letter to Chairman Holland, dated March 4, 1964	1036
Lehman, W. Kemp, president, the C. M. Kemp Manufacturing Co., Glen Burnie, Md., letter to Chairman Holland, dated March 18, 1964	1102
Libra, A. L., secretary-counsel, Helena Employers Association, Helena, Mont., letter to Chairman Holland, dated February 18, 1964	1030
Liechti, R. J., president, M & D Store Fixtures, Inc., letter to Chairman Holland, dated February 12, 1964	1131
Lindsay, Hon. John V., a Representative in Congress from the State of New York:	
Andrews, Mrs. James, New York, N.Y., letter from	995
Cantelmo, Edward C., president, Brewer-Cantelmo Co., Inc., New York, N.Y., letter from	991
Cooney, Vincent T., chairman, Government Affairs Committee, International Association of Blue Print & Allied Industries, letter from	996
Ikonen, C. H., manager, New York office, Caterpillar Tractor Co., Inc., letter from	994
Kalbach, John C., vice president, Markite Corp., New York, N.Y., letter from	991
Kubilius, T. J., personnel director, United States Tobacco Co., New York, N.Y., letter from	992
Leinbach, F. S., president, Riegel Paper Corp., New York, N.Y., telegram from	996
McGovern, George T., Sr., president, G. T. McGovern Trucking Co., Inc., New York, N.Y., letter from	991
Neubauer, Frank, Transkrit Corp., New York, N.Y., letter from	993
Neubauer, Richard, New York, N.Y., letter from	992
Nissan, Alfred H., corporate research director, West Virginia Pulp & Paper, New York, N.Y., letter from	996
Olko, S. M., principal engineering, New York, N.Y., letter from	995
Rees, Albert L., vice president, Transit-Mix Concrete Corp., New York, N.Y., letter from	996
Rovegno, Charles, president, Herbert-Spencer, Inc., New York, N.Y., letter from	992
Silverman, Harry T., president, the Plume & Atwood Manufacturing Co., New York, N.Y., letter from	993
Staub, M. G., president, Merritt-Chapman & Scott Corp., New York, N.Y., letter from	995
Linville, Donald, executive secretary, American Hardboard Association, Chicago, Ill., letter to Chairman Holland, dated May 6, 1964	1198
Lone Star Steel Co., statement of	1168
Lynott, Donald P., associate general counsel, National Paint, Varnish & Lacquer Association, Inc., statement of	1094
Maclean, Donald, Truelove & Maclean, Inc., Waterbury, Conn., letter to committee, dated March 17, 1964	1099
Mangold, Harry C., administrative vice president, Wayne Knitting Mills, Humboldt, Tenn., letter to Chairman Holland, dated February 28, 1964	1144
Manley, John B., Jr., executive secretary, Georgia Independent Meat Packers Association, resolution submitted	1014
Marx, Graham E., chairman, Government Relations Committee, National Machine Tool Builders' Association, letter to subcommittee, dated March 4, 1964	1146
Mathews, John J., vice president, OK Delivery Co., Portland, Oreg., letter to Chairman Holland, dated April 22, 1964	1043
Mattingly, V. R., president, et al., Matteo, Houston, Tex., letter to Chairman Holland, dated February 24, 1964	1167

	Page
McDonald, David J., president, United Steelworkers of America, statement of.....	1010
McNair, H. E., McNair Clothing Manufacturing Co., Brownsville, Tex., letter to Chairman Holland, dated March 4, 1964.....	1004
Mickelwait, Lowell P., vice president, industrial and public relations, the Boeing Co., Seattle, Wash., letter to Chairman Holland, dated February 14, 1964.....	1121
Miller, Benjamin R., director, Industrial Relations Department, American Trucking Associations, Inc., statement of.....	1150
Millers' National Federation, statement of.....	1009
Mills, C. W., treasurer, Cold Spring Bleachery, Yardley, Pa., letter to Chairman Holland, dated March 9, 1964.....	1166
Mooney, Gene, Mooney Manufacturing Co., Flowery Branch, Ga., letter to Congressman Landrum, dated February 18, 1964.....	1096
Moore, Daniel E., director of industrial relations, Ingersoll-Rand Co., letter to Chairmen Roosevelt and Holland, dated March 4, 1964.....	1120
Morgan, R. A., vice president in charge of employee relations, Western Union Telegraph Co., statement of.....	1107
Morrow, M. E., president, the Telex Corp., Tulsa, Okla., letter to Congressman Page Belcher.....	1000
Moser, W. F., personnel director, Parish Pressed Steel Division of Dana Corp., Reading, Pa., letter to Chairman Holland, dated March 26, 1964.....	946
Nagle, John F., chief, Washington Office, National Federation of the Blind, statement of.....	1085
National Association of Shoe Chain Stores, statement of.....	1039
National Association of Wool Manufacturers, statement of the.....	1241
National Constructors Association, statement of.....	963
National Council of Farmer Cooperatives, testimony of.....	1183
National Electrical Contractors Association, statement of the.....	990
National Independent Business Association, statement by.....	1254
National Lumber and Building Material Dealers Association, statement on behalf of the.....	1147
National Shoe Manufacturers Association, brief of.....	1252
Newman, L. T., secretary and treasurer, Grede Foundries, Inc., Milwaukee, Wis., letter to Chairman Holland, dated March 3, 1964.....	1021
Norberg, H. A., Nelson Electric Manufacturing Co., Tulsa, Okla., letter to Congressman Page Belcher.....	999
North, Robert H., executive vice president of the International Association of Ice Cream Manufacturers and executive director of the Milk Industry Foundation, statement of.....	941
Norton, E. M., secretary, National Milk Producers Federation, letter to Chairman Holland, dated April 30, 1964.....	1186
Nunn, Ira H., Washington counsel, National Restaurant Association, letter to Chairman Holland, dated April 10, 1964.....	988
Ohio Manufacturers' Association, statement of the.....	1070
Owen, John J., president, Millers Falls Co., Greenfield, Mass., two letters to Congressman Conte.....	1196
Owen, W. Boyd, vice president, personnel administration, Owens-Illinois Glass Co., statement of.....	1005
Paddock, Austin J., Pittsburgh, Pa., letter to Chairman Powell, dated April 1, 1964.....	1044
Pamplin, R. B., president, Georgia-Pacific Corp., Portland, Oreg., statement of.....	1124
Parks, Lloyd L., vice president and controller, Amax Petroleum Corp., Tulsa, Okla., letter to Congressman Belcher, dated March 3, 1964.....	1064
Perkins, Faelton C., Jr., Henry Perkins Co., statement of.....	980
Peterson, N. Curtis, Jr., chairman, Legal and Legislative Committee, Peterson's Nurseries, Lakeland, Fla., letter to Chairman Holland, dated April 13, 1964.....	1013, 1194
Pierson, Frank C., professor of economics, Swarthmore College, statement by.....	1084
Pinter, Joseph A., president, Pinter Bros., Inc., letter to Chairman Powell, dated April 2, 1964.....	1046
Piper, W. T., vice president, Piper Aircraft Corp., Lock Haven, Pa., letter to Chairman Holland, dated February 28, 1964.....	970
Pipin, Marshall A., general counsel, Beer Wholesalers' Association of America, Inc., statement of.....	1179

	Page
Polk, A. C., executive vice president and general manager, Dowell Division of the Dow Chemical Co., Tulsa, Okla., statement of.....	1181
Pope, O. V., director of industrial relations, Grayson Controls Division, Robertshaw Controls Co., Long Beach, Calif., letter to Chairman Holland dated April 20, 1964.....	1051
Portland Chamber of Commerce, Portland, Oreg., statement by the.....	1090
Powers, Donald G., Powers, Inc., Tulsa, Okla., letter to Congressman Page Belcher, enclosing table of wage rate trends of supervisory employees.....	999
Printing Industries of Metropolitan New York, Inc., statement of.....	1076
Reichard, Clarence A., president, and W. Harold Schelm, executive director, National Fertilizer Solutions Association, Peoria, Ill., letter to Chairman Holland, dated April 7, 1964.....	985
Reid, Hon. Charlotte T., a Representative in Congress from the State of Illinois, statement of.....	1000
Reidelbach, J. A., Jr., executive vice president, Home Manufacturers Association, letter to Chairman Holland, March 2, 1964.....	1110
Reilly, James W., vice president, Sherman & Reilly, Inc., Chattanooga, Tenn., letter to Chairman Holland, dated March 6, 1964.....	1003
Rhodes, Glenn G., executive vice president, Lance, Inc., Charlotte, N.C., letter to Chairman Holland, dated February 28, 1964.....	1131
Rimer, J. Thomas, Jr., director of labor relations, Glass Container Manufacturers Institute, Inc.:	
Letter to Chairman Holland, dated May 1, 1964.....	1221
Statement of.....	1217
Supplemental statement of.....	1221
Exhibit A.—A typical glass container flow chart.....	1226
Exhibit B.—National glass container multiemployer production and maintenance contract.....	1227
Exhibit C.—Shift schedule No. 1B.....	1228
Exhibit D.—Shift schedule No. 5.....	1230
Exhibit E.—Shift schedule No. 4.....	1231
Exhibit F.—Shift schedule No. 6.....	1233
Exhibit G.—Shift schedule No. 7.....	1235
Exhibit H.—Schedule No. 9—Packing department.....	1237
Exhibit I.—Shift schedule No. 9—Forming department.....	1237
Exhibit J.—Shift schedule No. 8—Packing department.....	1238
Exhibit K.—Shift schedule No. 8—Forming department.....	1239
Exhibit L.—Shift schedule No. 1.....	1240
Roberts, G. A., president, Vanadium-Alloys Co., Latrobe, Pa., statement of.....	976
Rochester (New York) Chamber of Commerce, statement of.....	1008
Rodgers, R. F., president, R. F. Rodgers Lithographing Co., Inc., Tulsa, Okla., letter to Congressman Page Belcher.....	997
Roper, John L., 2d, president and general manager, Norfolk Shipbuilding & Drydock Corp., Norfolk, Va., letter to committee, dated February 28, 1964.....	1133
Ruby, G. D., secretary, Jantzen, Inc., statement by.....	1078
Saxman, Marcus W., III, executive vice president, Latrobe Steel Co., Latrobe, Pa., letter to Chairmen Roosevelt and Holland, dated February 21, 1964.....	970
Schneider, H. R., Servtex Materials Co., Braunfels, Tex., letter to Chairman Holland, March 4, 1964.....	1004
Schoolfield, Mason M., vice president, the Arundel Corp., Baltimore, Md., statement for National Sand & Gravel Association.....	967
Siefert, Curt, Hudson Hosiery Co., Charlotte, N. C., letter to subcommittee.....	1125
Shannon, Leonard G., production manager, Soabar Co., Philadelphia, Pa., letter to Chairman Holland, dated March 3, 1964.....	1164
Shortal, P. E., Alton Box Board Co., Alton, Ill., statement by.....	1099
Simpson, Neil G., president, Black Hills Power & Light Co., Rapid City, S. Dak., letter to Chairman Holland, dated April 7, 1964.....	1043
Smith, Milan D., National Cannerns Association:	
Letter to Chairman Powell, dated April 1, 1964.....	1187
Statement of National Cannerns Association.....	1188
Smith, Mitchell, executive director, the Greater New York Folding Box & Display Manufacturers Association, statement of.....	924
Smith, Paul R., Jr., president, Standard Fuels, Inc., Tulsa, Okla., letter to Congressman Page Belcher.....	998

	Page
Smith, Stanford, general manager, American Newspaper Publishers Association, New York, N. Y., letter to Chairman Roosevelt and Holland, dated February 28, 1964.....	1122
Snyder, Hon. M. G. (Gene), a Representative in Congress from the State of Kentucky:	
Beam, John G., president, Thomas Industries, Inc., Louisville, Ky., letter from.....	1049
Crunkleton, L. G., plant manager, B. F. Goodrich Chemical Co., Louisville, Ky., letter from.....	1056
Fischer, Carl, Fischer Packing Co., Louisville, Ky., telegram from.....	1052
Johnson, Marion M., vice president, Brown-Forman Distillers Corp., Louisville, Ky., letter from.....	1055
Johnston, Frank B., Jr., president, Continental Air Filters, Inc., Louisville, Ky., letter from.....	1049
Lindell, T. L., controller, Votator Division, Chemetron Corp., Louisville, Ky., letter from.....	1055
McClure, C. K., secretary-treasurer, Stitzel-Weller Distillery, Louisville, Ky., letter from.....	1053
Meagher, J. L., president, Stratton & Terstegge Co., Inc., Louisville, Ky., letter from.....	1051
Mulhall, W. T., personnel director, Wood-Mosaic Corp., Louisville, Ky., letter from.....	1056
Porter, E. J., president, Kosmos Portland Cement Co., Louisville, Ky., letter from.....	1053
Proctor, Russell, president, Belknap Hardware & Manufacturing Co., Louisville, Ky., statement of.....	1052
Reitmeier, R. E., president, Catalysts & Chemicals Inc., Louisville, Ky., letter from.....	1049
Sauer, E. T., plant manager, Rohm & Haas Co., Philadelphia, Pa., letter from.....	1054
Wilson, L. L., president, Fawcett-Dearing Printing Co., Louisville, Ky., letter from.....	1052
Spoerer, H. J., vice president, industrial relations, the Youngstown Sheet & Tube Co., Youngstown, Ohio, letter to Chairman Holland, dated April 21, 1964.....	1050
Springer, W. D., manager, Illinois State Employment Service, letter to Frank Ellis, Barber Colman Co., Rockford, Ill.....	1201
St. Regis Paper Co., statement on behalf of.....	965
Stackpole, H. C., president, Stackpole Carbon Co., St. Marys, Pa., statement of.....	1163
Stewart, William G., president, Universal-Cyclops Steel Corp., Bridgeville, Pa., letter to subcommittee, dated March 2, 1964.....	1175
Strike, George L., president, American Laundry Machinery Industries, Cincinnati, Ohio, letter to Chairman Holland, dated March 5, 1964.....	984
Stringfellow, Jim, vice president, Stringfellow Supply Co., Gainesville, Fla., letter to Congressman D. R. (Billy) Matthews.....	983
Swanstrom, R. D., president, R. R. Howell Co., Minneapolis, Minn., letter to Chairman Holland, dated March 16, 1964.....	1098
Taber, A. P., vice president, the Babcock & Wilcox Co., Alliance, Ohio, letter to Chairman Powell, dated April 2, 1964.....	1045
Tannery, Fladger F., president, Frito-Lay, Inc., Dallas, Tex., letter to Chairman Holland, dated March 24, 1964.....	1105
Tate, V. R., executive vice president, Perfex Corp., Milwaukee, Wis., letter to Chairman Holland, dated March 19, 1964.....	1099
Tektronix, Inc., Beaverton, Oreg., statement of.....	1003
Terretta, Paul, president, O'Sullivan Rubber Corp., Winchester, Va., letter to Chairman Holland, dated February 28, 1964.....	1029
Thornton, T. D., Riverton, N. J., letter to Chairmen Roosevelt and Holland, dated March 3, 1964.....	1177
Thurmond, Chas. J., president, J. D. Jewell, Inc., Gainesville, Fla., letter to Chairman Holland, dated February 27, 1964.....	1078
Tobin, Clifford V., executive secretary, New York State Crushed Stone Association, Inc., statement of.....	1023
Van Norden, C. R., secretary, Kennametal, Inc., Latrobe, Pa., statement of.....	1131
Wacke, R. H., general manager, Owens-Illinois, Shakopee, Minn., letter to Congressman Nelsen, dated March 23, 1964.....	1069

	Page
Wallcovering Wholesalers Association, Rehoboth Beach, Del., resolution of-----	1201
Walters, Richard J., president, Diamond National Corp-----	1242
Ward, Newman, chairman of the board, Esco Corp., Portland, Oreg., letter to Chairman Holland, dated March 4, 1964-----	1024
Wason, James R., analyst in labor economics, Economics Division, Legislative Reference Service, the Library of Congress, paper entitled, "Intent and Impact of the Overtime Provisions of the Fair Labor Standards Act"-----	1243
Table 1.—Employment and average weekly hours, manufacturing and the trend in the index of industrial production, 1932-62-----	1248
Table 2.—Average weekly hours, selected industries, 1932-42-----	1249
Table 3.—Industry—average weekly hours-----	1249
Table 4.—Average weekly hours, selected industries, 1943-62-----	1250
Table 5.—Changes in average weekly hours, selected industries, 1956-60-----	1251
Table 6.—Average weekly hours in industries with declining employment, 1953-62-----	1251
Weitzel, L. M., president, Mechanical Specialties Co., Los Angeles, Calif., letter to committee, dated February 28, 1964-----	1171
White, Donald F., legislative counsel, American Retail Federation, letter to Chairmen Roosevelt and Holland, dated March 18, 1964-----	1042
Whiteman, S. D., chairman, Kansas-Nebraska Natural Gas Co., Inc., Hastings, Nebr., letter to Congressman Belcher, dated March 6, 1964---	1063
Whitmore, L. M., Leas & McVitty, Inc., Salem, Va., letter to Chairman Holland, dated February 28, 1964-----	1145
Wiley, W. D. Woodall Industries, Inc., Detroit, Mich., letter to Chairman Holland, dated April 10, 1964-----	966
Williams, Fitch R., secretary-treasurer, Burke Flexo-Products Co., Travers City, Mich., letter to Chairman Holland, dated February 25, 1964-----	997
Williams, Harry A., managing director, Automobile Manufacturers Association, Inc., Detroit, Mich., letter to Chairman Roosevelt, dated April 30, 1964-----	1255
Basic assumptions for determining wages and cost of related fringe benefits of new hire versus working overtime-----	1259
Wages and cost of related fringe benefits of new hire versus working overtime-----	1257
Wages and cost of related fringe benefits of new hire versus working overtime, automotive assembler in a Michigan plant (table)-----	1258
Williamson, K. L., assistant general manager, Rockwell Manufacturing Co., Hopewell, N.J., letter to Chairman Holland, dated May 19, 1964---	1072
Wilson, Dr. Ralph, Jr., vice president, Ralph Wilson Plastics, Inc., Temple, Tex., letter to Senator Tower, dated February 14, 1964-----	1110
Wirth, Richard M., president, Morgood Tools, Inc., Rochester, N.Y., letter to subcommittee, dated March 31, 1964-----	1046
Woods, W. D., general counsel, Sarkes Tarzian, Inc., Bloomington, Ind., statement of-----	1058
Woodward, S. L., comptroller, Union City Body Co., Inc., Union City, Ind., letter to Chairman Holland, dated March 3, 1964-----	1164
Workman, D. H., executive vice president, Gray Iron Founders' Society, Inc.; L. D. Ryan, executive vice president, Malleable Founders Society; F. K. Donaldson, executive vice president, Steel Founders Society of America, statement by-----	1215
Zagri, Sidney, legislative counsel, International Brotherhood of Teamsters: Exhibit 1. Overtime hours as percent of average weekly hours in manufacturing, 1963-----	1278
Exhibit 2. Changes in employment for production workers in manufacturing, by major industry group, 1956-62-----	1278
Exhibit 3. Study of fringe benefits in 1961-----	1279
Exhibit 4. Subject reports (tables)-----	1279
Exhibit 5. Industry and class of workers of employed persons with two jobs or more (tables)-----	1287
Exhibit 6. Persons working 41 hours or more at one job by hours of work, and pay status, May 1963 (table)-----	1289
Exhibit 7. Percent of value of shipments accounted for by largest four companies, selected industries, 1958-----	1290

Zagri, Sidney, legislative counsel, International Brotherhood of Teamsters—

Continued

Exhibit 8:	Page
The high volume of idle plant and machines: 1954-62 (chart)---	1291
Key profits after taxes are high despite unused capacities (chart)---	1292
Profits and investment during current economic upturn outrun wages—basic to consumption (chart)-----	1293

Exhibit 9:	
General statistics for industry 1954 (table)-----	1294
General statistics for industry 1961 (table)-----	1295

Exhibit 10. Number of construction workers, average weekly over- time hours, and aggregate weekly overtime hours in major manu- facturing industry groupings, United States, 1956 and 1963, annual averages (table)-----	1296
---	------

Zink, John Steele, president, John Zink Co., Tulsa, Okla, letter to Con- gressman Page Belcher-----	998
--	-----

OVERTIME PENALTY PAY ACT OF 1964

APPENDIX

STATEMENT ON BEHALF OF CATERPILLAR TRACTOR CO., PEORIA, ILL., SUBMITTED BY
CLIFFORD N. HATHWAY, VICE PRESIDENT

INTRODUCTION

Caterpillar Tractor Co. and its subsidiaries manufacture and sell tractors, motor graders, diesel engines, and earthmoving equipment throughout the free world.

Our sales in 1963 amounted to \$966 million, of which 43 percent, or \$413 million, consisted of sales made outside the United States. By far the greater part of our oversea business represents products manufactured in the United States for export. This ranks us as one of the country's largest exporters. It also means that many of our employees (we estimate one-third) and substantial numbers of the employees of our suppliers depend on oversea business for their jobs.

Of the 43,000 people we employ, 36,000 work in the United States and 33,000 work in the State of Illinois. So oversea sales provide—in our company alone—approximately 12,000 U.S. jobs—and 11,000 jobs in Illinois.

Our ability to compete in oversea markets thus has a direct bearing on U.S. employment and a distinct effect on the economy of one State. We have good reason to believe that legislation such as H.R. 9802 will reduce this ability to compete; this will in turn have an adverse effect on our U.S. employment.

The ostensible purpose of this bill is to increase employment. But we are drawn to the inevitable conclusion that H.R. 9802 will not only fail to accomplish its objective of creating more jobs, but may very well produce the opposite result by reducing the number of jobs already available.

PURPOSE

The purpose of this statement is to present several reasons, based on our own experience as one employer, why we believe H.R. 9802 will fail to accomplish its objective, and why we believe neither it nor any other "double time for overtime" legislation should be enacted into law.

GOVERNMENT'S ROLE

First, let me say we recognize the problem of unemployment as one of the most serious challenges our Nation faces.

Unemployment is a problem first because of the number of human beings involved; the stoppage of regular paychecks usually produces hardship. And there is another reason: the tremendous cost of unemployment to taxpayers—mainly including, of course, those who are employed. In addition to Federal taxes, a big share of State taxes paid by individuals and companies goes to people who are out of work, and to those who are granted public relief. Caterpillar, for instance, has paid out \$18 million in State unemployment compensation taxes in the last 5 years.

To the costs of productive employment must always be added the costs of non-productive idleness. We recognize that it is to our best interest to maximize employment. In our industry, we know of no instance where this is not done when it is considered to be economically prudent, socially wise, and morally right.

At Caterpillar, we are making every possible effort to promote that kind of growth which will maximize sales, production, jobs, and—if possible—profits. We are spending more for product research and market development than ever before in our history. We know full well that if we do not find ways of paying men wages for their employment, we are obliged to pay taxes for their sustenance during unemployment. We know that idleness is not free. It imposes a terrible cost on all concerned, and its social harms are too far reaching ever to be ignored.

There is another reason why we dislike and even fear unemployment. It stirs emotions which call not only for governmental relief but also for a governmental cure. The opportunities for our kind of government to effect satisfactory cures are, however, very limited, and this tends to give rise to well meant but nonetheless dangerous legislation which, in the long run, would be more harmful than beneficial.

We discussed this subject in a letter to shareholders in our 1963 annual report. In that letter we stated that we regard unemployment as one of the three major economic problems confronting the United States today. The other two are an inadequate rate of national growth and a continuing deficit in our balance of payments.

We suggested that all three of these problems are related. Improvement in our national rate of growth would help resolve the problem of unemployment. It also would reduce, if not eliminate, the problem of the deficit in the balance of payments. We expressed the opinion that Government sometimes can help solve these problems. It can create conditions that will encourage others to take the type of action that is necessary to provide remedies.

The proposal for a reduction in U.S. income tax rates is a good example of what I mean. This is a Government action designed to provide more economic incentives—to expand investment in job-producing enterprise, to create more gross taxable income, to keep prices lower in order to meet foreign competition. This is a good example of how Government can indirectly influence others to make the decisions and take the actions that are necessary to solve our country's economic problems.

So we urge that, to whatever extent Government may help in solving this serious unemployment problem, it try to do so only in a positive, constructive manner—creating the environment in which free private enterprise burgeons and prospers. In our form of society, the solutions must come from enterprise and capital provided by people free to act through private industry and commerce.

ONE COMPANY'S CONTRIBUTION

As a case in point, Caterpillar's own experience demonstrates how a single American enterprise can make a significant contribution to the solution of national economic problems.

In the 10 years from 1954 through 1963, we have increased sales on an average of 7.3 percent per year. The comparable rate of increase in the gross national product has been 5.4 percent per year.

In the same period, our U.S. employment increased from 25,093 at the end of 1953 to 35,791 at the end of 1963. This gain of 43 percent may be compared with an increase of 12 percent in the total work force of the United States for the period.

Also in the last 10 years, Caterpillar has increased its oversea business to the point where last year, had it not been for the net effect of this one company's international operations, the U.S. deficit in its balance of payments would have been at least one-tenth larger. In the 10 years 1954-63, Caterpillar's net contribution to the flow of international payments into the United States was \$2.5 billion. This was more than the total U.S. balance-of-payments deficit in each of the last several years.

Our experience provides an example of how the path to greater sales, production, and employment lies first in the pursuit of profit, and then in the use of profit to expand that process further. Government, by its actions, can provide an atmosphere that spurs or impedes progress along that path. But legislation such as H.R. 9802, which would artificially increase costs and reduce the chance for profit, serves as an impediment to the progress that is necessary to solve our major economic problems.

OVERTIME RATE AND JOBS

This legislation will not only put a brake on normal economic expansion, but also will fail, even in the short run, to create an appreciable number of new jobs. Why? Because in most cases imposing a higher penalty rate for overtime work will not eliminate the need for overtime. It will increase the cost. But it will not reduce the need.

Overtime is not a convenient device used by employers to avoid the expense of hiring, training, and providing benefits for new employees. It is a form of penalty which employers must sometimes accept to meet the demands which circumstances occasionally impose upon them.

OVERTIME IS A PENALTY

At Caterpillar, for example, we keep tight control on the amount of overtime worked. In most of our plants, approval by the plant manager is necessary before any overtime can be scheduled. At Peoria, because of its size, the decision is left up to factory managers. But they, too, are subject to close review of their overtime schedules.

The reason for this tight control is readily apparent. Overtime rates impose an added cost of doing business. We are manufacturing complicated machinery. As a result, our labor costs reflect the care and precision that must be built into each finished product. Wages, salaries, and benefits paid to our employees represented 29 cents of every dollar the company spent in 1963.

With labor a major cost of doing business, we try at all times to get an hour's work for an hour's wages. Whenever we schedule an employee to work beyond 40 hours a week, we are, in effect, getting for each overtime hour an hour's work for an hour and a half's pay. Clearly this is not a desirable arrangement from a cost standpoint. So we limit, as best we can, the number of overtime hours our people will work.

FACTS ABOUT CATERPILLAR OVERTIME

Statistics show that at Caterpillar there has been no marked increase in overtime in recent years.

(In all the data presented herein relative to Caterpillar Tractor Co., the "overtime" reported is actually hours for which premium, or "penalty," was paid. Since generally throughout the company's domestic operations time and one-half is paid for Saturdays as such, double time for Sunday as such, and triple time for work on certain holidays as such, many of the hours here reported as overtime are not hours in excess of 40 for the week involved. Accordingly, true overtime—i.e., hours in excess of 40 per week—is something significantly less than shown here. This same "overreporting" is inherent in BLS "overtime" statistics.)

Chart I shows month by month, 1960 through 1963, the average weekly total of all hours worked by all "nonexempt" employees. The shaded portion of the graph is the amount of overtime included in the total hours worked. The sharp decline in hours worked reflect vacation periods and a strike in November 1961. This chart clearly shows overtime remains relatively constant over a 4-year span. The amount of overtime varies during this period from a low of 1.7 percent of the total hours worked to a high of 6.3 percent. A seasonal pattern of overtime is indicated by the tendency for overtime to be at its lowest rate at about yearend with a gradual increase in the overtime rate being apparent during the first 6 months of the year. As the chart indicates, an unusually high demand for products produced an increase in the amount of overtime in 1963. Note, however, that at the peak of increase in December 1963, the amount of overtime worked was approximately the same as in January 1960.

Chart II shows the average total hours worked per week per "nonexempt" employee in all of our domestic plants. Again, the shaded portion of the graph is the amount of overtime worked within this total. The chart shows that on the average, employees at our domestic plants worked 40.1 hours a week in January 1960. Included in the 40.1 hours is an average of 2 hours of overtime. Both average total hours and average hours of overtime have gone up and down since 1960. Yet by January of 1963, the average total hours worked per week per employee was 40.1, the same as in January 1960. The number of overtime hours included in that total had dropped to 1.4 hours. Again, the heavy demand for products in 1963 is evident in the rising figures throughout that year. But even at yearend, employees were averaging only a total of 41.4 hours per week including an average of only 2.6 hours of overtime.

CATERPILLAR TRACTOR CO.
NONEXEMPT DOMESTIC EMPLOYEES

CHART I

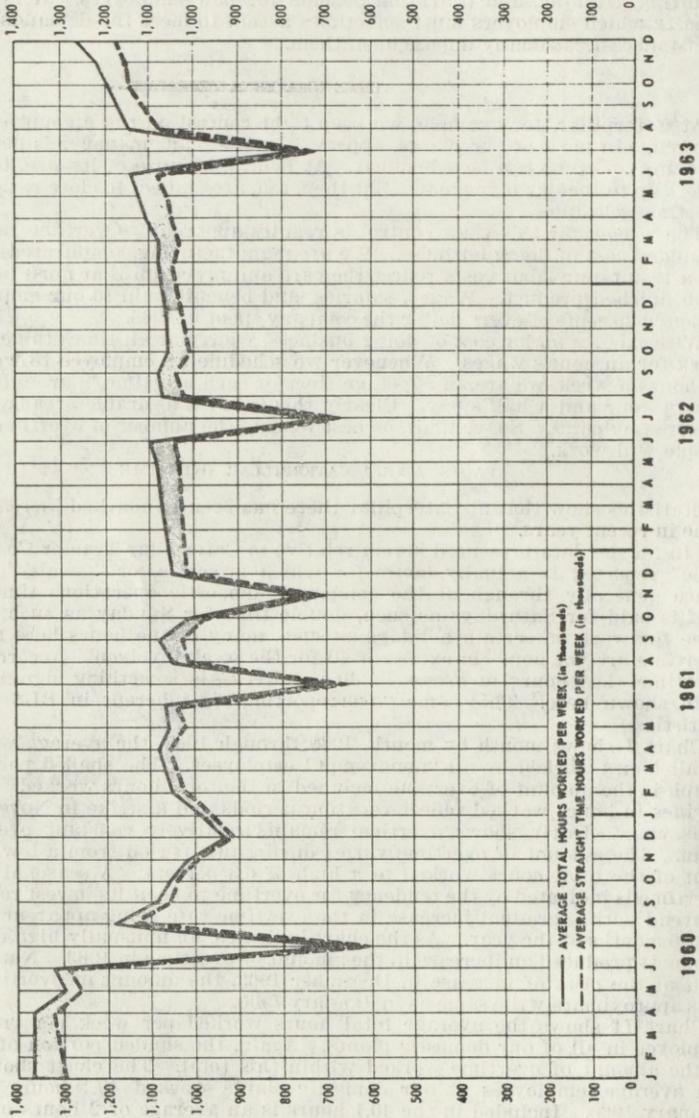


CHART II

**CATERPILLAR TRACTOR CO.
NONEXEMPT DOMESTIC EMPLOYEES**

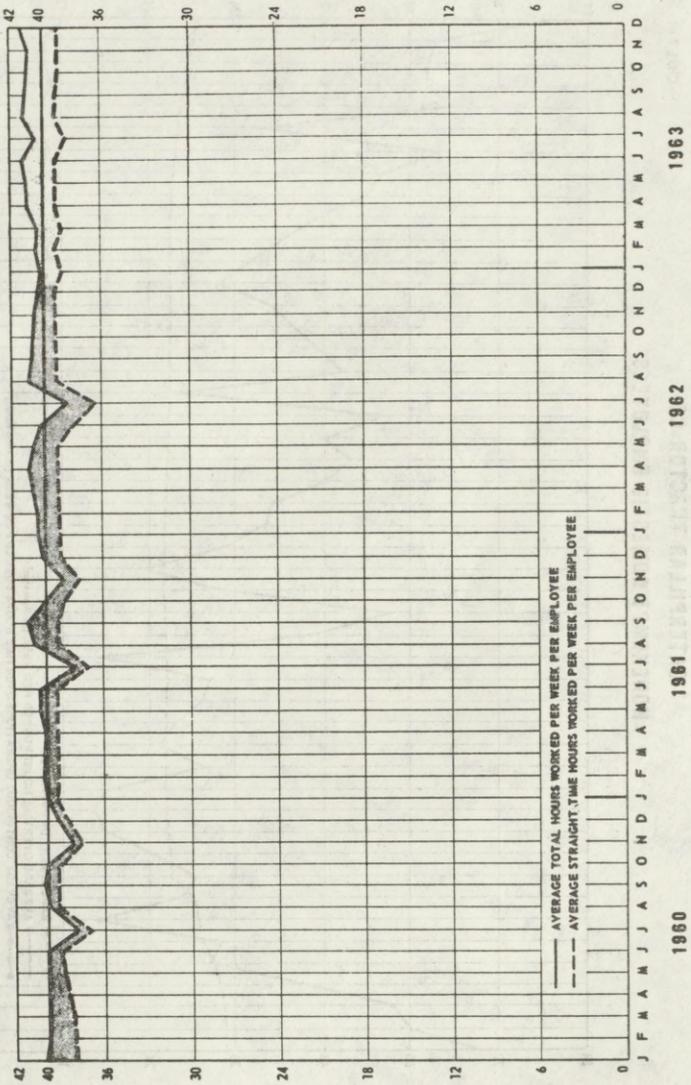
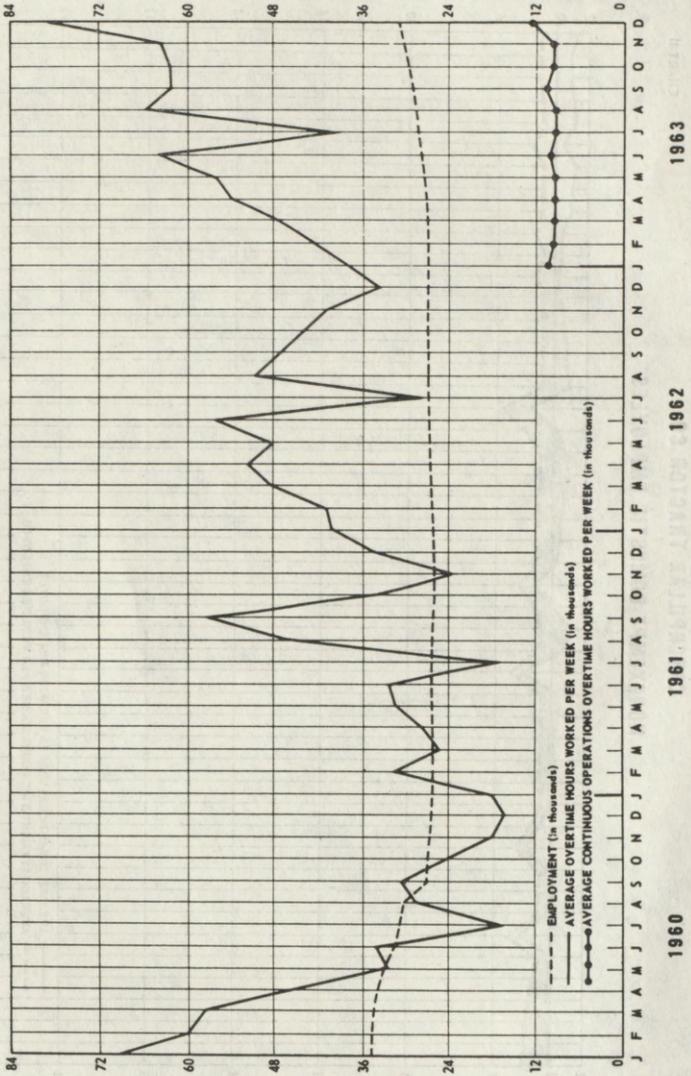


CHART III

CATERPILLAR TRACTOR CO.
NONEXEMPT DOMESTIC EMPLOYEES



For the same period, 1960 through 1963, chart III shows month-by-month total domestic "nonexempt" employees compared with the average weekly total overtime hours worked by such employees. Increases or decreases in employment are foreshadowed by corresponding increases or decreases in overtime. This simply reflects the fact that sharply increasing levels of production demand must be met with overtime during the period it takes to employ and train an adequate number of employees to meet the new production demand.

Our Joliet plant offers a case in point. At the start of 1962, that portion of the plant devoted to hydraulic components and controls consisted of a new facility provided in anticipation of growing future demand for these commodities. It is significant that at the time this new facility was occupied in 1961, it was believed physically capable of handling as much as 50-percent increase in demand, which was presumed in the light of past experience to be adequate for 7 to 10 years. In marked contrast to this assumption is the fact that some 3 years later, this facility is taxed to its maximum capability.

The unanticipated rapid growth in the demand for implements, and particularly hydraulic controls, has necessitated a substantial increase in employment. Yet it also has been necessary to work a high level of overtime, partially to close the gap existing until an adequate number of new employees could be hired, and partially to offset the deterioration in performance which occurred as inexperienced people entered the plant work force.

The imposition of higher overtime penalties on this situation would in no way have increased employment opportunity in this plant. To the contrary, it would either have increased costs or resulted in a decision to produce less product than the demand justified—a decision which obviously would have resulted in less employment opportunity.

The line at the bottom of chart III covering only the year 1963 represents the amount of what we refer to as continuous operations overtime, included in the overtime hours plotted above. As a percentage of overtime hours, this varies from a low of 15.4 percent of the total to a high of 28.6 percent. This continuous operations overtime consists of that type of work which must be carried on on a 7-day-per-week basis. Typical would be the operation of certain types of heat treating furnaces which it would not be practical to cool down and start up each weekend. This significant portion of the overtime worked in our company is clearly not susceptible to change through increasing employment.

CHART IV
Caterpillar Tractor Co., nonexempt Peoria plant employees—Overtime hours worked, 1963

Month	J through X tractor division	HH factory division	KK engine factory	LL steel fabrication	Heat treat	Foundry	Production	Plant engineering	Toolroom	Tool design	Planning	Quality control	Plant protection	All other	Total
January	4,454	436	14	4,288	1,625	1,610	2,486	7,860	4,892	2,252	814	1,648	10,898	2,442	45,720
February	6,428	82	16	12,270	1,578	1,812	4,174	7,274	7,238	2,334	364	2,800	8,604	1,496	56,946
March	6,525	872	16	12,184	984	828	5,624	6,052	8,828	2,716	204	2,834	8,534	2,092	62,164
April	9,696	1,065	16	16,726	2,302	2,502	7,862	7,774	8,668	666	282	3,592	12,064	2,092	67,164
May	7,620	2,958	18	10,128	1,276	3,422	8,114	6,864	3,532	170	354	2,404	7,718	2,256	58,836
June	8,088	10,104	212	11,934	4,006	3,294	11,304	5,976	3,450	1,198	268	4,252	10,736	2,720	75,542
July 1	5,606	1,196	58	2,768	968	4,080	4,746	4,376	2,384	34	160	1,484	12,868	1,564	49,172
August	8,006	1,498	64	5,838	1,424	8,260	8,318	5,506	1,336	24	160	1,900	9,500	1,688	52,612
September	10,004	2,088	2,630	1,174	2,004	16,186	11,280	9,110	1,550	20	408	3,078	13,256	3,270	71,038
October	5,722	7,625	2,016	2,074	1,864	14,348	11,698	7,652	580	6	478	4,436	9,486	3,122	71,102
November	5,508	5,608	2,756	2,490	2,576	13,752	12,190	6,628	442	72	364	4,768	9,506	3,240	69,420
December	14,144	12,550	8,996	10,214	5,188	28,152	19,702	12,732	1,628	24	392	9,088	15,934	5,380	144,144

1 Vacation period.

Chart IV shows another interesting aspect of overtime at Caterpillar. It lists the number of hours worked in various factory departments at our Peoria plant in 1963. You can see the wide variation in overtime hours between various departments, for a given month. Also note the wide variation from month to month in a given department. I think this shows better than anything else the problem involved in hiring new people instead of using overtime. How could you use a new employee in plant protection one month, quality control the next month, production the next? Obviously, you don't find people with that many skills. The alternative to selective use of overtime is to hire people for a few months at a time.

TYPICAL OVERTIME SITUATIONS

I have indicated, however, it is sometimes necessary for us to schedule overtime work. Yet, almost without exception, this overtime is necessitated by circumstances which offer no other alternative. There is usually no choice between paying overtime and hiring additional people. The only choice available is to schedule overtime. Here are some typical overtime situations at Caterpillar.

1. *Continuous operations.*—Where we maintain continuous operations, that is operations around the clock, 7 days a week, we are forced to pay premium rates for hours worked on Saturdays, Sundays, and holidays even though work performed on these days is not in excess of 40 hours. Examples of those who perform continuous operations jobs are plant guards and people in plant engineering who are responsible for maintaining heating plants and other utilities. Increasing the penalty rate for this type of overtime would merely increase costs. It would not reduce the need for continuous operations nor increase the number of jobs needed to perform them.

2. *Inadequate capacity.*—Sometimes during periods of emergency or peak demand, the machine tools and other equipment in a certain area are operated at full capacity three shifts a day, 5 days a week. If this is not enough to meet production schedules, it is necessary to add a sixth day. When such a situation is expected to last for some time, the alternative to continued overtime is to buy more machine tools and hire more people to operate them. But when it is a temporary emergency, such a step is out of the question. The only wise course is to work overtime until the emergency needs are satisfactorily met.

3. *Rush orders.*—Sometimes we are faced with the problem of turning out a product under a tight deadline. Rush orders from customers or Government orders that must be met within a specified number of days make it necessary for us to schedule some overtime. These are special, often unpredictable situations when overtime is necessary. But there is no reason for hiring new people to work on a job that may be completed in a few weeks.

4. *Seasonal overtime.*—Ours is to some extent a seasonal business. The people who buy our equipment, in many countries in the world, can only work so many months of the year. Consequently our volume of orders rises just before the summer months and drops off when fall arrives. We can accumulate inventories to handle seasonal fluctuations. But usually each year, in order to meet shipping schedules during peak seasons, we are forced to rely on overtime. The only jobs we could add by eliminating overtime in such situations would become unnecessary as soon as peak shipping seasons came to an end, and operations returned to normal.

5. *Major engineering changes.*—There are times when we decide to introduce design or materials improvements into products. This may result in some overtime. Changes in factory operations take time. Overtime may be needed to install new machine tools and equipment. But the need is then for temporary help, not for new employees.

6. *Preventing unemployment.*—On occasion, the use of overtime may actually prevent unemployment. There are times at Caterpillar when we anticipate that a planned technological improvement will displace people from their jobs. Rather than lay off such people, we much prefer to relocate them in other jobs. We may therefore delay the planned improvement until enough openings arise elsewhere through natural job turnover and attrition. Then we will move the people scheduled for displacement into the job openings. In the meantime, however, it may be necessary to work some overtime in the areas where openings are temporarily left unfilled through this turnover and attrition and where production schedules must still be met with fewer people. The point is that we use overtime in such cases to avoid laying people off; not to hold down employment.

7. *Work interruptions.*—Occasionally overtime is necessary to make up for time lost through work interruptions caused by such things as mechanical breakdowns, defective work or material, transportation failures, power interruptions, strikes in our own plants or those of suppliers, fires, or acts of God. Interruptions are also caused by human errors and temporary absences of employees. In these cases, overtime is often necessary to recover lost production.

These causes of premium pay work are generally those stated by the Secretary of Labor to be "valid reasons," in individual cases, for work in excess of a normal day or week. As such, they would presumably call for no penalty under the provisions of H.R. 9802. And these are substantially all of the reasons for which premium pay work is scheduled at Caterpillar Tractor Co.

Of course, there are exceptions. In some instances, we deliberately do not hire more people even though we realize we will not be able to handle an increased volume of business within the limitations of a standard work period.

This may be the case when the trend of incoming customers' orders shows an upturn—but we are not sure how high that upturn will go or how long it will last. And there are times when the volume of business climbs to such exceptionally high levels that it seems unlikely this increased volume could be sustained for very long.

Why are we unwilling to hire in such circumstances? For one reason, because our available statistical data cannot tell us whether what appears at the time to be a trend is going to be sustained or changed. Furthermore, we cannot interpret the data in a way which would provide a basis of reasonable certainty for major employment action—and for related adjustments in inventories or capital assets. Business, in general, has made great strides in the gathering and use of economic statistics. But, for the most part, Caterpillar is part of a short-order industry—one in which we buy the raw materials and process them into finished product before we have the customers' orders against which to sell them.

With this in mind then, what are our reasons for not hiring more people when the volume of orders increases—but when we do not know how long this increase will last? Let me assure you these reasons are not wholly or even primarily economic. They are more humanitarian.

In our opinion, it is socially ill advised and morally wrong to induce men and women and their families to move from one place or job to another if the transfer does not offer a reasonable chance of permanence and stability. This is particularly true where, as is the case in our company, our factories constitute relatively large units of employment in medium-sized communities.

In communities such as this, earlier gains from an influx of new citizens could be more than wiped out if we were subsequently forced to reduce employment. The inevitable consequence is all the human hardship and heart-rending distress of men without work and families without earned income. Unemployment insurance helps to provide relief and so do supplementary unemployment benefit plans. But these are costly, and they do not bring cures. This is also true of other forms of tax-supported relief—all being costs which add to the load which must be borne by industry and by those individuals who continue to work gainfully in it.

Let me make this clear: we in business want to create employment. At the heart of all industrial progress is a desire to be able to provide more jobs as a means of creating growth through more sales. This doesn't mean that in subscribing to an economic motivation, we are less human or understanding than those who favor legislation such as H.R. 9802. We believe the remedy for unemployment is not sharing a limited volume of work; it is stimulating expansionary growth by offering more opportunity for gain.

We are just as interested as others in the United States and its people. And we have the additional motivating force of seeking profit which, in the long run, can only be derived from the employment of substantially all of the civilian work force.

But, in the meantime, our Government should not force us to choose among such undesirable alternatives as (1) higher wage costs—with higher prices and lower unit sales, or (2) more hiring and more layoff accompanying short-term employment, or (3) curtailment of production to avoid these other evils.

EFFECT ON EXPORTS

As I mentioned earlier, we are part of one of this country's greatest exporting industries. And our exports of finished machines and parts include substantial labor content. This means, as I have already indicated, that a related proportion of our work force owes its jobs to our ability to sell abroad in the face of foreign competition. But this competition is growing in strength, and although exports of American machinery have recently been running at very high levels, it remains a fact that our share of the expanding market outside North America has been declining. This does not augur well for the time when business will recede and competition become even more severe. And it suggests also that if American concerns are to defend or expand their positions in foreign markets they will probably be obliged to undertake more foreign manufacture of their products. To the extent that cost-price disadvantage is a factor in this type of compulsion, further cost-price increases here at home only serve to accelerate the movement abroad.

EFFECT ON EARNINGS

Another point that has not been stressed enough is the averse effect this legislation would have upon the ability of those already employed to add to their earnings by working overtime. By compelling a reduction in overtime hours, it also seeks, inadvertently I am sure, to reduce the earnings of those who might otherwise have the chance to work some overtime. This, in effect, would cut into the take-home pay of millions of American workers.

TRIPARTITE COMMITTEES

It may be argued that a company such as Caterpillar, which would be seriously harmed by an increase in overtime penalty rates, is protected by the provision in this bill for a study by a tripartite committee.

These committees would investigate each industry separately and make their recommendations on whether to increase the overtime penalty rate on the basis of these investigations. In each case, any recommendation to increase the rate would depend on evidence that such action "would increase employment opportunities in the industry without excessive costs."

One major problem here, as far as we are concerned, is the proper determination of the industry in which we and our competitors would be included. In some studies we are now listed among companies in the farm equipment industry. This is inaccurate since we do not manufacture farm equipment as such. We should be included as a member of the construction equipment industry. But this is an industry whose members, by and large, have diversified interests. Most of them defy strict industry classification.

For example, where would International Harvester Co. be placed? Some would say in the farm equipment industry. Others in the truck manufacturers or automotive industry. Yet International Harvesters, through its construction equipment division, is one of our major competitors. Deere & Co. is another example. Obviously, most people would say it belongs in the farm equipment industry. Yet Deere is also one of our competitors since it manufactures, among other things, crawler tractors.

As I mentioned before, we also manufacture diesel engines. One of our markets for these engines is the truck industry. Let's assume that our competitors in this field, Cummins or General Motors, for example, are included in the automotive industry. It stands to reason that we would not be classified as members of the same industry. So we would have different tripartite committees deciding the overtime penalty rate for Caterpillar, which manufactures diesel engines for trucks among many products, and its competitors whose primary interest is in the field of automotive equipment. Obviously this could create inequities.

There is another chance for inequities in this tripartite committee approach. Regardless of the industry in which we are classified, there are bound to be differences between the emphasis each company in that industry places on foreign sales. As I mentioned before, we depend on foreign sales for almost half our business. None of our competitors is that deeply involved in oversea markets. Obviously an increase in the penalty rate for overtime affects all U.S. competitors in U.S. markets in the same way. But it places added handicaps on the company trying to sell overseas. Foreign competitors, in this case, are not

forced to pass on the same cost increase in the form of higher prices. To consider each company in one industry as having identical interests would be inaccurate and unfair. Yet that is what this legislation would attempt to do.

SUMMARY

To summarize, Caterpillar opposes H.R. 9802 because:

(a) The problem of unemployment has a better chance of being solved if Government encourages rather than discourages normal economic growth. Additional cost-producing penalties such as higher overtime rates discourage this normal growth.

(b) Higher penalty rates on overtime at Caterpillar would increase our costs, make us less competitive in world markets, jeopardize the jobs of thousands of U.S. employees who depend on a continued high level in our export sales, and possibly reduce our ability to contribute as substantially as before to the inflow of international payments to the United States.

(c) Overtime at Caterpillar is not a device used to avoid hiring. It is used only as necessary. Increasing the penalty rate would not create a real need for more jobs.

(d) If the penalty rate were made severe enough, we probably would be compelled, however, unwisely, to consider hiring more people. But such employment would be capricious since we could, within a short time, be forced to lay off these same people.

(e) The tripartite committees proposed in this bill would have an impossible job of classifying companies in our industry. There is no fair way of determining common grounds of interest on which to base a recommendation that will cover every member.

STATEMENT BY WARREN A. LACKE, GENERAL MANAGER, INDUSTRIAL RELATIONS,
CONTINENTAL CAN CO.

INTRODUCTION

My name is Warren A. Lacke. I am general manager, industrial relations, for Continental Can Co. We manufacture a wide variety of containers and packaging materials from metals, paper and paperboard, glass and plastics. We employ approximately 49,000 people throughout the United States and Canada. We have 138 collective bargaining agreements with 30 unions. The provisions of our union agreements differ, reflecting to a large extent the particular conditions of the industries involved as they pertain to our overall operation.

Our various products do not contribute equally to the earnings of the company; some product divisions, at any one time, may be absorbing a disproportionate amount of money for labor, equipment, plant, marketing, and research and development as compared with other product divisions. The committee has already heard testimony pointing out that this bill, H.R. 9802, to increase the rate for overtime would put many small employers out of business and thus put many people now working out of work. I want to emphasize that it might have a similar effect in the case of numerous larger companies that would be forced to drop marginal items because of increased costs caused by this legislation.

THE NECESSITY OF OVERTIME

In testimony before this committee on February 17, Secretary Wirtz reiterated President Johnson's view that any reduction in the 40-hour week would impair U.S. productivity and drive up labor costs, forcing automation and layoffs instead of creating jobs. This bill would have the same effects—though to a lesser degree. Overtime is normal part of business life and you can't price it out of existence. The necessity for overtime is recognized by the very provision in the Fair Labor Standards Act that requires some additional pay for hours over the basic work-week, but the Federal law does not put an absolute limitation on the number of hours that a person can work; it is also recognized by arbitrators who quite consistently rule that employees must be available to work overtime.

The average number of overtime hours worked by employees in manufacturing in 1963 which the Secretary of Labor reports—2.8 per week per worker—is not useful for determining whether the overtime actually could be converted into full-time jobs. A sound estimate would require facts as to the flow of the overtime

work, its distribution in the day or week or year. Let me give you a typical example from our operations. In our southern paperboard mills a continuous operation is worked. There are therefore twenty-one 8-hour shifts to be manned each week: 4 crews working 5 shifts, or 40 hours a week, cover 20 of these 21 shifts. Each week a different crew works the extra shift of 8 hours. Therefore three crews work 40 hours and one crew works 48 hours each week. This averages out to 2 overtime hours each week per employee. How could we change this one shift of overtime per week into jobs for new workers. The answer is, We couldn't. A similar crewing pattern exists in our glass container plants which are also continuous operations.

In our northern paperboard mills we don't consistently have the work for four crews. We are geared to a 40-hour week 10 or 11 months in the year with three crews. There is some seasonal bulge for a month or two and we schedule overtime then. The work involves skills that are not readily available—that is one reason for the overtime, but also during the other 10 or 11 months occasionally production slows to the point where these crews are working short weeks. This overtime then makes up for these slow periods and the employees are able to earn a good annual wage. If, on the other hand, we worked four crews all year round, everyone might get a full week's working during the month or two of increased seasonal production but during the rest of the year each of the four crews would be working short weeks of $3\frac{3}{4}$ days or less.

INCREASED COSTS AND THEIR IMPLICATIONS

Hiring new employees for short peak periods involves greater expense than using overtime, and this is not due merely to the fringe items. There are the costs of recruitment, interviewing, and selection; there is a lot of paperwork involved; there are necessary induction and briefing, protracted training may be necessary; and there is usually a break-in period during which new employees do less work than the average employee. Finally, there is the high cost of fringe benefits.

So, if H.R. 9802 became law our costs would go up whether we paid the higher premium for overtime or whether we hired more people for peakloads. The administration claims that its objective is to reduce unemployment. But look at the effect that higher costs would have: some employers would be able to get the public to pay the bill. Other companies, whose competitive position prevents them from increasing prices, would be forced out of business or would have to drop marginal items. In both cases this would mean fewer jobs. Other companies would try to absorb the higher costs by finding new ways to remain competitive. This would mean stepped up efforts to automate, which would lead, at least in the short run, to more unemployment. This increased unemployment and these higher price tags on consumer goods obviously would hurt the worker as consumer, as well as other consumers and employers. High prices of U.S. products are already an obstacle in our ability to compete with foreign industry both at home and abroad. According to some thinking, this may force U.S. companies to invest more capital abroad—again, fewer jobs at home.

Incidentally, some may think that if we had to pay higher rates for overtime we would become more knowledgeable about avoiding production scheduling problems and emergency overtime. Let me just say that while American know-how has a high batting average, we haven't yet been able to control the weather. In our can plants, weather is a prime causative factor of overtime. When crops are threatened by untimely frost, rains, windstorms, or dry spells, immediate arrangements must be made to harvest quickly and get the products into cans. Even without emergencies created by untimely weather conditions we are not able to estimate accurately when crops will ripen. But when they do ripen we must schedule overtime immediately to avoid crop loss. We cannot hire new employees and have them wait around until the crops are harvested, nor can we rush out and hire new employees when the crops are harvested. At such times we will get rush orders. It is not practicable for us to avoid overtime by warehousing empty cans to fill future orders beyond a normal inventory. Differences in can specifications make warehousing risky as we are not able to predict so far ahead what customers will order. Furthermore, the cost of storing air, which is what you'd be doing by storing millions of cans, is prohibitive: a given quantity of tinplate could be stored in far less space than it would take to store empty cans made from that same amount of plate. Also, warehousing cans involves the added expense of double handling. Cans must be transferred from

the production lines to the warehouse, and then removed from the warehouse later when they are needed. Labor Secretary Wirtz told this committee that overtime could be converted into jobs without impairing operating efficiency. The example I have just given you shows that operating efficiency would very definitely be impaired if we had to store empty cans in order to avoid high overtime penalties.

WHAT 900,000 JOBS?

The Secretary of Labor has told this committee that a "significant increase" in employment could be obtained by "distributing to other employees work which is presently being performed on an overtime basis" but on the number of jobs that could be created, his statements are misleading. Mr. Wirtz said: "Although by no means all of this overtime can be converted into jobs, the 1.8 billion hours of overtime in manufacturing alone are roughly equivalent to about 900,000 full-time jobs." But 1.8 billion hours in 1963 is all the overtime that was worked in manufacturing for that entire year. Mr. Wirtz managed nevertheless to fix the figure of 900,000 full-time jobs in the minds of many people. It might be possible to provide some additional employment but most of it would be temporary and part time because that is what the overtime is. While there has been no meeting of minds on how much overtime could be eliminated to create jobs, it is quite clear that we are not talking about anything like 900,000 jobs.

First of all, a considerable amount of the overtime in industry is already paid at double time or higher. In our company, under a number of our union agreements, we are paying double time for any hours worked beyond 12 in a day, for Sunday work, and for emergency call-out work. Since H.R. 9802 does not affect those overtime hours now being paid for at double time or more, that overtime must be subtracted from the 1.8 billion hours of overtime out of which the Secretary expects 900,000 jobs to evolve.

Also, a considerable part of overtime is in skilled classifications—such as machine setup and maintenance—for which new workers are not available. Secretary Wirtz said the unemployed have the skills necessary to perform the jobs that he asserts would be created through the passage of this bill. To support this claim he offered a chart (table V) that shows that there are a substantial number of unemployed in the occupational categories in which overtime is worked. I would like to say three things about that chart or table. First, the occupational categories used are extremely broad. The fact that there are unemployed "craftsmen, foremen, and kindred workers" and that overtime hours are worked in these categories does not prove anything. An electrician's job cannot be filled by a machinist no matter what his degree of skill. My second point is that classification in these job categories gives no indication of degrees of skill, it merely indicates in what occupational category the unemployed person's last job was. He could have worked in that job, or even that occupation, 1 day, 1 week or 20 years. Secretary Wirtz' chart also assumes that the labor force is completely mobile. The facts of economic life are that many unemployed people stay in areas where there is no demand for their particular skills. A good deal of the overtime in industry involves high skills and most overtime, whether involving skilled work or not, is a patchwork of hours from which full-time jobs cannot be cut, except possibly to a very insignificant extent. Certainly, carving out short-range temporary jobs here and there over the country is no solution to unemployment.

THE DEFINITION OF OVERTIME

I must also question the validity of the figure of 1.8 billion hours of overtime that the Labor Department says was worked in 1963. What is being defined as "overtime"? The Labor Department's definition as used here is not the same as that in the Fair Labor Standards Act. The law defines overtime as hours worked in excess of 40 in a workweek. But the Labor Department, in collecting statistics upon which this 1.8 billion hours is based, defines overtime as "that portion of the gross average weekly hours which were in excess of regular hours and for which premium payments were made." The "regular hours" as the term is used by the Labor Department in collecting these statistics does not mean the statutory 40-hour workweek; it means the hours that the particular plant considers "normal" hours paid at the straight-time rate. Thus if the plant, or a particular department, such as the lithographic depart-

ment in our can plants, has a 35-hour week any time worked beyond 35 hours in a week is reported as "overtime" if a premium rate was paid for those hours over 35. Another example: If the agreement between the employer and the union provides a premium rate for work beyond the normal workday the hours paid for at such rates are counted as overtime by the Labor Department. But they are not overtime under the Fair Labor Standards Act if the total hours worked that week do not exceed 40. Other examples could be cited of time that the employer pays a premium rate for, either unilaterally or because he has negotiated it with a union, but which does not constitute overtime under the Fair Labor Standards Act unless more than 40 hours are worked. But all these premium hours are included in the Labor Department's figure of 1.8 billion overtime hours in manufacturing in 1963. To use this liberality of employers to increase their costs is to "penalize" the employer for going beyond what the law requires.

EFFECT ON UNION-MANAGEMENT RELATIONS

It is unfortunate, and ironic, that Government should propose such hampering legislation at a time when labor and management have in numerous bargaining situations abandoned rigid "patterns" of settlements and have taken a creative approach to the problem of employment adjustment and readjustment. Our company has been tackling these problems. We were among those pioneering the supplemental unemployment benefits plan under which employees receive a percentage of their usual earnings from the company during periods of layoff, and we have made improvements in these plans since the first one in 1956, extending them to a greater number of our employees and paying more. Another innovation we made was the expanded employment program in the can plants under which employees with 15 years service get a 13-week paid vacation or "sabbatical" every 5 years. The purpose of the expanded employment program is to provide more job opportunities.

Both SUB and EEP, however, are products of union-management cooperation applied with an understanding of the economics of a specific enterprise; they were not imposed by Government. Fear of Government intrusion, stimulated by proposals of legislation like the bill to increase the overtime rate, may paralyze private efforts to deal with the employment problem. Companies and unions have also successfully negotiated in the area of overtime premiums. But before premiums in excess of the Fair Labor Standards Act requirements are adopted, the costs can be estimated by management for the specific company. This is very different from having a tripartite committee "guesstimate" costs for a whole industry or having the Government impose higher premium rates across the board. When an employer agrees in union negotiations to more than time and a half for any overtime he does so in consideration of the "whole package" settled upon in those negotiations. The union may "give up" something to get that higher overtime premium. The economics of free bargaining between the parties would be stifled by Federal preemption of this area if this bill became law. Employers and union cannot negotiate a lower premium than the law establishes. Once the double time has been imposed the door will be closed on the parties.

Governmental interference with collective bargaining in this area would have a very bad effect on labor-management relations; it would be a source of constant friction. For example, if we were forced to pay double time for overtime that now costs us time and a half the unions might try to get triple time in those instances where we are paying double time now. Pressure would thus be put on a whole series of premium rates. It should be remembered that where we are now going beyond the law, we negotiated it knowing there was a statutory foundation of time and a half. The higher overtime premiums were determined with reference to that foundation—thus where we pay double time it is one-half time over the ordinary, or statutory overtime premium. It is then a sort of precedent that these special overtime premiums stand in a particular ratio to the basic overtime rate. If this bill were to be passed, management would face conditions it had no reason to expect would exist when it negotiated these higher overtime premiums. Of necessity, we would have to reopen the labor agreement provisions we now have that provide for premiums in excess of what the law requires yet attempts to change those premiums would cause friction between management and the unions. Let me give you this example: when overtime is necessary in our can plants we have our employees work a 6-day week from Monday through Saturday. We have agreed

under the basic contract covering our can plants to pay time and a half for all work performed on Saturday. Thus a man would get time and a half for work on Saturday even if he had worked only a day or two during the week. If this bill were to become law so that it was too costly to work employees a sixth day we might work them 5 days by hiring additional people, staggering the workweek so no one would work more than 5 days although the plant would operate 6 days. But unless we could get the union to give up this "Saturday as such" provision, which is not very likely, we would still be forced to pay time and a half overtime penalty for any Saturday work even though none of our employees would be working overtime. This example is an oversimplification because as a matter of fact we are not able unilaterally to decide to stagger the workweek. That, too, would have to be negotiated with the union because this contract specified a basic workweek of Monday to Friday. So we could not hire additional employees to avoid higher overtime penalties required by this bill unless we could negotiate these changes in our union agreement.

THE TRIPARTITE DEVICE

In addition to all the foregoing objections to any legislation increasing the statutory overtime rate, the use of tripartite committees as a means of determining those increased rates would be a dangerous step in the direction of Government regulation of wages and prices. It is obvious that labor and management would be in conflict on the issue of increased overtime premiums. What function, then, would the third party have, other than that of arbitrator? So the net result is that the third party; i.e., the Government representative, would make the determination.

The tripartite system is unfeasible as we know from past experience. The decision of a tripartite committee concerning costs in one of the industries involved in our operations might not be applicable to conditions in the part of our company that is in that particular industry. Furthermore, a third party decision involving one or more of the industries in which we operate could be very disruptive of the economics of our entire enterprise since all our operations are related through the objective of serving the customer in all his packaging requirements.

The device of tripartite committees indicates that the administration is very uncertain about whether overtime could be converted into full-time jobs. However, our objection to this legislation is not mainly based on the tripartite approach to determining where higher overtime rates should be imposed; our objection fundamentally is to governmental imposition of such higher overtime rates either in particular industries or across the board. We are absolutely opposed to H.R. 1680 which would raise the overtime rate to double time for all employees covered by the Fair Labor Standards Act.

SUMMARY

Briefly stated, I have argued against the enactment of H.R. 9802, or for any bill, such as H.R. 1680, that would increase overtime rates either in selected industries or across the board, for the following reasons:

1. The economics of business necessitate the working of some overtime. Increasing the cost of overtime will not change this.
2. Secretary of Labor Wirtz' arguments for this legislation and the statistics he submits to support them are inconclusive and unconvincing.
3. Independent efforts by labor and management to find workable ways of creating new job opportunities, such as the expanded employment program, would be discouraged if statutory overtime rates were increased.
4. A higher overtime rate imposed by the Federal Government would immediately create a host of problems with respect to premium rates already negotiated between employers and unions.

The basic concept of this bill, namely, to spread a given amount of work among more people, is a negative one. What our efforts should, instead, be directed to is expanding employment, creating additional jobs. Even if this legislation were to create a limited number of new jobs, this could only be accomplished at the expense of those now employed. Most of the relatively small number of jobs that might be carved out of the portion of overtime which is not unavoidable would be temporary, some even part time. And present employees would be subject to more frequent layoffs. Thus you would have more instability of employment.

I therefore believe this proposed legislation would saddle industry with increased costs, yet not carry us any distance toward solving the unemployment problem.

STATEMENT OF GUY FARMER, GENERAL COUNSEL, AMERICAN ASSOCIATION OF INDUSTRIAL MANAGEMENT (NATIONAL METAL TRADES ASSOCIATION)

The American Association of Industrial Management (National Metal Trades Association) is a nonprofit management association with its executive offices located at 60 East 42d Street, New York, N.Y., and is composed of more than 1,400 companies (including manufacturing, service organizations, banks, and insurance companies). On behalf of its member companies, the association, through its general counsel, desires to go on record as opposing H.R. 9802 (the Overtime Penalty Pay Act of 1964), for the following reasons:

1. As a simple matter of economics, overtime is kept to a minimum by industry. There are many reasons, however, why overtime is necessary and cannot be eradicated by an increase in the overtime penalty. One important reason why overtime is necessary is that there is a shortage of skilled employees. For this reason it is not surprising to find industries which have overtime in communities where there is unemployment. Closely related is the expensive problem of training new employees to operate complicated machines for work which can be done by a regular employee on an overtime basis.

Another reason for overtime is the seasonal or other fluctuation in an employer's business. The training and maintenance of a separate work force for peakloads would not only be uneconomical, but it would not represent a significant solution to the unemployment problem, since such employees would be on a furloughed status much of the time.

Additional factors which make overtime necessary for industry are emergencies, sudden increases in orders, shifts from one kind of work to another and absenteeism. Most of these factors are totally unavoidable. The double-time penalty would not eradicate these factors. It would only increase costs.

2. The increased costs resulting from the double-time overtime penalty would tend to decrease rather than increase employment since industry would attempt to cut the increased costs resulting from double time by further automation. The increased incentive to automate would, therefore, more than offset any employment theoretically provided by the bill.

3. The increased costs represented by H.R. 9802 by itself would not represent the total cost increase that such a bill would generate since it would have a "snowballing" effect. The increase of the overtime penalty would tend to accelerate overtime and holiday pay provided for in present union contracts. Using the proposed statutory double time for overtime as a base, unions could no doubt force further contractual concessions in the area of overtime and holiday pay. In addition, even if certain industries were exempted from the statutory double-time penalty, they would be major targets for unions to seek a contractual double-time-for-overtime provision. Also, the exempted companies would be at a disadvantage in competing with companies covered by the proposed law in the hiring and retaining of employees.

4. The double-time penalty would cause wide fluctuations in employment. If employers were required to hire new employees to meet their overtime requirements, such employees would only face being laid off after the need for the overtime work ceased. Labor turnover is not only very costly, but layoffs also cause unfavorable public relations for a company. In addition, the fringe benefits and costs, such as unemployment insurance, required to be paid as a result of maintaining temporary employees are proportionally higher for the amount of time worked than they are for regular employees.

5. The double-time penalty would inevitably increase prices because of the increase in costs and would place products produced by this country at still a further disadvantage in world competition. This appears contrary to the national policy of strengthening the market for goods produced in the United States and improving our ability to compete in world trade as well as our balance-of-payments position.

6. The association remains of the belief that the best remedy at this time for unemployment is through expansion of business opportunities, overall growth in the economy, retraining for skilled jobs, and greater efficiency. The cost increases implicit in H.R. 9802 tend to work against these goals.

For all of the above stated reasons, the American Association of Industrial Management (National Metal Trades Association) desires to go on record in opposition to H.R. 9802 with your committee.

PATTERSON, BELKNAP & FARMER.

MARCH 31, 1964, *Washington, D.C.*

STATEMENT OF MITCHELL SMITH, EXECUTIVE DIRECTOR, GREATER NEW YORK FOLDING BOX & DISPLAY MANUFACTURERS ASSOCIATION, INC.

My name is Mitchell Smith and I am the executive director of the Greater New York Folding Box & Display Manufacturers Association, and I am here with noting our opposition to the passage of H.R. 9802 and H.R. 1680, which would impose double pay rates for virtually all overtime work, replacing the existing time-and-a-half rates.

This is a trade association of folding carton manufacturers with member plants located in the Greater New York metropolitan area doing business with users of folding cartons throughout the United States.

The industry is faced with an acute shortage of skilled personnel and any change in the current rate for overtime work would have a serious effect on operating costs and with no prospect for hiring new skilled help, thereby reducing the unemployment rolls. The industry attempts to avoid overtime wherever possible and is only instituted on customer demands. The lack of skilled help therefore would prevent the hiring of additional personnel, thus defeating the purpose for which H.R. 9802 and H.R. 1680 is intended. The industry therefore asserts that the increase in the overtime rate would provide no opportunity of spreading the work, and anything to the contrary is a false assumption and we strongly oppose passage of these bills.

STATEMENT OF ERNEST FALK, MANAGER, NORTHWEST HORTICULTURAL COUNCIL

I am the manager of the Northwest Horticultural Council with offices at 1002 Larson Building, Yakima, Wash. The council represents more than 9,000 growers and several hundred firms that pack and ship deciduous fresh fruits in the States of Washington and Oregon. Thousands of employees are engaged in harvesting and preparing fruit for shipment.

The deciduous fruit industry of Washington and Oregon strenuously opposes H.R. 9802.

The purpose of the act is stated to be "to increase employment by providing a higher penalty rate for overtime work."

An overtime penalty rate in our industry would result in a loss of employment, not an increase. At peak periods all available help is used. We frequently need more workers than are available. Because fruits do not ripen by the clock and market demand varies from day to day and week to week, our packinghouses cannot predict in advance the number of hours which must be worked on every day. Overtime may be required in order to process an unusually large supply of fruit received on a given day or in order to make heavy shipments to fill orders for immediate shipments.

Firms cannot afford to pay penalty overtime during these peak periods when the prices received are generally lower, because supplies are heavy. The only way an employer can hold his per unit cost down is by eliminating overtime through handling less fruit. This would mean less employment and less wages for those who are employed, less of a market for the grower and a smaller gross income for the community.

I was present when Secretary Wirtz testified before the committee. I believe that I heard him testify that he and the Department knew of no instance where an increase in the minimum wage resulted in loss of employment. If Mr. Wirtz testified to this effect, I can call to the attention of the committee and the Secretary an instance where this happened. I am sure there are others.

In 1955 the Congress raised the minimum hourly wage from 75 cents per hour to \$1 per hour. Cherry packers were paid on a piecework basis. An experienced cherry packer could earn well in excess of the higher minimum. Many, if not most, of the cherry packers were students working during their summer vacations from high school or college. Many of these youngsters were unable, or unwilling, to develop the skill; i.e., manual dexterity and/or apply themselves sufficiently to earn the increased minimum at established piece rates. The result

was the per box cost for double row facing cherries was increased substantially. Under the 75-cent-per-hour minimum the average beginning packer would work hard and after some experience could earn in excess of the minimum. When the minimum was raised to a dollar, many saw no reason to work hard to earn 85, 90, or 95 cents an hour on a piece rate basis when they would be paid a dollar an hour, regardless of their output. The inevitable result—to avoid the higher per package cost employees departed from the double row facing, which required hand placing of two rows of cherries in each box, and switched to a loose pack which requires a minimum of hand labor. This practice was instituted to avoid the necessity of makeup pay to meet the minimum, especially while beginning packers were learning. The net result: hundreds of students were deprived of an opportunity to work. They lost out in the money which would help defray their school expenses and also lost out on the job and character training inherent in disciplined work. An impartial investigation by the committee or Secretary Wirtz will readily confirm the foregoing. Penalty overtime would similarly result in less employment and lower earnings in our industry.

We also object to the authority which would be delegated to the Secretary of Labor; i.e., the Department of Labor, by this bill. We have had the unfortunate experience of seeing the clear intent of Congress overruled by officials of the Department of Labor. The clear wording of statutes has been ignored or perverted to accomplish the desires of the Department, not the expressed intent of the Congress. I refer specifically to the definition of "area of production" under the Fair Labor Standards Act and to the Department's interpretation of the provision of the Wagner-Peyser Act which provides that workers referred to an employer for prospective employment shall be notified of the existence of any labor dispute. The Department of Labor has interpreted this clear and unambiguous language to mean that workers shall not be referred to an employer involved in a labor dispute, even though there is no employer-employee relationship between the disputants.

We fear that the language of H.R. 9802 could and would be construed by the Department of Labor to mean what the Department decides it should mean without regard to the intent of the Congress. Congress should not abdicate its authority by such delegation to the Secretary.

We urge that H.R. 9802 will not accomplish its avowed purpose of increased employment but would actually result in less employment to the detriment of our fruitgrowers, packinghouses and their employees.

APRIL 2, 1964.

AMERICAN GEAR MANUFACTURERS ASSOCIATION,
Washington, D.C., April 13, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Joint General and Select Subcommittee on Labor, House Education and Labor Committee, House Office Building, Washington, D.C.

DEAR MR. HOLLAND: The American Gear Manufacturers Association is anxious to go on record in opposition to the proposals for overtime penalty pay in H.R. 9802 and H.R. 1680. We believe that the circumstances prevailing in our industry justify this position.

We regret that we were not able to ask for time to present these circumstances more completely and to answer any questions you might have. The democratic processes of our association delayed us beyond the deadline in applying for time to be heard at your hearings. Therefore, this statement will have to serve as the expression of our views in lieu of a personal appearance.

I write both as president of the American Gear Manufacturers Association and as president of the Philadelphia Gear Corp., King of Prussia, Pa. As such, I have a double vantage: a general perspective of the gear industry and a particular knowledge of my own company.

While we are sympathetic with the purpose of spreading employment, we are convinced that the approach in these proposals will not achieve this objective in general industry, and certainly not in our particular industry. Indeed, we feel that the effect might be quite the opposite. We would be forced, in avoiding punitive costs, to limit production.

At this point, I would like to stress the dual nature of our industry. First, we manufacture new power transmission machinery; i.e., complete gear boxes and gears per se. Second, a smaller but very important part of our efforts is devoted to manufacturing repair gears to service our customers' emergency

breakdowns. These breakdowns are completely unpredictable, but when they occur we work continuously until our customers' employees are back at work. Obviously, our employees are called upon to work overtime—but on an unpredictable schedule. In this latter respect we are a service industry. Hardly a week goes by that we do not have to schedule Saturday and Sunday emergency work.

In meeting peak production demands of the last few years, most gear manufacturers have been obliged to keep their production force working on an overtime program. At Philadelphia Gear this has often averaged about 10 hours above the normal 40-hour week. Numerous other power transmission manufacturers will report much the same experience.

There are two chief reasons why this is so. We have been unable to find enough qualified men to run the machines on a straight-time basis. The machinery we use is so enormously expensive that we cannot afford to invest in these production tools unless we can anticipate maximum usage to include peak loads. It is, however, entirely impractical for us to maintain standby machinery and employees to handle emergency or peakload situations. The result of the punitive legislation proposed could only be a slowing down of the tempo or the ability of our industry to react quickly and effectively for our customers.

The situation is much more involved than merely putting new employees on the payroll. In our business it takes a great deal of capital and a fairly steady flow of orders to give people jobs. Accordingly, we are organized and tooled for a normal workload and resort to premium pay for overtime only to meet peakloads and emergency breakdown orders. The amount of added employment that this overtime involves is not much. While we estimate that perhaps 20 percent of our work hours are overtime hours, normally we cannot predict more than a day or two in advance which of our employees will get the overtime—and this is based upon the type of overload at that particular time. Most of the companies in our industry run plants that are essentially jobbing shops; that is, we work as we get orders and produce relatively little of what might be considered stock material.

We would like to control these peakload periods but rather obviously conditions in our industry do not permit such control nor a prediction of the employees who will be involved from week to week. As a result we cannot plan work on an orderly straight-time basis. A recent order for a sugar mill from a South American country illustrates the point. The mill consumed valuable months in international shopping before placing the order with our company. We are now working overtime to get the job delivered by the time that the sugarcane crop is ready for harvest.

In that connection we might also point out that our chief competitor for this sugar mill job was a manufacturer in England. We would not have obtained this export order if our bid was based on the penalty pay rates in the proposals under consideration. While this is only one incident involving one manufacturer, if multiplied by the experience of others, it does have a bearing on our exports. So to the extent that these bills would raise our costs and keep us out of foreign markets, our country's balance-of-payments problem will definitely be worsened.

The precision that is required of so much of our gear cutting today is another factor that leads to overtime. Once a precision housing or gear is nearing the finished state on a machine, the operators are required to stay with the machining process until the work is complete. Otherwise temperature changes involved in shutting down and starting up on a later shift would result in inaccuracies in the finished work. This is a frequent occurrence, but one that would not permit the utilization of standby workers.

This is also true in heat-treating operations to harden gear teeth. To attain the required depth in case, the operation must be run a full, but often varying, course. To keep men standing by for such variations in heat treating time cycles is not the answer either. The margin of profit in this business is not enough to warrant the maintenance of a pool of highly skilled men waiting to take these shifts on a straight time basis when and as they develop—even if such skilled men were today available.

The problems posed by overtime in the broad context of the Nation's need for more jobs presents an anomalous situation. While you in Congress are concerned with spreading employment, we at Philadelphia Gear are trying to fill the jobs we have. And some of these job vacancies have gone begging for as long as 3 months. We have programs for training and upgrading our employees, but

it often takes years to train skilled craftsmen—and at best these training programs are sometimes inadequate. For a man to operate a machine that costs several hundred thousand dollars requires a maturity and skill that takes years to develop. Precision gear manufacturing requires far more of a man than the mechanical operations of some assembly lines.

We have no faith in the impartiality of tripartite committees which H.R. 9802 would set up for any industry in which it is alleged, or the Secretary of Labor believes, that substantial and persistent overtime employment exists. We are apprehensive about what is meant by such phrases as “substantial” overtime employment, and “excessive costs.” How “penalty rates” can be applied without serious dislocations, disruptions, and increases in cost, is beyond the understanding of us in this industry.

H.R. 1680 is an across-the-board double time proposal which will inevitably raise our costs with all the attendant disadvantages that such a raise entails. It is nonsense to talk about holding down costs while being forced to pay double time without a commensurate increase in productivity.

We in the gear industry earnestly hope that you will not resort to a “punitive pay” bill.

We would be grateful if you will make this statement a part of the printed record of the hearings.

Very truly yours,

RUSSELL C. BALL, Jr., *President.*

AMERICAN INSTITUTE OF LAUNDERING,
Washington, D.C., March 24, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

MY DEAR CONGRESSMAN: The Roosevelt general Subcommittee on Labor of the House Education and Labor Committee afforded us an opportunity to testify in opposition to H.R. 9824 on March 16, 1964. We appreciate this opportunity to place before the subcommittee the very disastrous effect that these proposed amendments to the Fair Labor Standards Act would have upon our industry. Should this bill come before the full committee at some future date, we want each member of the House Education and Labor Committee to have an opportunity to understand the difficulties which this bill will bring upon the industry and its workers.

We enclose herewith a copy of the basic statement of the American Institute of Laundering and also copy of the supplementary statement made necessary because our testimony was cut short by a quorum call. We ask that you give especial attention to five discussions in these statements:

First, the loss of jobs which this legislation would bring about;

Second, the very discriminating and unworkable difficulties which the \$1 million enterprise concept would inflict upon our industry;

Third, the very drastic effect of including the word “commercial” in section 13(a)(3) of the exemption language which would bring over 50 percent of all the laundries in this country, and mostly small laundries in small towns, under the act;

Fourth, the most complicated and utterly unworkable situation which would develop from the so-called Goodell amendment contained in H.R. 8002; and

Fifth, the totally misleading impression the report of the Department of Labor, sent up to the Congress in January 1964, gives as to the impact of the proposed legislation on the laundry industry as revealed by our industry survey on this matter.

We hope you will have an opportunity to familiarize yourself with these problems as explained in the enclosed statements. We are ready at any time to answer any questions which you may have about this matter.

Respectfully yours,

HAROLD HOWE,
Manager, Washington Office.

STATEMENT OF AMERICAN INSTITUTE OF LAUNDERING

The American Institute of Laundering is the national trade association for the professional power laundry industry. Its members represent approximately 85 percent of the dollar volume of all professional power laundries' sales in this country.

The American Institute of Laundering, on behalf of its members, is very appreciative of this opportunity to inform the subcommittee, and through it the Congress as a whole, of the sound grounds on which it opposes enactment of H.R. 9824—the administration's proposal to deny to a great many laundries their historic exemption from the Fair Labor Standards Act and to subject them to its coverage. We oppose H.R. 9824 because—

1. It will increase unemployment among laundry workers;
2. It will accelerate the existing trend in the laundry industry of increasing loss of job opportunities and curtailed employment;
3. It will necessarily force cost and price increases which will—
 - (a) Stimulate automation and further loss of employment;
 - (b) Contribute to inflation;
 - (c) Divert our business to the housewife, her laundress, or the laundromat; and
 - (d) Further reduce or eliminate profits of our exceptionally low profit industry;
4. It will disrupt competitive relationships well established during the 15 years of the existing exemption and create new inequities and discrimination between laundries under the proposed exemption; and
5. It substitutes for an exemption provision readily understood and applied and which has worked well in practice for nearly 15 years, new provisions of an extremely complex and vague nature involving some 14 different standards or tests in their application.

For these reasons we urge the retention of the exemption for laundries now contained in section 13(a) (3) of the act without change in any way.

I. INCREASED UNEMPLOYMENT OF LAUNDRY WORKERS

President Johnson, in his 1964 manpower report to the Congress of a few days ago, said that overcoming the Nation's persistent unemployment problem is the "greatest immediate manpower challenge before us."

But H.R. 9824, we respectfully submit, would produce in the laundry industry a result directly contrary to the universal objective of the President, his administration, the Congress, and labor and management alike of reducing unemployment. For in our considered judgment, enactment of H.R. 9824 would contribute directly to an increase in unemployment in our industry—an industry already noteworthy for substantial reductions in job opportunities in recent years. H.R. 9824, we are convinced, will operate to defeat—not implement—the purpose of reducing unemployment.

Indeed, as to the laundry industry, the real issue H.R. 9824 poses is not so much whether it will tend to increase laundry employment, which it will not. Rather, the committee must carefully weigh, we respectfully submit, whether enactment of H.R. 9824 can in any fashion, however small, operate to stem the tide of lost job opportunities in our industry which enlarge unemployment. When reviewed in this light, we submit, it becomes the more plain that H.R. 9824 is at war with the Nation's objective of eliminating unemployment.

That a marked and serious trend exists in our industry of increasing loss of significant numbers of job opportunities cannot be doubted:

From 1947 to 1960, almost 60,000 job opportunities were lost; that is, 59,200 less production workers were employed in the industry in 1960 than in 1947—a decrease of 16 percent. (See exhibit 1, attached.)

In the 2 recent years of 1961 and 1962, over 20,000 additional job opportunities were lost in our industry (actual figure—20,600, according to the Monthly Labor Review, vol. 86, No. 2, and Employment and Earnings Bulletin, vol. 9, No. 8, of the U.S. Department of Labor).

This trend of loss of important numbers of jobs in our industry becomes the more disturbing when evaluated against the necessary and inevitable impact of H.R. 9824 on our industry. This becomes evident when the bill is considered in the context of the economics of the industry and the nature of its work force, matters which are detailed in subsequent sections of this statement. As is there made plain, professional power laundries are small businesses which serve only local (not national) market areas and are characterized by extremely low profit margins and an extremely high labor cost ratio. In 1961, the average operating profit of professional power laundries before Federal income taxes was 2.4 percent of the sales dollar and labor costs were 64.51 percent of the sales dollar.

Now it is obvious, and the Administrator concedes, that subjecting increasing number of laundries to the act will increase wage costs. It is no less plain that

because of the industry's high labor cost ratio, any increase in labor costs loom inordinantly large in the laundry's operating statement. If laundry prices are increased, the housewife will do it herself. And there is no room in the laundry's profit margin for absorption of the increased labor costs. Hence, still further decreases in employment—further loss of job opportunities—are inevitable under H.R. 9824.

Yet a major segment of the Nation's unemployed are precisely the type of workers which laundries employ. As the President's 1964 manpower report points out (table A-14, p. 204), "operatives and kindred workers" constitute slightly more than one-quarter of all of the persons in long-term (more than 26 weeks) unemployment in 1963. This is the group from which laundry workers are employed. By and large, they are unskilled, marginal workers with little formal training. The President's report indicated (table F-10, p. 258) that only 12.7 percent of all laundry and cleaning operatives learned their job by "formal" training and that (table G-14, p. 269) nearly half of all operatives completed less than 9 years of schooling. We may also note that laundries provide employment for many women, youths, and older workers.

Now the fact is that these segments of the work force make excellent employees for laundries and we, of course, have no intent to speak disparagingly of them. But we do want to point out to the subcommittee that in our view many of this substantial "hard core" segment of the unemployed, while capable of doing good work for laundries, may not be capable of holding jobs in other industries requiring higher skills. If they cannot find untrained and unskilled employment with laundries, where can they be employed? And as job opportunities in laundries are further reduced by H.R. 9824, that bill will necessarily contribute further to unemployment rather than to the relief of unemployment.

It is pertinent for the subcommittee to note the following comment from the highly regarded Monthly Economic Letter of the First National City Bank of New York for March 1964, page 32:

"At a time when the administration is waging a 'war on poverty,' it is strange that it should push a measure that is certain to raise unemployment among low-skilled workers. In the postwar years, the largest gains in employment have been in the service trades, where such low-skilled workers predominate. By making it more costly to employ them, the measure would add to unemployment rolls while further raising the cost of services—the chief factor behind the continuing upcreep of the Consumer Price Index."

To summarize as to this point, long-term or "hard core" unemployment is concentrated among the unskilled. Laundries draw heavily upon this group for workers. It cannot serve the cause of reducing unemployment—"the greatest immediate manpower challenge before us"—to further reduce the number of job opportunities in the laundry industry for this group. Yet, such is a direct and predictable result of enactment of H.R. 9824.

To more fully appreciate the adverse impact of H.R. 9824 on our industry, it is necessary to understand its characteristics and economics, the nature of its work force and to analyze the provisions of the bill in its application to laundries. To these matters we now turn.

II. PROFESSIONAL POWER LAUNDRIES DIFFER FROM USUAL CONCEPT OF INDUSTRY IN COMMERCE

The basic differences of the laundry industry as compared with the general conception of industry in commerce are:

1. Professional power laundries are essentially local in character and competition between members of the laundry industry if confined to local trading areas.
2. Professional power laundries do not sell goods and do not inject goods into the stream of interstate commerce. Professional power laundries sell services. Professional power laundries perform services on property which already belongs to others.
3. Professional power laundries perform services which their customers may readily provide for themselves.

III. PROFESSIONAL POWER LAUNDRIES GENERALLY SMALL BUSINESSES

Being local enterprises competing with each other only in local trading areas rather than selling goods nationwide, professional power laundries generally are small businesses. These establishments are either sole proprietorship, partnership, or family management operations whether or not incorporated. As the

administration's report to the Congress on laundry and cleaning services of January 1964 states, page 45:

"The laundry and drycleaning industry is composed primarily of small units. The average power laundry is a relatively small establishment, with less than \$100,000 in annual sales and less than 20 employees."

IV. THE LAUNDRY INDUSTRY WORK FORCE

The professional power laundry industry supplies a necessary healthful service to its community and provides employment in the aggregate for more than 200,000 workers who otherwise might have little opportunity for gainful employment. Many of our workers are women whose husbands or grown children also work. They are supplementary income workers, not the sole or even the major support of the family unit.

By and large, laundry workers are unskilled workers. Indicative of this is the fact disclosed by the President's report (table F-10, p. 258) that only 12.7 percent of all laundry and cleaning operatives learned their job by "formal" training, just one-half of 1 percent more than babysitters. According to the President's report, nearly half of all operatives completed less than 9 years of schooling (table G-14, p. 269).

Many of these marginal or supplementary income workers, untrained and with little manual dexterity, might very well be unable to find employment in industrial concerns, although they are entirely competent for laundry work. According to the 1964 manpower report of the President (table A-14, p. 204), "operatives and kindred workers," which includes laundry and cleaning operatives, constituted 25.7 percent of the total of persons who had been unemployed for more than 26 weeks in 1963.

However, to the extent that a professional power laundry can operate in a local community on a very small margin of profit, it will be able to provide much needed employment to serve Mrs. Housewife with a valuable, healthful, and necessary service about which she is extremely cost conscious.

The laundry operator does not control his wage policies. They are determined to a large extent by the labor market level in each community. And those levels may vary according to the section of the country and according to the size of the community.

Further, as the Administrator recognizes (January 1964 report, p. 65), 29 States, the District of Columbia, and Puerto Rico have minimum wage laws applicable to our industry which covers (p. 70) 213,000 employees. Wide variations exist even within the boundaries of a single State and many State minimum wage board order even set different minimums for different sized towns and cities. This, again, emphasizes the inadvisability and unsoundness of national minimum for local businesses.

Moreover, a substantial segment of our workers, particularly in metropolitan areas, are represented by unions. The Administrator has stated that 128,000 workers were covered by contracts with but three unions (January 1964 report, p. 63). Since the main thrust of H.R. 9824 is directed at the larger plants doing over \$1 million of business a year, it would extend coverage importantly to these already unionized workers whose terms of employment are controlled by collective bargaining. Yet one could not reasonably contend that the wage and overtime interests of these workers were inadequately represented or needed the "protection" of the act.

V. PROFESSIONAL POWER LAUNDRIES HAVE HIGH PERCENTAGE OF LABOR COSTS

There is a significant difference between professional power laundry establishments and most other business establishments. The principal item of cost in supplying laundry services is wages and salaries. Average operating cost percentages published by the institute show that the average percentage of payroll and related costs in the professional power laundry industry was:

	<i>Percent of the sales dollar</i>
In 1961.....	64.51
In 1959.....	64.71
In 1957.....	64.99
In 1955.....	64.56

VI. PROFESSIONAL POWER LAUNDRIES ARE EXTREMELY LOW-PROFIT ENTERPRISES

As a matter of information, from this same report the average operating profit before Federal income taxes of professional power laundries was:

	Percent of the sales dollar
In 1961.....	2.40
In 1959.....	2.98
In 1957.....	3.80
In 1955.....	3.73

It is also important to note that the larger sized plants show a smaller percentage of profit before Federal income taxes than do the medium-sized plants, and also smaller percentage for executive salaries. There is virtually no advantage enjoyed by the larger plants over the medium-sized plants except possibly a larger volume of supplies which might be bought at 10 percent less than the medium-sized plants. But this only amounts to eight-tenths of 1 percent out of the sales dollar. It is the larger plants which are being hardest hit and these are the ones with the largest number of employees and the ones going out of business the quickest.

The present profits of the power laundry industry are so low and the possibility of larger future profits is so dim that the industry is seldom able to attract outside investment capital into large central laundry plant operations. Moreover, the less-than-bright possibilities for the future in the laundry industry make it difficult, if not high impossible, to attract high school and college graduates into the professional power laundry industry, unless they are sons in a family owned business.

VII. LAUNDRY COST INCREASES MUST BE PASSED ON TO CUSTOMERS

The laundry industry is not one that readily lends itself to extensive automation. Consequently, increased labor costs cannot be generally absorbed by the laundry industry and must be largely passed on to the customer, the housewife, who simply will not continue to send her soiled clothes to professional laundries when prices are increased. It is a historic fact that increases in prices have meant reduced poundage volume in the laundry industry. Whenever such cost increases cannot be absorbed by the laundry plants, it means that prices to the customer must be raised. If the customers won't pay the increased price, volume drops and workers lose their jobs.

VIII. ADDITIONAL EVIDENCE OF LOSS OF JOBS IN STATES AND CITIES

In the period 1954 to 1958, the two most recent census of business years, loss in jobs occurred in 30 out of the 50 States as follows:

States where job opportunities in the power laundry industry were lost, 1954 to 1958, from Census of Business

State	Number of employees		Percentage of loss (-) or gain (+)	State	Number of employees		Percentage of loss (-) or gain (+)
	1958	1954			1958	1954	
Alaska.....	158	184	-14	New York.....	21,821	22,619	-4
California.....	15,030	16,034	-6	North Carolina.....	7,570	8,028	-6
Connecticut.....	2,967	3,676	-19	Ohio.....	8,208	8,795	-7
Georgia.....	5,479	5,877	-7	Oklahoma.....	2,844	3,035	-6
Hawaii.....	935	1,032	-9	Oregon.....	1,983	2,111	-6
Kentucky.....	4,094	4,197	-2	Rhode Island.....	1,345	1,377	-2
Maryland.....	4,738	5,179	-9	South Dakota.....	443	473	-6
Massachusetts.....	7,723	8,439	-8	Tennessee.....	5,587	6,710	-17
Michigan.....	5,924	6,228	-5	Texas.....	14,445	15,923	-9
Minnesota.....	2,549	2,622	-3	Virginia.....	5,803	6,073	-4
Mississippi.....	2,305	2,565	-10	Washington.....	2,865	3,296	-13
Missouri.....	5,520	6,303	-12	West Virginia.....	1,308	1,700	-23
Montana.....	712	799	-11	Wyoming.....	453	493	-8
Nevada.....	523	551	-5				
New Hampshire.....	881	927	-5	Total.....	138,475	157,910	¹ -12
New Jersey.....	8,816	9,844	-10				

¹ Net loss.

or a net loss of 18,535 jobs in 30 States.

In recent years, industry records have consistently reported the closing of large central plants and consequent loss of jobs.

Philadelphia job opportunities in laundries dropped 51 percent from 89 laundries with 5,500 employees down to 32 laundries with 2,675 employees. Pittsburgh has 551 fewer jobs in 8 years with the loss of 14 laundry and drycleaning plants.

[Excerpt from hearings of Laundry and Drycleaning Minimum Wage Board of Department of Labor and Industry, Commonwealth of Pennsylvania, September 1958]

"Back in 1941 we had 89 laundries and they employed 5,500 employees. Fifty-seven of those laundries that employed 2,825 employees have closed since then. That leaves only 32 laundries left and they employ only 2,675 of the original 5,500 employees." (C. W. Davis, secretary of Philadelphia Laundryowners Association, September 18, 1958, p. 4.)

"There have been 14 laundry or drycleaning plants go out of business in the past 8 years which was a loss of 551 employees * * * ." (Paul E. Davis, president of North Side Laundry, Pittsburgh, Pa., September 18, 1958, p. 51.)

Other cities and States experienced similar losses as listed below :	<i>Employees</i>
New York City metropolitan area laundries closed 21 laundries-----	1, 650
North New Jersey area laundries closed 47 laundries-----	1, 394
Detroit, Mich., area laundries closed 12 laundries-----	1, 325
St. Louis, Mo., area laundries closed 22 laundries-----	1, 419
Kansas City, Mo., area laundries closed 17 laundries-----	1, 064
Salt Lake City, Utah, area laundries closed 8 laundries-----	208
Seattle, Wash., area laundries closed 10 laundries-----	440
St. Paul, Minn., area laundries closed 5 laundries-----	250
Newport News-Hampton and other Virginia areas laundries closed 5 laundries-----	100
Chicago metropolitan area laundries closed 82 laundries-----	4, 100
Cincinnati, Ohio, area laundries closed 5 laundries-----	535
Harrisburg, Pa., area laundries closed 4 laundries-----	140
District of Columbia area laundries closed 10 laundries-----	
New England area laundries closed 22 laundries among 1 accounting firm's clients.	
In New York State area laundries closed 10 laundries-----	825

IX. HIGHER LABOR COSTS REDUCE EMPLOYMENT

The essence of minimum wage legislation is that it prevents covered employers from doing business and creating jobs unless they can pay the wage rate set by legislative decree. It prevents workers from accepting the jobs unless they can find an employer willing and able to pay that rate. It means an increase in disemployment whenever workers in any covered activity cannot produce enough income to warrant the payment of the statutory minimum rate.

In the past 10 or 12 years, virtually no new large central laundries have been built while many have gone out of business due to high labor costs. The new facilities to handle dwindling requirements are a greater number of small plants with a very few or no employees and the home washers and driers now a regular installation in most newly built homes.

The laundry industry is not an industry that can pick up its equipment and move into a lower cost State and still supply the needs of its original customers. It must remain in its local trading area and if statutes force an uneconomic situation in the industry, then they have no alternative but to close up and put their employees out of work. The present trend in the power laundry industry for the closing of our larger establishments is serious enough without any effort on the part of Congress to augment this trend.

While there are many reasons why businesses discontinue or are absorbed, quite generally they are economic reasons and increased costs are the greatest factor. Conditions vary too greatly throughout the country in an industry such as ours to make any sort of a national minimum wage statute economically sound or equitable either to employer or workers. This is a matter that should be left to the States to decide.

President Johnson in his Economic Report to Congress stated that he counted on the Nation's industrialists and labor leaders "to maintain price and wage policies that accord with the noninflationary guideposts that I have asked the Council of Economic Advisers to reaffirm."

Mr. Heller of CEA has stated that on wages the appropriate noninflationary standard for raising total employee compensation per man-hour, not just the straight time hourly rates, is the annual increase in national trend output per man-hour; namely, 3.2 percent. If this factor were applied to the latest labor Department report on average hourly earnings in the laundry and cleaning industry of \$1.33 per hour, it would amount to 4¼ cents per hour. H.R. 9824 would have a much greater effect in many States.

X. THE EXTRAORDINARY DIFFICULTIES CONFRONTING A LAUNDRYOWNER IN DETERMINING HIS EXEMPT OR NONEXEMPT STATUS UNDER THE H.R. 9824 PROPOSAL AS CONTRASTED WITH PRESENT LAW

Present exemption turns on two tests

The law-abiding laundry operator seeking in good faith to determine whether he is exempt from the FLSA needs, under the present section 13(a) (3) to answer only two clear and entirely objective standards or tests for applying the exemption. These are:

1. Are more than 50 percent of the annual dollar volume of sales of his laundry establishment made within the State of his location; and
2. Are more than 25 percent of his annual sales made to mining, manufacturing, transportation, or communications customers.

New exemption application requires 14 tests

If H.R. 9824 should be enacted into law, however, this same laundryowner must resolve some 14 different tests or standards in order to determine his exempt or nonexempt status. The new tests, moreover, are not objective nor readily ascertainable from book records. Rather, they are unclear, in some cases plainly ambiguous and involve standards which neither competent lawyers nor the Administrator himself can possibly define or apply with precision.

Under H.R. 9824, the same two tests (referred to above) provided for in section 13(a) (3) of the existing statute would be carried forward and continued under the new law. In addition to these two tests the laundryowner seeking to determine his legal obligations under the statute would have to attempt to consider and resolve two new major tests and some nine subsidiary tests. The two major tests referred to are:

1. The "enterprise concept" which, in order to determine its applicability, involves a resolution of at least eight different tests or standards; and
2. The "commercial customers" addition to the "25 percent test" provision of the existing exemption.

Each of these major new tests is discussed below and the complex and intricate subsidiary tests upon which their application depends is explained.

"Enterprises"

H.R. 9824 (sec. 205(b)) amends the existing laundry exemption to exclude therefrom an "establishment" as described in the proposed new section 3(s) (6) of the bill (sec. 202). Section 202 however, does not describe establishments. It relates to laundry or cleaning "enterprises."

Assuming the bill intends to except from the existing section 13(a) (3) exemption those laundry or cleaning "enterprises" (not "establishments") with an annual sales volume of \$1 million or more, the laundryowner seeking to determine his exempt or nonexempt status would, under the proposal, be called upon to resolve for himself, at the risk of being subject to the law's severe penalties if he is wrong, still further questions as follows:

1. Am I an "enterprise"? In order to begin to come to grips with this answer, he must refer to the definition of the word now contained in section 3(r) of the act. He then finds that section to give rise to the following additional questions, answers to which are not provided by the statute.

2. What are "related activities"? For example, if the laundryowner also has financial interests in an automobile wash, a service station, a motel, a linen

supply company, a hotel, a lumberyard, etc., are such activities "related" to laundry activities?

3. What constitutes "unified operation or common control"?

4. What constitutes "a common business purpose"?

5. What constitutes "other organizational units"—which the statute implies may be comparable to both corporate units and departments of an "establishment"?

Recognizing from the terms of section 3(r) that anything except a so-called "Mom and Pop" shop may be a statutory "enterprise"—whether it is a shoeshine stand, a corner newspaper stand, a carwash, the automobile greasing department of a service station, etc.—the laundryman must next determine whether his business is "interstate commerce" within the meaning of the jurisdictional standards of the act. This is because, for the first time under this statute, in order to determine the applicability or nonapplicability to him of the statutory exemptions he must also grapple with the tests which have heretofore been tests of the statute's overall coverage or application but not of the laundry exemption. Hence, having determined that he is or may be an "enterprise" the laundryman must then determine whether or not his enterprise is "engaged in commerce or in the production of goods for commerce." Here again, most significantly, there is no quantitative test in terms of percentage or otherwise as to the amount or proportion of engagement in commerce or in the production of goods for commerce by the enterprise which governs. Rather, by necessary implication any amount—however small—of such engagement in commerce would seem to satisfy the "enterprise test" with the consequence that all employees of the covered enterprise will be subject to the act.

But such a result, of course, flies squarely in the face of, is diametrically opposed to, and is entirely inconsistent with the purposes and objectives of the laundry exemption (sec. 13(a)(3)) in the first place. Most simply stated, this was merely to establish objective mathematical standards of a quantitative nature so that both the laundryowner and the Administrator would clearly and unmistakably know who was and who was not subject to the act. Upon these clear-cut provisions there is now superimposed the incredibly complex and uncertain "enterprise" concept which, among other things, swings full circle to involve the laundryman in the very complexities of "commerce coverage" questions which it was the purpose of section 13(a)(3) to lay to rest forever.

The laundryowner seeking to determine whether he is an "enterprise engaged in commerce or in the production of goods for commerce" must then under H.R. 9824, having determined that he is or may be an "enterprise," resolve these still further questions.

6. Am I engaged in commerce? He refers to section 3(b) and is advised that he is if he engages in trade outside his State.

7. Am I engaged in the production of goods for commerce? If he assumes he is not so engaged because a laundry produces no goods, he would be wrong. For section 3(j) makes plain that employees "produce" goods if they "work on" or "handle" goods.

8. Additionally to tests 6 and 7, the laundryowner must consider whether the activities of his employees are within the entirely new "activities test" of section 3(s); namely, whether his employees handle, sell, or otherwise work on "goods that have been moved in or produced for (interstate) commerce."

9. And finally, he must determine whether his annual gross volume of sales is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated. But here too he is confounded because the million-dollar test applies to "enterprises." He must, in other words, to apply the million-dollar test, know what the "enterprise" is so as to be able to measure the annual sales of the "enterprise." This, of course, takes him back to the beginning (see above) and all the attendant difficulties of his attempting to resolve just exactly what his "enterprise" is.

"Commercial" customers not exempt

The insertion of the one word "commercial," as H.R. 9824 proposes, would have a devastating effect on the present laundry exemption. The drafters of H.R. 9824 seek to turn the clock back 15 years by this one word proposal. The existing laundry exemption, in fact, was made necessary and was enacted primarily because of the insistence by the Administrator during the years prior to its enactment on reading the prior exemption as if it had included (it in fact did not include) the word "commercial." The Administrator, for years, sought

to equate "commercial" with "nonretail" so as to deny exempt status to those sales of laundries to any customer who might, under any stretch of the imagination, be considered "commercial," viz, any customer other than a family or bachelor.

The inclusion of this one word in the statute would, in our considered opinion, provide the Administrator with a basis for excluding from the present exemption every laundry in the country which derives less than 25 percent of its revenue from laundry for private individuals for personal or family use. For the Administrator demonstrated nearly 20 years ago that he considered anything else to be commercial (see Wage and Hour Release A-19 of 1946, 11 Federal Register 14099, which revalidated prior ruling of June 16, 1941). Hence, inclusion of the word "commercial" in the so-called 25-percent test of the present exemption necessarily has the effect of making the exemption meaningless for most laundries.

The Wage-Hour Division, through this proposal, in 1964 thus apparently seeks to reinstate a position it first asserted in 1941 but withdrew in the face of congressional protest. When thereafter in 1946 the Division's position was reasserted to the effect that a laundry would lose its exemption where not more than 25 percent of its sales of services was for other than private individuals for personal and family use, it required forthright legislative action of the Congress to inform the Administrator that his view of the law was wrong. This was accomplished when the Congress in 1949 enacted the present 13(a)(3) exemption limiting the 25-percent test to interstate business or instrumentalities.

The word "commercial" again appeared in the Kennedy bill, S. 1046 and the Roosevelt bill, H.R. 4488, introduced in the 86th Congress on February 16, 1959. It was removed by the Senate and House Labor Committees and did not appear in S. 3758 of June 27, 1960, or H.R. 12677 of June 15, 1960. The word "commercial" was added to S. 3758 on the floor of the Senate by voice vote but the bill died in conference.

The word "commercial" did not appear in the Kennedy administration proposal in S. 895 or H.R. 3935 as originally introduced in 1961. It did appear in the version reported by the House committee and in the Albert substitute. The Vinson amendment on the House floor by voice vote removed "commercial" from the Albert substitute. It did not appear in the House-passed bill, H.R. 3935.

Hence, the Administrator in proposing in H.R. 9824 the inclusion of commercial customers in the present exclusory 25-percent test, once again seeks to retrieve coverage under the act previously and repeatedly denied him by the Congress.

The significance of the Administrator's "commercial" or "nonretail" concept of sales of laundry services to a laundry owner is made plain when it is realized that the Administrator considers only laundering for private or family use to be noncommercial and all other sales of laundry services to be commercial. The significance is further highlighted when it is understood that under the H.R. 9824 proposal the laundry owners will be required, in order to determine the status under the 25-percent test, to classify all of his sales of each 12-month period, by type of customer. In so doing, under the theories of the Administrator of 20 years ago, we would necessarily arrive at the following results in terms of such classification:

Only where the customer is an individual or family buying family laundry service would the sale be considered to be "noncommercial."

On the other hand, if family or individual laundry bundles are collected by a central agency such as an Army PX, a beauty or barber shop, a motel or a factory, these laundry sales, notwithstanding that they are ultimately to the family or individual, would be classed as "commercial" by reason of the intervention of a collection agent.

At the same time, laundry sales to a doctor or a dentist, or a barber or a beauty shop operator would also be classed as commercial.

And employees' uniforms, e.g., packingplant, garage, etc., employees would be classed as commercial.

Laundry for students or Army camps or motels or hotels would be classed as commercial, etc., etc.

In short, we would expect the Administrator to claim that sales of laundry service to any kind or type of customer other than a family or individual—in the strictest and most literal sense—would be classified as commercial.

And under H.R. 9824, where such "commercial" sales exceed 25 percent of the annual dollar volume of sales, the laundry establishment would lose its exemption.

The Government's own figures (which we believe, but cannot show, to be understated) emphasize the enormity of the significance of the inclusion of this one word in the existing so-called 25-percent test. In the January 1964 report of the Administrator entitled "Laundry and Cleaning Services" prepared for these hearings, table 24 at page 47 reflects the following percentages of total receipts of the major kinds of businesses in the laundry and cleaning industry as being the percentage of work other than family and bachelor laundry work.¹

	<i>Percent of nonfamily or bachelor receipts</i>
Power laundries.....	40
Cleaning and dyeing plants.....	90
Industrial launderers.....	99+
Linen supply.....	99

The Administrator's report, of course, neither emphasizes nor mentions this aspect of great significance to the questions under consideration by the committee.

From the foregoing, three important conclusions emerge with distinct clarity:

1. The existing laundry exemption in 13(a)(3) is fair, readily understood, and relatively easy to apply by the law-abiding owner. It has worked well in practice for almost 15 years and should be retained.

2. The revision in the laundry exemption embodied in H.R. 9824 is inordinately difficult and complex. The application of some 14 different, often ambiguous and intricate, tests are prerequisite to a laundry owner ascertaining his status under the exemption. These facts alone are reason enough to condemn it.

3. Since, insofar as we are informed, none of the extensive and elaborate presentations of the Administrator to the committee have reflected either the real significance of the inclusion of the one word "commercial" in the 25-percent test of the laundry exemption nor the ramifications and impact of the proposed revision in the laundry exemption, question may be raised as to the accuracy and good faith of the Administrator's representations to this committee.

XI. SOME PRELIMINARY COMMENTS ON THE ADMINISTRATOR'S REPORT

Although available only comparatively recently, we would like to advance a few comments about the report from the Wage and Hour and Public Contracts Division of the U.S. Department of Labor dated January 1964, entitled, "Laundry and Cleaning Services—Data Pertinent to an Evaluation of the Need for and the Feasibility of Extending the Minimum Wage."

Through the courtesy of the Advisory Council on Federal Reports, we were invited to a meeting in the Bureau of the Budget when this proposed survey was being planned. Based on the results reported in a similar survey taken in the summer of 1961 and reported in January 1962, we had grave doubts that the 1963 survey and subsequent report would reveal to the Congress the true impact of the proposed amendments to the Fair Labor Standards Act of 1938, as amended, as they relate to coverage and exemption in the laundry industry. We made our fears known to the representatives of the Bureau of the Budget, the Wage and Hour and Public Contracts Division, and the Bureau of Labor Statistics. We suggested that the deficiencies of the survey be set forth in the final report so that the Congress might be aware of them.

Having only recently received the January 1964 report, we find our fears were justified and offer the following comments to the subcommittee for the record so that the Members of Congress may be aware of some of the deficiencies in the report.

¹ In reflecting that receipts from family and bachelor laundry work totaled 60 percent in 1958, we believe the Administrator's percentage is overstated. Among other reasons, we doubt that family and bachelor bundles collected through an agency have been excluded.

Presently covered workers

On page 1 the report discusses the number of workers in all types of laundry and cleaning services, the numbers not covered, those exempt, and those subject to the Fair Labor Standards Act. A similar discussion appeared in the 1962 report. We tabulate the number of workers shown in each report:

	1963	1962
Total number of workers.....	568,000	583,000
Exempt by sec. 13(a)(1).....	38,000	59,000
Total.....	530,000	524,000
Not covered by act.....	380,000	418,000
Total.....	150,000	106,000
Exempt by sec. 13(a)(3).....	133,000	89,000
Workers subject to act.....	17,000	17,000
In industrial laundries.....	11,000	11,000
In power laundries and linen supply plants.....	6,000	6,000

These are admittedly estimates, but doesn't it seem peculiar that no matter how many employees the Administrator starts with, he always ends with 17,000 covered and nonexempt workers—11,000 in industrial laundries and 6,000 in power laundries and linen supply plants? Where are the new employees of industrial laundries which have a history of the most rapid expansion in sales and employment in the industry? Moreover, there were 15,000 less employees in 1963, yet the net result is the same. And if, which we doubt, some 44,000 more employees were exempt in 1963 than in 1962 (the exemption was unchanged and total employment was substantially less in 1963), it is indeed odd that the total number of workers covered by the act remains the same.

Also, where did the 568,000 overall figure come from? The regular publications of the U.S. Department of Labor—the Monthly Labor Review and Employment and Earnings—show a total of only 517,700 workers in the laundry and cleaning industry in July of 1963—over 50,000 less than contained in this report. In fact, in the report itself, on page 51, the total industry employees is shown as 516,200 in 1962.

"Inequities"

As to competitive inequities (p. 2), these are inevitably accentuated whenever the ground rules between "coverage" and "noncoverage" are changed. The wage and hour administrators have historically interpreted the Fair Labor Standards Act to expand its coverage and narrow its exemptions, and each such change has created inequities not intended by the original framers of the act. Now in H.R. 9824, a fundamental, major change is proposed which will create more disparities and inequities than ever before in our industry.

As to the industrial laundries, in 1958 there were 668 such plants to serve the entire Nation, but there were 11,262 power laundries. These facts indicate that industrial laundries serve broad and sometimes interstate areas of the country while power laundries are mostly local. From 1954 to 1958, the relative increases in industrial laundries and professional power laundries are shown below:

	Percentage of increases	
	Industrial laundries	Professional power laundries
Number of plants.....	+23	+17
Receipts (annual).....	+48	+12
Annual payroll.....	+42	+9
Total number of employees.....	+32	-3

The 1961 report on page 4 showed the power laundries only received 1 percent of their total revenue from industrial laundry service, which is practically all local and should not cause great concern of the industrial laundries.

As to the "inequity" alleged by the report to some laundries near State lines, this provision of "the greater part of their annual dollar volume of sales in intrastate commerce" was written into the law in 1938 and retained in 1949. Moreover, in most localities close to State lines the plant owners have voluntarily restricted their sales to more than 50 percent in their own State and left the volume in adjoining States to a plant in those States. In this competitive situation the plant owner can elect to stay in this own State or to go outside of his own State for more than 50 percent of his volume.

Scope of plants surveyed

We have some disturbing misgivings about the number of plants actually visited and surveyed. According to the tabulation on page L-40 the report shows 1,517 plants studied. We take this to mean visited and information secured. Well, we asked our State and local associations to ask their members to report to us if any laundry, cleaning plant, linen supply, industrial laundry, diaper service laundry, or rug cleaning plant was visited by Bureau of Labor Statistics fieldmen and surveys made. We also published regularly in our monthly magazine, "Fabric Care," with a circulation of about 8,000 laundries, a similar request. We received only 18 replies, and one of them said he wouldn't give the Bureau of Labor Statistics man any information.

We certainly would like a detailed explanation of this unbelievable discrepancy.

"Enterprise"

We now come to a matter of definitions; namely, "\$1 million enterprise."

We suppose that where only one establishment is involved, and it has an annual dollar volume of \$1 million or more, you have a "\$1 million enterprise." But when you come to multiunit operations, you run into difficulties.

The Bureau of Labor Statistics, when making this survey, and hence the Wage and Hour and Public Contracts Division, when submitting this report, stated on page L-39 that establishments "owned by a company" operating other similar establishments become part of an "enterprise." This supposes a company-owning-company relationship. This, by the way, is the only way the Bureau of Census, which is credited with furnishing the million dollar enterprise data, could provide such information (See Bureau Census forms). But the definition of "enterprise" in the statute in section 3(r) says in part:

"Enterprise means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment. * * *" etc.

Nowhere in the report of the Wage and Hour and Public Contracts Division is there a showing as to those \$1 million enterprises that have no intercompany ownership but which are under "unified operation," nor of such \$1 million enterprises, if any there be, which result from common control by one or more individuals having money in several business activities, one or more of which may be a laundry or drycleaning plant.

We feel that the inability of the Bureau of Labor Statistics or the Bureau of Census or the Wage and Hour and Public Contracts Divisions to develop these phases of the extent of the statutory language seriously undermines the entire report's discussion of million dollar enterprises. Hence, we also feel that the conclusions drawn in the report as to the impact of this coverage language on the laundry and cleaning industry are not only inadequate but give an entirely erroneous impression.

\$250,000 of annual sales

We have further questions. All through the report the industry is broken down into:

\$1 million enterprises;

Establishments with annual dollar volume of \$250,000 or over, but part of a \$1 million enterprise;

Establishments with less than \$250,000 annual volume.

What is the significance of this \$250,000 yardstick? It appears in section 13(a)(2)(ii) as applying to retail stores but nowhere does it appear in the proposed laundry coverage or exemption. The test for which such data might

be pertinent is not before the subcommittee. Although it is thus plainly irrelevant to the committee's consideration, does it in fact reflect the Administrator's idea of laundries which he would like to exclude from the act's laundry exemption?

"Impact"

The "statistical never-never land" achieved by the Administrator's 1964 report is nowhere more apparent than in his alleged "estimates" indicating the "impact" of a Federal minimum wage on the laundry industry. (See p. 22, et seq.) Yet the question of the effect or impact of H.R. 9824 on our industry is of criminal importance to the subcommittee and all others concerned with the industry's welfare. Among the noteworthy features of this extended (14 pages), heavily charted portion of the report are these:

1. Nowhere does it seek to measure the effect of H.R. 9824 or similar proposals in eliminating jobs. Yet the policy of the act is not to "substantially curtail employment or earning power" (sec. 2(b)).

2. Nowhere does it seek to measure the impact of overtime. The report is concerned only with the amount (but not the employers' ability to pay) the increased wage will raise wages to prescribed new minimums.

3. Even this latter effect—plainly a limited and inconclusive one at best—apparently has nothing to do with laundries. For the report states at the outset (p. 22):

"* * * the following discussion of possible wage effects is largely 'confined' to those retail and service establishments (not laundries) covered by the 1961 amendments."

This being so, it is perhaps only "gilding the lily" to point out that the Administrator also, quite conveniently from his point of view, completely overlooks the two other most important factors of impact under H.R. 9824.

1. The number of establishments that would be affected by the \$1 million enterprise concept through individual investments in various establishments is not considered.

2. The extremely broad and drastic effect of including the word "commercial" in the 25-percent test of section 13(a)(3) is not even mentioned.

As a result of our concern about the adequacy of the Wage and Hour Division survey in the laundry and cleaning industry in 1963, the American Institute of Laundering conducted a survey of its own with the help of State and local associations of launderers and cleaners with the following results:

We received 366 replies. After weeding out the small "Mom and Pop" shops, and other unusable replies, we had 310 usable replies.

310 PLANTS IN 28 STATES

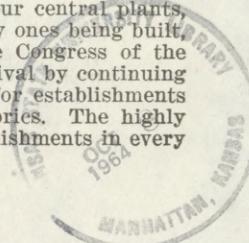
	<i>Percent</i>
200 plants would be affected by the proposed amendments.....	65
153 plants would lose their exemption because of the word "commercial".....	49
20 plants were right on the borderline.....	6
33 plants were \$1,000,000 annual volume plants.....	11
24 plants were part of \$1,000,000 enterprises.....	7

It is important to note, however, that 18 plants surveyed brought 60 non-surveyed other plants into \$1 million enterprises by virtue of intercompany ownership, while 24 plants surveyed brought 88 other non-surveyed plants into \$1 million enterprises by virtue of individual common ownership.

Thus, from our survey we find that the two greatest effects of the proposed amendments were totally ignored in the Wage and Hour Division's report this January.

CONCLUSION

With the Federal minimum wage rate going even higher, with the coverage criteria growing broader so as to engulf the small local businessman, with our workers' job opportunities growing ever fewer and fewer at an alarming rate, with our real volume in terms of poundage going down and our central plants, the backbone of our industry, going out of business and no new ones being built, the laundry industry has no alternative but to ask that the Congress of the United States give the industry, as a whole, a chance for survival by continuing the existing exemption from the Fair Labor Standards Act for establishments engaged in laundering, cleaning, or repairing clothing or fabrics. The highly discriminatory \$1 million yardstick for coverage of some establishments in every



major area; the potential liabilities which the vague and untested language of the enterprise concept would impose on our industry of small businessmen; the disastrous effect of the word "commercial" on our smaller plants—all would hasten and augment the maladies of our industry and thereby encourage unemployment rather than foster full employment. It will be difficult enough to continue to offer a necessary healthful service to the American housewife and provide jobs for some 200,000 workers, most of whom are supplementary income or marginal workers, without the gratuitous final knockout blow by the Members of the 88th Congress through H.R. 9824.

EXHIBIT 1

Employment, earnings in all laundry industry for production workers or nonsupervisory employees from 1947, 1st year available

	October 1960	October 1947
Average weekly hours.....	39.7	42.4
Average hourly earnings (not minimum wage rates).....	\$1.23	\$0.781
Number of employees.....	305,900	365,100

NOTE.—Loss of job opportunities equal 59,200, a decrease of 16 percent.
Increase average hourly earnings equal 57 percent.
Total U.S. civilian employment:

	October 1960	1947	Increase (percent)
Total.....	64,490,000	57,812,000	17

Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings Bulletin vol. 7, No. 6, December 1960 and previous issues.

Hours and gross earnings of production workers or nonsupervisory employees in laundries

	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951
Average weekly hours....	38.9	38.8	38.8	39.8	39.0	39.7	40.3	40.3	40.1	40.5	41.1	41.1
Average hourly earnings, not minimum wage rates.....	1.30	1.27	1.24	1.18	1.12	1.09	10.5	1.01	1.00	.98	.94	.92

Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings Bulletin vol. 7, No. 6, December 1960 and earlier and subsequent issues.

EXHIBIT 2

Census of business statistics on the professional power laundry industry

	1958 ¹	1948
Number of laundries with payroll.....	11,220	6,395
Total receipts.....	\$1,016,383,000	\$835,964,000
Average annual receipts for plant.....	\$90,587	\$130,722
Total payroll ²	\$542,911,000	\$469,674,000
Total number employees (week nearest Nov. 15).....	218,576	258,233
Average number employees per establishments.....	19	40

¹ Hawaii and Alaska figures have been omitted from 1958 totals to make them comparable with 1948.

² Wage payments only, exclusive of supervisory and executive payroll and other payroll related costs.

NOTE.—Total power laundry receipts increased about 22 percent from 1948 to 1958, but prices increased about 30 percent in same period, indicating a substantial loss in actual volume of laundry work in pounds.

Source: U.S. Census of Business Reports, Selected Services Bulletin BC58-S-A-1, 1958 Service Trades Bulletin 2-S-8, 1948.

STATEMENT OF ROBERT H. NORTH, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF ICE CREAM MANUFACTURERS

Mr. Chairman and members of the committee, my name is Robert H. North and I am executive vice president of the International Association of Ice Cream Manufacturers and executive director of the Milk Industry Foundation.

I am appearing before you today in behalf of the Joint Committee on the Fair Labor Standards Act of the International Association of Ice Cream Manufacturers and the Milk Industry Foundation. This committee was created by action of the executive committees of the association and the foundation on June 18, 1963.

The joint committee represents the fluid milk and the ice cream industries, which constitute a large segment of the total dairy industry. The constituent members of the association and the foundation are dairy companies of all sizes, located geographically throughout the United States, that are engaged in the processing, manufacturing, and distributing of ice cream and related products, or fluid milk and fluid milk products, or both.

We are very much opposed to H.R. 9802 and we are opposed to it for many reasons. Most of these reasons, all that I shall present to your committee, are encompassed within two general propositions. The first of these is that the program contained in H.R. 9802 is unworkable and will not accomplish its professed purpose. The second is that even if a program of this general character could be shown to hold promise of success, H.R. 9802 is not properly conceived legislation.

At the outset it may be helpful to say a few words about the operations of each of these two industries.

The ice cream manufacturer is primarily a wholesaler. He manufactures ice cream, frozen custard, ice milk, sherbets, water ices, special dietary frozen desserts, and novelties (such as products on a stick) and factory-filled cones, and sells these products and certain fountain supplies, for resale, to markets, restaurants, hotels, drug stores, drive-ins, and industrial feeding establishments of all kinds.

The typical fluid milk distributor is both a wholesaler and a retailer. He processes and sells such products as fluid milk, skim milk, low-fat milk, butter-milk, cultured milk, half-and-half, table cream, whipping cream, chocolate milk, orange juice, citrus drinks, cottage cheese, butter, margarine, and other such products. He sells these products at wholesale to the outlets mentioned above, and in addition, most milk distributors operate retail sales routes to sell home customers on a door-to-door basis.

One of the important facts to be kept in mind about the dairy business is that because milk is highly perishable, all of the milk which comes into a plant on a given day must be handled and processed that day. The industry just can't throw the switches and turn out the lights at a fixed hour as may be the case in factories manufacturing hard goods.

In the flush months of production the amount of milk received may be 30 or 40 percent greater than in the winter months. The need to take care of the dairy farmers' deliveries in this situation should not give rise to penalizing the processor for handling them.

It is during this period of the year when overtime is most likely to occur. Congress recognized the need for processors to handle flush milk production and this recognition is the basis for the "first processing" exemption in existing law. The bill before you would permit the Secretary to impose double or triple time in a situation where Congress has not required even time-and-a-half to be paid. It would be the height of impracticability to attempt to replace personnel for the short periods of time necessary to avoid double penalty overtime.

With that background I turn to the purpose of the bill as we understand it. Generally speaking it is to reduce overtime employment and thus to increase the number of persons employed. But a careful reading of the bill demonstrates that this answer is not complete. The complete answer is that the purpose of the bill is to do these things and to do them without excessive costs. This is clearly stated in two portions of the bill. It is said that before an industry committee is appointed it must be alleged, or the Secretary of Labor must believe, that the payment of a rate of overtime compensation to be determined by the Secretary "would increase employment opportunities in the industry without excessive costs." And it is provided that any such industry committee appointed must recommend to the Secretary the maximum hours standard

"which it determines will have the effect of translating without excessive costs regular and substantial overtime in the industry into increased employment in such industry."

It is our belief that this result cannot be procured in our two industries "without excessive costs."

The balance of my statement is concerned with the view of our members that even if such a measure could be assumed to lie within the bounds of practicality, H.R. 9802 is not a proper or acceptable legislative proposal. It is our view that H.R. 9802 contains many specific provisions which are not sound. I shall mention only some of these.

(1) To begin with, we have been hypothesizing a situation in which the Secretary of Labor has ordered double time compensation for all overtime employment in our two industries. If he were to issue any order at all, it would have to provide for a rate at least as great as this, for section 3 of H.R. 9802 prescribes that any such rate shall be "not less than two times * * * the non-overtime rate."

But neither here nor at any other place in the bill is there a provision establishing a ceiling on the rate the Secretary may order. As heretofore pointed out, the imposition of additional overtime penalties is supposed to be accomplished without excessive costs, but what seems nonexcessive to the industry committee and to the Secretary may seem intolerably excessive to industry.

Yet, by prescribing a minimum of double time, it is, of course, obvious that the bill contemplates, and in fact encourages, the ordering of even higher rates. There is nothing to prohibit the Secretary from ordering triple time or quadruple time.

This is an enormous power to give to any Government official, and our members cannot believe it is in the interest of good Government to give it. Our attorneys say they are compelled to wonder whether such a large and unrestricted delegation of legislative authority would be valid. We know that you gentlemen will give this disturbing question your earnest consideration.

(2) Other specific provisions of the bill with which we find ourselves in disagreement are those concerned with the role of the tripartite industry committees.

The responsibilities of such a committee, under section 3 of the bill, are both large and ill-defined. It is required to recommend to the Secretary "the maximum hours standard in a prescribed work period (not less than 40 hours in a workweek) which it determines will have the effect of translating without excessive costs regular and substantial overtime in the industry into increased employment in such industry."

The committee will first have to decide what is meant by the somewhat vague terminology of this mandate. What is "substantial" overtime? What is meant by "excessive" costs? Excessive from whose viewpoint? And excessive for what purpose? What is meant by "increased" employment? Increased by how much and judged by what standards?

With these questions answered in one way or another, the committee must then proceed with the making of the critical determination of that maximum hours standard which, without excessive costs, will produce the desired result. But here again, questions arise. Exactly what is the committee to decide and recommend to the Secretary? To determine the "maximum hours standard" sounds to us like determining that number of hours (not less than 40 per week) beyond which all hours must be compensated at some penalty rate of not less than double time. The rate of payment seems to us to be something separate and apart from the maximum hours standard, and the bill does not say that the committee shall make any determination as to this. Indeed there is nothing in the bill to indicate that the rate, of payment is before the committee at all. Section 3 says only that upon appointment of the committee, the Secretary "shall refer to it the question of the maximum hours standard to be established for the industry" and then proceeds to say that the committee shall make its recommendation as to what this "maximum hours standard" shall be.

Yet, if the committee is not to determine the rate as well as the maximum hours, how can it decide what the "cost" would be, let alone whether the cost would be "excessive?" The assumption is indulged by some that the committee is to determine the rate as well as the maximum hours, but as we read it, the bill does not so provide. Surely this should not be left to speculation.

(3) We consider to be especially objectionable, also, the provisions of H.R. 9802 concerned with action upon the committee's report by the Secretary. The bill provides that if the Secretary "disapproves" the recommendations made

by the committee, he "may again refer the matter to such committee or to another committee (which he may appoint for such purpose), for further consideration and recommendations."

This is indeed an extraordinary proceeding. We are advised that the Secretary is willing to forgo the authority to name the members of a new committee, but the authority would remain to direct that the original committee give further consideration and make new recommendations or to direct the appointment of a new committee. The effect of this is, of course, that the only recommendations which will be set down for public hearings and thus receive public consideration are those recommendations of which the Secretary approves. Indeed, it would seem that the bill makes the committee but an arm or agency of the Secretary and one is compelled to wonder (1) whether the Secretary should have this veto power, and (2) if he is to have it, whether it would not be just as well to permit the Secretary himself to make these initial determinations and dispense entirely with what amounts to a shadow committee.

(4) Other specific provisions of H.R. 9802 which the ice cream and fluid industries consider objectionable are those resulting in a proliferation of rates of pay for the same work.

By its terms, the proposals of H.R. 9802 apply to only those employees who were covered by the Fair Labor Standards Act prior to the amendments enacted in 1961. The bill thus, at the outset, creates two broad categories—those who are covered and those who are not. For those employees not covered until the 1961 amendments and hence not covered by H.R. 9802, the rate of overtime compensation for all hours of overtime employment continues to be time-and-a-half. And time-and-a-half also continues to be the rate of overtime compensation as to even those employees covered by H.R. 9802 for the number of hours worked between 40 per week and the new maximums (assuming them to be more than 40) under the proposed new procedures. But employees to whom the proposed new procedures apply will inevitably be subject to different maximum hours and also to different rates of overtime compensation (not less than two times the "nonovertime" rate) for those hours.

The jealousies and dissatisfactions that these differences could engender among employees of the same industry—perhaps among employees of the same business—and among employees of different industries are readily apparent. It is to be remembered in this connection that many employers, like the employers represented by our joint committee, may be engaged in two industries.

Surely the existing problems of labor management are sufficiently numerous and difficult without intentionally compounding them, as H.R. 9802 does.

There are other specific provisions of the bill to which the ice cream and fluid milk industries take exception, but I shall not burden the record with these since our two industries feel that the bill is basically unsound and unworkable and should therefore be completely rejected.

Mr. Chairman, in behalf of the ice cream and fluid milk industries, I thank you for the privilege of appearing before you.

STATEMENT OF JOHN A. KILLICK, EXECUTIVE SECRETARY, THE NATIONAL
INDEPENDENT MEAT PACKERS ASSOCIATION

Mr. Chairman and members of the subcommittee, my name is John A. Killick. I am executive secretary of the National Independent Meat Packers Association, the offices of which are located at 1820 Massachusetts Avenue NW., Washington, D.C. We wish to thank the subcommittee for the opportunity to present to it this statement expressing the opposition of the National Independent Meat Packers Association to H.R. 9802, a bill which would authorize a double time penalty rate for overtime work.

Our association is comprised of several hundred meatpacking plants located in all parts of the United States which are engaged in virtually every aspect of meatpacking industry operations. The word "independent" in the title of our association's name in general (although there are notable exceptions) indicate that our members operate a single plant serving a community or region, in contrast to meatpackers whose products have national or near national distribution.

The stated purpose of H.R. 9802 is to "increase employment by providing a higher penalty rate for overtime work." The National Independent Meat Packers Association is opposed to this proposed legislation because a double time penalty rate for overtime work would not result in any increase in employment

in the meatpacking industry, but it would cause a considerable increase in the industry's cost of operations. Because of the narrow profit margins existing in our industry, such increased costs could not be absorbed by the meatpacker (particularly, as will be shown later, the small independent packer who largely comprises our membership) and therefore would have to be passed on in the form either of higher prices to the consumer or lower prices to the producer. The former result would produce substantial inflationary effects, counter to the President's recently declared efforts to hold such forces in check.

A. LIVESTOCK MARKETING PROCEDURES AND FLUCTUATING IN SUPPLY NECESSITATE IRREGULAR WORK SCHEDULES IN MEATPACKING INDUSTRY

The meatpacking industry is substantially different from other manufacturing industries because of the particular nature of its raw material—livestock. Unlike most other manufacturing industries, the meatpacking industry does not have available a relatively constant supply of raw material. As anyone familiar with the industry knows, when livestock are brought to the market, they must be purchased, at the prevailing market price, and slaughtered. The economics of the matter are such that utter chaos would result if livestock could not be sold when sent to market by the producers. In fact it would be disastrous to both the livestock and meatpacking industries if large numbers of livestock were allowed to accumulate at the livestock marketing centers.

The supply of livestock coming to such marketing centers, however, is determined by a number of variable factors beyond the control of meatpackers. First of all, livestock supplies tend to be seasonal, with larger numbers generally available at certain times of the year than at others. Furthermore, these seasonal fluctuations vary with respect to different species of livestock, but even for the same species they tend to vary from year to year, depending upon whether producers are in the process of enlarging or decreasing the size of their herds. This in turn will be determined, among other things, by whether the long-term trend in cattle prices is upward or downward. Short-term trends in cattle prices also cause substantial weekly and even daily fluctuations in livestock supply, however, since producers will market more livestock in the early part of the week if they feel that prices will decline during the week, but will hold them back, for sale at the end of the week, if they feel that prices will rise. In fact, even day-to-day weather conditions will cause appreciable daily fluctuations in regional and local supplies of livestock. Thus it is readily apparent that the many variable factors which affect livestock marketing and which cause constant seasonal and daily fluctuations in the supply of livestock make it extremely difficult for the meatpacker to plan a regular year-round work schedule for his plant and that a substantial amount of overtime work therefore is unavoidable in the meatpacking industry. The reported overtime figures for the industry in themselves are quite misleading, however, since a meatpacking operation frequently will result in overtime work during a week when, because of daily supply fluctuations, less than 40 hours actually are worked. In fact, it is not unusual for a meatpacker to have several hours of overtime work on one day of a week but not enough work on other days of the same week to keep his plant operating a full 8 hours. Thus we have the rather anomalous situation of a substantial number of hours of overtime work being recorded in the meatpacking industry even during workweeks of less than 40 hours.

B. THE MEATPACKING INDUSTRY OPERATES WITH HIGHLY SKILLED AND SEMISKILLED LABOR

The majority of persons employed in a meatpacking operation are highly skilled and semiskilled employees. A substantial amount of time and money is required to train such employees for their particular type of work. Thus it is not possible for a meatpacker to hire qualified personnel, on short notice, at times of peak plant operations. And because of the skilled nature of this work, and the considerable training required, it would be exceedingly difficult to attempt to create a standby work force from which employees could be hired on a day-to-day or even seasonal basis.

C. HIGH COST OF MEATPACKING PLANT OPERATION REQUIRES HIGH-CAPACITY LEVEL OF OPERATION

Because of the narrow profit margin under which the meatpacking industry operates, it is essential that a meatpacking plant be operated at as near capacity level as possible. This is particularly true for the small independent packer conducting a single-plant operation, since he must make sure that his one plant is run, at all times, as efficiently as possible, in order for him to remain competitive with the multiplant operations of the large national packers. Unlike some manufacturing industries which appear to be able to operate efficiency at 50- to 60-percent capacity, the hourly cost of running a meat packing plant is so high that it would be extremely inefficient to operate such a plant for any appreciable length of time with a substantial portion of its capacity on a standby basis, to be used only at times of increased livestock availability. To do so would add tremendously to the total cost of production, which cost eventually would have to be borne either by the producer or the consumer.

D. EFFECT OF 36-HOUR GUARANTEE

The meatpacking industry operates, in general, under labor contracts guaranteeing 36 hours pay each week to every employee, regardless of the number of hours of actual work performed. The reason for this, of course, is to provide the employees with a relatively steady pay despite the livestock supply fluctuations mentioned earlier. It has been the aim of the industry to try to schedule production each week as closely as possible within the 36- to 40-hour workweek, but even under the conditions which exist today it is generally impossible to predict in advance more than 80 to 90 percent of production capacities. Thus meatpackers now have to pay for a considerable amount of time not actually worked. If a packer were to hire additional employees in order to reduce the amount of overtime work on days of large livestock supply, this would drastically increase the amount of his payments for work not performed during weeks of less than 36 hours production time. In fact such payments would be increased disproportionately, because not only would there be more employees receiving pay for work not performed, but workweeks of less than 36 hours total production time then would tend to occur more frequently.

E. EFFECT OF DELIVERY OPERATIONS

It is customary in the industry for meatpackers to contract for delivery of their products. One of the most common methods of delivery is by truck. An out-of-town truck delivery frequently will require more than 8 hours per day, after which the meatpacker normally is required, by union contract, to pay the truckdriver overtime. If the meatpacker were required to pay double time instead of time and a half for such overtime, this clearly would not cause him to hire more employees, but would merely add to his delivery costs and give the truckdriver a Government-legislated pay raise.

F. REQUIREMENT OF DOUBLE PAY FOR OVERTIME WOULD LEAD TO INCREASED AUTOMATION IN MEATPACKING INDUSTRY

For the reasons set forth above, it is apparent that a requirement of double pay for overtime would not result in any appreciable increase in employment in the meatpacking industry, but would merely increase substantially the cost of meat production. As noted above, because of the narrow profit margin existing in the industry, we believe that most of such increase in cost necessarily would be passed on to the consumer or the producer, or both. Since the increased costs are labor costs, however, there would be produced a strong impetus for increased automation in the meatpacking industry, since machine costs would be proportionally lower. It should be noted in passing that increased automation would appear to be particularly appropriate in industries with a fluctuating supply of raw material, such as the meatpacking industry.

G. TRIPARTITE COMMISSION PROCEDURE UNSUITABLE

Previous witnesses before this subcommittee have set forth the many reasons why tripartite commissions have been found to be unsatisfactory in the past and why they would be particularly objectionable under the standards and procedures that would be established by H.R. 9802. The National Independent

Meat Packers Association likewise believes that the procedures proposed by H.R. 9802 would be entirely unsuitable, since they would lead to such chaotic results as the use of different standards and interpretations of the act by one commission dealing with a particular industry than those used by another commission dealing with some other industry which overlaps the first, so that there would result not only different standards and interpretations of the act but even conflicting rulings, by two or more commissions, applicable to a given segment of an industry. Obviously such hodgepodge Government regulation of employee compensation for overtime work is undesirable on its face, and our association is strongly of the view, therefore, that this entire subject is a matter which is more appropriate for union-employer consideration at the bargaining table.

CONCLUSION

In sum, our association is opposed to H.R. 9802, because a requirement of double pay for overtime work in the meatpacking industry would not result in any increase in employment in such industry, but would increase substantially the cost of meat production (which increased costs necessarily would be borne by the consumer and the producer, or both) and would produce an impetus for increased automation in the industry, and because the procedures which would be established by H.R. 9802 are particularly unsuitable for dealing with the subject of overtime compensation, which is a matter more appropriate for the bargaining table.

PARISH PRESSED STEEL DIVISION OF DANA CORP.,
Reading, Pa., March 26, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
House Education and Labor Committee,
404 House Office Building,
Washington, D.C.

MY DEAR MR. HOLLAND: I appreciate your answer of March 12, 1964, to my request to present testimony in opposition to H.R. 9802 before your committee and, although I am disappointed in not being afforded the opportunity to testify, I am thankful to be able to present a written statement.

There is no disagreement with premise that we should create more jobs to reduce unemployment. However, increasing the penalty on overtime is a negative approach and socialistic in nature as its entire purpose is to divide the available work among more people. The positive approach is to create more work by expansion of present facilities and creation of new ones. The first step in that direction has been accomplished by the passage of the recent tax reduction bill which already is putting more risk capital to work.

Further, comprehensive studies should be made of some of the unskilled unemployed. Many companies, looking for inexperienced help to train on semi-skilled jobs, find a great number of the unemployed not acceptable as employees because of lack of ability to comprehend, attitude, lack of desire to work, etc.

The following are some of the reasons I do not feel that increasing the penalty on overtime will decrease the number of unemployed.

1. In our automotive parts industry a large portion of our overtime is worked by skilled workers. For months on end our toolmakers work 6 and 7 days a week, not because we don't want to hire additional toolmakers, but because we can't hire a toolmaker no matter how much we advertise. This same condition holds true throughout the country in the tool shop where we place our excess tools. They are also working 6 and 7 days per week for lack of ability to hire additional skilled people. The demand for toolmakers far exceeds the supply. Increasing the cost of overtime will not produce more toolmakers.

2. Our maintenance people work every weekend on reconditioning and repair of equipment which is in constant use over 3 shifts during the week. The only way to eliminate overtime in this situation would be to stagger the maintenance department's workweek which would bring a storm down on our heads. To these men the overtime is part of their job and to reduce it would reduce their standard of living. Increasing the cost of the overtime would not provide additional jobs for any maintenance men in our type of industry.

3. Overtime worked by our production workers depends entirely on our customers' requirements. This is the third year in a row the sale of automobiles has been high, with the result our facilities are being used to capacity and there-

fore considerable overtime is being worked. However, in order to eliminate the overtime and put other employees to work it would mean a reduction in the take-home pay of our present employees and the necessity for the company to increase its facilities, both buildings and equipment. That would be using poor business judgment as experience has shown us our facilities are adequate to handle our full complement of business during normal years. The past two, and this year, are above normal years. Further, our employees would not take kindly to losing the overtime with the corresponding reduction in their living standards. Also, the overtime helps to offset the seasonal slack period when employees are off the job during the period of model changeovers.

It is my understanding that the feeling now is to eliminate from the bill the establishing of tripartite committees with the expectations that will provide a better chance for the passage of the bill. In my estimation the bill is wrong to start with, not only because of the foregoing reasons, but it will also put in the hands of one individual (Secretary of Labor) the power of life or death to many industries. This is wrong. Every time a new regulation is foisted onto industry, it places us one step closer to the elimination of our free economy and the free enterprise system as we know it, which has been and should continue to be controlled by the law of supply and demand.

In my estimation, Congress should not attempt to set up any regulations controlling the amount of or cost of overtime in industry, but should devote its energies the helping industries create greater demands for its products, thereby creating additional facilities and new jobs.

Very truly yours,

W. F. MOSER,
Personnel Director.

STATEMENT ON BEHALF OF RAYONIER INC.

My name is Charles E. Anderson. I am general manager of industrial relations for Rayonier Inc.

Our company is headquartered in New York City and we manufacture chemical cellulose, papermaking pulps, lumber, and a variety of silvichemical products in plants in both the United States and Canada. These products are marketed domestically and in 30 other nations throughout the free world. Altogether, we employ about 6,000 persons, 3,400 in the United States and the remainder in Canada. Our American plants are located in the States of Florida, Georgia, and Washington.

Let me say at the outset that this company subscribes fully to the goals which this legislation is proposed to achieve; i.e. fuller employment in our economy. Aside from the social and humanitarian considerations involved, we realize that we cannot sustain a vibrant, expanding economy in this country, and thus increase the market for our products, without a broad base of disposable income.

However, we are concerned as to whether or not this legislation will truly contribute to this goal or will, instead, prove to be only an additional cost of operation and a drag on the economy. In our own case, we are convinced that being subject to double time for overtime would have little or no effect on either our employment or overtime work patterns and would simply amount to a penalty on the company and an unintended windfall for our present employees.

Ours is a continuous process industry. Our mills operate three 8-hour shifts per day, 7 days a week. The employees engaged in these operations work a 4-week cycle of 40, 40, 40, and 48 hours, averaging 42 hours per week. This is the traditional working pattern for the majority of our industry, and in a 7-day operation, we know of no way of eliminating the scheduled overtime for these employees that does not involve either chaotic scheduling or reduction of their hours well below 40 hours per week. And, we have had good reason to investigate this matter carefully. In the work pattern described above, the employee works three out of four Sundays. In two cases, Sunday represents the 33d through 40th hours worked in that week, in the third case, the Sunday hours are the 41st through 48th. In our Northwest mills, we pay time and one-half for all Sunday work without regard to the weekly hours. This was also the pattern in the South until 1957. At that time, under intense collective bargaining pressure, we agreed to pay double time for Sunday work which was in excess of 40 hours during the week, a step the rest of the industry in the South had taken the previous year. The result was no change whatsoever in our scheduling practices as we were unable to devise a practical alternative to avoid this additional

penalty. This scheduled Sunday overtime amounted to about 67,500 hours in Rayonier's U.S. operations in 1963. It constituted about 21.5 percent of total overtime worked, which was 315,339 hours.

The balance was unscheduled overtime and was caused principally by absenteeism and by equipment breakdowns which often means holding over or calling in extra maintenance personnel for emergency repairs. In some operating departments, breakdowns may also result in overtime later in the week to make up lost production. Another important factor was alterations of schedules in our packaging and shipping departments caused principally by sudden changes in customer demands and, to a lesser extent, by unforeseen operating problems. Overtime resulting from causes of this kind is virtually impossible to anticipate and too unpredictable to offer the hope of any degree of continuous employment for additional personnel; and, of course, we cannot keep skilled people on a standby status against the possibility of a few hours work per week. To summarize, we feel that imposition of a double time penalty for overtime would not appreciably change our employment picture or the amount of overtime worked in our company and would result in an additional cost to us of between \$750,000 and \$1 million per year.

Such a penalty, would be a serious blow to our ability to compete effectively both domestically and overseas. Since H.R. 9802 proposes to impose additional penalties on an industry-by-industry basis, we could expect our direct competitors, the other cellulose and woodpulp-producing companies, to be similarly affected. However, our products, which are industrial in nature, find their way into literally thousands of consumer products which compete with products from totally unrelated industries such as textiles, plastics, chemicals, glass, and many others. We have no guarantee that all or even any of these would be similarly affected and in any case where they were not, our competitive position would be harmed.

With regard to our international marketing position, the effects are potentially even more serious. Our company has in the past decade or so developed a very strong position in world markets. Last year between 44 and 45 percent of our total dollar sales were to oversea customers. The major portion of these sales went to Western Europe, including the United Kingdom, where our major competitors are the Scandinavian countries. These producers already enjoy a distinct labor and transportation cost advantage over us and a double time for overtime penalty would greatly aggravate that situation. In the broader view, this has very serious implications, in my opinion, to an already serious problem, the U.S. balance-of-payments situation.

I would like to point out one other potential effect of this kind of legislation which I think runs directly counter to its intended purpose of creating employment. Many American firms, like ours, conduct manufacturing operations both here and in other countries and, if they are growing, must periodically make decisions as to the location of new or expanded plant facilities. Our company has undergone rapid growth in the past decade from a capacity of about 400,000 tons of pulp products to a planned capacity of over 1 million tons by the end of 1965, and this growth has been proportionally balanced between our United States and Canadian operations. While labor cost is only one of many costs and marketing factors which any company must consider in an expansion decision, I cannot help but feel legislation of this type will work a long-term disadvantage to American industry and American workers.

I would like to make one final point in conclusion. A basic tenet on which this legislation is based, as I understand it, is that because of the great growth of so-called fringe costs, a 50 percent penalty on overtime work no longer provides a sufficient gap to act as an incentive to replace overtime work with additional employees working at straight time. This belief definitely does not jibe with the facts in our situation. In 1963 our fringe costs, including compulsory payments for social security, unemployment compensation, etc., averaged 25 percent of straight-time wages. With 1963 earnings, though greatly improved, still not up to the levels attained in the midfifties on a much smaller investment base, we are still most anxious to replace a man working at 150 percent of straight-wage costs with one working at 125 percent of those same costs whenever possible.

I appreciate very much the opportunity to place these thoughts before the committee.

STATEMENT OF A. LINCOLN BURNS, CORPORATE PERSONNEL MANAGER, WEST VIRGINIA PULP & PAPER Co., NEW YORK, N.Y.

Our company manufactures pulp, paper and paperboard, paper packaging, and chemicals. We employ about 14,500 men and women in our domestic operations at 28 plants located throughout the country, providing an annual payroll of around \$60 million. More than 11,000 of our employees are paid on an hourly or nonexempt salaried basis, subject to the overtime provisions of the Federal wage and hour law.

We are opposed to passage of H.R. 9802 for two basic reasons: (1) it would raise our manufacturing costs substantially and impair our ability to compete in world markets; (2) despite heavy overtime penalties, the bill would not increase employment materially, which is its principal aim.

We estimate the cost of double time instead of time and one-half for overtime would add between \$3 and \$4 million annually to our hourly and nonexempt payrolls, without any offsetting increase in productivity. This figure is equal to about 25 to 34 percent of our profit, after taxes, in 1963.

An examination of the kinds of overtime that occur in our high employment operations, our primary pulp and paper mills, points up some of the difficulties we face if H.R. 9802 becomes law. Our mills operate continuously, around the clock, 7 days a week. The shift production and maintenance employees are scheduled regularly to work an average of 42 hours a week each 4-week cycle. Actually, a shift employee works three 7-day stints, or 21 days, in a 28-day period—1 day more than the 5-day, Monday through Friday employee, would work in the same period.

These shift schedules have been in effect since well before World War II. Our shift people are accustomed to this schedule and to the compensation level provided by a 42-hour week. If the double time penalty becomes law, our company would be faced with a difficult decision. Should we add extra men to eliminate the overtime built in the shift schedule, we would cut the regular-schedule pay of our shift workers by 7 percent or more, depending on the rates specified by the labor contract at each location. Clearly it would not take long in the normal process of bargaining before we would be confronted with a demand to restore the lost 7 percent in wages, in addition to the usual demands for cost-of-living or productivity increases. On the other hand, should we choose to maintain our regular shift schedules, we must assume the burden of a heavy and unwarranted increase in scheduled shift worker pay.

In this illustration, extra shifts, or doubles, worked at overtime by shift workers filling in for their reliefs who are absent, have not been taken into account.

Here is another example of increased costs stemming from the double time penalty. Maintenance employees throughout our company are often assigned to repair jobs they must see through to completion to avoid costly downtime for heavy equipment. On the average these assignments require only an extra hour or so overtime and would be virtually impossible to avoid regardless of the size of our maintenance force. Under provisions of H.R. 9802, we would be forced to pay double time in these instances, instead of the established time-and-a-half overtime rate. These increased costs of keeping our plants in first-class running condition also could seriously impair our competitive strength.

Others have appeared before you explaining how H.R. 9802 would be harmful to industry in this period of rising costs and low returns on investment. We have tried to limit our comments to those specific cost items which would adversely affect our own company.

Thank you for your consideration in allowing our company to file this statement in opposition to H.R. 9802.

STATEMENT OF VIRGIL B. DAY, VICE PRESIDENT, GENERAL ELECTRIC Co., NEW YORK, N.Y.

Gentlemen, we respectfully submit for your consideration our views on the means for aiding the unemployed that are proposed in H.R. 9802, the Overtime Penalty Act of 1964. We would appreciate your permission to enter these views in the record of your hearings on H.R. 9802.

Our concern with the imposition of double time premium penalties after 40 hours is that it will not aid the 5 to 6 percent of the work force who are not employed, but instead will threaten the jobs of many of the 94 to 95 percent who are employed.

This threat to existing jobs arises from the increase in labor costs that would follow an increase in overtime premium penalties. The increase would occur whether an employer should choose to pay the proposed double time penalty rates or to incur the additional training and other costs of expanding his work force.

The higher unit labor costs, and in some cases higher unit capital costs, that are implicit in the basic purpose of the proposal to increase the overtime penalty premium are inconsistent with the basic objective of the administration's non-inflationary wage guideposts. The latter are intended to keep increases in hourly compensation in line with increases in output per man-hour of the economy and thus help stabilize unit labor costs and prices.

There is a fundamental and indestructible contradiction in a measure that seeks to increase employment by raising employment costs. This is why the application of the proposed Overtime Penalty Act would not only fail to help the 5 to 6 percent unemployed, but it would work toward injuring the 94 to 95 percent employed.

What follows is a brief discussion of the impact of the proposed legislation, together with some suggestions as to how we as a Nation can work together to alleviate the unemployment problem.

The primary cause of overtime

The reasons for overtime are many, and they differ from one period of business and defense activity to another and from one plant and product situation to another.¹ But one reason stands out. It is this. Customer orders and delivery dates are not spread evenly over the hours of a day or the days of a week or the weeks of a year. Customers "want what they want when they want it" without regard to whether their orders add up to a regular or very irregular daily, weekly, or yearly work schedule.

The trend of overtime work

It is generally acknowledged that much overtime is unavoidable.

Nevertheless, it is urged that a double time penalty is needed because it is argued that the time and one-half penalty rate under the Fair Labor Standards Act no longer serves as a deterrent to overtime. But this is not borne out by the facts, either for all manufacturing industries or for the electrical industry.

The figures provided by Secretary Wirtz show that the weekly overtime hours for manufacturing industries in 1963 average 2.8 hours per production employee, the same as for 1956, the first year in which these figures are available—a roughly comparable year. The aggregate number of weekly overtime hours in manufacturing industries, as compiled by BLS, actually decreased from 37.6 million hours in 1956 to 35.2 million in 1963. The overtime figures of BLS, of course, include more than hours worked over 40 in a week under the Fair Labor Standards Act. Overtime hours are premium hours by BLS definition and include premium time for Saturdays and Sundays worked, daily overtime, etc.

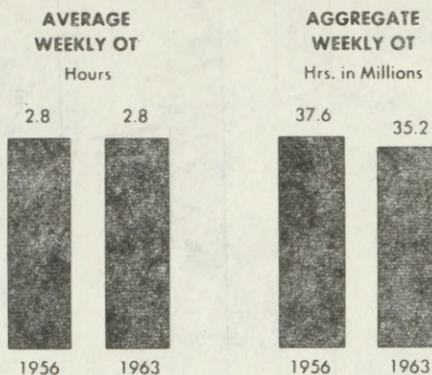
Manufacturing industries that worked more overtime in 1963 than in 1956 were offset by those which worked less overtime. The offsetting increases and decreases in overtime among industries are due, of course, to such factors as different levels and trends of business activity, changes in product technology and labor requirements, work stabilization incentives in union contracts that penalize short workweeks, etc.

Overtime in the electrical industry

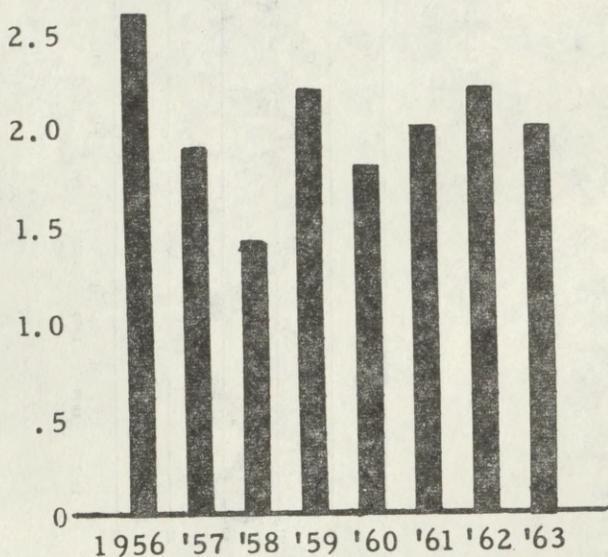
One of the industries in the overall manufacturing group to show a decline in overtime is electrical equipment and supplies. Since 1956, the first year for which the overtime figures of BLS are available, overtime generally followed the trend of business activity, although the 1963 average of 2 hours is lower than the 2.6 hours of weekly overtime for 1956. A lengthening of the picture of overtime hours is provided by reference to the average weekly hours of work. The

¹ The many reasons for overtime are listed in app. A for both the two different situations wherein one of our plants employment has been rising and in another it has been falling.

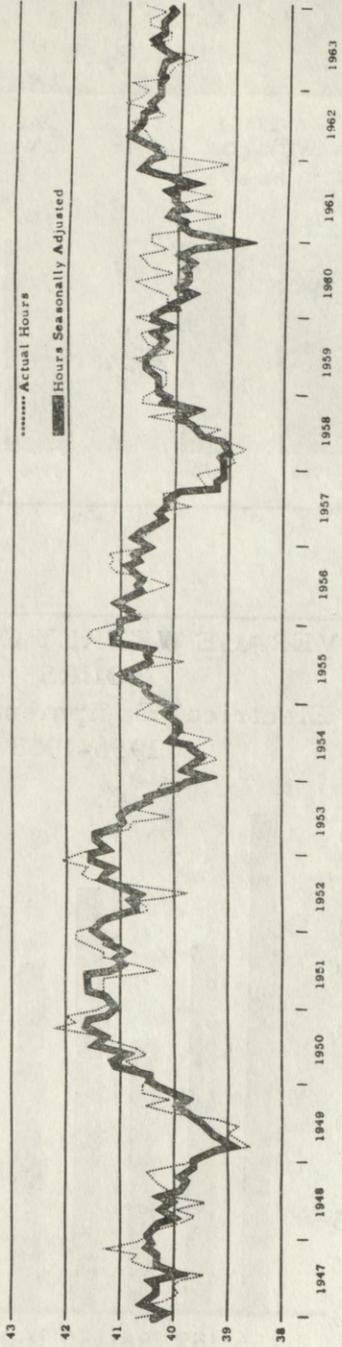
OVERTIME HOURS
in Manufacturing Industries



**AVERAGE WEEKLY OVERTIME
HOURS**
In Electrical Equipment & Supplies
1956-1963



AVERAGE WEEKLY HOURS
ELECTRICAL EQUIPMENT AND SUPPLIES
1947-1963



weekly hours for electrical equipment and supplies for the years back through 1947 are shown in the chart below. The weekly hours fall as business activity drops in the 1949 recession, rise during the Korean war period and capital goods boom, decline with the 1958 recession, and repeat the rise and fall in 1959 and 1961.

As the individual industries within the overall manufacturing sector shows differences (the range is from 1.4 overtime hours for apparel and related products to 5 hours for paper and allied products), so do the subindustry groups within the electrical equipment and supplies industry.² Among the electrical industry subgroups the range is from 1.9 to 2.7 hours of overtime, as follows:

	Overtime hours	Number of production workers
Electric distribution equipment.....	2.7	112, 100
Electrical industrial apparatus.....	2.7	128, 800
Household appliances.....	2.6	122, 000
Electric lighting and wiring equipment.....	2.5	119, 800
Miscellaneous electrical equipment and supplies.....	2.5	83, 500
Radio and TV receiving sets.....	2.1	93, 700
Communication equipment.....	2.0	214, 800
Electronic components and accessories.....	1.9	192, 700
The average: Electrical equipment and supplies industry.....	2.3	1, 067, 000

The reasons why one industry or a subgroup within an industry, or a company within the industry, or one plant within a company, works more overtime than another, vary significantly not only with respect to the level of business activity but also the technical or nontechnical nature of the products made and the availability of the skills needed. On the latter point, for instance, the product lines of the General Electric Co., have a heavier weighting in technical, capital, and defense goods than does the electrical industry as a whole, so that any comparison of the overtime hours worked by General Electric Co., or any one of its plants³ with that of the average for the electrical industry has little significance.⁴

The mere statistical showing of fewer total overtime hours does not imply, as is being suggested, that more workers are on payroll. Rather, based on past experience, the reverse is true. As business activity falls so does the need for overtime hours and the number of employees. Secretary Wirtz's statistics show that for the year of 1958, when unemployment was at the highest postwar rate, the overtime hours were lowest and so were the number of production workers.

Obviously, using any grand total of overtime hours as an indicator of job availability disregards the complexity of the situations as between individual plants and the many work units within the plants. It makes a highly unrealistic assumption on the availability and mobility of given numbers and kinds of skills throughout the Nation to meet the different needs as to number, skill, and time requirements of the many thousands of individual plant and work situations.

How different the situations are among companies in a particular industry is illustrated in the accompanying chart. It shows the record of average weekly hours and overtime hours for the individual plants of the prepared feeds industry.⁵

As many as 30 hours separates the plants with the lowest and highest weekly hours. The range of overtime hours is just as large: from 0 to 17 hours.

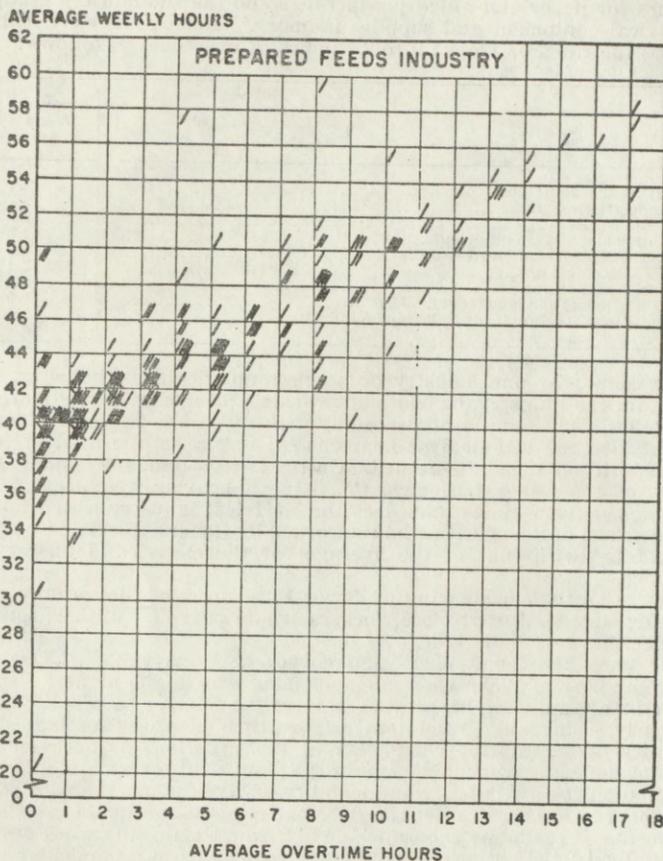
² The figures used are for the month of September 1963 since this was the month to which one of our unions referred in its statement before the Select Subcommittee on Labor. Any other month would show the same differences.

³ An explanation of the overtime worked within the three plants of the General Electric Co. that were mentioned in testimony before the Select Subcommittee on Labor will be found in app. C.

⁴ A description of the product lines of the General Electric Co. is contained in app. B.
⁵ This chart was prepared by Seymour Wolfbein of the Bureau of Labor Statistics. It appeared in an article published in "The Review of Economics and Statistics," November 1958.

RELATIONSHIP BETWEEN AVERAGE WEEKLY AND AVERAGE OVERTIME HOURS,
INDIVIDUAL PLANT AVERAGE, MARCH 1956

PREPARED FEEDS INDUSTRY



A legislative twist that contradicts the administration's wage guidepost

It seems appropriate at this point to mention one of the obvious inconsistencies in legislation which is expressly intended to increase penalty costs at a time when the administration is actively promoting price stability through its noninflationary wage and price guideposts.

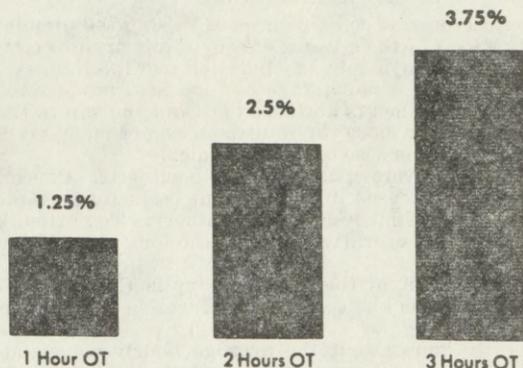
It is obvious from the statements of union officials—the latest by Mr. Meany—that the guidepost theory is giving them some concern from the standpoint of public opinion. Many of us have reservations as to the validity of the output per man-hour figures used by the administration as the basis for its wage guidepost, as well as its adequacy in today's international marketplace. Nevertheless, the wage guidepost does enable the public to form some initial judgment as to the inflationary potential of a negotiated increase in hourly compensation.⁶

As to union officials, they are proclaiming that they do not intend to be handicapped by the wage guidepost or that the guidepost does not apply to the industries or companies with which they deal. But, if through legislation, a union

⁶ "Another Look at the 'Wage Guideposts,'" General Electric Co.

is enabled to get an additional 50-percent overtime penalty premium outside the bargaining process, it rather effectively escapes any "count up" by the public of the inflationary potential of a settlement. And, of course, the added costs of hiring new employees would go unnoticed by the public until the new jobs, along with some old jobs began to disappear. An additional 50-percent overtime premium penalty after 40 hours as proposed by the administration is equivalent to a 1.25-percent wage increase if an employee averages 1 hour overtime per week throughout the year. It is 2.5 percent for 2 hours of overtime.⁷

**AN ADDITIONAL 50% OVERTIME PREMIUM PENALTY
CONVERTED INTO A % INCREASE IN WAGES**



Thus, through such legislation as is proposed in H.R. 9802, the unions in effect would be enabled to avoid some of the public glare of wage settlements that obviously disregarded the administration's general noninflationary wage guidepost and its modifications. It is a backdoor approach for getting another wage increase and raising costs. And, if the unions were to get double time after 40, they would use this as a springboard for demanding improvements in other related overtime provisions.

It is clear that unit labor costs would be increased if the employer were forced to pay higher penalty rates. It is also clear that unit labor costs would go up, if he had to pay hiring costs exceeding the costs of the current overtime rates—which is the basic assumption of the bill. Otherwise, there would be no purpose for the bill at all.

The motivation of employees and H.R. 9802

There is another side to the cost coin. It is one of employee incentive, for a double time cost penalty on employers is correspondingly a double time income incentive for employees. Increasing the incentive to want more overtime on the part of those presently employed works at cross purposes with the objective of providing employment for more people. While the press has been carrying stories about the claim of union officials that workers favor a reduction in the hours of overtime work, there is much to indicate that many employees are eager to have

⁷ Fringe benefits are difficult to add up. But the proposed additional 50-percent overtime premium penalty on \$2.50 hourly rate is \$1.25 an hour. On a weekly base of 40 hours at \$2.50 an hour, or \$100 weekly, the \$1.25 overtime premium for 1 hour is equivalent to a 1.25-percent wage increase if an employee averages 1 hour overtime per week throughout the year. For 2 hours overtime the additional 50-percent overtime premium pay is equivalent to a 2½-percent increase, etc. Adding hourly fringe benefits to the hourly wage rate to get a total compensation figure would increase the base and lower somewhat the effective percentage increase, but this might be offset in some cases by the increase in some benefits that might result from more overtime.

overtime work. As one union official recently put it: "Our guys really beef if somebody slips and doesn't follow the contract on allocating overtime equally."

This employee attitude is borne out by arbitration cases. Sharing of overtime ranks fourth in the American Arbitration Association's table of frequent subjects of arbitration. The association notes, too, that work-sharing provisions in union contracts have never achieved popularity. It is a fact too that many workers in the skilled trades refuse to work a standard workweek and will go where they can get overtime to increase their after-tax, take-home pay. This is confirmed by help-wanted advertisements. If overtime is to be made less appealing to industry, it has been suggested it should likewise be made less appealing to employees. If union officials are really serious about taking the appeal out of overtime for the employee, let them support taxing away an employee's overtime premium pay. Some union officials profess that they know of no opposition on the part of their members to sharing overtime work by adding more employees to the payroll.

Economic consequences of raising overtime costs

Some of the general economic consequences of raising the premium penalty on overtime have to do with (1) the adverse effects of incremental cost increases on prices, investment, and employment; (2) inflation and the international balance of payments; (3) cost-price disadvantage to American producers, foreign competition and American investments abroad; (4) the handicap to small business; (5) inescapable pressures for more rapid introduction of labor-saving machinery and methods which might otherwise be noneconomic.

We shall deal with but several phases of these subjects. Concerning the last one, it is a truism that increases in employment costs force employers toward a more rapid introduction of labor-saving machinery. Too often, however, this truism is dismissed as being operative only "in the long run when we will all be dead."

On the contrary, if we look at the U.S. industry in the perspective of worldwide competition, we are struck with the uncomfortable fact that the "long run" is now.

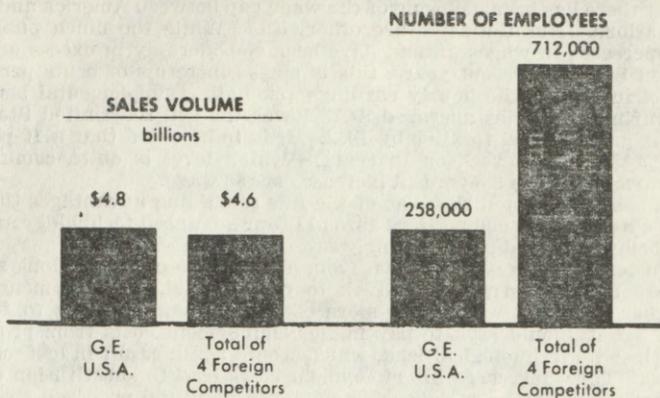
While it is generally known that the average hourly wage-and-benefit level in the United States is higher (as much as three times higher) than the levels of the large industrial nations of Europe—and still higher than in Japan—it is not so well recognized that, as a consequence, foreign firms have many more employees relative to their sales volume. Note from the accompanying charts that while the combined sales volume of four foreign electrical firms approximates that of the General Electric Co., they employ $2\frac{3}{4}$ times the number of people.

The pressure of higher compensation levels in the United States has made it necessary for American firms to turn to progressively more mechanization in order to stay competitive. Differences in wage levels are becoming increasingly significant in price competition in world markets as the EEC and other nations narrow some of America's former competitive advantages of mass production, large markets, technology, quality, and prompt deliveries.

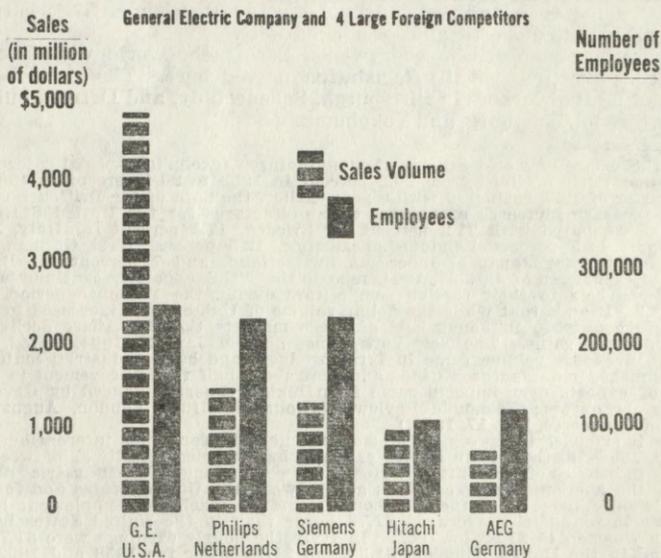
It is apparent, too, from the much greater number of employees relative to a given amount of sales volume, that foreign firms have quite an opportunity to reduce employment costs through greater mechanization. The size of their capital investment programs is evidence of their objective to reduce their employment costs.

Thus, the obvious competitive needs for American industry is for great restraint in adding still further to employment costs. The proposed double time for overtime would fly in the face of this and saddle U.S. industry with higher employment costs. By contrast, in 10 Western European countries a penalty overtime premium of only 25 percent for the first and second hour of overtime predominates. For the third hour it ranges from 25 to 50 percent, for the fourth hour 50 percent predominates. In France, it is 25 percent for the first 8 hours, then 50 percent. And the normal weekly maximum hours of work fixed by law and collective agreements in Western Europe are generally quite higher than in the United States.

COMPARISON OF NUMBER OF EMPLOYEES WITH SALES VOLUME FOR 1962
G. E. Co. and 4 Foreign Competitors



COMPARISON OF NUMBER OF EMPLOYEES WITH SALES VOLUME FOR 1962



Source: FORTUNE, August 1963, p. 140, (for foreign firms).

Meanwhile, in comparison with foreign economies, the U.S. economy is lagging not only in the overall growth rate, but is experiencing a decreasing share of the world's exports of manufactured goods, despite a greater use of the tied loans of America's foreign aid program.⁸ At the same time we are facing rising imports and increasing pressures on our price structure. A decreasing share is most disturbing as an indicator of America's declining ability to compete with other industrial nations for sales and job opportunities.

A misconception, too, of the relative amounts of wage increases here and abroad has provided a misleading indicator of our competitive position. It is commonly accepted that there has been a closing of the wage gap between America and other industrial nations. But the facts are otherwise.⁹ While the much publicized percentage increases in wages abroad have been considerably in excess of those in the United States in recent years, this is not so in terms of cents per hour. For instance, in France the hourly earnings (excluding supplemental benefits) in manufacturing industries averaged \$1.73 lower than in the United States in 1958, but this gap widened to \$1.89 by 1962. It is to be noted that a 10-percent increase on a \$1 wage level (or 10 cents)—which level is quite common in Europe—is no more than a 3.3-percent increase on a \$3 wage.

Finally, it should be noted that one of the few remaining advantages that the United States has over its competitors abroad is our advanced technology and our lead here is being subjected to increasingly severe challenges.

The conclusions that must be drawn from all of these considerations are inescapable. If U.S. industry should seek to recover higher employment costs through higher prices, it would lose more of its markets and jobs to foreign competitors. If it should seek to pay higher employment costs from profits, it will quickly lose its technological lead, which would again result in lost markets and lost jobs. Thus, increases in employment costs lead to substitution of less expensive machinery for more expensive employees, and the proposed Overtime Penalty Act would work toward accelerating this process.

The challenge

The great challenge is not to devise schemes for slicing up or sharing a given amount of work, but to create expanding employment opportunities.

Any possible temporary increase in employment from such legislation would be offset by the disadvantages stemming from the certainty of increased costs. We might then well have a situation where we would harvest the worst of both possible worlds: (1) inflation and (2) a decrease in employment attributable to the higher labor costs and their adverse effect on the competitive position of marginal firms in both domestic and foreign markets.

In short, our competition everywhere else in the world would be delighted to see this overtime penalty legislation passed here. The great beneficiaries would not be the workers in Pittsburgh, Schenectady, and Detroit, but the workers in Liverpool, Hamburg, and Yokohama.

⁸ The U.S. share of world exports of manufactures (excluding special category, military related items) has declined from 26.2 percent in 1953 to 20.4 percent in 1962. For the third quarter of 1963 compared with a year earlier, the data of the British Board of Trade shows percentage increases of exports of manufactures for the United States to be 6.8 percent as compared with 21.2 percent for Sweden, 17.1 percent for Italy, 16.6 percent Netherlands, 14.5 percent Belgium-Luxembourg, 12.5 percent West German, 10 percent France, 9.7 percent Japan, 7.5 percent Switzerland, and 7 percent for Britain. The Journal of Commerce of Jan. 27, 1964, reports that "U.S. exporters continue to lose ground in world markets to their foreign competitors during the 12-month period ended Sept. 20 * * *." It adds that while the dollar volume of U.S. exports increased to most of the 37 leading countries, in about half of these markets the U.S. share declined as other exporters scored gains. The New York Times also, of Jan. 28, 1964, stated that the big increases in export volume came in farm products and basic industrial materials rather than in finished manufactured goods and that about half the improvement in the Nation's surplus of exports over imports came from higher exports financed by Government aid programs. (Sources: Economic Review, National Institute, London, August 1963, and Journal of Commerce, Feb. 17, 1964.)

⁹ There is evidence that even in the most recent years for which international figures are available, 1958-62, the gap in hourly earnings has widened slightly as between the manufacturing industries of the United States and those of some other industrial nations. For instance, the average hourly earnings gap between the United States and four European nations is as follows: In France the hourly earnings (excluding supplemental benefits) in manufacturing industries averaged \$1.73 lower than in the United States in 1958; this wage gap widened to \$1.89 by 1962. In Italy the hourly earnings were \$1.76 and \$1.93 lower, and in the United Kingdom \$1.33 and \$1.40 lower for 1958 and 1962. (Source: Monthly Bulletin of Statistics, United Nations, January 1964.) The closing of the wage gap as between America and other industrial nations is many years off and cannot be counted upon to aid us in today's competitive battle.

Congress should reject this legislative proposal and concentrate on creating a climate which encourages business and economic growth. Economic growth may be said to be business growth. And American business will grow only as it offers attractively priced products, particularly in the face of today's intensification of foreign competition. To increase costs through a double time premium penalty is not a means toward achieving a faster rate of business growth; it will act as a damper on growth, and growth is what we need to solve our problem of creating more job opportunities.

How the United States can compete for jobs and for job-creating profits

Business growth requires a team effort on the part of the employer, the employee, and the union. Such an effort is illustrated by the Utica story described below. And, there is also the need for competitive government if we are to have competitive industry; and this will also be detailed.

The competitive employer, employee, and union in a team effort

The team effort at one of our Utica plants contains the elements that suggest how America can compete successfully in domestic and world markets, despite some obvious advantages enjoyed by manufacturers abroad.

In 1959 we were not certain we could stay in the transistor radio business in the face of Japanese price and quality competition. Management at our Utica plant met the first key commitment to face the challenge squarely by investing in new plant and equipment. New machines stepped up output and held to a rigid quality standard. Investment in new and redesigned products was sharply increased.

The general manager of the plant went to his people to explain the department's problems: "Our foreign competitors work just as hard as we do, they're just as smart, and their employees pay rate is much lower than ours. Our only advantage is in working smarter as a team."

A management presentation of the competition story at the IAM local hall brought a record turnout, and the union newspaper described "a mood of understanding" which prevailed. Talks in the factory and offices plus continuous written communication elicited similarly hearty response from employees.

Formed into nine cost-improvement teams, hourly and salaried employees turned in unbelievable cost reductions. Cost improvement doubled in 1960, double again in 1961. Savings from employees suggestions also doubled over the last 2 years.

Manufacturing, engineering, and marketing salaried employees, well aware that their incomes are several times higher than their Japanese counterparts, worked together to make striking improvements in the cost of components and completed radios.

The results? There have been some truly phenomenal cost and price reductions. For instance, the price of a six-transistor radio tumbled well over 50 percent. And instead of reducing employment, jobs at the Utica plant have increased by one-third.

Are our radio problems over? Far from it. Price reductions still wipe out cost improvements every year. Low-cost producers in Hong Kong and Okinawa are now underselling even the Japanese in low-end transistor radios. In short, the situation is "normal" in Utica—but the radio receiver team is in fighting trim.

The competitive employer and research and investment

The Utica story illustrates how as part of the team effort the employer maintains competitiveness through investment in research for new and redesigned products and in new plant and equipment.

In General Electric today more than 65,000 additional employees—at least 1 out of every 4—are working on jobs making products which were the "new ventures" of 10 years ago. Substantial risk-taking investments have been made to build these product businesses.

As to the electrical industry, it has the highest rate of investment for research and development among all major industries. In 1961, 3.8 percent of industry sales went back into R. & D., which was double the average of all industry, to make possible new products and jobs.

The competitive employee and job training

The employer's management of manpower resources goes beyond successfully motivating employees to make their full contribution to the competitive battles of today. The employer should have a manpower planning and development

program that is custom tailored to fit the job requirement of his business and the aptitudes of his employees, if he is to have a competitive employee—one that makes an effective contribution to the needs of the business and to his own job security.

The plan should be in terms not only of the number of each particular skill required to produce the volume and kind of product that is forecast by his marketing managers for the years ahead but where the employees with the necessary skills and training may be expected to be obtained. Are they to come from the local labor market or will some skills require in-plant training programs or a modification of the educational programs of local schools and colleges?

Training and education at General Electric are localized where possible. This is done for two basic reasons, each bearing on the willingness of the employee to equip himself for another job opportunity and on the employee's ability to make an effective, competitive contribution to the needs of the business and to his own job security:

1. Training, to be economically sound, must be for a need. If it is a future need, it must still be an identified need. Needs vary widely; hence, types of training and education must vary widely. Training for the sake of training makes no sense.

2. Training, to be worthwhile, must fit the individuals' aptitudes. Since these differ even more than local needs, it becomes more imperative than ever to localize the training and education efforts.

Wherever employees have been informed of future job opportunities and have been provided with the opportunities to train for them, the response has been enthusiastic.

Most business organizations—and this is certainly true of the General Electric Co.—have at their command many likely candidates today to meet the manpower shortages ahead if a program can be worked out to develop these human resources on a sound, realistic basis. The most likely candidates for skilled craftsmen and foremen tomorrow, for example, are in one of the groups that are being hit hardest by unemployment today, that is the semiskilled operatives in the 24 to 34 age groups who are particularly vulnerable to high layoff rates because of their low seniority. This suggests that it will be to the advantages of employees, unions, and employers to reexamine the seniority, layoff and rehiring provisions of contracts as an integral part of an overall manpower planning and development program.

The training of employees within the General Electric Co. for current and future needs takes on many forms. At our Lynn, Mass., plant, for example, management trains primarily to relieve shortages in several classifications. (For a detailed account of Lynn's manpower and training programs, see app. D.)

In Syracuse, one objective is to fill educational gaps among hourly people so that they may become more readily promotable. Receiving tube department's higher percentage of women employees poses problems of continuous training to replace its people who leave periodically because of pregnancies or other family reasons. (See app. E.)

The highly technical content of reentry systems department's work requires constant training to keep pace with technology.

There are some 20 General Electric training programs in specific functional areas, such as manufacturing, marketing, finance, research, employee relations, etc. An across-the-board training program is provided by the tuition refund program. Its basic features: Reimbursement of up to 100 percent of the amount of tuition may be granted by department general managers to individuals who, with prior approval, enroll in and successfully complete courses leading to a degree at a recognized school, provided that the courses relate to the employee's field of work.

This is a decentralized program discretionary with each manager and financed as part of each department's regular operations. It can apply to either undergraduate or graduate education. In many cases it utilizes the facilities of colleges and universities in or near the community where the component is located. In the year that ended July 31, 1963, the company spent \$1,192,000 on this program. Almost 9,500 employees participated.

A more detailed description of the various training programs within the General Electric Co. is contained in the pamphlet entitled "Training in General Electric—The Human Side of the Story." (Available on request.)

The competitive union and modern economic realities

In a challenge to labor on the job front, former Secretary of Labor Arthur J. Goldberg had this to say:¹⁰

"A much larger understanding of the issues and the difficulties of solution is required of us all. For instance, labor organizations, in formulating their wage and price policies, must now look beyond the counsel of their traditions and out into the broad fields of modern economic realities, both at home and abroad. A union has existed for the benefit of its members, and still must do so—but the policies to achieve that end must include both long-range and the immediate welfare. It may be fine to save a job but it may not be so fine if the precedent of that action endangers many other jobs over a period of time."

Union leadership holds an important key in successfully meeting the challenges of modern economic realities. We have been encouraged by the recognition of this, as expressed in the following joint statement by four unions at our Milwaukee X-ray plant:

"* * * We endorse and pledge our wholehearted support to the company's accent on value program. To us, this is not a temporary program. Rather, it serves as a guide and reminder of what can and will be accomplished so long as all of us—accountants, clerks, draftsmen, engineers, foremen, methods men, managers, secretaries, salesmen, and all of us in the shop—continue to work together as a team."

Again, at our Owensboro tube plant the managing editor of the local union publication expressed her belief that all should join and help the union to grow. But she added that its members should feel "a great sense of responsibility and thankfulness for the good things we now have." She added that the union's members should realize that there is a good management in the plant and that management does have its problems.

In another instance of union cooperation, the three unions representing Lynn River Works employees of the Flight Propulsion Division endorsed the Division's "zero defects" program.

Competitive Government

The role of Government in creating more job opportunities has many aspects. For instance, in the climate Government creates for business, in the depreciation allowance and special investment credit it allows on capital as compared with what other nations allow in the rate of corporate income tax assessed, and in the position it takes with other nations in bargaining on tariffs and the non-tariff barriers to trade, as well as in the domestic policies of its administrative agencies, our Government can do much to assure that American industry and workers are competitive and share in the growth of world markets.

Changes within the past year in the direction of liberalized depreciation allowances and tax credits on new investment also attest to the administration's recognition of the inadequacy of capital investment and profits.

In the area of trying to develop a better public understanding of the relationship of wage and benefit increases and productivity increases to prices, the administration's noninflationary wage guideposts are a step in the right direction. But, the concept of a noninflationary wage and benefit increase fall short as a weapon in America's competitive battle today, for prices in the world markets are not related to any noninflationary wage policy of America, but to the demand and supply pressures of buyers and sellers of all competing nations. And, there is no cost or price or job curtain around our shores to protect us from the product inroads of the manufacturers of other nations. If our Government were to raise costs on overtime work by adding a 100 percent premium penalty on top of the nonovertime rate, it would be most noncompetitive with the overtime legislation and bargaining contracts in other nations.

¹⁰ For both labor and management as it relates to the problem of unemployment, former Secretary of Labor Arthur J. Goldberg said this when he established the Office of Automation and Manpower:

"Management must stop automatically resisting proposals to ease the human burden of automation whether they are made by labor unions or public officials. Management officials must do more than they have done to provide themselves the devices to prevent hard-core unemployment. Retraining programs, allowance payments, vesting of pensions, care in the location and relocation of plants, and a host of other schemes should receive management's most serious attention. Labor for its part must meet management half way. It must abandon restrictive practices. Both sides must think out the operations of seniority systems. Both sides must concentrate on devices to increase mobility."

Legislation for still larger overtime premium payments will not give an unskilled worker a few hours of a skilled machinist's job nor result in any meaningful sharing of jobs at any level or between labor markets. It will raise costs, take away a measure of flexibility in meeting the requirements of the customer, and hamper rather than help putting more employees to work.

The need of the Nation today is for management, employees, unions, and Government, working together, to strengthen the ability of American enterprise to cope with competition—to eliminate outmoded and inefficient work standards, practices, and methods; and to keep flexible so as to meet the new challenges of tomorrow.

STATEMENT OF HUGH A. BLACK, DIRECTOR OF INDUSTRIAL RELATIONS,
THE MEAD CORP.

The Mead Corp., an Ohio corporation, is a manufacturer and distributor of pulp, paper, paperboard, and converted paper and paperboard products. It has some 50 manufacturing facilities located in 18 States, with annual sales of more than 450 million. It employs 15,000 men and women with annual payrolls in excess of 100 million. The following statement concerns overtime hours of work as related to employment opportunities in our company and the possible and probable impact of H.R. 9802 or H.R. 1680 upon each of these.

Overtime (hours of work beyond 40 in a week) has many causes. These comments deal with three major ones.

First, in an operation involving two or more shifts per day, overtime may be caused by the sudden and temporary absence of a regular employee due to illness or for other reasons. In these unforeseen situations in some cases overtime can be avoided on relatively unskilled jobs by internal transfers and shifting of employees from one work crew to another. On the majority of jobs, however, which are more highly skilled, such temporary transfers are usually not possible because of training and skill requirements. Employees with the requisite skills therefore double over—split the unfilled shift—or come in to work on their regular day or days off. All of these latter actions will normally produce overtime if the employees involved complete their regular schedules for the week in question. The requirement of penalty pay at double time or some other rate instead of time and one-half would not reduce this kind of unavoidable overtime work nor create any additional job opportunities.

A second cause of overtime arises in plants normally operating at something less than 24 hours per day—i.e., one or two shifts or if working around the clock, operating less than 6 or 7 days a week. The overtime develops because of business activity—customer requirements which cannot be satisfied within the normal work schedule and require employees to be held over for an hour or so at the end of a day—or in mills operating 24 hours per day it may require an additional half or full day of production. This is accomplished by extending the workweek of present employees until it appears that customer requirements will be sustained for a sufficient period to justify the addition of another shift or crew. The addition of another crew is not a simple matter to be undertaken lightly. In addition to employment procedures it involves in most cases training new employees, reshuffling the present crew work assignments according to seniority with accompanying loss of efficiency and usually also involves retraining of present employees in new work assignments. In either case, the decision to add an extra shift per day or an extra crew to extend the week's operation does not rest upon the amount of penalty pay involved for overtime but in the firmness of the order situation—the volume of customer requirements which will justify the action. We have and we will add extra people when the business to justify their employment is present. We cannot when this factor is absent regardless of the kind of penalty pay required for overtime work.

A third type might be termed scheduled overtime—i.e., when a crew or some portion of it is regularly scheduled to work in excess of 40 hours per week in order to meet operating requirements and to make maximum use of crew skills and abilities. This is fairly typical in large, mass production units which for reason of operating efficiency run 24 hours a day 7 days a week with only occasional shutdowns once or twice a year for vacations, maintenance, and repair. In such a situation a typical schedule might involve four crews, three of them working 40 hours per week with the fourth crew working 6 days, or 48 hours per week to make up 168 hours—the total available in any 1 week. Since the

crews rotate each week, at the end of a 4-week cycle each of the crews will have worked three 40-hour weeks and one 48-hour week.

This schedule is appealing to employers because of its effective use of crew skills and abilities and to employees who like one of the byproducts—4 consecutive days off every 4 weeks. They also like to participate in the premium pay which this schedule provides. We respectfully submit that changing the premium penalty pay rate to double time will not materially alter this schedule nor provide any additional job opportunities because by common agreement there already exists a penalty rate of double time for Sunday work—the day on which most hours over 40 occur. In this connection we should point out that in our experience premium or penalty pay does not diminish but only whets the appetite of our employees and their collective bargaining agents to find ways and means to obtain a greater share of the penalty pay rather than to share this penalty time with someone else. By far the greatest majority of all our employee grievances arise out of alleged unfairness in denial of a share of premium penalty pay and not because of objection to working overtime hours.

In summary then, it does not appear that any of the major factors contributing to overtime in our company will be changed or eliminated by increasing the penalty rate for overtime. It also follows that such action would not create any additional job opportunities, the stated purpose of this legislation. The only real result as we see it would simply be an added cost of doing business if we are to continue to serve our customers in the most effective way. We might add that our customers are in no mood at this time to share this added cost with us in the prices they pay for our products. We estimate that if we were required to pay double time for overtime in our company there would be an additional payroll cost of about \$2 million annually. While this may not seem a large amount, it is almost one-half the amount that was available to us in 1962 in the form of after tax earnings for reinvestment in our plants and equipment to provide new jobs as well as to help preserve the jobs of those already in our employ. Certainly action which tends to diminish an employer's ability to invest in new facilities and to provide new tools and equipment is not calculated to advance the cause of full employment. In this sense we suggest that the proposed legislation is self-defeating of its purpose, both now and in the future.

We further suggest that there may be some who will urge support of this legislation because they see in it exactly what we have described—an opportunity to receive, by legislation or administrative determination, an increase in wages which they could not justify at the bargaining table. If so, we feel obliged to express a strong conviction that the employees of our company do not presently need any help from Congress in the matter of their wages. The record speaks for itself. They are well represented by strong unions who have won wage and fringe increases for them in every year since World War II with the possible exception of the Korean wage stabilization period. Wages in our company have increased three to four times as fast as the cost of living during this same period and total employment in our company has jumped from 5,000 to 15,000. Unfortunately, there have not been comparable advances in labor productivity.

For all of these reasons we respectfully recommend that further penalties not be imposed upon employers to achieve a doubtful purpose, that the determination of rates of pay and hours of work not be decided by a governmentally appointed tripartite committee or by statute but determined by the process of free collective bargaining unfettered by statutory or administrative regulations of the kind here proposed.

STATEMENT OF THE NATIONAL CONSTRUCTORS ASSOCIATION

The National Constructors Association, a group of nationally known firms doing a very sizable volume of engineering and construction for all branches of industry and Government, especially in the industrial process field, has studied and reviewed the proposed bill (H.R. 9802), known as the Overtime Penalty Pay Act of 1964.

Members of the National Constructors Association (known as NCA) have been furnished with copies of the bill, have commented thereon, and have voted to register their objection as an association to the proposed legislation.

No opposition is voiced to the announced objective of spreading employment or increasing the number of people employed. We submit, however, that in our industry the bill will not accomplish this objective; that it may even result

eventually in less employment rather than more; and that it contains administrative provisions which are potentially hazardous.

Our specific comments follow:

1. A major portion of the work of NCA companies is done on lump sum or guaranteed maximum-type contracts, thus placing heavy emphasis on cost and efficiency. It therefore follows that payment of overtime is presently avoided whenever additional shifts or more workers can be beneficially used.

2. The character of construction activity and the necessity to stay on schedule in order to operate profitably result in some occasional overtime each week and, in certain situations, the scheduling of extended workweeks. Such extensions, however, are for limited periods of time or are confined to certain crafts. In any event, it would be entirely impractical and inefficient to hire and train additional workers under such conditions. If double time overtime were required, the cost of construction and the cost to the owner and the public would inevitably increase; and this, without resulting in any spread in employment.

3. Regardless of whether or not the Secretary of Labor should prescribe double time overtime for the engineering and construction industry as such, but assuming the practice is applied in related industries, it appears certain that where collective bargaining in the industry now starts from a time-and-one-half base, it would in the future begin with a double time overtime minimum. Thus, the possibility of widespread triple overtime provisions in union contracts can be envisioned.

Double time alone would raise costs materially and triple time far more so. In addition, such high-overtime rates create an incentive for workers to demand more overtime, a condition which occurs rather commonly even with the present time-and-one-half base.

In the construction industry, wages and working conditions, including overtime rates, are largely determined locally through collective bargaining between local unions and local contractor associations. For a number of trade classifications and, in a number of localities, the overtime rate has been fixed at double time in contract negotiations, even though the legal minimum has been time and one half. If this minimum were to be increased to double time, many of these local unions would seek an increase at the bargaining table from double to triple time.

4. Such potentially costly consequences of the bill might slow down industrial construction activity and would increase the pressures toward mechanization and prefabrication, already strong in the industry. Thus, the total number employed in the industry might, in fact, decline rather than rise.

5. NCA members employ large numbers of engineers, technical people, and draftsmen. Because of the nationwide shortage of trained personnel in these areas, regularly scheduled overtime is frequently required in order to maintain job schedules. Since trained and competent personnel is scarce, the principal effect of double overtime would be to increase take-home pay and engineering and design costs. A majority of the NCA companies do foreign work; thus, either their competitive position against increasing worldwide competition would suffer with consequent deleterious effects on our balance of trade or such companies would be forced to perform practically all of their engineering and design services abroad.

6. Many of the contracts entered into by NCA companies involve performance times of 2 to 4 and even 5 years. In view of the provisions of the proposed bill permitting the Secretary to reconvene, reestablish, or appoint tripartite industry committees at any time, and, even after an order for an industry has been issued, any contractor quoting a long-term job on a lump sum or guaranteed maximum basis would do so at his own jeopardy. The engineering construction industry is hazardous at best; this bill would certainly add to the risk.

For reasons cited above, the National Constructors Association believes that H.R. 9802 would be harmful to the construction industry and to the economy of the United States as a whole. It does not consider the bill to be in the public interest and respectfully urges the committee to vote against this measure.

STATEMENT ON BEHALF OF THE ST. REGIS PAPER CO.

The St. Regis Paper Co. is a highly diversified manufacturer of paper and packaging with net sales in 1963 exceeding \$593 million. It produces paper and paperboard, a great variety of packaging, and other converted paper products, plastic products, plywood and lumber products, and builds machinery and equipment.

St. Regis employs more than 28,000 people in the United States in over 100 plants and mills as well as 800 people in other countries.

The Select Subcommittee on Labor of the House Education and Labor Committee is undoubtedly already familiar with the part the paper industry plays in the national economic life of America as well as its past history of vigorous growth and expansion to keep pace with the steadily increasing demand for its products. Contributing most significantly to this demand for paper products is the industry's ability to produce an inexpensive product with a great variety of uses. Creating a demand for its products—alone or in combination with other materials—through their low cost to the consumer has provided employment opportunities for more than 600,000 people in an industry with one of the most stable employment records and one of the lowest turnover rates in the country as confirmed by the Bureau of Labor Statistics.

The additional penalty on overtime work urged by the proponents of H.R. 9802 and H.R. 1680 or any other proposed bill that would severely tax the industry's ability to produce its products at a price attractive not only to domestic customers but to the growing number of buyers in the export field. Under today's highly competitive conditions, any increased costs would more likely result in fewer job opportunities than the creation of more job opportunities.

The producer who fails to give the customer what he wants, when he wants it, and at a competitive price can be sure of losing that customer to a competitor who can meet these requirements. Result—a decrease in production requirements requiring fewer employees.

Proponents of overtime penalty pay bills erroneously assume that we manufacturers readily accept the present overtime penalty as provided by the Fair Labor Standards Act and schedule overtime hours as a matter of course in spite of the premium penalty. This is not true. With rare exception, overtime hours are primarily dictated by emergency breakdowns, customer demands, employee absenteeism, and routine maintenance.

For example, St. Regis is one of the major manufacturers of multiwall bags and the following is a typical incident at one of its bag plants which resulted in substantial overtime. The plant in question normally operates 5 days per week on a three-shift basis during peak periods. With production facilities scheduled to maximum capacity during the week of March 23, a customer placed an order on March 24 for 55,000 bags to be delivered April 1. Since the following week was already scheduled to capacity, the only alternative was to manufacture the order on Saturday the 28th in order to meet the delivery date. Nine people worked a total of 72 overtime hours resulting in a premium penalty of 36 non-productive hours.

Occurrences such as this are frequent during peak periods since customers are retained not so much by the quality of the product supplied as they are by the service they can depend on.

Similar conditions prevail in the corrugated container plants. It is the nature of this business that the customer provides the manufacturer with very little leadtime on delivery dates. The product is bulky in size and neither the consumer nor the manufacturer can afford the extensive storage space which would be needed to keep a supply of boxes on hand. Therefore, most orders are filled on short notice. Orders refused on this basis will surely be made by someone else. Competition makes this a buyers market.

The Secretary of Labor in his statement before the general and select Subcommittees on Labor, House Committee on Education and Labor stated that an average of 4½ hours of overtime per week per employee was worked in 1963 in the paper industry. If this figure is assumed to be correct, how many of these overtime hours were "controllable" by management? How many could be anticipated and scheduled and as such converted to additional jobs? We don't believe anyone has the answer to these questions at this time and no amount of speculation can produce the answers.

For example, in the papermills which are scheduled around the clock on a 5-day basis, could anyone have scheduled the 81¾ hours overtime resulting from

an emergency breakdown? Or the 86½ hours for a like emergency? How about the emergency "roll change" necessitating 27 hours of overtime? No one would suggest that additional maintenance men be hired on a standby basis for such emergencies to eliminate overtime hours.

Papermills are subjected to the same customer demands as those cited in the converting plants. For instance, an order was placed with a mill December 9 with shipment to be made on the 11th and 12th. In order to satisfy the customer, overtime of 82½ hours was required. Another such demand on short notice resulted in 105 overtime hours.

Full and efficient utilization of production facilities in a continuous operation such as is a papermill, creates maintenance problems. Preventive or routine maintenance cannot be performed while machinery is in operation. Hence, maintenance must be performed when machinery is nonoperative which means on Saturday or even Sunday at premium rates. Collective bargaining agreements preclude and adjustment in the hours of work, in most instances, whereby premium hours could be reduced or eliminated.

The examples of overtime hours and reasons therefor cited above were taken from the operating statistics of a papermill which produces paper for sale to the U.S. Government Printing Office. The President of the United States recently requested all Government suppliers to do all within their power to keep their manufacturing costs as low as possible to avoid the necessity of any price increase on their products. At the same time, the administration is proposing through legislation to increase the manufacturer's labor costs. The two proposals are not compatible especially for the marginal mill whose profits are already minimal and any significant increase in costs can drive it out of business with the resultant elimination of a substantial number of jobs.

We believe that any Government program that increases costs and in any way hampers the flexibility of operations needed in today's competitive atmosphere will result in a reduction of total employment rather than in an increase. To many, the challenge to survive will necessitate complete elimination of all "controllable" overtime, stricter enforcement of work standards and a rapid introduction of any method, device, or technique which will reduce labor costs. As a final resort, it is not inconceivable that the overall work force would have to be reduced to maintain tolerable labor costs.

Over a period of years the company has negotiated agreements with its labor unions which spell out the method the company can use in the allocation of overtime work, most of which is necessitated by emergency conditions as pointed out in this report. The unions are very jealous of the arrangements which they have been able to obtain in the distribution of overtime. It would be impossible for management to unilaterally eliminate these arrangements. We believe that it is not in the best interest of both parties to have these arrangements eliminated. Management has obtained certain advantages in being able to schedule employees for emergency conditions and the overtime premium paid during these emergencies makes it advantageous to the employee to agree to work during these periods.

Forcing our industry to adopt the foregoing measures would more than likely destroy the union-management relationships which have been developed over a long period of amicable collective bargaining with our unions. The work practices, especially in the area of the distribution of overtime, prevalent in our industry have been arrived at through free discussion between men thoroughly familiar with its traditions and needs. We cannot believe that any diminution of these rights through legislation conceived by those not closely concerned with our industry can have the effect the proponents of any Overtime Penalty Pay Act claim for it. On the contrary, this type of legislation can only bring about the reduction of the work force.

WOODALL INDUSTRIES, INC.,
Detroit, April 10, 1964.

HON ELMER J. HOLLAND,
*Chairman, Select Labor Subcommittee, House Education and Labor Committee,
 Washington, D.C.*

DEAR MR. HOLLAND: I am deeply concerned about the administration bill H.R. 9802 to provide for higher penalty rates for overtime work now being considered by your committee.

I share the opinion of a large segment of the business community that this bill not only will not contribute to the solution of the current unemployment problem but could do irreparable damage in the form of higher costs, reduced employment and lessened bargaining flexibility in union-management relation. The following points should be considered:

1. The cyclical nature of many industries, including the automobile industry, requires the use of overtime during peak production periods when skilled or trained employees are not readily available or where additional plant facilities, tools, or equipment are not available. The maintenance of these factors continuously at peak production capacities is not economically feasible.

2. The costs for providing added plants, tools, equipment, employee training and the lower efficiency of marginal employees would ultimately increase prices to the consumer and add to the spiral of inflation.

3. Historically, both regular and premium rates of pay and the conditions of payment above and beyond existing Federal regulations have belonged solidly in the realm of union-management bargaining. The encroachment of Government in this area would be a serious setback to the whole free enterprise system.

4. The ill-defined limitations on the authority of the tripartite committees and the broad discretionary powers of the Secretary of Labor could result in an invasion of economic privacy and an upsetting of the balance of competitive forces within industries.

Since my letter to you of February 24, which is repeated in its entirety in the above paragraphs, I have had an opportunity to read the testimony of Mr. Theodore O. Yntema, vice president of Ford Motor Co., and wholeheartedly support his views. I strongly recommend that Congress reject this proposal.

Sincerely,

W. D. WILLEY.

STATEMENT SUBMITTED BY MASON M. SCHOOLFIELD, VICE PRESIDENT, THE ARUNDEL CORP., BALTIMORE, MD.

My name is Mason M. Schoolfield. I am vice president, Aggregates Division, the Arundel Corp., Baltimore, Md. I appear here as the representative of the National Sand & Gravel Association, the National Ready Mixed Concrete Association, and the National Slag Association in expressing the opposition of these basic industries to the provisions of H.R. 9802. The Arundel Corp., in addition to being active in the industries represented by these three associations, is also active in the production and marketing of crushed stone. I will speak officially for the sand and gravel, the ready mixed concrete, and the blast furnace slag industries of the United States. There is a unanimity of opinion as to the undesirable results which H.R. 9802 would have if it should be enacted.

Ours are the basic materials of construction. There is general agreement that last year's recordbreaking construction volume of \$64 billion will be exceeded this year. All construction starts with one or more of the products of these industries and, if this great construction market is to be served by these industries, the various producers must be able to continue to produce a quality product delivered to the job at the lowest possible price. In order to put the scope of these industries in the proper perspective, I am going to list the most recent information I have on the volume of materials represented per year, and their approximate values at the source. These figures are as reported by various Government agencies and our associations, and are somewhat rounded off to make them easier to comprehend.

Materials	Tons	Cubic yards	Value
Sand and gravel.....	830,000,000	-----	\$840,000,000
Crushed stone.....	690,000,000	-----	995,000,000
Blast furnace slag.....	25,000,000	-----	45,000,000
Ready mixed concrete.....	-----	145,000,000	2,000,000,000
Total.....	1,545,000,000	145,000,000	3,880,000,000

The question of the position to be taken with respect to H.R. 9802 was discussed by the board of directors of the National Sand & Gravel Association and the National Ready Mixed Concrete Association in Chicago, where they met on February 24. There was a general discussion of the whole problem, after which the two boards, by unanimous vote, decided that the associations should ask your subcommittee for the privilege of presenting their point of view to you. Subsequently, the National Slag Association requested that I do the same for them at this time. It is believed very earnestly by these associations that enactment of H.R. 9802 would not achieve its desired objective of creating employment but would simply add to the production costs in these industries without creating any additional jobs. It would be necessary, if the companies in these industries are to survive, to pass along these increased costs to the public, and to the various Government agencies which use these products. This would have an inflationary effect on the general economy of the country and particularly on the unprecedented public works program which is going on all over the country. This program uses vast quantities of the products of all of the industries for whom I am speaking.

Practically all of the sand and gravel, crushed stone, and processed blast furnace slag in the United States goes directly into construction work. A large percentage of these materials goes into ready mixed concrete and bituminous paving materials. Labor costs enter heavily into the final delivered price of all of these products. The enactment of H.R. 9802 into law would simply increase our labor costs, as I stated before, without producing any new jobs. Thus, all over the United States, the costs of construction would rise to even higher levels.

Ready mixed concrete and bituminous paving materials are perishable products. They are delivered to the construction job in a plastic form, and must be incorporated into the construction within a very limited time after they are processed. Sand and gravel, stone and slag are bulky materials and from a practical standpoint must be stored in large open areas frequently some distance from the point of use. Because of the space required, the basic raw materials are seldom stored in quantity at the ready mixed concrete and paving plants, which are frequently located in fairly populous areas. For this reason, the producers of these materials must be prepared to deliver them to the users on very short notice and frequently after normal daily or weekly working hours.

Construction is always a somewhat seasonal business, due to the heavy influence of the weather and other things, so the industries which provide the basic raw materials must also be seasonal. Due to the very heavy capital investment required to produce these materials, it would be prohibitively costly for us to operate production plants and facilities having enough capacity to take care of the seasonal peak demands without occasionally resorting to overtime. Thus, in the winter months, we usually find ourselves with excess plant capacity, and in the months of peak construction demand we must resort to overtime work. Unfortunately the day-to-day and the week-to-week demand is quite spotty and erratic so that we cannot actually plan this overtime work even during the peak season. Much of the construction work that we are concerned with is of such a nature that it must be completed once it is started. The job cannot be shut down over night and work resumed in the morning. This is one of the principal reasons that we have to continue deliveries after normal hours, as I mentioned before. As far as production is concerned, the overtime work comes in when the demand is too great for a single shift and not enough to justify two shifts.

Our industries are quite specialized, and most of our employees need considerable periods of training, sometimes years, before they are able to do the work properly. I would guess that less than 10 percent, possibly less than 5 percent, of the jobs in our industries could be handled by newcomers, even though they may have had previous experience and be qualified in the same general type of work. For instance, even a good shovel or crane operator is not able to load rock in a quarry until he has acquired some experience at it. An ordinary truckdriver needs experience in our operations before he can handle some of the specialized heavy hauling equipment we use. A man with considerable experience in a crushed stone plant may be completely lost the first few weeks he works in a sand and gravel plant, and a man experienced in both of these plants would have equal difficulty in a slag plant. Thus our employees cannot be gotten merely by calling an ordinary source or pool, such as a union hall or an employment agency.

Through the years that overtime has been paid for at higher rates than straight time, this overtime work has come to be considered as a right to which the regular employees are entitled, whenever it is available. Labor agreements in our industries frequently spell out which of our regular employees shall be given the right to work overtime when it is available. The amount of overtime we have to work may vary from a few hours during the slack seasons to a great many hours for most of our employees during the peak season. For this reason, it is impossible for us to keep a force of qualified men standing by at the end of the day or the week on the chance that they may be required for extra work.

I believe the idea that H.R. 9802 would create additional jobs, instead of merely raising costs and prices, may be due to a lack of understanding of the nature of the work in our industries. Our employees are not individual pieceworkers. They are members of a production team. To all intents and purposes, it takes the full team to produce one unit or a thousand units. Saying that a team of 10 men can produce 1,000 units in a day must not be taken to mean that 1 man could produce 100 units a day, or 5 men 500 units a day. One man, or even nine men, could not produce any units a day. It takes the combined and intelligent efforts of the entire team to produce anything at all.

Apparently because of failure to understand this team concept, the statistician or economist divides the total daily production by the number of man-hours required, and concludes that a single man-hour of effort will produce the resulting fraction of the daily total. Actually in our industries one man-hour of effort will not produce anything. The total daily man-hours of effort must first be divided by the number of men required on the production team to find the number of man-hours required to begin producing.

I believe a simple example, which is not at all hypothetical, will serve to illustrate our problem. The statistics may indicate that 80 man-hours will produce 800 units, so it is a reasonable assumption that 100 man-hours will produce 1,000 units. But, if it took 10 men working 8 hours each to produce the first 80 man-hours, it would still take the same number of men, but working only 2 hours each, for the extra 20 man-hours. Two men working 10 hours could not do it. Since our employees are not machines but are people, with wives and children and responsibilities, that second group of 10 men is not going to be able to subsist on 2 hours' employment. They are certainly not going to make themselves available, on a standby basis, on the chance that they may get 2 hours of employment. They will simply not be there when we need them, and we will not be able to get them to come for a few hours of extra work by calling somebody downtown. Therefore we will do the only thing we can do, and that is to ask the original 10 men to work 10 hours each instead of 8 hours.

Following this same example, if we pay our men \$3 an hour for straight time and \$6 an hour for overtime, we will pay each man \$24 for the first 8 hours plus \$12 for the last 2 hours, or a total of \$36 for the day. Thus each man will have averaged \$3.60 an hour for that day's work instead of the nominal \$3 an hour. This amounts to an increase in labor costs for that day of 20 percent. If our labor costs represent 50 percent of our total costs, which is about right, our total cost will have increased 10 percent. We will eventually have to pass this increase on to the customers or go out of business.

To sum up, we do not know of any way that our unscheduled requirements for overtime work could be given to other than our regular employees. Therefore, varying the penalty for overtime work either up or down can only change our costs of production. We could not give the extra work to extra men. Also the whole idea of overtime, in actual practice, has come to be regarded as the right of the regular employees. Whenever we are confronted with the problem of producing or shipping materials over 8 hours a day or 40 hours a week, any increase in the rate of pay for overtime merely adds to the paycheck of the man already employed.

I appreciate the opportunity to present these facts to you and, speaking for our industries, sincerely hope that you will not add to the pressures of inflation by enacting H.R. 9802 with the mistaken hope that it would create employment.

LATROBE STEEL CO.,
Latrobe, Pa., February 21, 1964.

Subject: H.R. 9802, double time for overtime.

HON. JAMES ROOSEVELT,
 HON. ELMER J. HOLLAND,
*U.S. House of Representatives,
 Select Subcommittee on Labor,
 Washington, D.C.*

DEAR CONGRESSMEN: In our company and in the tool steel industry in general, overtime is caused by equipment limitations and scheduling problems more so than by lack of sufficient jobholders. Our investment in equipment, such as melting furnaces, rolling mills, forging presses, etc., is very high and encourages us to use this equipment to the fullest extent, including the sixth and seventh days work when customers' orders so require. These units are operated by crews consisting of several men rather than by individuals.

Under these circumstances, it is impossible to eliminate overtime by hiring additional personnel. If we were forced to pay double time for this work, we would still continue to operate in the same manner. The result would be increased operating costs to our industry without the creation of additional jobs.

The tool steel industry is already suffering under the impact of large quantities of imported steel being sold in this country at much lower prices. The penalty of increased overtime costs would put our industry at an even greater disadvantage compared to the foreign competition and, in the long run, would probably reduce the total number of jobs.

I do not feel that compulsory payments of double time for overtime represents a constructive solution to the unemployment problem, and urge you to vote against H.R. 9802.

Very truly yours,

M. W. SAXMAN III.

PIPER AIRCRAFT CORP.,
Lock Haven, Pa., February 28, 1964.

ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
 U.S. House of Representatives, Washington, D.C.*

DEAR MR. HOLLAND: I am filing this written statement for the record in opposition to the President's proposal that double wages be paid for all overtime in certain industries.

The Piper Aircraft Corp. is a major manufacturer in the general aviation industry producing small planes for private owners and business and has less than 1 percent Government work. It is the major industry in two small cities, currently employing 1,850 persons in Lock Haven, Pa., and 650 in Vero Beach, Fla.

The major reason for opposing double time pay is that it will not result in higher employment, but instead raise the cost of products, which can have an adverse affect on our economy by:

- (1) Increasing selling prices;
- (2) Imposing higher selling price differentials on American goods competing with foreign manufacturers;
- (3) Reducing the number of man-hours of labor;
- (4) Creating a climate which tends to discourage expansion in business and the creation of new jobs.

The concept of increasing employment by higher premium pay for overtime is absolutely false and shows a complete misunderstanding of the use and need for overtime work. Overtime is unscheduled and never planned, except on short notice, and is always temporary. Whether a company pays one and a half, double, or even triple wages, overtime will still go on because of unplanned shortages, shutdowns for weather or power, and many other reasons. Overtime is rarely plantwide, but generally occurs only in specific departments which are behind in production and holding up the rest of the organization, and cannot be eliminated by hiring more people.

Piper Aircraft in 1962 employed approximately 1,750 men and women; in February 1963 the number was 2,075; and current employment is 2,500. In spite of constantly growing employment, we have found our percentage of overtime has been going up due primarily to the increased production complexities and a

high rate of model changing. Spot-checking overtime in 1962 showed slightly less than 1 percent. In February 1963, overtime was approximately 1 percent, and in February 1964 is approximately 3 percent.

A point that I wish to emphasize is that increased employment will not eliminate overtime, nor will a penalty on overtime increase employment. The only direct result will be an increase in the selling price of the product, which is contrary to the Government's request for economy, stability, and an end to the current inflationary trend. In our industry the companies to be most affected would be the private plane manufacturers who trade almost exclusively to the commercial market. The major airframe manufacturers are selling to the Government, and increased selling prices of their products would be borne by the Government and by the taxpayer.

We emphatically urge your committee to reject the proposal for higher premium pay for overtime work called for in H.R. 9802.

Sincerely yours,

W. T. PIPER, Jr., *Vice President.*

STATEMENT BY LEONARD B. FARRELL, DIRECTOR OF INDUSTRIAL AND PUBLIC RELATIONS, THE RUBEROID CO., NEW YORK, N.Y.

Our views and the supportive data as outlined herein relative to the above titled proposed legislation are respectfully submitted for your study and consideration in the knowledge that their critical pertinence must, of necessity, be recognized and surely influence the action to be taken by the Congress.

Indeed, even in this preliminary and hurried study, the ramifications and economic impact of this proposed legislation, emerge as many, complex, dangerous, undesirable, and as falling far short of achieving the stated goal and objective of substantially increasing employment. Under the circumstances, i.e., the short time allowed for accumulation and study of facts, we make no claim that our arguments are encyclopedic.

Let it be understood at the outset that we do stand in recognition of the critical importance of "full employment" to the Nation. Indeed, a good many of us as individuals have personally suffered the hardships of unemployment and do not discuss the subject as a purely academic proposition. Obviously, the economic, social, spiritual, and political health and progress of the people and the Nation rests in large part on our ability to realistically and productively employ the knowledge, skills, and energy of the employable. Needless to say, this axiom requires the bona fide intelligent attention and action of each of us—not just lipservice through scholarly recognition and discussion. Herein, of course, resides our concern, i.e., that the proposed legislation will not, in fact, materially aid in effecting the sustained employment of the millions of unemployed, but that, in fact, it will have highly undesirable and damaging effects on the economy—and will surely represent a serious intrusion of our historical and fundamental freedom—a real encroachment upon personal rights and the privacy of information that is essential and basic to our competitive economic system. Not only do we not believe that this legislation will accomplish significantly higher employment, but further, that it can have the effect of reducing the personal income of millions of people, of reducing profits, of raising prices, and even, ultimately, reducing employment through plant closures, relocations, and forced automation.

There can be only one conclusion as to the proposed method of administration and that is that it reduces to the fact that the Secretary of Labor will be the industrial czar of the Nation notwithstanding the provision for the tripartite industry committees. We must state this point in dogmatic terms, but when we consider the power that that office would be granted (after all the presumed safeguards have been sifted away) it is hardly appropriate to assume any other posture. Assuredly, this is not said with any disrespect to anyone—for we would not presume to impugn the integrity of anyone. Rather, our point is that such an office must not become so unilaterally powerful.

We shall attempt to deal with these points and others in an orderly, practical fashion and further to be brief consistent with making our point.

Our company is small when considered in light of the total industrial complex of the Nation—and so many be our industry—but our industry is significant and critical to the economy of the Nation—and our company, within our industry, is indeed a major factor.

The Ruberoid Co. is a major producer of asphalt roofing, asbestos cement siding and roofing, floor tile, gypsum wallboard, various insulations for the home and industrial purposes, automotive insulations, industrial felt, asbestos, roofing granules, chemical binders, and a number of other products. Actually, we are part of a number of industries with a number of products of different industries produced in the same plant. We employ about 5,000 people in our 26 plants and mines which are spread throughout the United States. We are a mature, solid, well-established organization with 77 years of experience, tradition and success. If we had to be identified with one industry only—the classification of building materials would best suit us. Our annual gross sales amount to about \$120 million and our net profit in 1962 amounted to \$3,724,000, or 3.1 percent to sales. Ten years ago our gross sales volume was \$74,484,000 which produced a profit of \$4,576,000 or 6.1 percent to sales. This decline in net earnings in the face of almost a doubling of sales is alarmingly dramatic. This has been characteristic of the roofing industry. Accounting for this is the fact that our costs in general, and labor costs in particular, have materially increased, while the industry remained highly competitive. To remain competitive we have done much research and have had to spend vast sums in engineering more efficient methods and equipment. This, in the final analysis, is the principal way of overcoming higher costs. No doubt, fewer workers may be required as an operation becomes more efficient, but if we are to produce more quality products at a competitive cost and to sell them competitively, then we must reduce those costs over which we have some control to overcome the increased cost of raw materials, utilities, overhead in general, and the hourly labor rates, over which we have little or no control.

In most respects our industry is considered seasonal, i.e., our products are used mainly during good weather periods when homes and other structures can either be erected or repaired without severe difficulties with weather.

Our operations are mechanized and even to some degree automated. Our crew sizes are clearly and easily prescribed by machine requirements. When a production line is scheduled to produce on an overtime basis, the addition of people to that crew size will not produce more product. We now schedule operating shifts in accordance with customer demand, our ability to produce a given amount of products per machine-hour, and our ability to warehouse our product. This latter point on warehousing is important and interesting—one we have all studied carefully through the years. The question might be asked: "Why do we not manufacture at a more stable year-round pace and thus warehouse our products in quantity during periods of low consumption?" The theoretical benefits are obvious—greater stability in our operations, more stability in employment, lower costs per unit of product (not counting increased storage costs)—less overtime, better quality, and more efficiency. We do believe this—but there have been and are very real, practical problems which have limited us. We all have found bargains in our shopping adventures—we may have bought more than a normal supply of a product when we find it on sale at an especially favorable price—but we finally stop at some point and for good reasons: (1) we have limited funds; (2) we just do not feel like laying in a lifetime supply of soap, beans, or corn. Conditions may and do change; so do prices, the value of money, our appetites, our needs. The same problems and considerations face the manufacturer. He has limited funds with which to provide this gigantic additional warehousing, product design changes, so he does not want vast stores of products on hand that will not sell come the heavy buying season, and further, research and engineering may and do come up with new superior products, methods, and designs that could not be employed or marketed quickly to the public benefit if warehouses were already glutted with products of yesterday's vintage. Besides, we just do not have the capital to spend on the fantastic amount of warehousing facilities that would be required to handle this clock-stopping concept.

We could not practice the techniques of genuine competition as we now do if we were hampered by a stockpiling philosophy.

UNIONS

No doubt unions welcome this proposed legislation for they cannot foresee how they can lose (at least for the moment—except that reduced operations, automation can be forced at an abnormal rate, and even plant closures, can take their toll eventually). They will be gaining by legislation that which they have not been able (in most instances) to gain through negotiation, i.e., higher overtime

rates of pay. If per chance of circumstances (and we do not consider this a realistic possibility) employment should materially increase as a result of the legislation, then labor's ranks will be swollen by the increased employment. Why should labor oppose the legislation? If it is really responsible and realistic it will—and though it has for its own reasons (beyond many of the so-called national good reasons) supported this proposed legislation up until now—I am still hopeful that it will be persuaded by the real facts—the real effects—to change its position and oppose this legislation. Industry, business, and management are for the national or public good every bit as much as labor—but we do not sincerely believe this legislation to be an answer—unless by some distortion of old-fashioned, sound logic—higher costs, higher prices, etc., means “national good.”

GOVERNMENT POWER

This proposed legislation is deceptive and dangerous. Why—because it leaves important limitations of extent and application wide open. (1) The proposed law says that the overtime rate shall be no less than two times the straight time rate—it can go higher by Government decree. The Secretary of Labor can tamper with the tripartite committee action until he gets the answer he or his administration seeks. Any action by one of the industry committees is at best going to be arbitrary and a distinct compromise with the facts. The labor member is going to do just what labor wants—as will the industry member for industry—thus making the public member the really key figure. Who he is, how he is selected, his background, his qualifications, by whom he is influenced, all become critically important. Industry has studied its problems long and vigorously. If it has found no simple, genuinely satisfactory answer to operating efficiently, economically, all within the spectrum of answering the Nation's problems, how is a politically selected committee going to miraculously do so?

GENERALIZATIONS ABOUT OVERTIME

W. Wirtz, Secretary of Labor, recently stated that if all overtime work was eliminated, 900,000 full-time jobs would be created.

The AFL-CIO also estimates that 1 million jobs would be created and further states that 20 percent of overtime is unavoidable.

In considering these views, it is evident that all overtime cannot be eliminated, since despite the best planning of management, emergency or rush orders must be completed at the customer's request and power or mechanical failures can disrupt production schedules. It would appear that the unions recognize that some overtime is unavoidable, but the figure of 20 percent quoted by the AFL-CIO would be questioned by many companies.

The general statement that 900,000 or 1 million full-time jobs could be created is also highly questionable.

In considering the overtime problem at the individual company level, we find that total overtime hours do not necessarily mean that one or more full-time employees could be substituted for such overtime. For example: In a department with a total of 10 employees working a normal 40-hour week, each employee works 4 hours overtime or a total department overtime for the week of 40 hours.

This does not necessarily mean that another employee should have been hired rather than working 10 employees overtime for 4 hours. There are many factors to be considered:

1. If the 10 employees were working on a group or production line basis it would be necessary that the complete unit or group work overtime. An additional man would not fit the production process.

2. If the 10 employees were performing separate operations requiring different skills and techniques, no 1 additional man could fit all of the needs required.

3. There is also the question of the length of the overtime. Is it spasmodic or seasonal? Part-time employment to serve the purpose is usually not viewed too favorably by either an employee or management.

4. In the emergency or rush order situation, which is for the purpose of satisfying a customer, is it possible to hire and train a new employee to meet this time schedule?

In any compilation of overtime worked, whether it be a plant, industry, or national figure, there are many factors to be considered before it can be validly converted to possible full-time jobs.

FAIR LABOR STANDARDS ACT OF 1938 AS AMENDED

Section 7(a)—no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce for a workweek longer than 40 hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate less than 1½ times the regular rate at which he is employed.

If it was the original intent that this provision would result in the elimination of overtime and an increase in employment, a review of the facts since the enactment of the act indicates that this has not been the case.

Rather, this premium or penalty has only added to the labor cost burden of industry.

It is obvious that this premium could not be considered a bonus for increased productivity. In most cases, overtime is worked, after a regular work shift of 8 hours, and due to normal physical fatigue, productivity is usually at a reduced rate, rather than maintained at a normal rate. In the overtime period, the unit cost of production will increase considerably and industry once again absorbs a wage increase that is totally unwarranted.

Currently, industry is faced with a pyramiding of this labor cost burden under the guise that it will once again solve our unemployment problem. From a cost viewpoint, this is even less likely now than it was at the time of the enactment of the act. Current cost of fringe benefits, training, etc., of new employees offer only greater expenditures than does the payment of overtime.

TOTAL DOUBLE TIME COST—MANUFACTURING

According to the BNA based on BLS figures, passage of the double time bill would cost the Nation's manufacturers \$46 million a week, \$2.4 billion a year.

In October 1963 average worker employed 40.7 hours a week 3 hours overtime. Overtime at time and a half, \$10.71 a week; overtime at double time, \$14.28 a week—\$3.57 increase.

In October 1963, manufacturing costs for time and a half, \$138.1 million weekly. In October 1963, manufacturing costs for double time, \$184.1 million weekly—\$46 million increase.

(Based on total of 12.9 million employees.)

In the case of our company the added cost would run \$1 million, or more per year—and this is conservative. We are not an industrial giant by any means—but are rather a medium-sized company of which there are a goodly number. When one considers that our net earnings for 1962 were \$3,724,000 it can easily be seen what the effect of this increased cost would have on the company's profitability if the proposed overtime penalties were applied against our 1962 operations.

Our operations are, as stated earlier, both seasonal and machine line type operations where the theoretical principle of substituting more different people for overtime hours just has no practical or realistic application.

Our company schedules anywhere from 800,000 to 1 million man-hours of overtime per year. Most all of these hours would be effected by the proposed legislation. We require the skills and knowledge of the men already on a line crew to operate the line for these overtime crews. Further, we are bound by union contracts in most all cases to assign all such work to the people of the bargaining unit. We could not efficiently or economically have two work forces—one for regular shift work and another for the 2 or 3 hours of overtime work each day and on Saturdays. Much of our overtime is maintenance work much of which can only be performed on overtime when lines are down—again we need the skills and knowledge of these men—not another crew that would only work the overtime hours.

MANAGEMENT—"BREAKOFF POINT"

In any industrial enterprise it is evident that management is interested in maintaining a normal workweek for employees and avoiding overtime, for very obvious reasons.

Through the techniques of production planning, marketing, and sales forecasting, management's goal is to operate an efficient and profitable business.

Regarding the labor force, the number required for normal operation in all positions is just as carefully charted by management.

One of the features of the proposed legislation would be the function of a tripartite committee to determine a "breakoff point"—when it would be more economical to put new workers on the payroll than to go on overtime.

Are we to assume that management at present is not financially knowledgeable to recognize this fact and its importance in its everyday operation? It's an old story to management. Are we also to assume that management would drastically understaff its operations and use excessive overtime, completely ignoring the differences in costs?

Management has long been burdened with the problems of labor cost in its operation. Every possible method of staffing the plant for normal operation, to avoid overtime hours and excessive cost, have been utilized.

In resolving the "breakoff point" it is questionable that any tripartite committee would be capable of resolving the specific problems of each and every industry in the Nation.

ABSENTEEISM—ITS EFFECT ON OVERTIME

One reason for industry's use of overtime is absenteeism amongst employees.

Although it can be said that management has the responsibility of controlling the absentee rate, even so-called normal absenteeism for valid reasons affects the amount of overtime required.

If we assume, for example, that 3 percent is a normal absentee rate, resulting in overtime to maintain operations, we find in many instances absentee rates far above the norm, adding to management's problem and cost.

In an industry having a continuous process, such as paper (felt) making—as with us—the absence of an employee or group of employees, on any shift, necessitates overtime for employees on the prior and/or following shifts. Whether the absences be considered legitimate or not, management must use overtime to maintain its operation.

This payment of overtime is, for the most part, beyond the control of management when the absence of an employee creates the problem.

Management does attempt to control the amount of overtime by reducing absenteeism, yet in many cases the major cause of overtime is the absence of employees.

MOONLIGHTING

According to a BLS report, moonlighting shows sharp increase in the year ending May 1963. The Bureau states that 5.7 percent of all employed persons hold two or more jobs. From May 1962 to May 1963 the number of persons moonlighting rose 600,000 to a total of 3.9 million.

Hours of work

Average number of hours—13 on secondary job, 52 on both jobs.

Occupations

Professional workers, farmers, carpenters, and other construction craftsmen, drivers and delivery men, and sales workers, all had high rate of dual job-holding—between 7 to 8 percentage.

But it would also increase the cost of operations. The net effect would be more likely to weaken industry's ability to compete, and hence its ability to employ labor—in other words, to reduce employment, not add to it.

Scarce skills and overtime

The problem of scarce skills is a real one. No amount of monkeying with the workweek or overtime will solve it. In nearly every major depressed area, the newspapers are filled with advertisements for machinists, advanced electrical and electronic technicians, hydraulic and pneumatic specialists, etc., and the jobs often go begging. There is a tremendous training job to do at all levels. But this requires a reexamination of our educational goals, expenditures, and policies—and it involves inducements to industry to train—not penalties which reduce the ability of industry to compete and therefore tend to reduce such expenditures for the future, as training.

SUMMATION

By imposing a penalty on business, industry, the Nation is not going to solve its economic and social ills. It seems most outlandish to suppose that this negative, cost breeding technique can really solve our unemployment problem.

Rather than thinking of ways to penalize industry, why isn't something constructive and positive being conceived that will help industry to help with this problem. I do not pretend to be expert enough to have the answer as to what should be done—but commonsense tells me that the imposition of crippling and unfair penalties is hardly the answer.

We have spoken out strongly and sincerely here. We are not antiunion nor just anti in spirit—we are for fairness to, and a good standard of living for, the workingman, we do agree that the concept, purpose, and functions of unions is good and proper, we are for full employment, we are for some fair, intelligent means of obtaining that goal, we will cooperate, and we are for our free capitalistic, economic system.

We respectfully ask that you vote to defeat this bill.

STATEMENT OF G. A. ROBERTS, PRESIDENT, VANADIUM-ALLOYS STEEL CO.,
LATROBE, PA.

Vanadium-Alloys Steel Co. operates six plants in the United States and is a leading producer of special and alloy steels vital to the national defense of our country. Our products are sold to thousands of customers, large and small, who rely upon us to supply them with material when they need it, small quantities with special characteristics of hardness, toughness, and strength.

Our business is a handicraft industry not characterized by a large backlog of orders. Normally, we supply material in less than 1 week, even though it is of extremely special nature, and deliveries of less than 1 month are common. Consequently, there are short-range cycles in our production scheduling that cannot be solved by long-range planning or by adding more employees to our permanent staff, but are necessary to accommodate the unusual and sudden requests of our customers. We must frequently schedule overtime work at a cost that the customer will not consider unnecessarily high.

The establishment of a penalty for overtime work greater than the present penalty would not cause or permit us to increase our work force nor cut the amount of overtime our customers demand. It would result in prohibitive costs which would cause an overall decline in the company's business, especially since we are already suffering severely from the impact of imported steel as we have recently stated strongly before the members of the Tariff Commission and the Trade Information Committee. We feel that the increased overtime costs would put our industry at an even greater disadvantage with respect to this foreign competition and might conceivably lower rather than increase the total number of jobs.

We urge you to vote against the provisions of H.R. 9802.

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON REDUCED WORKWEEK
AND DOUBLE TIME FOR OVERTIME

(Bal Harbour, Fla., Feb. 21, 1964)

Economic developments of the past year reinforce our conviction that a reduction of working hours and the establishment of double-time pay for overtime work are essential to reduce joblessness and achieve full employment.

Unemployment continued its decade-long upward trend in 1963 despite a \$30-billion increase in total national production—a 3.8-percent rise in the real value of national output.

The tax cut, which is expected to go into effect within the next month, probably will prevent the onset of a recession this year, and a sharp rise of unemployment. But there is no sound basis for anticipating anything more than a small reduction of joblessness in 1964. By next year, the economic stimulus of the tax cut will be wearing out—with the possibility of a renewed upward movement of unemployment.

It is a dangerous illusion to believe that the tax cut, or any other single measure, alone, can reduce joblessness to a minimum and keep it there. The problem of unemployment and underemployment is much vaster than most Americans realize. And it is much more serious—wasting manpower resources, poisoning race relations, and creating difficulties in labor-management relationships.

There were 4.2 million jobless in 1963 and 2.3 million additional workers were compelled to work part-time because full-time jobs were not available. Moreover, an estimated $1\frac{1}{2}$ to more than 2 million people had given up seeking work, but would return to the labor force when jobs become available again. Approximately 3 to 4 million new jobs are needed, right now to achieve full employment.

In addition, about 1.4 million new jobs are required each year, in the years ahead, to provide employment for the growing labor force. And approximately $2\frac{1}{2}$ million new job opportunities are needed annually to offset the displacement effect of increasing productivity.

All of this adds up to the staggering requirement of over 4 million new job opportunities each year, through the remainder of this decade—more than 80,000 jobs a week—to achieve and sustain full employment.

We do not claim that a reduced workweek and double time for overtime work, in themselves, can solve this tremendous challenge. But these measures can ease displacement of labor by automation. They can spread employment. And to the extent that America fails to reach full employment through different measures, the AFL-CIO—the organized voice of the Nation's working people—has no other alternative than to seek a cut in working hours and an increase in overtime pay. The only socially responsible answer to organized labor's drive for a reduction of working hours is the practical achievement of job opportunities, at decent pay, for all Americans who are able and willing to work.

America has traditionally reduced working hours as productive efficiency improved. Between 1900 and 1940, hours were cut by 4 to 5 hours a decade. But since 1940, the pace has slowed down to only $1\frac{1}{2}$ hours per decade, even allowing for paid vacations and holidays.

It is not possible to determine the precise increase in employment that a reduction of working hours can now generate. But a simple mechanical calculation indicates that for every hour cut from the workweek of all full-time wage and salary workers, the number of new employees required to provide the same total of work hours is about 1 million. A more realistic and conservative estimate is that an across-the-board cut of 1 hour per week can generate an employment rise of as much as 500,000, while a 5-hour cut can add as many as $2\frac{1}{2}$ million jobs. Faced with the vast employment needs of the American people, the addition of $2\frac{1}{2}$ million jobs would be a most constructive achievement.

However, there are those who say that a 35-hour week will be too costly. This issue of cost arises because of the need to maintain weekly earnings while working hours are cut. For example, a 5.3-percent increase in hourly wages is needed to maintain weekly earnings at present levels if the workweek were cut from 40 hours to 38 hours; and a 14.1 percent rise of hourly wages would be required if working hours were reduced to 35. But the fact of the matter is that the cost to the employer of reducing working hours is essentially similar to the cost of any wage increase.

If the reduction of the standard workweek to 35 hours is spread over several years, the needed increase in hourly wages can be absorbed out of the rise in productivity, without a general increase of unit labor costs. With the productivity of the American economy rising at a rapid rate—an average yearly pace of $3\frac{1}{2}$ percent in the past 3 years—and with profits at recordbreaking heights, most companies should find little or no cost problem in a gradual reduction of working hours over the next several years. Moreover, since a reduction of working hours will ease job displacement and increase employment, it will reduce the social costs of joblessness.

After 10 full years of a rising trend of unemployment and underemployment, while working hours declined at a snail's pace, it is time to take decisive action to reduce the length of the workweek. The Fair Labor Standards Act should be amended to provide a standard, maximum workweek of 35 hours, within a reasonably short period of years.

Another constructive achievement in the effort to meet America's job needs can be made by increasing overtime pay from time and one-half to double time—to discourage employers from scheduling overtime work and provide them with an incentive to hire additional workers.

The present penalty pay for overtime work—time and one-half the worker's regular hourly rate—is no longer fully effective in discouraging employers from scheduling overtime. The cost of social security, unemployment insurance, and negotiated fringe benefits, which were not a major factor when the present premium was adopted 25 years ago, often makes it less expensive to schedule overtime than to hire new workers.

Last year, about 7 percent of all hours worked in manufacturing industries were overtime hours. Complete elimination of this industrial overtime could create about 900,000 factory jobs.

It is not likely that unavoidable overtime accounts for more than a small portion of all the overtime worked in manufacturing. But even if only half the present amount of overtime were eliminated, about 450,000 new factory jobs could be added.

Although detailed information on overtime work in nonmanufacturing industries is lacking, it is clear that several hundred thousand additional jobs can be created in such employment if avoidable overtime were eliminated. All told, an increase in the overtime premium to double time probably can add about a million jobs or more.

Extension of the Federal wage-hour law's coverage will, in itself, be a deterrent to the schedule of overtime work in those industries whose workers are now excluded from the law's protection. But an effective effort to increase jobs requires specific amendment of the act's overtime provision.

In his state of the Union message, President Johnson correctly pointed to the overtime problem as a cause of increased unemployment. However, his proposal to establish increased overtime rates by a tripartite committee, on an industry-by-industry basis, is not adequate.

It would impose a potentially legalistic and time-consuming procedure which some employers would certainly seek to transform into an absolute roadblock to achievement of the President's purpose. Additionally, different industrial boards could create grave inequities between industrial wage levels. Straight across-the-board action is the answer to this problem.

Therefore, we urge amendment of the Fair Labor Standards Act to increase overtime pay to double time for all working hours that exceed the act's standard workweek.

STATEMENT OF DAVID BENNETT, MODERN MILLINERY BOX CORP., BROOKLYN, N.Y.

My name is David Bennett and I am vice president of the Modern Millinery Box Corp. I am submitting this statement to the House Education and Labor Committee opposing passage of H.R. 9802 and H.R. 1680, that would amend the Fair Labor Standards Act by setting a double or higher pay penalty for overtime rates.

We are manufacturers of folding cartons with our plant located in Brooklyn, N.Y., and selling our product to customers throughout the United States.

Because of the acute shortage of skilled labor in our industry and the seasonal nature of our business, the bill if passed, would materially affect our costs yet offering no appreciable cut in unemployment.

Overtime rates are largely unavailable and are only put into effect based upon customers demands or in peak seasons and because of the lack of skilled help available to us in our industry, any overtime instituted would provide no opportunity of spreading the work among the unemployed.

The theory that levying a penalty rate for overtime work would spread the work around is a false assumption when applied to our business. We, therefore, oppose passage of bill H.R. 9802 and H.R. 1680.

STATEMENT OF RAYMOND F. CRAWFORD ON BEHALF OF THE NATIONAL FOUNDRY ASSOCIATION

My name is Raymond F. Crawford. I am personnel manager of Mackintosh-Hemphill of Pittsburgh, Pa. I am here today as a member of the Administrative Council of the National Foundry Association and on behalf and for the NFA wish to express its views on H.R. 9802—the proposed double overtime payment.

The National Foundry Association appreciates this opportunity to express its views to you Members of the House of Representatives on this proposed legislation, and while the NFA recognizes the fact that you are not members of the subcommittee which is currently conducting hearings on the matter, the association feels that such onerous legislation if permitted to become a reality would represent just another blight on the industrial economy of the Nation, and would be of no significant assistance to this country's greatest challenge—the creation of sufficient jobs for Americans.

Because the National Foundry Association is for the principle of free collective bargaining on matters of wages and hours, it is opposed to this legislation. Such double time for overtime law would make the Secretary of Labor a virtual czar over industry and would allow him to personally dictate the employment practices and pay rates in all industries. Even under wartime wage controls there was no individual with as much power and control as this.

This legislation would give authority to the Secretary of Labor to appoint tripartite commissions for each industry which would consider data and hear witnesses and make determinations. This can be done on the Secretary's own motion or upon petition filed with the Secretary. There is no specification as to whom may be such a petitioner, but it would appear that any interested person or group, such as a union, an employee or an employer, may so file. To constitute such a committee it must be believed or alleged that the requirement on employers to pay a penalty overtime rate "would increase employment opportunities in the industry without excessive costs." These terms are not defined or explained in the proposed statute and would obviously be difficult to apply because of the patent ambiguities in terms, such as "excessive costs" and "substantive overtime." Apart from the economic problems which this proposal would give rise to, the nebulous legal criteria used throughout are certain to be difficult to understand or apply consistently.

We must agree with Walter Campbell, editor of *Steel* magazine, in his editorial of February 24, 1964, that " * * * double time will be little more than an undisguised wage cost increase or a retardant to productivity. It will increase the cost to manufacture and the cost of goods. It will hinder our ability to grow. It will shackle industry's efforts to compete in world markets—including the United States."

In the foundry industry, you will find small foundries employing but a handful of people and large foundries employing upward of 2,000 people. If such onerous legislation were to become law and the foundry industry were to be declared by the Secretary's commission as an industry with "regular and substantial overtime," such a citation would hasten the death of hundreds of small foundries who could not afford the double time payment. The end result would be, if such regulatory Federal procedures were permitted, that many of the smaller foundries, and some of the larger ones, too, would be forced out of business—close their shops, and more people heaped on the pile of unemployment crises. A foolhardy approach to this problem.

In some foundries there just isn't room available in the plant to add workers, and in many cases the foundry owner doesn't have the needed capital to expand. If he has a sudden surge of business, the only way he can meet the challenge is to work his people overtime. Expansion planned on a spurt in business would be unsound, and the smaller plants must at times resort to overtime because expansion would eventually mean disaster when in most cases, the boom becomes a bust.

Other important aspects of the foundry business make the threat of such onerous legislation of vital concern.

1. Lack of skilled manpower hampers hiring even among those employers who might want to cut down on overtime. Shortage of skilled workers is very definitely a vital consideration in the reason why overtime must be practiced.

2. The cost today of fringe benefits is significantly higher so that the addition of new hires on the payroll is watched with care. Each new employee put on the roll is immediately covered with so many fringe benefits that it now costs the industry some additional 65 percent of the employee's hourly rate. If under the new law, the industry resorted to adding to its payroll a number of people so that overtime would be eliminated extensively, such added cost for these new employees would run considerably higher than what the use of overtime at time and one-half would be. In addition, when the workload would slacken, and it would become necessary to lay off these individuals, the additional costs of unemployment compensation and supplemental unemployment benefits would prevail.

3. Undoubtedly, higher prices could very easily result if workers were paid double time instead of time and one-half. While some employment admittedly would result were such requirement of double time compulsory, such increase in employment would fall pathetically short of the hopes and expectation of the Johnson administration.

4. Such onerous legislation could easily result in the speedup in automated machinery purchases. Just like the exorbitant demands of the union has caused

many industries to speed up its installation of new processes to cut down its costs to compensate for the increase in wages and benefits, so will the double time legislation force industry to seek further means to eliminate additional people to cut down the costs.

One of the most significant objections to the double time payment that could be imposed on the industry by the Secretary of Labor, is the encroachment of the Labor Department on the basic right of the industries to run its own affair and to bargain without interference as to its wages paid and hours worked.

STATEMENT OF FAELTON C. PERKINS, JR., HENRY PERKINS CO., BRIDGEWATER, MASS.,
ON BEHALF OF THE NATIONAL FOUNDRY ASSOCIATION

In the recent past, many plans have been proposed to alleviate the national unemployment problem. The two most widely publicized would be implemented by changes in the Federal wage and hour laws, either by reducing the standard workweek from 40 hours to 35 or by increasing the overtime penalty rates from 1½ to 2 times hourly rate. It is our opinion that neither of these propositions will have the desired effect.

Recently the fixed costs which we must be prepared to assume with the addition of each new foundry employee were tabulated. Based on the figures of calendar year 1963, the average payment per man-year required by State and Federal law was \$460. The approximate payment per man-year required under terms of our union agreement was \$809, or a total of \$1,269 annually. Since we paid our 65 foundry employees an average of \$5,680 each, about 20 percent of their total wages represent a continuing type of employment fee. The increasing cost of this employment fee has been the primary reason why the total of Henry Perkins Co. foundry workers has diminished from 86 to 65 in 10 years. It seems obvious to us that levying a stiffer penalty for the privilege of hiring a man, whether exacted by statute or by negotiation, can only result in fewer hirings.

Last year overtime wages from the straight time portion worked amounted to approximately \$34,500, with an additional penalty portion of \$17,250. Mathematically, it would appear that by strict adherence to a 40-hour week, six more men could be hired (6 times \$5,680) at a cost of \$34,000 with a clear saving of \$17,750 in overtime penalty wages. Such a solution oversimplifies the problem. Much overtime in our plant originates in the specialized nature of the operation. The useful life of molten metal is measured in minutes, while that of the fragile sand molds is hours. In order to pour all molds produced daily, the melting and pouring crews work approximately 1 hour later and longer than the molders (13 men, at 13 hours per day times 5 equals 65 hours per week).

Maintenance of production equipment is not done during regular hours, except in the case of breakdown. Preventive maintenance is practiced quite successfully during nonproductive hours at night and on Saturday (3 men times 8 equals 24 hours). The addition of two men would be of no avail as concerns these situations.

Three more men or the loss of 120 straight time man-hours per week can be attributed to illness or leave of absence, since we don't fill such vacancies until final separation is assured. The sixth man who isn't employed is the victim of uncertainty. In a jobbing operation such as ours, it is not unusual to have an overtime week backed up to a 4-day workweek. Rather than have a layoff with consequent higher costs for unemployment and recordkeeping we tend to run one man short and spread the work and premium pay when available. When work is short, minimum dislocation is necessary.

While collecting material for this talk I jotted down details regarding the extra or "moonlighting" jobs performed by some of our employees:

A molder is caretaker of local townhalls. Does painting also.

A molder is a farm laborer, part-time mason, carpenter.

A molder also molds in another foundry, as well as carpentering.

Two molders full-time side business raising and selling tropical fish, wife helps.

A molder is also caretaker of bank.

An incentive molder also molds in another foundry.

An apprentice molder plows snow. Does custom woodworking.

A molder molds in another foundry as partner.

A grinder and pourer, also paper and paints.

Two coremakers makes cores in another foundry.

A melter is part-time policeman, dog officer, voluntary fireman, collects rubbish, plows snow.

It is interesting to note also, that even on occasions when we have worked a 6-day workweek, some individuals aforementioned have worked on Sunday at straight time for others.

Should overtime become prohibitive, these men would aggressively attempt to achieve their former income. I believe they would be successful. This would in my opinion result in less, not more, job opportunities.

Total foundry wages, 1963	-----	\$365,000	
Average foundry employment, 65 men; average wage per man \$365,000 divided by 65, \$5,680.			
Approximate overtime paid, 1963:			
Straight time	-----	\$34,500	
Penalty half time	-----	17,250	
			51,750
Average cost per man-year:			
Massachusetts unemployment taxes	-----	39.60	
Federal unemployment taxes	-----	28.80	
FICA taxes	-----	174.00	
Workmen's compensation insurance	-----	217.84	
Total	-----	460.24	
Paid holidays	-----	139.74	
Vacations	-----	203.16	
Washup time	-----	350.00	
Group insurance	-----	116.46	
Total	-----	809.36	1,269.60

RECORD AMERICAN-SUNDAY ADVERTISER,
Boston, Mass., February 21, 1964.

Hon. THOMAS P. O'NEILL, Jr.,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN: I presume that you are aware that one of President Johnson's proposals to reduce unemployment is to make all overtime work double the rate of straight-time work—and, therefore, supposedly force additional employee hiring to avoid the premium rates.

The President also proposes that this double-time rate would be on a selective basis and would only apply to those industries that could add additional workers because of the huge amount of overtime in effect.

The newspaper industry regularly has a substantial amount of overtime work—but it is in the area of hours or fractions of hours added to the worker's daily schedule—or on a big news story—or 1 day a week to produce and distribute the Sunday newspapers.

There would be an unusually large waste of time and money by employing full-time workers to stand around by the hour or by the day to avoid paying overtime rates.

I can assure you, however, that the newspaper unions are very much in favor of President Johnson's program—we already have had new contract proposals demanding double-time rates for all overtime.

If the President's program of double-time overtime rates were put into effect at our Boston Record American and Sunday Advertiser on the basis of our present work schedules, the increase in cost would approximate \$125,000 yearly.

I believe that if the double-time rates are put into effect in any one industry that the union workers in all other industries will be clamoring for and demanding the same ruling in their own jurisdictions. The program may start slowly but in my opinion the list would grow and grow to add to the distress and problems of employers.

We hope that upon considering this overtime rate program and its effect that you will vote to defeat such legislation or rulings.

Yours sincerely,

H. G. KERN.

NATIONAL LP-GAS ASSOCIATION,
Chicago, Ill., April 15, 1964.

HON. ELMER D. HOLLAND,
Chairman, Select Subcommittee on Labor of the House Education and Labor Committee, Washington, D.C.

DEAR CONGRESSMAN HOLLAND: While we did not have the opportunity of presenting testimony before your subcommittee on H.R. 9802, we would appreciate your subcommittee's consideration of the following facts in their deliberations on this measure and the inclusion of this statement in the record.

This datum is presented on behalf of the National LP-Gas Association and its members. This association is a national association of those companies engaged in the production, distribution, and sale of liquefied petroleum gas and in the manufacture and sale of handling and utilization equipment. Its primary membership consists of over 2,000 LP-gas dealers who sell and deliver this fuel to consumers predominantly located in small towns and rural areas. We also have as affiliate members 36 State associations. This statement is presented in behalf of these LP-gas dealers. In presenting the plight of our member LP-gas dealers, we are depicting a common situation that confronts hundreds of other LP-gas dealers and similar fuel suppliers and their employees.

To better understand our problem, it would be helpful to briefly review the nature of the industry and employer that are reflected in our conclusions. LP-gas is a fuel, commonly known as propane, butane, and bottled gas, used principally in the household and on the farm, and to a lesser degree commercially and in industry, as a source of heat or power. The industry is essentially a retail and service fuel supplying industry, local in character. There are wide variations in both delivery circumstances and employment conditions in differing areas of the United States. There are also equally wide variations in the size of the businesses. However, even most of the larger companies come within accepted definition of small business. Most LP-gas dealers are very small business with few employees. For example, NLPGA has group hospitalization and insurance programs that it offers for its members' use. The over 100 participating companies have an average of 6.8 employees. Other available industry statistics support this average. Some 15 State associations have similar employee benefit programs for their members and it is believed that their averages on number of employees may be slightly lower.

The supplying of LP-gas, like all fuels, has extreme seasonal demands. This necessitates overtime work during peak periods of demand. The wage hour law's provisions that relate to overtime are consequently one of this industry's more serious problems. This is not only true of the LP-gas dealer but of the thousands of other independent fuel suppliers throughout the United States. Overtime requirements when dealing with the retailer on a national scale become extremely complicated. Control, or minimization of overtime, requires fixed production and a stable labor force, not possible for the retailer, especially for the many whose business is highly seasonal.

To demonstrate the extreme seasonal demands, the following table is presented:

*LP-gas demand*¹

[Thousands of gallons]

	1960	1961	1962	1963
January.....	896,420	996,608	1,144,636	1,221,113
February.....	828,014	796,032	780,485	1,005,030
March.....	912,039	657,087	850,784	792,254
April.....	599,470	654,230	676,880	682,347
May.....	541,892	589,239	654,344	670,768
June.....	537,757	603,030	635,796	660,803
July.....	555,061	574,184	696,853	771,017
August.....	676,920	672,547	676,669	782,071
September.....	567,028	633,190	724,642	729,129
October.....	671,343	728,261	672,016	792,213
November.....	791,897	826,926	854,394	914,009
December.....	994,544	1,010,089	1,056,425	1,279,500

¹ Source: Monthly Natural Gas Liquids Reports; Mineral Industry Surveys; U.S. Department of Interior, Bureau of Mines.

	<i>Gallons</i>
1961 :	
6 months, April-September-----	3, 726, 420, 000
6 months, October-March-----	5, 341, 181, 000
1962 :	
6 months, April-September-----	4, 065, 184, 000
6 months, October-March-----	5, 691, 232, 000
1963 :	
6 months, April-September-----	4, 296, 135, 000
6 months, October-March-----	4, 907, 511, 000

It should be noted that the bare annual figures do not present the full picture. The national summer dip is moderated in some northern vacation areas where peak demand is encountered during this period. There are also severe agricultural demand peaks within the entire picture for uses mentioned before. These variations necessitate overtime work during peak periods of demand. The wage-hour law's provisions that relate to overtime are consequently this industry's most serious problem.

These seasonal variations represent a factor over which the LP-gas dealer or employer has no control. An increase in overtime rates will not create added employment for the obvious reasons that the demands cannot be foreseen, and secondarily, additional equipment would be required that will not be available. Consequently, any increase in required overtime payment will not in any measure carry out the intentions of this legislation's sponsors but to the contrary will have a deleterious effect in the following respects. Enactment of this legislation will—

Increase consumer cost, or result in lesser services to the consumer.

Result in unfair competitive situations with other fuel suppliers not employing labor to the same degree or not subject to overtime requirements.

Create another inflationary step which will be felt by the small businessman both as an employer and consumer.

Develop "moonlighting" rather than additional employment because of the extreme variable nature of overtime requirements.

The LP-gas dealer is in the general category of the retail and service establishment. Retail and service establishments were but recently brought under the coverage of the Federal Fair Labor Standards Act and have only felt the effect of this act, and in particular its overtime features, since September 1963. Specific evidence on detailed impact has not yet been developed because of the more recent change but we are aware of the general fact that this change has not added to industry employment. The short time for adaption that has been accorded to these new businesses so recently brought under the coverage of the Fair Labor Standards Act, presents added reason for not so speedily imposing this additional requirement of double overtime payment. This statement would have equal application to all retail and service establishments, but with added impact to those facing variable overtime requirements.

For the above reasons we respectfully request that the subcommittee exclude retail and service establishments from any proposed double overtime requirement, or in the alternate that in any overtime provision recognition of the problems of the seasonal fuel supplier be accorded through excluding such seasonal fuel suppliers from overtime requirements.

Respectfully yours,

ARTHUR C. KREUTZER.

STRINGFELLOW SUPPLY Co.,
Gainesville, Fla., February 24, 1964.

Congressman BILLY MATTHEWS,
Washington, D.C.

DEAR BILLY: It sure looks like our President is getting some lousy advice lately. First the civil rights bill and now H.R. 9802, the double pay for overtime measure.

Frankly, this bill scares us to death. We pay out a good bit of overtime to our men. If we have to pay double rates, it could be catastrophic for our business and many other wholesalers. Hiring more men will not be an answer for us. When our drivers are on the road making overtime, there is no solution but to pay them.

Nor can we compensate by raising our prices. We are in a highly competitive business competing not only with other wholesalers but with many manufacturers for the retail hardware dealer's business. I could go for pages about

how our industry is being squeezed from all sides. Several jobbers in the country have gone out of business this year because they could not make a return on the tremendous investment it takes to be in the wholesale business today.

Billy, we do not know Congressman Sam Gibbons who is a member of the House Education and Labor Committee currently considering this measure, so we are writing you to ask for your efforts on our and many others' behalf for the defeat of this proposal.

We would like to hear your views on this measure.

Yours very truly,

JIM STRINGFELLOW,
Vice President.

HOUSTON, TEX., *February 18, 1964.*

HON. BOB CASEY,
House of Representatives, Washington, D.C.:

H.R. 1680's proposed doubling of the penalty premium on overtime work would be so detrimental to those in cotton warehousing as to decrease job opportunities in Houston and other ports and concentration warehouse areas. Present 50-percent premium already handicaps us in our competition with interior warehouses located where they enjoy area-of-production exemptions from overtime provisions and usually pay the legal minimum wage. We already control overtime by spreading work to the maximum extent feasible, but much is unavoidable in a service industry. Our margins are already so low that further handicap will merely force business to interior competitors who can just work their employees longer under exemption permitting no overtime payment whatsoever, much less double overtime. Such a result is obviously contrary to that intended by the President and others recommending consideration of the double time for the overtime idea. We would certainly appreciate your bringing this to the attention of Chairman Holland and other members of the Education and Labor Committee.

BURKE BAKER, JR.,
President, Gulf Atlantic Warehouse Co.

AMERICAN LAUNDRY MACHINERY INDUSTRIES,
Cincinnati, Ohio, March 5, 1964.

HON. ELMER J. HOLLAND,
*House Office Building,
Washington, D.C.*

DEAR SIR: H.R. 9802, premium wage rates for overtime or the Overtime Penalty Pay Act of 1964 is undesirable for at least the following reasons:

A. The objective of the bill cannot be achieved because double pay requirements for overtime will impel employers to seek means by which such premium payments can be avoided. This means advanced mechanization and automation, more layoffs and fewer employees.

B. The political and economic power the bill would give the Secretary of Labor would be most harmful. The Secretary of Labor would be committed to his own plan, giving him personal control over employment practices and wage rates in all industries. Even under wartime conditions such power has not been vested in a single individual.

C. Industries like the laundry machinery industry, of which my company is a major part, are seeking reduced costs to cope with more difficult competition, higher wages, and higher prices for materials and machinery. H.R. 9802 will increase production costs and may be the "last straw" for smaller companies battling with cost reduction and harsher competition. Business failures would reduce employment. H.R. 9802 may be considered a cause of such failures.

I urge you, therefore, most strongly to oppose this bill. At least I trust you would submit to your subcommittee the opinion of American business leaders who are opposing both the concept of the Penalty Payment Act and the mechanism of the bill itself.

Sincerely,

GEORGE L. STRIKE, *President.*

NATIONAL FERTILIZER SOLUTIONS ASSOCIATION,
Peoria, Ill., April 7, 1964.

Hon. ELMER J. HOLLAND,
Chairman, House Education and Labor Committee,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: This letter is in opposition to H.R. 9802 titled "To Provide a Higher Penalty Rate for Overtime."

Our reasons for opposing this bill are as follows:

1. The bill fails to recognize the consumer who dictates delivery of his purchase, and at a fair and competitive price. The latter embraces both domestic and foreign competition.

Consumer demands provoke overtime schedules, which does not warrant additional employment. High-penalty overtime rates increases union cost, making us a victim of foreign competition.

Unemployment compensation taxes place a penalty on short-term employment.

2. There is no limitation as to the rate of overtime. The only limitation is a floor of double time. Therefore, the sky is the limit as to further increases in the rate.

3. The responsibilities of the tripartite committees are unrealistic. Cataloging companies by industry for penalty overtime purposes is beyond the mental capacity for any man.

Determining the required skills available among the unemployed in a locality to minimize overtime is time consuming and not realistic. By the time such skills were determined and found, the overtime period would be gone.

In addition, overtime is generally concentrated within the skilled group, and a scarcity of people with those skills now prevails.

In conclusion, competition determines operation of a company, and no amount of central planning can effectively schedule production. Each company must determine its own scheduling to remain alive.

An excellent example of the disaster of central planning is now seen in Russia. Their appeal for help of the outside world clearly demonstrates its failure.

Respectfully yours,

CLARENCE A. REICHARD,
President.
W. HAROLD SCHELM,
Executive Director.

NATIONAL ASSOCIATION OF ELECTRICAL DISTRIBUTORS,
New York, N.Y., March 20, 1964.

Hon. E. J. HOLLAND,
Chairman of the Joint Subcommittee,
House Committee on Education and Labor,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: After careful study and a spot check of the 1,050 electrical wholesale firms comprising the National Association of Electrical Distributors, we are convinced that a regulation to require a double time rate for overtime will pose a serious problem for our industry, the trade it serves, and the American public.

The electrical distributing industry represented by this association is involved in making available over \$4 billion worth of electrical construction materials each year. The particular products of the industry are frequently required on an emergency basis when an electrical failure occurs. The products are very much involved in enabling contractors to maintain construction schedules.

If the double time regulation (H.R. 9802) is adopted, most electrical distributors will be forced to reduce the number of their business hours, which would seriously affect the service of emergency requirements and construction schedules.

Our study showed that the electrical distributor would have little choice if such a regulation is adopted. The profit level of this type of business would not allow it to absorb any additional costs.

Overtime in most electrical wholesale firms is for reasons of taking annual inventories, seasonal peaks and customer emergencies. Practically all of the distributors advise us that they would—

1. Have to reduce hours to avoid all overtime ; or
2. Have supervisory personnel do more of the overtime work ; or
3. Reschedule the complete work—utilizing the current employees.

Only three distributors replied that they might consider adding some part-time employees if such a regulation were adopted.

In summary, we can see no possible way that this proposed double time overtime rate would benefit our industry, its customers, the American public or our national economy. On the contrary, we see that the economy, the American public and our industry would suffer the loss of a valued and, sometimes, vital service rendered by electrical wholesale distributors.

Very sincerely yours,

A. W. HOOPER,
Executive Director.

AUSTILL WAXED PAPER CO.,
Jacksonville, Fla., March 19, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

DEAR MR. HOLLAND: I have been requested to outline our position with regard to H.R. 9802.

I believe many industrial operations, where a great deal of skill is required, would be seriously injured if this bill became a law.

It takes about 2 years to train a printing press operator. The type of mechanical ability and skill required is not easy to find in an employee. It would be almost impossible for us to find enough men to staff our plant with this type of skilled personnel.

The passage of this bill therefore would not reduce the necessity for overtime, would not employ more people, but would force up the cost of bread wrapping material beyond any reasonable figure.

We have never found a man who objected to the time and a half for overtime as far as his rate of pay was concerned. This bill would make overtime absolutely prohibitive I believe in the entire paper industry which is already hurt.

In place of increasing the employment potential of any company, it seems to me that it would rapidly decrease these possibilities, since we are already hardpressed to show a profit and this could be the straw that broke the camel's back.

This law would definitely handicap the smaller manufacturer who by paying a premium for overtime does make some small savings in capital investment by using his equipment over a greater number of hours.

Summarizing, it seems to me that this is an absolutely ridiculous suggestion that could not possibly increase employment. We will appreciate efforts that you can undertake to oppose this type of legislation.

Yours very truly,

AUSTILL WAXED PAPER CO.,
W. H. AUSTILL.

AMERICAN BOTTLERS OF CARBONATED BEVERAGES,
Washington, D.C., April 9, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
House of Representatives, Washington, D.C.

DEAR MR. HOLLAND: The soft drink industry welcomes this opportunity to express through its national association—the American Bottlers of Carbonated Beverages—its views and opposition to H.R. 9802, and requests that this communication be incorporated in the record of the proceedings of these hearings.

Soft drink manufacturing plants are operating in more than 1,800 communities throughout the 50 States, plus the District of Columbia, and because of local ownership of these plants, members of this industry are closely attuned to the economic conditions in each of the areas served. For these reasons we are

concerned with all efforts to improve the economic fiber of this land, and appreciate to the degree that overall employment can be increased by normal demand factors, the strength of the Nation will improve. We submit, however, that H.R. 9802, from our point of view, would not appear to encourage greater employment.

As a legislative device to expand employment, H.R. 9802 would attempt to discourage employers from offering overtime, or premium time, to their employees. It is assumed then, with premium-time penalties in effect, employers would seek the path of least dollar burden and hire additional workers to satisfy increased workloads. This contention is not valid within the practices of this industry because of reasons outlined in the following paragraphs.

Of first importance in applying the concept of H.R. 9802 to soft drink manufacturing is the realization that our plants already seek the practice of least economic penalty, and utilize straight-time employment at every opportunity possible. Thus, what premium-time practice is in being, exists only because no other solution, including the hiring of new employees, presents itself. Consistent overtime is not a basic characteristic of the soft drink industry. Periodic overtime, however, is a necessity in the industry. The reasons are to be found both in the type of work involved and the basic product.

The industry manufactures a food product by a process largely mechanized from start to finish. Because of a low inherent market value and selling price, high speeds of operation are necessary if a profit is to be realized. Thus, employees engaged in such manufacture are trained production operators, skilled in their functions, and upon whose skill and knowledge the success of the manufacturing process is dependent. Low-speed operations in soft drink manufacture require even greater skill, greater experience, and longer training. These functions include the delicate blending of extracts, sirups, flavorings, and other ingredients which must be compounded carefully with exacting precision under pure, sanitary conditions.

The soft drink manufacturer's production is based upon a relatively stable consumption pattern. Tied closely to seasonal temperatures, holidays, and other established factors, demand can generally be counted upon to follow predicted cycles. The skilled work force is maintained at a level to adequately meet this demand. Overtime in the industry is the direct result of unforeseen demand, or an error in judgment of predicted demand. The single greatest cause of premium time is an unseasonal or unexpected temperature rise. On such occasion, dealer shelves are exhausted without warning, and the manufacturer schedules overtime to replenish the supply quickly.

This inability to predict or schedule overtime requirements in advance, coupled with the degree of training and the skill level of production employees, prevents the manufacturer from hiring additional people for temporary surges in production output.

To be certain, housekeeping tasks, manual labor, and other areas of low-skilled work also expand with temporary production increases. To meet these needs the manufacturer does employ additional people, but on a temporary basis. Thus, to a certain extent, the one and a half pay penalty already in existence contributes to instability of the work force, as it is more economical to hire and lay off part-time employees than to pay premium rates. In many instances, however, existing labor contracts require the offering of overtime to permanent employees before part-time employees may be hired.

It is difficult to understand how H.R. 9802 could alter the current practices of the industry in the spirit of the objectives of the bill. Since the bottler cannot control or influence the abnormal work to be done; the availability of skilled people to perform the work; and when increased work loads are likely to occur; it does not offer economic relief to the employer from his present reliance upon occasional overtime scheduling. Without providing an alternative, it does with unavoidable certainty invoke a penalty that could be anticipated to bring major pressures upon the employer to change his manufacturing techniques.

Faced with a selling price influenced by strong consumer concepts of relative value, the soft drink manufacturer has had little room to absorb the constantly increasing costs of material, labor, service, and overhead which he must bear. The only historic areas open to him have been, (1) speed of operation and (2) greater mechanization—the replacement of people with machines. Because the manufacturer is most often a licensee with a fixed-marketing area, further increases in production speed now serve little or no economic purpose. It would only increase production beyond the orderly consumption rate of his market.

The remaining area of economy then is further mechanization or advancement to sophisticated systems of automation.

In geographic regions of exaggerated wage levels, greater emphasis upon machines is already taking place. Sorting, packing, handling, loading are all areas found to be vulnerable to the replacement of employees with mechanical systems. If the industry were to be inflicted with the penalties called for by H.R. 9802, this process would receive great acceleration. The results of such effort could only bring the opposite of the goals of this proposed legislation.

The provisions of H.R. 9802 spring from a fundamental premise which is incorrect. The proposal assumes that there is a given amount of work which may be parceled out in slices of predetermined thickness, depending upon the number of workers divided into it. In truth, the work to be done ebbs and flows with many changing factors. Consumer demand, production breakdowns, competitive moves in the market, weather variations, labor stoppages, and other variable influences constantly upset carefully planned production schedules. The manufacturer must remain flexible enough to absorb these influences and still market his product in an economic fashion. A constant stream of new and ill-equipped employees hired and released with swells of production needs would not satisfy these basic economic demands.

Additionally, H.R. 9802 enhances the very problem it attempts to circumvent. As previously noted, many labor organizations insist that regular employees be given the opportunity to participate in overtime if possible. It is simply without question that many employees seek overtime and even request more. By increasing the premium rate, the proposed legislation makes overtime still more attractive to the employee, whose demands will be pressed by his labor organization.

Finally, the soft drink industry emphatically opposes provisions of H.R. 9802 which place in the hands of the Secretary of Labor vague and general powers without specific confinement to objective and distinct criteria. Tripartite committees have historically failed in the concept envisioned by this legislative proposal. In actual practice, industry and labor split over economic principle and a Government referee thus administers law on the basis of his sociopolitical philosophies. If we were to concede solely for the sake of discussion that selective applications could be made, justly and fairly, under what circumstances would they be altered, changed, or reviewed with changing conditions? It is difficult to contemplate an efficient, impartial bureau coldly administering wage determinations based upon a constant reliable flow of ever-changing conditions and practices in all industries, divisions, and manufacturing entities of the country. Indeed, it is hard to imagine a Government agency snatching away the plum of double pay once tasted by any sizable group of the work force, regardless of the presence of conditions which may constitute "unusually compelling need."

The soft drink industry has long pursued the goal of a stable, trained, reliable, and fully adequate work force in the interests of economy and sound labor relations. Over the years of development and growth it has made consistent advances in this direction. It is convinced that if the provisions of H.R. 9802 were forced upon the industry the consequences would be adverse to manufacturer, the public, and the worker.

With kindest regards.

Sincerely,

THOMAS F. BAKER,
Executive Vice President.

NATIONAL RESTAURANT ASSOCIATION,
Washington, D.C., April 10, 1964.

HON. ELMER J. HOLLAND,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: The National Restaurant Association would like to register its opposition to H.R. 9802, the bill to require double time for overtime.

We are interested in this legislation because it would have an effect on the restaurant industry, even under existing legislative conditions. While our industry would not at present be covered by the legislation, we would be indirectly affected in many areas. The 40-hour week with time and one-half for overtime

is becoming a standard practice throughout America. The majority of the union contracts negotiated in our industry provide for time and one-half, though significantly, this provision does not generally apply until after 48 hours. Thus, if this bill were to pass, the restaurant industry would be affected immediately. It has also been our experience that nonunion restaurants in heavily unionized areas also find it necessary to meet union negotiated standards. Thus, the effect of double time would extend considerably beyond the unionized area.

We are interested also because we could be affected directly by this legislation. Under the provisions of H.R. 9802 now before the General Subcommittee on Labor, the restaurant industry would be included in the provisions of the Fair Labor Standards Act. If both H.R. 9802 and H.R. 9824 were to pass, our industry could be forced to meet the double time standard immediately. We are opposed to the principle of paying double time for overtime. The standard workweek in our industry is 48 hours. This is so because we are a service industry, one which must work before others go to work and after others return from work.

The 48-hour week is standard for yet another reason. The employees of our industry are generally highly skilled or relatively unskilled. Our highly skilled employees such as chefs are in short supply. A 40-hour week with double time for overtime would require that three chefs be used in almost every restaurant. It is difficult for our industry to find a sufficient number of skilled persons now. We would have to work the overtime anyway or close the restaurants down. In either case, fewer new jobs would be created because they could not be filled.

The unskilled workers in our industry are primarily tipped employees or those who share tips. They prefer to work additional hours in order to increase their incomes. Forcing them to work a shorter workweek, which double time would do, would substantially reduce their incomes.

Even the slightest increase in wage or overtime requirements has a substantial effect on the restaurant industry, for ours is a very high labor cost industry, one in which labor costs are in excess of 32 percent.

An employer faced with higher labor costs has but three choices: he can automate, raise prices, or absorb the increase out of profits. None of these choices is available to our industry. Ours is a service industry. It cannot automate and retain its present character. We cannot use machines to do the work of our people. Raising prices is no answer, for we are in close competition with the housewife, frozen foods, and the supermarket. Any changes we make in prices are quickly noted by the budget-conscious housewife. Price increase for us invariably causes us to lose some business. Since supermarkets obtain much greater productivity per employee, they can better absorb wage increases. Wage increases in supermarkets can be passed along to consumers at a much lower unit rate because of the lower labor cost.

Taking the expected cost increases out of profits is not the answer, for adequate profits do not exist. Since 1947, restaurant corporations even in any 1 year, averaged no more than 1.7 percent profit on sales.

We are opposed to the legislation in principle because we do not feel that it would have the desired effect of creating employment. We feel that the present provision of 1½ times the base rate is sufficient to deter all but necessary overtime, and that this necessary overtime, whether because of lack of skilled people or lack of machines must be worked, no matter what the cost, or production must be curtailed.

We feel that this legislation would be harmful to the Nation as a whole at this time. The increased costs this bill would cause would place American manufacturers at a serious competitive disadvantage with European and Asian manufacturers.

We are opposed to this legislation because of the particularly harmful effect it would have on our industry.

I would appreciate it if you would incorporate this letter into the record to be published after the completion of hearings.

Respectfully yours,

IRA H. NUNN,
Washington Counsel.

STATEMENT OF THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

The subcommittee has before it for consideration H.R. 9802, H.R. 1680, and other proposals which would require employers to pay double time or higher penalty rates on overtime. The stated purpose of such legislation is to spread employment.

H.R. 9802 would authorize the Secretary of Labor to direct any industry to pay double time or higher rates for overtime worked, in amounts based upon recommendations of Government-created tripartite committees. H.R. 1680 simplifies the procedure by requiring all industries to pay double time.

This association wishes to express its firm opposition to both bills as well as similar proposed legislation.

The double time penalty bills are founded on a fallacy. The fallacy is that double time penalties on overtime would result in an employer's hiring additional men to avoid the overtime penalties. Hence, there would be a substantial increase in employment. We are convinced that the effect of such proposals in the electrical contracting industry would be just the opposite of what was intended. In fact, the proposed legislation would result in substantial unemployment. These proposals would obviously increase labor costs. To avoid this increase, electrical contractors would automate any task or effort that could possibly be automated. In the highly competitive electrical contracting industry, substantial increases in labor costs cannot be passed on to the customer. In some areas where the costs have been passed on to the customer, the contractor ultimately finds that he no longer has customers. The contractor cannot absorb the increased labor costs himself unless he wishes to take advantage of the bankruptcy statutes. Our contractors believe that the advantage of such statutes is an advantage they can do without.

It is interesting to note that the large majority of collective bargaining agreements in this industry provide that the workmen already employed on the job shall have the first opportunity to work overtime hours. In fact, a contractor is prohibited from employing other workmen unless and until the workmen on that job decline the overtime opportunity. We have heard of no instance where this opportunity has been declined. The simple fact is that the proposed legislation would result in higher wages for those who are already employed. It would not put wages in the pockets of those who are now unemployed.

It has been alleged that the Fair Labor Standards Act of 1938 created employment by requiring employers to pay time and one-half for all time worked in excess of 40 hours a week. Hence, the proposed legislation would accomplish the same result. The analogy is neither apt nor valid. There was no technological unemployment in 1938: there is in 1964. There was no general and sincere concern in 1938 about the competitive position of American industry in relation to foreign competition: there is in 1964. Automation and technological advancements in 1938 were not of sufficient scope or impact to result in displacement of workers: they are of tremendous scope and impact in 1964.

H.R. 9802 contains another inequity in addition to the double time penalty. By its unlimited selectivity feature, it penalizes the efficient industries which have become competitive by their own efforts. It penalizes those industries which, of necessity, must work overtime during certain seasons such as construction. Finally, H.R. 9802 would, of necessity, give competitive advantage to one industry vis-a-vis another. Such advantage could only be avoided by the adoption of a uniform penalty applicable to all industries, such as is provided for by H.R. 1680. The latter bill would hardly be deemed an improvement, however.

Both bills would effectively prohibit the electrical contracting industry from any further expansion in the residential heat and modernization markets or other markets. We are convinced that the residential market offers a source of tremendous employment potential if our contractors are not stripped of their competence and competitiveness by ill-conceived but well-intended legislation.

This association and its members would heartily support effective and practical legislation which would reduce unemployment. H.R. 9802 and H.R. 1680 are not effective, practical, or reasonable solutions to the problem. Accordingly, we request the subcommittee to report these bills with an unfavorable recommendation or, in lieu of reporting, decline to give further consideration to them.

MARKITE CORP.,
New York, N.Y., March 31, 1964.

Hon. JOHN V. LINDSAY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN LINDSAY: We at Markite Corp., consider it important to present you with our views concerning H.R. 9802, the Overtime Penalty Pay Act of 1964.

This bill will totally fail of its avowed purpose in increasing employment in our industry, the manufacture of precision potentiometers. Overtime is normally maintained at the very minimum consistent with economical handling of peak demands. The policy could not be changed by reason of the passage of H.R. 9802. Our small industry requires that we train people in the particular skills required, skills not available in the open market. It is not possible to increase the staff to meet temporary demands, even if such action were socially, ethically, or economically desirable, all of which we seriously doubt.

The consequence of the passage of the act in question to our corporation and to most of our industry would be as follows:

1. Employment would not be increased by one iota.
2. The cost of our units to the Government, by far our largest ultimate customer, would be increased.
3. We would be placed at a further disadvantage with respect to certain competitors who have licensed manufacture of potentiometers in countries such as Japan where labor costs are low and have made arrangements for importation of such units into the United States. Such competition can only reduce employment here at home.

We believe that our firm and our industry are by no means unique.

We urge you to act on considerations like the above by taking such steps as will prevent the passage of H.R. 9802. It can do no good, and can be seriously harmful.

Respectfully,

JOHN C. KALBACH, *Vice President.*

G. T. MCGOVERN TRUCKING CO., INC.,
New York, N.Y., April 2, 1964.

Hon. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR SIR: This is to inform you that we are unalterably opposed to H.R. 9802, the Overtime Penalty Pay Act of 1964, which is now before two subcommittees of the House of Representatives Labor and Education Committee.

If this measure is passed, I can assure you that it will do irreparable damage to every "local" truckman in New York City. Not only will it not increase the labor force but very likely it would force a majority of the smaller truckmen out of business inasmuch as overtime is mandatory because of the nature of the industry in New York City.

Therefore, I strongly urge that you make every effort to have this legislation defeated.

Very truly yours,

GEORGE T. MCGOVERN, Sr.,
President.

BREWER-CANTELMO CO., INC.,
New York, N.Y., March 19, 1964.

Re bill H.R. 9802.

Hon. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR SIR: We respectfully submit the following in our opposition to the enactment of the above-captioned bill for we feel that such a law would be punitive to the manufacturer and fail to ameliorate the unemployment situation.

Specifically, in our case: Our principal product—the sales presentation binder is one that requires mostly handwork. It calls for skilled labor which entails years of apprenticeship to bring it to the required standard.

Our clients are mostly the large advertising firms of Metropolitan New York and many of their orders have to be rushed to meet a deadline for a special event or program. In consequence, the need for overtime arises frequently and unpredictably. Such overtime periods may be for a few days or a few weeks.

Our current shop force is more than adequate to meet the regular workloads. We could not afford to augment it in order to eliminate overtime. We are a "custom house" and do not produce stock items, hence there is not always enough work to keep all hands busy at all times.

As to the 35-hour week, this of necessity would force us to raise the price of our product. We look unfavorably upon such a prospect because of its inherent inflationary threat.

We urge you to consider well any drastic changes that may hinder rather than improve our economy.

Thank you for giving the foregoing your kind attention.

Sincerely,

EDWARD C. CANTELMO, *President.*

NEW YORK, N.Y., *March 13, 1964.*

HON. JOHN V. LINDSAY,
House of Representatives,
Washington, D.C.

DEAR SIR: I should like to go on record as opposing the above bill. Overtime regulations certainly should be overhauled completely. However, they should differentiate between handicraft and artisan products on the one hand, and between mass produced goods on the other.

If, for example, the Atomic Energy Commission needs a special piece of equipment which has to be produced tailor made and such equipment is required urgently, overtime payments merely increase the cost which will not reduce unemployment by hiring new laborers.

If, however, a standard microscope were involved or any other product which can be produced serially and kept in stock, a raise in overtime payments would tend to reduce unemployment. It should not be difficult to differentiate in the proposed law between products where each item has to be produced separately and those where this is not the case. A reduction in the first instance would reduce living costs; an increase in the latter would help our all-out efforts against unemployment.

Very truly yours,

RICHARD NEUBAUER.

UNITED STATES TOBACCO Co.,
New York, N.Y., March 13, 1964.

Representative JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE LINDSAY: I am writing to let you know that I am very strongly against the double overtime pay bill. This is grossly unfair to industry, and the solution to the unemployment problem does not lie in the passing of this legislation. In no way will this bill do the job it is designed to do. American industry will suffer and for no apparent reason.

I urge you to take a definite stand against the double overtime pay bill.

Sincerely yours,

T. J. KUBILIUS.

HERBERT-SPENCER INC.,
New York, N.Y., March 10, 1964.

HON. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN LINDSAY: I would like to voice my opposition to bill H.R. 9802 for the following reasons.

1. This bill would create unemployment in our industry rather than reduce it. All small plants similar to ours running one shift (where overtime is never considered unless absolutely necessary) would be forced to reduce our staffs or close shop as all our work would go to larger three-shift shops.

2. The time-and-one-half penalty for overtime never created employment, neither will double time.

3. Our business employing 24 people would be affected adversely, as we stress service and get all of our business because of this policy.

4. If passed it would become another tax on the public through increased prices, therefore contributing to the inflation evil.

It would seem to me that the unemployed roster should thoroughly be studied in the light of how many are really employable? How many are statistics in that category merely because they are temporarily out of work in a seasonal industry? Then the unemployment problem could be reported and corrected more realistically.

This bill may be some help in an isolated industry or two but overall would hurt plants of our size and category and in my and my associates' judgment would create unemployment and other hardships.

Respectfully yours,

CHARLES ROVEGNO, *President.*

TRANSKRIT CORP.,
New York, N.Y., March 9, 1964.

Hon. JOHN V. LINDSAY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN LINDSAY: I am writing you today to voice my opposition to the above-captioned bill. In our industry the bill would not effect the benefits envisioned by its sponsors but would serve only to increase costs and prices.

We are specialty printers and use specialized equipment. At irregular intervals and frequently upon short notice, the demands of our customers force us to authorize overtime, despite the additional costs incurred. In most instances we must absorb these costs to maintain our customers' good will. It would not be feasible to hire outside help for these occasions inasmuch as a newcomer would not have the necessary training to run our equipment. The only choice we have is to authorize our present personnel to work overtime at a higher rate than now exists or to disappoint our good customers when they are in need of delivery.

If this bill is passed, we would have to reexamine our pricing policy to determine how much of these additional costs must be passed on to the customer.

Very truly yours,

FRANK NEUBAUER.

THE PLUME & ATWOOD MANUFACTURING CO.,
New York, N.Y., March 5, 1964.

Hon. JOHN LINDSAY,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: This letter is written in reference to H.R. 9802, introduced by Representative O'Hara, Democrat, of Michigan. This bill, as we understand it, would impose a penalty on industry of double-time payment to employees for hours worked over and above a certain limit, such limit to be determined by the Secretary of Labor and/or a tripartite committee appointed and convened by the Secretary of Labor. The purported reason for the submission of this bill is to increase the number of persons employed by decreasing the number of overtime hours worked by those persons currently employed.

The Plume & Atwood Manufacturing Co., of Thomaston, Conn., is taking this opportunity to go on record as being vehemently opposed to this particular plan as presented in H.R. 9802. It is our firm belief that the answer to unemployment does not lie in penalizing industry. Industry is already overburdened with premium pay for overtime, shift differentials, vacations, holidays, insurance, pensions, funeral pay, jury pay, and other items for which payment is made but no actual work is performed. All of these things contribute to the cost of doing business and ultimately cause an increase in prices.

The imposition of a double-time penalty for overtime would have significant achievements. There would be a definite effect on the amount of overtime available to the current employees of any given organization. Overtime in many cases would be eliminated, which would have two results: The persons currently employed would work fewer hours and therefore have a smaller income; the

industry or business involved would gear themselves to a 40-hour week with a resultant decrease in total production. These two results are inescapable because of the labor agreements in existence at this time which provide for automatic premium pay for Saturday, Sunday, and holiday work performed. Industry cannot possibly hire extra people to increase the number of work hours in a week under these conditions.

In closing, we respectfully request that you utilize the facilities at your command to defeat this measure because of the potential adverse effects it could have on our overall economy. We sincerely believe that the adversities will far outweigh any possible benefits that may be derived from legislation such as that proposed in H.R. 9802.

Respectfully submitted,

HARRY T. SILVERMAN, *President.*

CATERPILLAR TRACTOR CO., INC.,
New York, N.Y., March 10, 1964.

HON. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN LINDSAY: President Johnson has proposed legislation via H.R. 9802, S. 2486, to raise the penalty rate for overtime from time and a half to at least double time in industries where such an increase "would increase employment opportunities * * * without excessive costs." Is this the answer to solving the unemployment problem? We think not.

We oppose H.R. 9802 for the following reasons:

1. *Will impede economic growth.*—Legislation such as the reduction in Federal income tax rates, which Caterpillar supported, encourages investment and economic growth. H.R. 9802 and similar proposals designed to "spread the work" only present obstacles to the natural process of economic expansion, and impede progress toward full employment.

2. *Will add to Caterpillar costs.*—Overtime is already tightly controlled at Caterpillar * * * simply because it increases costs. Yet, in many situations it is unavoidable: to meet rush orders, seasonal demands, and production schedules on lines already running at full capacity * * * and in situations where extra employees are needed, but are not immediately available. In most cases, increasing the "penalty" from time and a half to double time or more will not eliminate the need for overtime or create a need for new employees. However, it will add substantially to production costs. Based on 1963 experience, a double time penalty rate could cost Caterpillar as much as \$4 million a year.

3. *Will not increase employment.*—As noted, most overtime at Caterpillar is by its nature unavoidable. Further, the need for overtime can shift from one operation to the next as production progresses. Under this circumstance, it would be virtually impossible to find new employees who have the necessary skills to perform such consecutive operations. Here again, increasing the penalty rate for overtime would not automatically eliminate the need for it, or create a need for new employees.

4. *Will jeopardize exports.*—By increasing U.S. costs, a higher overtime penalty rate would have an adverse effect on Caterpillar's competitiveness in overseas markets. Costs of foreign competitors would, of course, not be affected; but the bulk of Caterpillar's foreign sales continues to be generated by exports of U.S.-built goods. About one-third of the company's U.S. jobs continues to depend on exports. Furthermore, by reducing the effectiveness of major exporters (Caterpillar is the second or third largest exporter in the United States), this legislation would adversely affect the inflow of international payments to the United States, and increase our country's balance-of-payments deficit.

5. *Will be unfair in administration.*—The mechanics of H.R. 9802 call for establishing tripartite committees. These committees are to recommend at what point (over 40 hours a week) the higher penalty is to be imposed for a specific industry. But it is difficult to define the boundaries of an "industry." Quite conceivably, Caterpillar's products could be competing with products of manufacturers assigned to different industries (and thus falling under differing overtime-penalty provisions).

6. *Could force capricious employment.*—If the penalty rate were raised high enough, employers, including Caterpillar, could admittedly find it advisable to reduce some overtime—albeit unwisely—and, in some instances, hire additional employees. This hiring, however, would be done with an apprehension that

these could well be short-term jobs, and that fluctuations in demand would cause considerable instability in employment. Discussing this in a recent letter to Senator Dirksen, Mr. Blackie wrote:

"If the penalty of working overtime were to become excessive, we, in our case, would be obliged to face a choice between two alternative courses: (1) maintain a more stable work force and forgo peak business; or (2) accept the evils of an unstable work force and meet peak demand for such time as it may last. The latter course would have the effect of creating somewhat greater employment at the top of the economic cycle—when prosperity is high. When the downturn comes, it would, however, have the effect of accentuating the decline in employment and the corresponding increase in unemployment with all its human hardships and the costs associated with idleness."

We ask that you oppose H.R. 9802 and communicate our viewpoints to the members of the subcommittees and the full committee. Caterpillar Tractor Co. has requested permission to present testimony to the subcommittees but it has not been granted. We ask that we be allowed to present testimony. Your help would be appreciated. Thank you.

Sincerely yours,

C. H. IKONEN,
Manager, New York Office.

MERRITT-CHAPMAN & SCOTT CORP.,
New York, N.Y., March 9, 1964.

HON. JOHN V. LINDSAY,
*House Office Building,
Washington, D.C.*

DEAR CONGRESSMAN LINDSAY: I do not believe that H.R. 9802 will serve the purpose which its proponents intend. I think, as a matter of fact, it could very well have the opposite effect.

I should thus hope that your study of this will decide you to vote against same.

Sincerely yours,

M. G. STAUB.

OLKO ENGINEERING,
March 2, 1964.

HON. JOHN V. LINDSAY,
*House of Representatives,
Washington, D.C.*

DEAR MR. LINDSAY: This is to register my protest to the double time for overtime. It is obvious that President Johnson and others advocating this bill have absolutely no knowledge of business affairs. This will not create more jobs; it will only increase costs.

There is a limited number of engineers trained or capable of doing our work. I will not hire more as our workload is not uniform. We must work overtime to meet occasional demands.

Kill this bill. It is insane. Unemployment can be solved only by upgrading our work force and by limiting union demands so we stop pricing ourselves out of foreign markets.

Very truly yours,

S. M. OLKO.

NEW YORK, N.Y., *March 10, 1964.*

HON. JOHN V. LINDSAY,
*House of Representatives,
Washington, D.C.*

Sir: This is to urge that you oppose a piece of legislation before Congress (H.R. 9802) which would, in effect, penalize business for paying overtime.

It seems to me that business has had enough obstacles put in its way in recent years without hampering it still further.

Very truly yours,

ALYCE ANDREWS,
Mrs. James Andrews.

NEW YORK, N.Y., *March 10, 1964.*

Hon. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN LINDSAY: As a citizen of New York State and as one who is working in New York City, I write to you to ask you to vote against H.R. 9802.

The only effect that this bill will have, if it becomes law, will be to increase costs in our industry without any other compensation. It will not increase employment among the unemployed. The vast majority of the overtime done in our mills is due to the necessity to finish a job on which people have been working and which requires an hour or so further work. Under such circumstances, it is necessary for the man to continue and we would not bring in another. This will simply mean a compulsory and unnecessary inflationary rise in costs in an industry where the margin of profit is extremely low.

Please be sure that you help defeat this bill by voting against it.

Yours sincerely,

ALFRED H. NISSAN,
Corporate Research Director,
West Virginia Pulp & Paper.

TRANSIT-MIX CONCRETE CORP.,
New York, N.Y., March 5, 1964.

Hon. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

DEAR SIR: We have been advised by our national association that bill H.R. 9802 will shortly come up for consideration by your committee.

We wish to take this opportunity to express to you that this bill if passed would greatly increase the cost of construction in this city which has been on the rise for the past few years due to labor increases. At the present time, building construction has been retarded due in large part to excessive building in the past 2 years. This was brought about by the builders' anxiety to get ahead of the new zoning law.

In order to encourage the builders to go ahead with the many plans that are now on the boards, the enactment of this law would retard the promotion of this building program.

We hope that serious consideration will be given to this matter and that you can see your way clear to vote against this bill.

Sincerely yours,

ALBERT L. REES, *Vice President.*

NEW YORK, N.Y., *March 3, 1964.*

Hon. JOHN V. LINDSAY,
House of Representatives,
Washington, D.C.

We strongly advocate that you oppose H.R. 9802. The bill as presently worded is unnecessarily burdensome on continuous process industries without creating any more job opportunities, and would increase manufacturing costs, thus jeopardizing chances for the better business climate so essential to continued economic growth.

RIEGEL PAPER CORP.,
F. S. LEINBACH, *President.*

INTERNATIONAL ASSOCIATION OF BLUE PRINT AND ALLIED INDUSTRIES,
New York, N.Y., February 20, 1964.

Hon. JOHN V. LINDSAY,
House Office Building,
Washington, D.C.

MY DEAR CONGRESSMAN LINDSAY: Next week the House will start hearings on H.R. 9802, the bill which is intended to create additional employment. Actually, the section of the bill where the overtime rate is to be increased to double the regular hourly wage, will cause vast unemployment in many industries in our country.

The blueprint and allied reproduction industry is a service business that constantly requires overtime work that cannot be planned for in advance. For example, a customer of ours will call at 4 p.m., and request a large quantity of reproduction work to be completed the same evening or first thing in the morning. This necessitates our holding over our daytime personnel. As a practical matter we cannot recruit or contact standby personnel at 4 to 5 p.m. on any given date. Most all of our emergency jobs that require overtime consist of work we must do in order to service our customers efficiently and keep them as clients. If we are forced to pay double our regular hourly wage, it will create a hardship that will force many of the companies in our industry to curtail their services and lose business. The end result will create far fewer jobs rather than add people to the employment rolls as H.R. 9802 is trying to do.

On behalf of our industry, I urgently recommend that you vote against this part of the measure.

Sincerely yours,

VINCENT T. COONEY,
Chairman, Government Affairs Committee.

BURKE FLEXO-PRODUCTS Co.,
Traverse City, Mich., February 25, 1964.

Hon. ELMER HOLLAND,
*Chairman, Select Subcommittee on Labor,
House Education and Labor Committee,
Washington, D.C.*

DEAR MR. HOLLAND: We would like to go on record as opposing H.R. 9802.

As we understand this legislation, it would provide for the appointment of a tripartite industry committee for an industry in which it is believed that substantial and persistent overtime employment exists and in which the compulsory payment of double time for overtime compensation would increase employment opportunities.

We speak from the standpoint of the small employer located in an area of limited labor force and faced with seasonal demand for its product. We are also faced with the cheap labor market of Japan as our competition.

In the operation of our business we provide employment year around for our entire labor force (50 employees), but we sell and deliver 60 percent of our product in 3 to 4 months of the year. This means in our operation that we stockpile to the fullest extent of our limited financial resources the other 8 to 9 months of the year. We then enter our heavy shipping and selling season, but in spite of our best efforts substantial overtime is necessary during that period in order to meet our customers' needs.

Double time could only penalize an industry in our position and put us at even a more competitive disadvantage with the Japanese labor rates than we already are. It could not possibly increase employment by discouraging the payment of overtime in the form of double time. It is patent that we could not, for the limited period of 3 months, employ and train new personnel to take up this slack in our production.

In short, the passage of such legislation and the ultimate imposition off a double-time rate on our industry quite probably would have the effect of reducing the total number of jobs and employment in the industry rather than increasing it.

Respectfully submitted,

FITCH R. WILLIAMS, *Secretary-Treasurer.*

R. F. RODGERS LITHOGRAPHING Co., INC.,
Tulsa, Okla., February 25, 1964.

Mr. PAGE BELCHER,
*Member of Congress,
Washington, D.C.*

DEAR Mr. BELCHER: I am writing to protest against H.R. 9802, the Overtime Penalty Act of 1964. It is entirely impractical and unworkable, and will definitely result in higher costs and prices in this industry. As president of the Printing Industries Association of Oklahoma, I speak for the majority of the printing industry in this State. We are willing to concede that Representative O'Hara

had the highest motives when he introduced this bill. However, it will do nothing to reduce unemployment and will create a host of other grave problems. The following are just a few of the many reasons why this is so:

1. This industry is staffed by highly skilled craftsmen of which there is a nationwide shortage. It is almost impossible to hire a qualified worker, and it takes 5 years plus the expenditure of considerable money to train a new man. Unions also drastically restrict the number of apprentices allowed.

2. This industry produces for other industries and, therefore, cannot control the production peaks and valleys.

3. Some overtime has been worked for many years in this industry. A very serious industrial relations situation would arise if this income should be cut off. Unions would immediately demand the same take-home pay even though the hours of work would be reduced.

4. In a small plant with eight machines, each working 1 hour of overtime per day, a man would have to be hired capable of running all eight machines to eliminate the overtime. This is obviously impossible even if union rules would allow it and they do not.

5. This bill would further project the Federal Government, through the Secretary of Labor, into the management of our businesses, and there is too much of this sort of thing already. It would be still another case of a nonelective official having life and death control over business.

For these reasons, and literally dozens of others I could list, we feel this is a bad bill and should be defeated. We would be very glad to hear your views on this subject.

Sincerely yours,

R. F. RODGERS.

JOHN ZINK CO.,
Tulsa, Okla., March 4, 1964.

HON. PAGE BELCHER,
House of Representatives,
Washington, D.C.

DEAR SIR: We are concerned about the pending legislation increasing the rate for overtime to twice rather than one and one-half times the regular rate.

Measured by our own situation a higher premium for overtime does not seem a likely source of additional employment, but rather an increase in cost.

We do not work overtime usually except to meet emergency or possibly seasonal demand. For the occasions when overtime is necessary temporary additions of untrained employees could not meet the requirements. Having to pay double time would only add to the burden of cost.

Our customers include the major refining and chemical companies and subcontractors on important Government projects. We do not see how double time for overtime could do anything but increase the cost of our products and services to these users.

Yours very truly,

JOHN STEELE ZINK.

STANDARD FUELS, INC.,
Tulsa, Okla., March 3, 1964.

Congressman PAGE BELCHER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BELCHER: Hearings have commenced before a Select Subcommittee of the House Labor Committee on H.R. 9802 with reference to double overtime.

From letters we have sent in the past you are probably aware that Standard Fuels is primarily engaged in the retail marketing of LPG extensively in Florida, to some extent in Alabama, extensively in your first district of Oklahoma, and scattered throughout Nebraska to a small extent. In these States we have over 100 employees, most of them truckdrivers. Our business is seasonal (cold weather) and it is essentially a service-type business. Our truckdrivers work many hours of overtime in the winter and we are at a loss to keep them busy during the summer. Our industry has generally always had an understanding

with its drivers that these are compensating factors of their employment tenure, since our company has no control over temperature (which is the primary dictator of our working hours). To encourage good drivers to stay with us we have always given them extra time off in the summer and paid them some overtime or given them bonuses to compensate them for the many hours they work in the winter. Our better and higher paid drivers simply work whatever hours are necessary to get the job done. From this brief description of the nature of our business I am certain you can see the disastrous effects on the service we perform for our customers and on our profits if our industry was arbitrarily placed under the domination of this legislation.

Even though you are not a member of the select subcommittee or the general subcommittee considering this, as our Congressman, representing the district in which we are headquartered, we are asking you to make our views known to the proper Congressmen who are investigating H.R. 9802. If you would like additional information about our industry before contacting them please advise and I will make it available to you.

Regardless of the above situation on behalf of myself and many friends of similar feelings we want to wish you a most successful campaign for reelection for we feel you have done a wonderful job representing the desires of the majority of the voters in your district. We sincerely hope you will continue to do this for many years.

Yours very truly,

PAUL R. SMITH, JR., *President.*

NELSON ELECTRONIC MANUFACTURING Co.,
Tulsa, Okla., March 4, 1964.

HON. PAGE BELCHER,
House of Representatives,
Washington, D.C.

DEAR MR. BELCHER: We feel, here in Tulsa, that one of the challenges of our time is the creation of a sufficient number of jobs for all Americans.

We, however, do not agree with President Johnson's "double time for overtime" proposal. It is not a satisfactory means of spreading employment. We feel that the weakness in President Johnson's "double time" proposal is that the present workers drawing overtime are skilled workers and these skilled workers cannot be replaced by an unskilled worker. We feel that emphasis should be placed on training workers so that they can become skilled.

Though jobs are needed, we feel strongly that double time will be an inflationary measure and will not provide the results that the proponents feel it will, i.e., providing new jobs.

Sincerely,

H. A. NOBERG.

POWERS RESTAURANTS, INC.,
Tulsa, Okla., March 4, 1964.

HON. PAGE BELCHER,
House Office Building,
Washington, D.C.

DEAR MR. BELCHER: I have been doing some research on wage rate trends of nonsupervisory employees as developed by the U.S. Department of Labor, and I have found an interesting trend.

I note the average restaurant operator has been making a voluntary effort to raise the wage scale.

Please note the enclosed figures taken from Labor Department surveys in 1961 and 1963.

It is my opinion that the restaurant industry is raising its pay scale and lowering hours. No wage an hour law is needed.

Sincerely,

DONALD G. POWERS.

Wage rate trends of nonsupervisory employees as developed from labor department surveys in 1963 and 1961

[Cumulative number of employees affected]

NORTHEAST REGION—BOSTON

	All enterprises				\$1,000,000 enterprises			
	June 1963		June 1961		June 1963		June 1961	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total.....	26,408	100	25,476	100	9,246	100	9,841	100
Under \$1.....	7,658	29	8,594	34	2,291	25	2,705	27
Under \$1.15.....	10,067	38	13,328	52	3,381	37	4,968	50
Under \$1.25.....	13,694	52	15,063	59	4,913	53	6,110	62

SOUTHERN REGION—ATLANTA

Total.....	8,677	100	6,762	100	4,585	100	2,946	100
Under \$1.....	5,622	65	5,153	76	2,777	61	2,185	74
Under \$1.15.....	6,658	77	5,537	82	3,253	71	2,340	79
Under \$1.25.....	7,416	85	5,746	85	3,919	85	2,448	83

NORTH CENTRAL REGION—ST. LOUIS

Total.....	10,509	100	10,682	100	3,534	100	3,573	100
Under \$1.....	3,196	30	3,796	36	719	20	1,176	33
Under \$1.15.....	4,948	47	5,470	51	1,324	37	1,744	49
Under \$1.25.....	6,000	57	6,680	63	1,704	48	2,223	62

WESTERN REGION—PORTLAND

Total.....	5,883	100	5,137	100	1,456	100	478	100
Under \$1.....	16	0.3	75	1.5	11	0.8	-----	-----
Under \$1.15.....	318	5	467	9	116	8	36	8
Under \$1.25.....	578	10	737	14	143	10	52	11

TELEX CORP.,
Tulsa, Okla., March 5, 1964.

HON. PAGE BELCHER,
House of Representatives,
Washington, D.C.

DEAR PAGE: H.R. 9802—premium wage rate for overtime work—is bad legislation. It will not solve the problem for which it is intended. Most prudent industries plan overtime.

Overtime is used to overcome obstacles not in their plan. Therefore, experienced help is needed to overcome these obstacles. It will not provide more jobs.

I sincerely hope you will oppose this legislation.

Very truly yours,

M. E. MORROW.

STATEMENT OF HON. CHARLOTTE T. REID, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Chairmen and members of the subcommittees, I do appreciate the privilege of submitting my statement in connection with your consideration of H.R. 9802 which calls for a higher penalty rate for overtime work—presumably on the basis that imposition of such increased overtime rates will force business to hire more full-time employees and thereby reduce our unemployment.

I, too, am concerned about the unemployment situation and would support sound efforts to reduce such unemployment. However, I am becoming more and more convinced that increasing the overtime rate from one and one-half to double would not result in substantial additions of full-time employees in companies involved and that such action would instead cause great damage and

increased unemployment through consequent inflation, a speedup in automation by companies trying to reduce costs and keep consumer prices down, and further impairment of the ability of U.S. businesses to compete with foreign manufacturers.

A great number of businessmen in my district have written to me pointing out the adverse effects of such legislation. I would respectfully request that your committee give most careful consideration to the following sound comments on this legislation which are typical of the views received from respected businessmen in my congressional district—views which, I might add, are based on years of experience in successfully managing thriving businesses which contribute so greatly to our economic well-being:

"To me, the proposed legislation is dangerous to our economic system. Already we are not competitive with many foreign industries. To make our manufacturing costs even higher would put American manufacturers in an even weaker position in the world market. Then, too, you are undoubtedly aware of the cost-price squeeze in the domestic market. To force on manufacturers a higher cost of products in the form of double time for overtime is a most inflationary thought. The payment of overtime at double the regular rate is not going to eliminate overtime scheduling. It is just not practical to hire people for a short period of time for the purpose of matching production rate to sales demand. If the President believes the proposed legislation would make more jobs, he is living in a dreamworld."

"* * * no companies to my knowledge choose to schedule overtime work for employees simply because this represents additional costs of doing business. The necessity for overtime schedules is almost invariably created by customer demand for products unforeseen at the time production plans are laid out. Should the cost of doing business be arbitrarily increased by Government edict, in respect to overtime payments, there is obviously no doubt but what companies will further accelerate automation systems which will offset increased operating costs. Thus, permanent reductions in employees will be speeded up very probably at a rate faster than said employees can be absorbed in other lines of work."

"We do not believe that such action would relieve the unemployment situation inasmuch as most of the overtime work now being done is being done by those in skilled labor areas and professional areas, and, since most of the unemployed by companies trying to reduce costs and keep consumer prices down, and further are of the unskilled type, we do not think that H.R. 9802 is the answer * * *. We sympathize deeply with those desiring work and unable to find it. However, the added burden put on the manufacturer by double time for over 40 hours will not solve the problem * * * and the effect will be higher costs of living."

"The penalty of 50 percent overtime is already sufficient to discourage us from working overtime except in emergency situations. Double penalty, by increasing costs, would tend to divert the business and benefit foreign labor instead of our own; 19.1 percent of our product manufactured in the United States is shipped abroad. Foreign competition has already so cut into our market that we have had to set up manufacturing facilities in five other countries, and the sales from those plants amount to 165 percent of our own U.S. exports. Any increase in our U.S. costs diverts production from our U.S. manufacture either to our own foreign manufacture or to foreign competition. Our high labor costs have already contributed to U.S. unemployment and the proposed bill would aggravate, not solve, the problem."

"Our business is so cyclical that, even with this additional penalty, it would be impractical to hire and train additional people. Therefore, the passage of this bill would merely mean a price increase due to an increase in manufacturing cost."

"More people are employed today than ever before in our history, in spite of our unemployment. This was not accomplished by higher overtime rates or shorter hours. It was accomplished by research and development, creating new products, new industries, and more jobs. To shorten the workweek or increase overtime premium will increase costs, reduce profits and the amount of money put into research and development, and eventually reduce the number of jobs that can be provided."

"I am sure that the reason for this bill is to create additional employment. However, I would like to point out my own personal observations from seeing a plan like this put into effect mainly as a result of influence by labor unions and similar organizations. Instead of creating additional employment it simply caused further inflationary spiral because of the demands of the employees to

either work a 6-day week, the sixth day at double time, or they would not accept the position."

"If such a law were passed, our own company would further intensify our efforts to automate those areas of activity where overtime was prevalent. Quite likely we would consider giving the customers somewhat less in service. Possibly we would add an employee to avoid the extremely heavy penalty of double time for overtime work but this is doubtful. This is an honest assessment of what would happen at our company."

"We sincerely feel this legislation would result in increased costs and reduced employment opportunity which would be felt across the Nation. * * * Furthermore, H.R. 9802 would place unnecessary power in the hands of the Secretary of Labor. For example, in the event the Secretary did not approve any recommendations by a tripartite industry committee, or if a majority of the committee members have not agreed on recommendations, the Secretary may appoint another committee for consideration and recommendations. And it is also a matter of concern that the Secretary's order is not subject to court review."

"We operate a process industry, using three shifts, 24 hours a day. As such, overtime work on weekends for cleanup and maintenance is a necessary part of our operation and not a luxury to be penalized. The passage of this legislation would not increase our work force but merely add to our fixed labor cost."

"First, we can register this objection completely free of selfish interest because, as far as we can see, we would not be affected by the overtime provisions of this bill. We oppose as a matter of principle * * *. If reduction of unemployment is the goal, let the same tripartite proponents of this bill crusade to make better and better products to sell to more and more people at lesser and lesser prices. Then, we might see some reduction in unemployment."

"Many of the skills which we employ are simply not available in the quantity that would be necessary to fill the product requirements. Also, the increased costs for training these people might make present selling prices of the end product undesirable to us. I find it hard to believe that organizations can economically employ full-time duplicate labor in order to have the necessary manpower available when a few hours per week of overtime is necessary."

"The way this bill would effect our company is to increase our cost to a point which we could not absorb and make it necessary to pass the additional costs on to our customers which may cause them to pass this cost on to the consumer, causing additional inflation. It has been our experience for the past 15 years to find we have been unable to hire enough qualified personnel to fill out three complete shifts of wage-hour supervisory personnel. We are presently working these people 12 hours a day or 60 hours per week. It has also been our experience many times when hiring an unqualified man as an assistant foreman, with the understanding he will be taught his job, to find that his work attendance has been poor and he worked only long enough to qualify for workmen's compensation. Our local unemployment office has never been able to supply us with a steady man or woman employee. I believe if the unemployment benefit laws would be tightened up, it would make less rockingchair money available. Unemployment could be reduced through the necessity of people needing to eat."

"We are a subcontractor in the aerospace industry manufacturing highly specialized products requiring skilled work of a very high order. * * * Few people have the skill, reliability, and temperament to do this work at the constantly perfect level that is essential to mission success. A double-time law will add no one to our payroll but will merely increase the price the Defense Department will have to pay. * * * Business and labor and the taxpayer will all suffer if this bill is passed."

"We feel there is strong probability that such legislation would result in employment disruptions by creating artificial advantages and disadvantages between competing segments of our economy."

"The almost instantaneous peaks and valleys that we encounter in business volume requires a similar reflection in our work force * * * our only recourse is using overtime * * * if we were to hire all the people necessary to turn out our peak loads we would have an expensive program of unemployment compensation. To take an example: Our yearly payroll upon which unemployment contributions are based is approximately \$450,000. With a steady employment factor, which includes some overtime premium, the rate at which we pay into the unemployment fund could be one-tenth of 1 percent of this figure or \$450. If, however, we hired and laid off people to meet production demands without overtime our rate could go as high as 4 percent or \$18,000. This would be but

a part of the cost of such a program and you would have to add to it the cost of training and loss of efficiency."

"Most overtime at Caterpillar Tractor Co. is by its nature unavoidable. Further, the need for overtime can shift from one operation to the next as production progresses. Under this circumstance, it would be virtually impossible to find new employees who have the necessary skills to perform such consecutive operation * * * increasing the penalty rate for overtime would not automatically eliminate the need for it, or create a need for new employees * * * by increasing U.S. costs, a higher overtime penalty rate would have an adverse effect on competitiveness in overseas markets. * * * About one-third of Caterpillar's U.S. jobs continues to depend on exports. Furthermore, by reducing the effectiveness of major exporters * * * this legislation would adversely affect the inflow of international payments to the United States, and increase our country's balance-of-payments deficit."

SHERMAN & REILLY, INC.,
Chattanooga, Tenn., March 6, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

DEAR REPRESENTATIVE HOLLAND: We are very much opposed to the Overtime Penalty Pay Act, H.R. 9802. This, we do not believe, will accomplish the purpose for which it is intended.

In our case, the only overtime worked is for rush orders, which through our willingness to give extra service enables a greater volume of business. We could not, under the penalty suggested in this act, work any overtime, and the net result would be less take-home pay for our employees in the overall picture. There is a chance also that a decrease in business would result by our not being able to offer this extra service and the possibility of ending up with fewer employees than we have at the present time.

In our business, which is primarily products for the electrical utility industry, our export business has increased substantially over the last several years. In this endeavor we are competing in a world market and would again be penalized by an act such as H.R. 9802. In some instances we are competing in this country with foreign manufactured goods. Here, again, a lower volume would be the net outcome with less work available for our present force.

We urge you to consider these points in your evaluation of the Overtime Penalty Pay Act, H.R. 9802.

Sincerely,

JAMES W. REILLY, *Vice President.*

STATEMENT OF TEKTRONIX, INC.

INTRODUCTION

Tektronix, Inc., is an employer of approximately 4,600 persons in Beaverton, Oreg., engaged in the manufacture of high-quality cathode-ray oscilloscopes. Classified as a member of the "scientific, industrial, and laboratory instruments industry," by the U.S. Department of Labor, Tektronix produces more than half the estimated world production of oscilloscopes. It is subject to the provisions of the Fair Labor Standards Act and of the Public Contracts Act, in its operations within the United States.

ANALYSIS

Tektronix, in order to remain competitive in its worldwide market, must emphasize promptness not only in the delivery of its many models and components, but provides specialized services to customers in the use of oscilloscopes at any time or day or night. The addition of extra overtime costs beyond those already imposed would not create a single new job in our company. Such extra charges would, on the other hand, add to costs and reduce our competitive position in world markets, leading to fewer jobs in the United States.

In addition, the proposed statute would discourage industrial expansion and add to costs because (a) new uncertainties would have to be taken into consideration in bidding on contracts, due to the unequal and possibly variable

degrees of penalty overtime, (b) company payroll accounting procedures and forms would have to be revised—and made even more complex—to accommodate the new second level of overtime penalty pay, and (c) the use of tripartite industry committees would impose a cumbersome approach to a very basic question of economics—labor costs—and on which the use of a tripartite committee, with industry having only a third of the voting power, is certainly subject to question.

CONCLUSION

Besides the questions of extra costs and burdensome administrative restrictions, the proposed overtime penalty pay bill seems to be based in the generally discredited and now obsolete theory of scarcity economics. It is not consistent with the idea of maximizing economic opportunity to penalize the most productive and best trained persons in the mistaken belief that cutting their worktime through penalty costs would generate more jobs in the unskilled job categories where most of the unemployment is found.

Our company believes this overtime penalty pay bill should not be reported favorably, and that the efforts of the members of the House committee might better be directed to supporting measures which could reduce and modernize the tax laws so that an improved climate for investment and expansion would be given a chance to create the opportunities and jobs which are needed to expand the economy.

(Prepared at Beaverton, Oreg., this 14th day of February 1964, for presentation to the subcommittee of the Committee on Education and Labor of the U.S. House of Representatives, in hearings scheduled for February 18, 19, and 26-28, 1964.)

WALTER DURHAM, Jr.,
Salary Administrator.

MCNAIR CLOTHING MANUFACTURING Co.,
Brownsville, Tex., March 4, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

DEAR SIR: The "double time for overtime" provision of H.R. 9802 would be most objectionable and detrimental to our company.

Currently, we use overtime mostly at peak periods and unusual circumstances, although we do have some employees on overtime regularly. With the double time penalty, we would eliminate overtime completely and compensate with automation where possible. This would definitely cut many employees' average salaries, therefore not add to our total payroll.

If double time was used, it would put us in a noncompetitive position in the American market and would certainly eliminate us completely from competing in the foreign market.

We can see no advantage to either labor or business through this approach to the unemployment situation, and we are firmly convinced that double time for overtime is not the solution.

Yours very truly,

H. E. MCNAIR, *Manager.*

SERVTEX MATERIALS Co.,
New Braunfels, Tex., March 4, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: Reference: H.R. 9802, S. 2486—To provide a double pay penalty rate for overtime work. We do not favor this legislation because:

1. Most overtime is unavoidable.
2. A higher overtime pay will mean greater labor cost but does not necessarily mean we'll hire those now unemployed to avoid paying penalty overtime rate.
3. Overtime is seasonal in our business.
4. Not practical to employ untrained workers for maximum of 3 to 4 hours per day or 1 day a week during rush.

5. We transport most of our employees, which would present another problem.
6. Untrained men are more accident prone; our industry is classified hazardous.
7. Couldn't get satisfactory production from employee working only 3 or 4 hours; takes 10 to 15 minutes to start and stop, get to and from job.
8. Would cut regular employees' pay to point where they'd be moonlighting, take short shift with another company.
9. Employees must show up for our company to operate, would expect large turnover and absenteeism from short shift group.

Your consideration of these arguments against this legislation will be appreciated.

Yours truly,

H. R. SCHNEIDER.

STATEMENT OF W. BOYD OWEN, VICE PRESIDENT, PERSONNEL ADMINISTRATION OF OWENS-ILLINOIS GLASS CO.

Our company manufactures a number of different products. Briefly, these products are made primarily of glass, forest products, plastics, or combinations of them, and relate themselves primarily to packaging, electronics, scientific research, and glass and plastic tableware. At present, we have 73 manufacturing plants and 125 sales offices in 32 States. In 1963, our average employment in the United States was approximately 38,000 persons. We wish to thank you for this opportunity to present this statement in connection with the present bill H.R. 9802.

We share the unquestionable concern of the sponsors of the present bill over the grave unemployment problems now faced by this Nation. We do not and cannot share their belief that this bill embodies a solution, or even a partial solution, to these problems. This bill—and, if enacted, aptly named the Overtime Penalty Pay Act of 1964—purports to embody a method to increase employment by providing a higher penalty rate for overtime work. H.R. 9802 presupposes that an employer would and could hire new employees rather than pay its present employees the bill's penalty rate and that unemployment would automatically be reduced thereby.

Rather than attempt to enumerate in detail the numerous objectionable features of the present bill, and thereby to burden the record with a lengthy statement, we shall simply demonstrate that, based upon our own experience, the underlying premises of this bill are economically unsound and highly unrealistic. For the record, however, we emphasize that our lack of comment on the specific provisions of this bill should not be misconstrued as an endorsement of such provisions.

Since our salaried employees do not work a great number of overtime hours, this statement is confined to the overtime hours worked by our hourly employees during 1963. In 1963, our hourly employees worked approximately 4 million hours beyond 40 per week. If these overtime hours could have been worked by additional employees hired on a permanent basis, our company could have saved, based upon 1963 wage rates, approximately 75 cent per overtime hour, or approximately \$3 million in 1963. Obviously, if this overtime could have been avoided and this saving could have been made by hiring additional employees on a permanent basis, it would have been done. As shown below, however, this overtime could not be so avoided. The reasons for which these approximately 4 million hours of overtime were incurred in 1963 were as follows: (1) continuous operation; (2) absenteeism; (3) levels of business; (4) rush orders; (5) equipment and machinery breakdown.

(1) *Continuous operations.*—Of these 4 million overtime hours, approximately 2 million have resulted from continuous operations which are necessary in the major segment of our business. If these overtime hours were paid at double time rather than at time and one-half, increased costs, based upon 1963 wage rates, of approximately \$2,600,000 would result.

By continuous operations, we mean that there are certain operations which, when started, must be continued without interruption. For example, when glass furnaces are in operation, they must be operated continuously. If glass operations are stopped and started on a weekly basis, time and production would be lost while waiting for temperature conditions to become stabilized. Thus, our glass plants must operate on a 24 hours per day, 7 days per week schedule. Since a week consists of 168 hours, we have met this scheduling problem by dividing

the work force into four shifts, three of which work 40 hours and one 48 hours per week. These shifts are then rotated in such a manner that each works a 48-hour week 1 out of 4 weeks.

Continuous operation in the manufacture of glass products has long been recognized by employees and employers alike as an absolute necessity. Thus, one, among others, of the multiemployer collective bargaining agreements to which our company is a party specifically provides: "Recognizing the need for continuous operation, the union agrees to continuous operation for the term of this contract. * * *" If the glass furnaces were operated without production or were started and stopped merely to avoid overtime, our manufacturing costs would be increased substantially to the point where we could no longer compete with metal, paper, and other types of packaging materials.

In our efforts to eliminate this overtime necessitated by continuous operations, we have analyzed every known method of scheduling and have even devised some of our own. Each of these other methods of scheduling, however, is far less satisfactory than the one we are presently using. If there were an acceptable alternative to our present method of scheduling this overtime, we would now be using it. Accordingly, if the present bill were to become law, we would simply have to continue to schedule these employees for overtime work, pay them at the penalty rate, and attempt to recoup those penalty payments by charging higher prices for our glass products.

(2) *Absenteeism*.—Of the remaining 2 million overtime hours, approximately 1,500,000 have resulted from absenteeism. That is, an employee works overtime as a result of another employee's being absent from work. If these overtime hours were paid at double time rather than at time and one-half, increased costs, based upon 1963 wage rates, of approximately \$1,900,000 would result.

Where we have large numbers of employees doing the same jobs we, of course, now maintain extra employees to cover daily absences. But we have hundreds of job classifications, many of which are skilled or semiskilled, in which we employ only a very few employees on each shift. Since we do not know from day to day which employees are going to be absent, it would be extremely costly to have extra employees to replace an absent employee in each and every job classification on the off chance that one from each job classification might be absent on any given day.

(3) *Levels of business*.—Of the remaining 500,000 overtime hours, approximately 200,000 have resulted from uncontrollable variations in the levels of business in our corrugated box plants. If these overtime hours were paid at double time rather than time and one-half, increased costs, based upon 1963 wage rates, of approximately \$250,000 would result.

By levels of business, we mean that there are many occasions when the number of employees and the amount of equipment do not precisely match the number of orders at a given time. Thus, our general level of business may be such for a period of time that there is temporarily more than enough work for one shift but not enough for two shifts, or more than enough work for two shifts but not enough for three shifts. In our corrugated box plants, the level of production is controlled by the number of corrugators. One corrugator can produce approximately 2,400,000 square feet of corrugated paper in 40 hours. If a plant has orders for 3 million square feet per week, the corrugator must be operated for 50 hours per week and this results in 10 hours of overtime for each employee. Additional equipment or additional employees will not eliminate this overtime.

There are no ready answers to scheduling problems such as these. Absent clairvoyance as to what our customers' requirements will be at a given time, the only practical method by which this business can be serviced is by having our present employees work overtime. Despite the most careful planning, such overtime cannot be avoided.

(4) *Rush orders*.—Overtime is often necessary as a result of rush orders. The meeting of such rush orders has long been a trademark of this Nation's competitive economy. Need it be stated, if one does not fill a customer's rush order, that order, as well as the customer's future orders, whether rush or not, will be taken to a competitor who will.

This is a particularly significant factor in the operations of our corrugated box plants, where approximately 100,000 of the remaining 300,000 overtime hours in 1963 were worked to fill rush orders. If these 100,000 overtime hours were paid at double time rather than at time and one-half, increased costs, based upon 1963 wage rates, of approximately \$150,000 would result. The nature of

the corrugated box business is such that a variable number of hours must be worked a great deal of the time. Customers of corrugated boxes require and demand quick service. It is not unusual for a customer to call late one afternoon for a truckload of boxes to be delivered the next morning; in such an event, it is often necessary to hold over printing and finishing crews beyond their scheduled hours in order to make the delivery. Again, many times it is necessary to operate on Saturday to meet Monday morning rush deliveries as a result of Friday afternoon orders. In addition, sometimes the number of rush orders will be such that some overtime is temporarily necessary because there is not sufficient equipment to avoid it. Simply stated, we have no alternative other than to attempt to meet such rush orders through overtime if we intend to retain the business of such customers.

(5) *Equipment and machinery breakdowns.*—Nearly all of the remaining 200,000 hours of overtime has resulted from equipment and machinery breakdowns. For example, a glass-forming machine may break down when the mechanic who would normally tend such a machine is off duty; obviously, at a time such as that, the company's first and wisest choice, if indeed it may be called a choice at all, is to call in that mechanic, penalty payments or not, so that idle time for employees, including possible layoffs, and loss of production might be minimized. As with the above causes of overtime, we cannot eliminate overtime as a result of breakdowns since we have no control over the causes thereof. If these 200,000 overtime hours were paid at double time rather than at time and one-half, increased costs, based upon 1963 wage rates, of approximately \$250,000 would result.

In summary, the above five causes of overtime were the reasons why our company's hourly employees worked approximately 4 million overtime hours during 1963. If these overtime hours had been paid at double time as required by this bill rather than at time and one-half, increased costs, based upon 1963 wage rates, of approximately \$5,150,000 would have resulted. This is a sizable sum of money to ask one company to absorb or pass on to the buying public.

To state the obvious, legislation, including that now under consideration, cannot eliminate such causes of overtime as the foregoing. The pending legislation, which cannot be deemed as a positive approach to the creation of additional jobs, would merely attempt to force employers to spread existing work to a greater number of employees. Based upon our own experience, we seriously doubt that such an effect, even if it were a desirable goal, would be realized. If the present bill proceeds on the assumption that employers would hire additional employees and would pay them on a full-time basis for working only when overtime would otherwise be required of present employees, the bill is obviously based on an unsupportable foundation. The economics of competitive survival simply do not work that way. Similarly, if the present bill proceeds on the assumption that employers would and could hire additional employees to work and to be paid for such work only on a standby basis, the bill is based on an equally unsupportable foundation. We have rarely been able to find prospective employees who were willing to work on such a standby basis. In addition, we have rarely been able to find prospective employees who, even if they were willing to work on such a basis, had the necessary abilities to do the work required in the vast majority of situations when overtime is required. This is true with respect to every segment of our operations because highly skilled employees are required in each.

In view of the foregoing, we cannot believe that the present bill, if it were to become law, would or could materially change our present practices in assigning overtime work. To the contrary, we firmly believe that we—and presumably other employers as well—would simply be forced to pay the penalties involved and would then be forced to attempt to raise the prices of products manufactured under such a law. When proposed legislation which is purportedly directed at unemployment will not create additional jobs for the unemployed, will not in all likelihood even spread existing work to the unemployed, and will in all likelihood have as its only substantial effect the raising of prices, it is difficult to perceive how much legislation could be in this Nation's best interests. As a solution, or even a partial solution, to this Nation's unemployment problems, the present inflationary and punitive bill is economically unsound, highly unrealistic, and totally inadequate.

Consequently, we firmly believe that the passage of H.R. 9802 would be clearly detrimental to this Nation's best interests, and we respectfully submit that H.R. 9802 should not be recommended for passage.

STATEMENT OF ROCHESTER, N.Y., CHAMBER OF COMMERCE

The Rochester Chamber of Commerce, acting on a recommendation from its governmental affairs council, has discussed a proposal that requires double time pay for overtime work. This proposal has been given administration support and is contained in H.R. 9802 and S. 2486.

Under the proposal the Secretary of Labor would be empowered to establish tripartite boards composed of business, labor, and public representatives who would determine in which industries overtime work is excessive. The Secretary could then declare that such industries would be required to pay double time for overtime work, and his decision would not be subject to the jurisdiction of the courts.

The Rochester chamber acknowledges that unemployment is a problem in the United States and that the bill under discussion represents an attempt to provide a partial solution to the problem. The extent and seriousness of unemployment in the United States is not yet clearly defined and is currently undergoing study. Although much remains to be determined about the incidence of unemployment, it is probably correct to say that it is particularly high among the unskilled and that its effects are more apparent in specific parts of the country which are usually referred to as distressed areas.

With reference to these two known aspects of unemployment, we believe that the proposed double time bill is not the answer to the problem and may even accentuate it. In the first place, most industries using overtime are those which employ primarily skilled labor and which, even under the penalty of double time pay for such overtime, would not be able to hire unskilled workers to accomplish the necessary processes. In the second place, the proposal attempts to attack the problem on an industrywide basis rather than on a geographic basis. So the bill cannot be of specific help either to the unskilled or to distressed areas.

It is an economic fact that in a competitive market producers are constantly seeking ways to reduce their unit cost of production. Any large increase in labor costs acts as an incentive to further mechanization. So the proposed bill, far from providing additional employment, may actually encourage its curtailment.

For the reason stated above, the Rochester chamber has previously indicated its opposition to arbitrarily determined minimum wages. In a free market economy, where employers and employees arrive at wage rates that reflect an economic balance between supply and demand, there is less likelihood of widespread unemployment than where Government attempts to dictate the level of labor costs. The proposed bill is a form of Government control which we believe to be impractical in the attack on unemployment.

The Rochester chamber does not claim to have complete answers to the problem of unemployment. But in the two best recognized aspects of unemployment, that of the unskilled and the so-called distressed areas, we are of the opinion that training and retraining provide an important part of the solution. We supported this portion of the "distressed area legislation" of 1961 and we believe that insufficient attention has been paid to this part of the program. Within industry itself, most large concerns and many small ones conduct intensive training and retraining programs with great success. We believe that this type of education is a basic necessity in solving the unemployment problem.

Finally, we recommend opposition to this particular bill now under congressional review because of its dictatorial infringement of individual rights. No matter how well intentioned the proposal may be, it rests final authority with an administrative department and prevents redress of inequities through established legal processes.

In summary, the Rochester Chamber of Commerce has adopted the following policy on the double time pay bill:

- (1) Commendation of the administration's attempt to solve the unemployment problem;
- (2) Opposition to H.R. 9802 as an ineffective solution to the problem;
- (3) Endorsement of training and retraining programs for the unskilled, especially in distressed areas; and
- (4) Opposition to any program which would circumvent judicial review.

STATEMENT ON BEHALF OF THE MILLERS' NATIONAL FEDERATION

This statement is presented in behalf of the membership of the Millers' National Federation, who produce approximately 90 percent of all U.S. flour and substantial quantities of related products.

The milling industry is unalterably opposed to the proposed changes in penalty overtime legislation. For background information, the milling industry as compared to other national industries is not a large employer. As of January 1964, there was a total of only 22,000 wage workers employed in the entire industry within the continental United States.

NEW JOBS WOULD NOT BE CREATED

The theory that jobs will be created for people presently unemployed by forcing the milling industry to pay double time or more, instead of the present time and one-half, is unsound. It would have little or no effect as far as increasing employment is concerned and could, in some instances, even decrease the number of people in milling work. Overtime work in the industry is sporadic rather than regularly occurring. It is used to solve problems of production scheduling, weekend maintenance and sanitation work, or to take care of emergency situations such as repairs necessitated by breakdowns. It is obvious therefore, that this kind of work, because of the uncertainty of the time of its occurrence or its duration, does not offer a source of employment for the creation of jobs. Rather, the obvious way for the industry to get this work done is to give it to employees who are already working, on a fairly regularly assured basis. It is planned overtime only in the sense that we know it will be required, but we do not know when or for how long. New employees could not be trained and be expected to stand by waiting for this haphazard way of earning a living.

PRODUCTION COSTS WOULD BE INCREASED

While it would not help unemployed people to obtain jobs, it would definitely increase the costs of production. In an industry such as flour milling, where profit margins are in the area of 2 percent of sales or below, management of necessity is acutely sensitive to increased labor cost. Any increase in present overtime pay penalties would merely serve to increase production costs. A major portion of the flour millworkers are now covered by collective-bargaining agreements which require premium pay for work such as Sunday work, holiday work, and work on Saturday, as such. The contracts further contain provisions which prohibit the use of swing shifts or suggested worksheets to deprive men of overtime they would otherwise receive. There is a traditional and delicate relationship between the premium pay rates previously mentioned and the regular time and a half for overtime work. Any increase in the regular overtime rates will reflect itself in demands to increase these other premium pay rates in order to reestablish this balance, further increasing production costs.

COMPETITION WOULD BE DISTORTED

Competitive relationships within the industry would be distorted since the proposed overtime penalties would not apply to companies not engaged in interstate commerce. Competitive labor supply relationships between various industries, often within the same town, would also be distorted under the selective aspects of the proposed changes.

ECONOMIC AND SOCIOLOGICAL PROBLEMS WOULD BE AGGRAVATED

Increased production costs would further aggravate the competitive disadvantage of U.S. wheat products in foreign markets and could raise U.S. flour prices. As production costs increased, management's attention would have to center on increased volume with less people. As overtime would be cut back due to higher penalty costs, workers would have to center their attention on "moonlighting" and on pressure for increased wage rates in order to maintain earnings.

We are convinced the proposed changes, if applied to the milling industry, would solve no problems; they would only create new problems and aggravate old problems.

STATEMENT OF DAVID J. McDONALD, PRESIDENT, UNITED STEELWORKERS
OF AMERICA

I regret that I am unable to appear before the subcommittee in person, but I appreciate the opportunity to have my views on H.R. 9802 and related bills placed on the record. The United Steelworkers of America has a genuine interest in the matter of double time for overtime, not only for the help it would be to unemployed steelworkers, but for the beneficial effects which we anticipate the legislation will have on the total economy.

We note with some regret and with considerable apprehension that we are in the seventh year of high, uninterrupted unemployment in our economy. The unemployment rate has been 5.5 percent or higher since, and including, 1958. It was greater in 1963 than it was in 3 of the previous 5 years; and the 5.7-percent rate of 1963 does not take cognizance of the large amount of part-time unemployment or the many withdrawals from the labor force. If it did, the 1963 rate of unemployment would show up considerably higher, as would the rates of previous years.

We share President Johnson's optimism with respect to the stimulating effects of the recent tax cut. The additional spending power in the hands of millions of consumers should generate increases in income and employment. The evidence of greater capital investment spending planned by business is another encouraging sign.

We hope that progress will be made this year in cutting the high level of unemployment. The President's Council of Economic Advisers expects the rate to fall to 5 percent by the end of this year. However, it is conceded that, even when the full effect of the tax cut is felt in 1965, there will still be substantial unemployment. Thus the tax cut alone certainly will not solve the problem.

The Housing Act of 1961 and the improvements of the Fair Labor Standards Act in the same year did not solve it either. But each made a contribution. Neither the Area Redevelopment Act alone, nor its hoped-for expansion this year, cured or will cure unemployment. But, again, a vital contribution has been made. More public works expenditures and more manpower training legislation in and of themselves will not bring about full employment. But their omission will make that goal much more difficult to attain.

By the same token, a penalty rate of double time for overtime under the Fair Labor Standards Act will not be the total answer. But it will create job opportunities. I am convinced that it will create job opportunities in the steel industry. I say this because of data recently made available which show that in 1963, when there was a sharp upsurge in production, there was also a sharp upsurge in overtime hours worked, and almost no increase in employment. Overtime hours increased by more than 37 percent while employment increased by less than 1 percent. I am equally convinced that a double time penalty will create job opportunities in many other industries under our union's jurisdiction, and that it will have a broad job-creating impact in the economy generally.

A shortening of straight time hours of work without loss of earnings is an essential element in spreading work and, thus, in reaching the goal of full employment. We believe this firmly in the Steelworkers Union, and to this end we have sought to achieve this goal, to the degree that we can, through collective bargaining. The extended vacations won for employees in the basic steel, aluminum, can manufacturing, and other metal fabricating industries are an example of our effort to translate our convictions into action by reduction of the annual work periods.

Another example of our ability to expand employment opportunities through collective bargaining is the encouragement we have given older employees to retire by enlarging the benefits available to them on retirement. A further example is the machinery we have established in our agreements for joint discussions at the plant level to seek to temper the amount of overtime worked while employees are laid off or working short weeks. But these measures provided through collective bargaining are only a few of several approaches that must be made to solve the problem of high unemployment.

While these provisions make a dent in unemployment, they cannot solve the problem by themselves. The reduction of overtime hours by legislation on an across-the-board basis is a further necessary and important approach. Its importance is evidenced by the fact that the volume of overtime hours is growing while unemployment remains at extremely high levels. Collective bargaining cannot move quickly enough, or broadly enough, to have the needed immediate

impact. Labor Department data indicate that overtime hours are at their highest level since 1956. A comparison of 1957 and 1963 shows that overtime hours in manufacturing industries rose more than 16 percent, and at a time when the rate of unemployment in the economy rose from 4.3 percent of the labor force to 5.7 percent and the absolute number of unemployed workers increased from less than 3 million to over 4 million.

It is clear that the penalty provision under Fair Labor Standards Act is no longer operating as intended by the Congress in 1938. The legislative intent was clearly that of reducing the length of the workweek in order to spread work among a larger number of employees. In its application, the act had precisely that effect. That purpose, however, is obviously no longer accomplished by a penalty overtime rate of time and one-half. Employers who are faced with a decision to work employees overtime, or to recall laid-off employees or hire new employees, tend all too often to do the former. With proper production planning and work scheduling, they could, in numerous situations, choose instead to add employees.

Relative costs are a factor in their decisions. The significant development of fringe benefits in union agreements, and their extension into unorganized industries, have in many instances made it less expensive for the employer to work employees overtime. To be sure, some overtime work is unavoidable because of a temporary influx of orders, unavailable additional machinery and equipment, breakdowns, or other similar bottlenecks. One of the reasons often asserted by industry for use of overtime is the need to man vacancies caused by employee absenteeism. However, this problem could be alleviated by additions of employees to the work force who would be regularly available to fill in for such vacancies which are largely predictable. This practice was commonplace in prior years before excessive pruning of the work force was instituted.

Much of the overtime work with which we are familiar can be avoided if the proper stimulus is exerted on the employer. Cost is just such a stimulus. By this I mean that if employers know that, as a matter of law and public policy, the cost of the premium for overtime hours will double, they will be encouraged to take the steps necessary to reduce this element of the costs. An across-the-board policy for all of American industry will have the necessary impact required to set the wheels in motion for a reduction of overtime hours. Half measures which do not extend the penalty to all industries or which may not be effective for many years to come, will not supply the needed incentive of a quick cut in overtime hours.

To the extent that overtime hours can be eliminated by adding extra employees at straight time, a double-time penalty would increase employment with only a moderate cost impact on employers. This is because, even in industries with high-fringe benefits, the cost of straight time plus fringe benefits attributable to such extra employees would be substantially less than double time for overtime hours.

It is true, as I noted above, that not all overtime hours can be eliminated. Yet, not all such overtime hours need raise costs since a portion might fall within exceptions to the double time penalty for certain types of unavoidable overtime, such as the "extraordinary emergency" exceptions contained in H.R. 9802. Hence it is only to the extent that overtime hours can neither be eliminated nor covered by exceptions, that the double time penalty will raise costs to the extent of doubling the premium rate. I am confident that the unavoidable overtime hours which would thus be subject to double time would be a minority of the overtime hours currently being worked.

Thus, I would urge this committee not to be sidetracked from its main purpose by the possibility of a modest increase in costs. For example, in the basic steel industry, if the double time penalty had been in effect from 1960 through 1963, and not a single overtime hour worked had been eliminated, the cost would have averaged less than 5 cents per hour.

The major purpose of this legislation is to create jobs. In prior testimony before this committee, it has been stated that some, if not most, of the present overtime can be translated into new jobs without reducing efficiency. I am convinced that this also applies to many of the industries under our union's jurisdiction.

In the testimony of Labor Secretary Wirtz, the case of iron and steel foundries was cited as an example of an industry whose employment force has been reduced in the past several years, while overtime hours have been increased or remained high. While we do not have sufficient detailed data for all of the

industries in which we have substantial representation, we do know from the limited data available to us that iron and steel foundries is not the exception.

For example, on the basis of limited data for a typical workweek in the operations of the leading aluminum producers, we have found that overtime hours worked are in the neighborhood of 5 to 10 percent or more of total hours worked. Even when Sunday hours (already premium hours) and those hours on continuous operations are removed from the comparison, a substantial number remain which could be eliminated by the recall or hiring of additional employees.

More detailed data are available for the basic steel industry. The American Iron & Steel Institute (AISI) publishes overtime figures on a monthly and annual basis for the bulk of the industry. The accompanying table presents a breakdown of the adjusted figures for wage employees for the period 1956-63.

Overtime hours in basic steel follow the trend of overtime hours in all manufacturing industries. As would be expected, however, the magnitude of the year-to-year changes is more pronounced in steel.

For the full year 1963, a total of 33.2 million production and maintenance (P. & M.) overtime hours were worked. This is the largest volume of overtime hours worked since 1957, with the exception of the year 1959. The 116-day strike in 1959 caused a distortion in the figures because of the heavy buildup of inventories preceding the strike, and the artificially high operating rate for the remainder of the year following the strike. A comparison of overtime hours for 1957 and 1963 shows a reduction of only 7.7 percent, while production and maintenance employment dropped from 535,200 to 412,000—or a decline of 23 percent. The production of steel ingots fell only 3.1 percent during the same period. Thus, while overtime hours and output fell only slightly during this period, employment itself dropped sharply.

Perhaps more significant is the trend in the proportion of P. & M. overtime hours to total P. & M. hours worked in the industry. In 1956, a strike year, overtime hours constituted 5 percent of total hours worked. This proportion declined to 3.5 percent in 1957, and reached a low point of 2 percent in 1958. From the low point in 1958, overtime hours as a proportion of total hours worked gradually, but steadily, increased until a level of 4.1 percent was reached in 1963. (Again, this comparison omits the distortion in 1959 caused by the 116-day strike.)

It is clear from these figures that the industry has placed a greater reliance on overtime work during this recent period—a period when the basic steel labor force was declining and was at a level which would once have been considered a depression level.

It is our conviction that a substantial portion of these overtime hours are avoidable. The overtime hours cannot be attributed to lack of facilities. One-third or more of the plant and equipment of the basic steel industry has been idle, on the average, during the past 6 years. Even during the peak runs in the months preceding negotiations, in which the operating rate has risen significantly, there has been ample excess capacity to make overtime work largely unnecessary.

The unavailability of manpower is not, and has not been, a limiting factor in basic steel that would necessitate overtime work. The industry has always had available to it the option of recalling unemployed steelworkers instead of working overtime. The employed steel labor force (P. & M.) had, by 1963, dropped by more than 125,000 employees as compared with the average in the period 1947-57; and the incidence of unemployment in steel in recent years has been both pervasive and extensive throughout most of the "steel towns" in the Nation. Steel's unemployment rate has exceeded the national average rate for most of the last 6 years. There has been occasional evidence of a temporary shortage of particular skills in some steel-producing localities, but this is not prevalent or frequent enough to explain the growing proportion of overtime worked in the industry. Moreover, a more adequate training and apprenticeship program will avoid this problem.

Certain segments of steelmaking operate on a continuous basis, and for this reason it is sometimes believed that overtime payment is unavoidable for weekend work. This is not true in steel because of the prevalence of shift rotation and other scheduling arrangements. By these arrangements, the employer is able to schedule work on weekends as normal workdays without overtime premium pay.

The accompanying table lists the number of additional jobs which would have been available to steelworkers in each year since 1956 if no overtime was worked and if overtime hours were completely translated into new jobs. If even 10,000

of the 17,800 potential new jobs shown for 1963 were actually made available as new jobs, it would be a welcome and significant addition in an industry whose employed labor force has diminished so sharply in recent years. It would represent an increase of about 2½ percent in steel industry employment. A similar increase in employment in the total nonfarm sector of the economy would mean between 1 and 1½ million additional jobs.

We need jobs. They can be created by such means as an increase in demand, by a continued shortening of the hours of work—either by the day, week, or year—and by the elimination of overtime hours.

We need jobs now. Not only are they needed in steel, but also in the many industries and communities that are needlessly burdened by the heavy weight of unemployment.

Workers are increasingly apprehensive about the juggernaut of unemployment. Their feeling is no longer one of "if unemployment hits me," but "when unemployment hits me." Our members have demanded an end to overtime as a job-creating measure for years.

The solution to the unemployment problem in America is not simply an economic necessity; it is a moral imperative. I am fully in accord with the statement by Labor Secretary Wirtz that " * * * full employment is not just going to happen in this country. Part of the difficulty has been in not emphasizing full employment enough as an end in itself."

H.R. 9802 is not a panacea; but it is a step in the right direction. We trust that this body will view it as such a step. We strongly endorse it with the appropriate strengthening modifications called for by the AFL-CIO.

Thank you, gentlemen, for the opportunity to submit this statement on such a vital measure.

Basic steel industry: Selected annual data on employment and hours for wage employees (1956-63)

Year	Total man-hours (thousands) (adjusted)	Total overtime hours ¹ (adjusted)	Average employment ¹ (adjusted)	Average overtime hours worked per employee	Number of jobs lost to overtime ²	Proportion of overtime hours to total hours
						<i>Percent</i>
1963-----	802,851	33,193,800	412,100	80.5	17,773	4.1
1962-----	780,992	24,115,200	409,200	58.9	13,037	3.1
1961-----	789,236	22,532,500	413,400	54.5	12,150	2.9
1960-----	862,665	24,024,400	461,800	52.0	13,229	2.8
1959-----	804,731	41,380,300	418,200	98.9	22,669	5.1
1958-----	796,223	16,299,300	433,200	37.6	9,053	2.0
1957-----	1,038,450	35,947,500	535,200	67.2	19,191	3.5
1956-----	1,081,249	54,217,500	536,000	101.2	28,296	5.0

¹ Rounded to hundreds.

² Total overtime hours divided by average annual straight time hours worked per employee.

NOTE.—Data on P. & M. man-hours, overtime hours, and employment are published by the American Iron & Steel Institute. These data have been adjusted to include 100 percent of the industry; using a straight line projection of the AISI data in each year (AISI data for the years used above cover approximately 95 to 98.4 percent of the industry).

PETERSON'S NURSERIES,
Lakeland, Fla., April 13, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
Cannon Office Building, Washington, D.C.

DEAR MR. HOLLAND: We are concerned about H.R. 9802 which is being heard by your committee, and wish this statement to be made a part of the hearings. The Florida Nurserymen & Growers Association, with 946 members represents the majority of the production of horticultural and floricultural nursery crops in the State of Florida.

Our concern with this or any legislation being considered by the Congress is with restrictions by law or regulation that inhibit or limit those which have a long and historic record granted to citizens who are engaged in agriculture. We also seek to preserve the rights of our members who have a lifetime investment of occupation, time, capital, and property in an agricultural field, to free and unhampered conduct of their business.

On page 2, line 9, and on page 4, line 21, are the words "any industry." If the context "any industry" means what it says, then it means any or all industries without exception. If this is the true nature of coverage of this phrase, we object to its inclusion in this proposed law.

The production of growing crops is at all times subject to the whims of nature and the elements over which any control is variable and limited. Careful and diligent husbandry of growing crops is often to no avail when the caprices of nature take over.

Agriculture needs many in its work force to perform menial and unskilled labor, and for these purposes, employees, those who have to labor with the lack of skill required for these jobs, in other industries. We use in our production those who cannot be used elsewhere, thus we are supplying jobs to persons who would otherwise be unemployed. If and when many of this labor group acquire training and skills they are moved up to more rewarding jobs, but until this state of production ability is reached, these laborers are not producing profitable labor that would justify the payment of double time for any overtime beyond the normal workday or workweek.

Please reply to this statement and furnish any information that will help us understand the purpose of this legislation as it affects our industry.

Most sincerely,

N. CURTIS PETERSON, Jr.,

Legal and Legislative Committee, Florida Nurserymen & Growers Association.

RESOLUTION—GEORGIA INDEPENDENT MEAT PACKERS ASSOCIATION, APRIL 13, 1964

Whereas this organization represents the average small businessman in Georgia; and

Whereas this organization is in sympathy with President Johnson's program to increase employment; and

Whereas we have as a group studied the provisions of H.R. 9802, the Overtime Penalty Pay Act of 1964; and

Whereas we are agreed that the provisions of this bill will not accomplish the desired effects of the administration in that we believe this bill would not create jobs, would encourage more automation, would cause fluctuations in employment, would probably increase absenteeism, would increase fringe benefit costs, and would increase production cost for small business: Now, therefore, be it

Resolved, That this organization unanimously opposes the provisions of H.R. 9802 because of the adverse effects it will have on small independent businesses.

JOHN B. MANLEY, Jr.,

Executive Secretary.

STATEMENT OF ARMSTRONG CORK CO.

The Armstrong Cork Co., with headquarters in Lancaster, Pa., manufactures resilient flooring, building materials, consumer products, industrial specialties, and packaging materials. Its annual sales exceed \$340 million, total assets over \$234 million, with 17 plants in 11 States and a number of subsidiaries located both in this country and abroad. Armstrong's average total employment in the United States in 1963 was 15,811.

We appreciate this opportunity to present our views on this important legislation now under consideration by the Holland subcommittee. The alleviation of unemployment is vital to the Nation's economic health, and we would strongly support sound proposals that would help achieve this goal. The stated purpose of H.R. 9802, the Overtime Penalty Pay Act of 1964, is "to increase employment by providing a higher penalty rate for overtime work."

We do not believe H.R. 9802 would achieve this purpose. Instead, we believe it would—

1. Cause increased fluctuation in levels of employment;
2. Generate a great amount of employee dissatisfaction; and
3. Result in inflation.

Manufacturing situations which require the use of overtime hours vary widely from industry to industry and can also be quite dissimilar between companies, plants, and even operations within plants in the same industry. We propose to cite specific examples of our use of overtime in 1963—and the reasons in each case—to illustrate the varied nature of overtime. As a company, we have not “abused” overtime. Our production employees in the period 1956–63 averaged 42.2 hours of work per week. Yet, where overtime was worked in our plants, there were considerations involved that would have precluded the hiring of additional workers to eliminate it.

STABILITY OF WORK FORCE

For many years we have worked hard to achieve stability of our work force in our 17 plants. This is not only desirable from the standpoint of the employee, his family, and the community, but also leads to greater utilization of skills and improved plant efficiency. Through market research, sales forecasting, production planning, and plant scheduling we have operated our plants at as uniform a level of production as possible. We have also built extensive warehouse facilities at all of our plants so that during periods of slack demand, plant work schedules would not be subject to those wide fluctuations which force frequent layoffs and rehires. Steady employment keeps morale at high levels and results in good employee relations.

Among other products, we manufacture asphalt and vinyl asbestos floor tile. Normally, our four tile manufacturing plants have three 8-hour shifts per day, Monday through Friday—in short, a 5-day workweek. In periods of exceptionally good business, a sixth day of Saturday overtime is scheduled in order to maintain prompt customer service. The following is the 1963 actual operating schedule for 1 of our tile plants which maintained a work force of 240 men divided into 3 crews approximating 80 men per crew:

	<i>Days per week</i>		<i>Days per week</i>
January-----	6	July-----	6
February-----	6	August-----	6
March-----	6	September-----	6
April-----	5	October-----	5
May-----	5	November-----	4
June-----	6	December-----	5

According to the theory of H.R. 9802, this overtime would be eliminated by hiring additional men. To do this, we would have to hire 80 men in January and lay them off in April, and then hire another group of 80 men (not necessarily the same men) in June and lay them off in October. Our experience indicates that neither temporary employees nor regular employees would have liked this. Temporary employees would have been unhappy because they dislike being subject to frequent hires and layoffs. They also dislike being classed as a temporary employee on layoff from one plant because it makes it difficult for them to become regular employees at some other plant. The 240 regular employees would have disliked it even more because their workweek would have been cut from 48 to 36 hours for the period from January through March and from June through September.

That's the way the schedule would have worked out. During periods of 6-day operation of the plant, there are 144 hours of work—24 hours per day times 6 days equal 144 hours. When there are three rotating crews, each working 8 hours per day, 6-day operation gives them 48 hours of work per week. By adding a fourth rotating crew for the purpose of eliminating overtime, this total of 144 hours must be divided 4 rather than 3 in order to distribute the work equally to all. This means that each of the four crews work 6 hours per day, 6 days a week for a total of 36 hours.

When we say that the 240 regular employees in this plant would have disliked having their workweeks cut in such fashion, we are not theorizing. We know it to be true from actual experience. Here is but one example which occurred in 1958 in our largest plant, located in Lancaster, Pa. The union representing the production employees proposed a so-called share-the-work program to reduce the amounts of overtime work for various groups of active employees. When the union proposal became generally known among the employees in the bargaining unit, a strong reaction against the proposal developed and was made known to us through the day-to-day contacts between the foremen and em-

ployees. We submitted a counterproposal to the union indicating a willingness to reschedule vacations to other than peak vacation months (June, July, and August) which would enable us to immediately reemploy—for 3 to 4 months—approximately 100 men previously laid off. The union considered the proposal, took it before a membership meeting, rejected the proposal, and did not again attempt to negotiate a share-the-work program.

If the Overtime Penalty Act of 1964 were to be enacted and applied at the tile plant referred to here, in all probability, we would not hire for the temporary periods of increased activity. Instead, we would: (1) pay the double time penalty rate, thus providing a windfall to those individuals already employed; and (2) aggressively seek the means, through further laborsaving mechanization, to reduce the crew size necessary to operate the plant. The obvious effect, then, of all this would be to reduce total employment in our plants, not increase overall employment as the sponsors of H.R. 9802 expect.

UNAVOIDABLE OVERTIME WORK

Armstrong operates two relatively large glass-container plants which run on a continuous basis, 24 hours per day, 7 days per week. The glass furnaces must operate continuously for the plants to keep material losses and production downtime at a minimum since considerable machine time and production would be lost each startup while waiting for molten glass temperatures to stabilize. In order to change the operating level of our glass plants, the number of machines "pulling" glass are reduced from, say, 23 to 19 rather than the more common method in some industries of reducing the number of days in the workweek or cutting the number of shifts per day.

In scheduling our glass plants on a 24-hours-per-day, 7-days-per-week continuous basis, it has been necessary to provide a work force consisting of four crews so as to cover three 8-hour shifts, 7 days a week. The four crews rotate week by week according to a standard 20-week work schedule. A typical schedule is attached to this testimony (exhibit A).

The plant operates 168 hours per week—which is 7 days times 24 hours per day. This total divided equally among the four crews gives them an average of 42 hours of work per week. Note, however, that this is an average and not the actual amount worked by any crew in any week, because it is not practical to work fractional parts of a shift. A 42-hour week would mean working 5 days plus 2 hours on the 6th day. The only way 42 hours could be worked in a week would be to have crews work 6 hours per day, 7 days per week, and this is wholly unacceptable to the men. Therefore, the crews work 5 days some weeks (40 hours) and 6 days some weeks (48 hours), and over the period of the 20-week cycle, each crew averages 42 hours per week.

Additionally, some overtime that individual employees work in our glass plants is on a daily rather than weekly basis. It results from absenteeism rather than from the plant's work schedule. When a plant is operated on a 3-shift continuous basis and an employee does not report for work, his or her counterpart on the previous shift must be held over and continue working so there will be no interruption in production. Usually this held-over employee works 4 hours overtime and the employee on the next shift is called in 4 hours early to cover for the absent person. This overtime work is beyond the control of our plant management.

The types of employee absences for which the departmental shift foreman receives no notification are "family reasons," "AWOL's," "death in family," "adverse weather," "no transportation," and "no babysitter." During 1963, one of our glass plants experienced 1,206 man-days of "no notification" absences for which the plant was forced to pay overtime premium to other employees in order to avoid production shutdowns.

In view of the above unavoidable overtime work encountered in our glass plants due to continuous scheduling of the work force, increasing the overtime penalty from the present time and one-half to double time would raise costs of production at a time when the competitive position of these glass plants has already been impaired by cost rises. We have had to absorb increased labor costs in recent years because of the extremely competitive situation within the glass industry and also because of competition from other types of packaging materials; such as, plastic, metal, paper, and fiber containers. Uneconomic increases in labor costs since 1950 in the glass industry have been one of the major causes of plant closings, relocations, and the present unemployment situation in these plant communities.

SHORTAGE OF SKILLED WORKERS

At our larger Lancaster plant, we have a unit identified as the mechanical shops department. This unit is manned principally by highly skilled craftsmen such as tool and die makers, machinists, millwrights, electricians, pipefitters, welders, and related crafts. Of the total 378 skilled personnel in this department, 70 are graduates of the company's formal apprenticeship training program and, of the remaining 308, the majority acquired their skills through on-the-job experiences. Presently, we have 30 apprentices enrolled in the training program.

In early 1962, management decided to add 35 skilled craftsmen to this force over and above those who would graduate from the apprenticeship training program. Since that time, our employment office has worked with the State employment offices at Lancaster, York, Harrisburg, Reading, Lebanon, Johnstown, Berwick, Bethlehem, Wilkes-Barre, and Sunbury, Pa., trying to locate qualified skilled people. Some of these offices are more than 150 miles away from Lancaster. We have also placed want ads in newspapers in these various cities. Armstrong's pay rates and benefits for these jobs are good. But today, almost 2 years later, we have not been able to secure the men needed.

Our recruiters inform us that in areas of high unemployment—where unemployed skilled personnel were available—some of our job offers were turned down on the basis that income from supplemental unemployment benefit programs coupled with unemployment compensation was sufficiently attractive to keep the applicants rooted to their home areas, as unemployed persons.

Meanwhile, our skilled craftsmen continue to work relatively large amounts of overtime.

Our experience in this instance is typical. Other firms have had similar difficulties in searching for skilled craftsmen. One factor contributing to the scarcity is that unemployment compensation and supplemental benefits provide an incentive for the unemployed to turn down bona fide job offers.

It is interesting to note that the Government has the problem, too. The March 13, 1964, issue of the Wall Street Journal noted that the U.S. mint sought an additional \$500,000 to permit weekend work. The article stated, "officials insist they can't find new skilled labor easily."

In the light of this general situation, we believe the Overtime Penalty Act providing for double time payments would provide a windfall for the skilled workers presently employed but not increase the number employed. Virtually all qualified workers who are willing to work are presently employed. The net effect of the higher penalty would be to increase manufacturing costs and put greater inflationary pressures upon the economy.

INCENTIVE FOR INCREASED MECHANIZATION

Our company tests the feasibility of making investments in plant machinery and equipment on the basis of the time required to recover the investment in the form of added profits. When manufacturing costs increase, immediate action is taken in an attempt to offset them. This applies to all cost increases, regardless of type—material, labor, or overhead expense. We estimate that double overtime rates would boost our costs more than \$2 million annually. This is a significant increase and would certainly hasten efforts to increase mechanization and reduce manpower requirements.

OVERTIME COSTS VERSUS BENEFIT COSTS

Some advocates of H.R. 9802 claim that industry does not hire people to reduce overtime work because the added fringe benefit cost relating to the new employees is more than the cost of present overtime premium. This is not true in our company. Our calculations clearly show that overtime cost at time and one-half plus related fringe costs are greater than the added fringe costs of new employees.

Taking the tile plant mentioned on page 3 of this statement as an example, we compared the total cost of overtime and fringe benefits for the 240 men who actually worked during 1963 with the total fringe cost for operation without overtime—that is, with the addition of a fourth crew of 80 men for two periods during the year. A saving of \$92,000 would have resulted by hiring men to eliminate overtime. Interestingly enough, hiring temporary employees to eliminate overtime results in lower fringe costs for the regular employees. The principal reason being that our vacation and pension costs would decrease substantially.

In view of these facts, it is evident that we already have a cost incentive to eliminate 6-day overtime work. However, we do not hire temporary employees to eliminate all or a portion of overtime because we believe a stable work force is more efficient and has a greater interest in producing quality goods. It would be unfair to regular employees who perform in this manner to deprive them of the overtime pay they feel they deserve.

CONCLUSION

We understand that the committee, after hearing testimony, now feels that the selectivity factor in the bill may be too ponderous to be workable. In view of this, it is now being suggested that increased overtime penalties be made effective, either at once or in graduated steps, across-the-board spectrum of the economy now regulated by the Fair Labor Standards Act. We oppose this concept unequivocally because increased penalties would not increase employment any more than did the move in 1938 to time and one-half for hours over 40.

If "double time" or "triple time" or even "1.6 times" were to be substituted for "time and a half" across the board, the result would be inflationary with the higher costs being translated into price increases.

Thus, we urge the subcommittee to reject the thesis that "penalizing" the employer for offering work in excess of 40 hours per week would be a step toward increasing employment. Rather, in our opinion, any such action will work to the detriment of the unemployed as well as the employed.

The enactment of increased penalty rates for overtime would—

1. Create instability in the work force.
2. Penalize employees who have established a claim on steady employment.
3. Cause inflation.

We are interested, as are all citizens, in discovering ways and means to alleviate unemployment and to increase opportunity for employable persons to earn a livelihood. Because of this, we urge the subcommittee to reject H.R. 9802 and other such proposals for penalty pay for overtime work. In our judgment, a far better approach would be to create a climate that will stimulate the growth of a dynamic, free society.

Armstrong Cork Co.—Glass plant A operating schedule, 4 crews, 20-week (cycle) work schedule

Week :	Hours per week	Week—Continued	Hours per week
1.....	40	13.....	48
2.....	40	14.....	40
3.....	40	15.....	40
4.....	48	16.....	48
5.....	40	17.....	40
6.....	40	18.....	40
7.....	48	19.....	40
8.....	40	20.....	40
9.....	40		
10.....	48	Total hours, 20-week cycle..	840
11.....	40	Average.....	42
12.....	40		

STATEMENT SUBMITTED BY ROBERT B. DODDS, PRESIDENT AND TREASURER, SAFETY ELECTRICAL EQUIPMENT CORP., NEW HAVEN, CONN.

A careful study of inherent economic and operating conditions in industry will disclose that the proposed legislation, H.R. 9802, is most unlikely to achieve the desired result, that of increasing employment. To the contrary, since it would be certain to increase costs and decrease already marginal profits, it would actually result in lower take-home pay for a high percentage of employees. Moreover, since it would delegate to the Secretary of Labor inordinate power to interfere in business management, it would strike a further, possibly lethal blow to free enterprise.

Analysis of basic reasons for some overtime will reveal that the proposed legislation could not increase employment to the degree hoped for by some pro-

ponents. In every company, for example, there are certain 24-hour jobs (watchmen, guards, and in some cases certain operations) which continue around the clock. Because 168 hours is not divisible by 40, there are a few hours left over. Normally, four people work 42 hours for a total of 168. If these cases were to be handled by employing five workers, the hours for each would be reduced to $33\frac{1}{2}$; five workers would be dissatisfied with less than a 40-hour week and unions would demand (with probable Government support) 40 hours' pay for 33.6 hours' work.

Another reason for overtime in a manufacturing concern is to accomplish maintenance which often can only be performed while the plant is not operating, making it necessary to bring in regular maintenance crews on Saturdays. Adding additional people is not feasible because of skills required and also for the reasons cited above.

Overtime in our company (an average small manufacturing operation) is primarily scheduled only to meet temporary emergencies such as the need to meet delivery requirements necessary to maintain good customer relations. Most of our manufacturing operations require skills which are in short supply, so we have two alternatives to cover emergencies: one, lose customers by failing on deliveries, or two, work skilled employees overtime. Training unskilled workers is not a solution because an emergency would be passed in far less time than training would require.

A sounder method of increasing employment would seem to be for industry to be able to reduce costs, thereby being in a position to compete more effectively in world markets to help the balance of payments, produce more business, invest more capital in expansion—all of which would create more jobs. The proposed legislation is economically unsound because it is certain to increase the cost of staying in business.

It sometimes appears to me that Congress hears only the voice of labor leaders, who are assumed to represent workers' views. In order to hear the latter, I have personally canvassed a number of our workers, among them union stewards, and, without exception, they believe the proposed legislation would only hurt them as well as the company. They correctly assume that there would be less overtime because the company would be forced to avoid the high cost of double pay and could not overcome the problem by hiring more people.

Aside from all the above, the proposal to authorize the Secretary of Labor to appoint tripartite committees to recommend certain industries for application of the overtime penalty is not only discriminatory but, in my opinion, unfair, unwieldy, and would result in utter chaos. For the sake of our country I earnestly hope the day will never come when management problems of industry are handled by committees in Washington.

KOKEN COS., INC.,

St. Louis, Mo., March 4, 1964.

Re overtime penalty pay bill, H.R. 9802.

HON. ELMER J. HOLLAND,

Chairman, Select Subcommittee on Labor, House Education and Labor Committee House Office Building, Washington, D.C.

DEAR SIR: We manufacture furniture and hydraulic chairs for barber and beauty shops. We have been in business in St. Louis for 90 years. Presently we have 79 hourly employees represented by 6 AFL trade unions; namely:

Machinists
Carpenters
Upholsterers
Finishers
Electricians
Polishers and platers
Teamsters

We do a national business, previously it was international, however, our excessive labor costs have made it impossible to compete in world trade with our Japanese competitors.

There are seasonal peaks when it is necessary for us to work a limited number of employees overtime, for which we pay time and one-half. This puts a tremendous load on our cost structure, however, it is necessary in order to give customers the service they demand.

We cannot employ temporary help during peak times; experienced help is not available, union affiliation is necessary after 30 days, temporary employees increase our contribution to fringe benefits.

Human nature inspires our employees to obtain all of the overtime possible. They know we cannot afford to continually maintain a force necessary to meet peak conditions.

We strongly feel that double overtime pay will add an additional load that we cannot carry and may prove to be the "straw which broke the camel's back."

We urge the committee to reject this bill which is obviously unfair to manufacturers and offers no hope of gainfully employing any more workers in small business, which is really the backbone of our economy.

Respectfully,

HUGO H. DAVIS, *President.*

STATEMENT OF A. H. AYMOND, CHAIRMAN OF THE BOARD, CONSUMERS POWER CO.

I am A. H. Aymond, chairman of the board, Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. Consumers Power Co. is an investor-owned, taxpaying company with approximately 9,700 employees engaged in furnishing electric service to over 910,000 customers and gas service to more than 620,000 customers, in 65 of the 68 counties in the lower peninsula of Michigan.

After careful consideration of H.R. 9802, it is my opinion that a bill of this type should not be enacted into law.

The purpose of the bill is to alleviate some portion of the regrettable unemployment problem through increasing the cost of doing business of selected, but at present undetermined, industries which assign "substantial and persistent" overtime work to their employees. It is the contention of the proponents of the bill that the added costs will force employers in such industries to hire additional employees from among the unemployed.

One certain result of the passage of H.R. 9802 would be an increase in costs in the covered industries. Since the costs of any successful business must be reflected in the price of its products, it necessarily follows that there would be an increase in the price of the products of the selected industries. This could be a killing blow to industries which presently are hard pressed by foreign competition. Indeed, it could seriously impair the competitive position of all industry in this country, because it is difficult to believe that application of penalty rates in particular industries will not quickly spread throughout our economy.

Another objection to the bill is that it would constitute an unwarranted interference by the Federal Government in the collective bargaining process. This is exemplified by a recent experience in my company. Approximately half of Consumers Power Co.'s employees are represented by the Utility Workers Union of America, AFL-CIO. A detailed agreement between the company and the union sets forth the rights and obligations of the parties in all areas of pay and working conditions including specific agreement on premium pay for various kinds of work and more than the statutory requirement of time and one-half for overtime pay under certain conditions. A proposal in recent bargaining discussions was that all overtime pay be at not less than double the straight-time rate. This proposal would have resulted in an added annual cost to the company of nearly \$700,000, but was rejected by the parties in reaching a new collective bargaining agreement. It should not be imposed by Government when the parties have agreed on other programs for substantial improvements in wages and working conditions.

The objectives of the bill could not be achieved in the utility industry. In this industry the imposition of penalty overtime rates would not result in any significant increase in employment. For example, in Consumers Power Co., the vast majority of overtime work is of an unpredictable nature and results from storm damage, emergencies, or absence of other employees because of illness.

Assuming that there are industries in which the application of penalty overtime rates would result in an increase in employment, it should be noted that more people would be hurt than helped. It would take the overtime of several persons to create the job of one new employee and his gain would be at the cost of reducing the standard of living of current employees. Experience has shown that employees want overtime work with its attendant added earnings.

Another objection is that the bill would detract from the most efficient use of labor. In our economy overtime provides the stretch in the utilization of labor which avoids future unemployment. When, as a result of a cyclic decline in

business, an industry finds the demand for its products decreasing, it must counter by reducing its production which results in a decrease in labor requirements. To the extent that its employees have been working overtime, the problem of decreased labor requirements can be met by reducing overtime work rather than laying off employees and adding to the ranks of the unemployed.

The method by which the unemployment problem should be solved is the encouragement of new and the expansion of existing industries which will absorb presently unemployed individuals. A very substantial portion of the labor force of the United States is employed in making products which did not exist a few years ago. These new products have added much to the standard of living and well-being of the citizens of our country. H.R. 9802 attempts to attack the symptom rather than the source of the problem. That is, it seeks to allocate employment rather than encourage growth which will result in additional employment. The bill, if passed, must be attended with significant added costs. Paradoxically, this will tend to reduce employment in this country which is exactly the opposite of the result intended by the bill's sponsors.

I sincerely urge that you and your associates oppose the reporting and passage of H.R. 9802.

GREDE FOUNDRIES, INC.,
Milwaukee, Wis., March 3, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, House Education and Labor Committee, Cannon House Office Building, Washington, D.C.

DEAR SIR: I hereby file with your committee a statement expressing opposition to the overtime penalty pay bill, H.R. 9802, which is presently in hearing before committees of the House.

The application of such a law would more likely reduce than increase total employment. It is manifestly unsound for the following reasons:

It will cause unpredictable distortions in employment patterns.

It will increase costs and hence prices.

It will push the cost of much production beyond break-even points, and eliminate such production and employment.

It would be another factor hurting our Nation's position in relation to foreign competition.

It will give the U.S. Secretary of Labor (and his appointees) tremendous and unprecedented discretionary powers over industry, about which he has only a very limited knowledge.

It is a direct attack on the decisionmaking powers of management and on the structure of our free enterprise society.

It probably would step up trends toward increased automation.

More concern should be directed to increasing employment by promoting free enterprise and encouraging natural economic growth and the ingenuity of free employers, rather than attempt arbitrarily to allocate existing jobs.

Sincerely,

L. T. NEWMAN, *Secretary and Treasurer.*

EX-CELL-O CORP.,
Detroit, Mich., March 3, 1964.

HON. ELMER J. HOLLAND,
House Committee on Education and Labor,
House Office Building, Washington, D.C.

MY DEAR MR. HOLLAND: Thank you for your letter of February 19, 1964, and your invitation to submit a statement for the record as a part of the proceedings on H.R. 9802.

It is the considered judgment of the management of this company, after a very careful review and study of H.R. 9802, that the purposes for which this bill was introduced, to wit: To increase employment, will not be accomplished. It is this management's firm conviction that H.R. 9802 will actually have the effect of reducing employment. Our conclusions are based on the following reasons:

1. *Industrial economy not composed of one-industry companies*

H.R. 9802 presupposes an economy made up of one-industry companies. This assumption is basically untrue. Our own company, for example, has 29 plants, employing approximately 8,800 people, located the length and breadth of the

United States. We serve over 30 basic industries through the sale of our products which are categorized into four product groups:

1. Machine tools and accessories.
2. Expendable tools.
3. Precision parts and assemblies.
4. Packaging equipment.

Most of our plants are engaged in producing products which fall into more than one industry classification and, as a result, most of our employees also work on products which fall into more than one industry classification. The problems of administration, and the employee relations problem, which would be created for our company by this proposed legislation should be perfectly obvious.

2. Skilled work force not available on industrywide basis

H.R. 9802 presupposes that an adequately skilled work force is available to the entire industry when needed. It has been our experience that this has definitely been untrue in the past, and is unlikely to change in the foreseeable future.

3. Undesirable effect on employment stability

The use of overtime by this company has been for the purpose of stabilizing employment rather than decreasing job opportunities. It should seem obvious that the only time it is more economical for a company to pay overtime than to increase employment is when increased production requirements are of a short-term nature. This use of overtime is logical, proper, and in the best interests of the employees. It is our belief that many companies—our own included—have been making a sincere attempt in recent years to stabilize their production by removing or reducing the peaks and valleys in the workflow and thus stabilizing their work force and providing vastly increased job security for their employees. This is done in recognition of the company's social obligations as well as in self-interest. It has been our experience that employees who are secure in their jobs are much more productive than a work force composed of employees who are constantly subject to being laid off and recalled. However, to stabilize our work force and provide the desired job security, we must make use of overtime periodically to handle the peaks and valleys in our sales levels. The addition of a burdensome pay premium to avail ourselves of this equalizing factor would make it economically unfeasible.

4. Incidence of excessive overtime does not warrant complex regulation contemplated

The industries in which we are involved have not been subject to any widespread practice of working constant overtime. It is our opinion that if this practice does exist within our total industrial complex to any significant degree, it is probably restricted to large companies in specific industries whose employment, while admittedly huge when compared to other companies, nevertheless is very small when compared to the Nation's total work force. In our judgment, to saddle American industry with another series of complex, cost-increasing regulations in order to bring a few companies into line with the administration's questionable economic philosophy for increasing employment, would be extremely shortsighted, and not in the best interests of our economy. Under our competitive enterprise economy, the only true creator of jobs is economic expansion, and it is equally true, that those factors which tend to increase costs tend also to reduce demand and limit economic expansion. This very reasoning was behind the \$1½ billion tax cut recently signed by the President. Obviously, if demand for the products of American industry is reduced, so will employment be reduced correspondingly; thus, nullifying any increased employment brought about by the tax cut.

5. Will worsen foreign competition

In those industries in which it is more economical for a company to pay overtime to its existing employees than to hire new employees, any legislation, and particularly H.R. 9802, requiring manufacturers to either pay double time premium or hire new employees will very definitely increase their cost of operation. Historically, the effect of increasing direct labor costs has been to accelerate the installation of job eliminating machinery and equipment. It is a foregone conclusion that if labor costs increase, the companies competing with foreign firms in domestic or foreign markets must either automate their operations to lower labor costs or lose these markets. Either way, it has historically resulted, and will continue to result, in a net reduction in job opportunities.

6. *H.R. 9802 impossible to administer intelligently*

It is our honest belief that the administrative problems posed by H.R. 9802 for the Secretary of Labor are well nigh insurmountable. The criteria under which the decisions would be made, by the very nature of the problems, are so vague and ambiguous as to result in unending confusion and in unfair and misguided administrative rulings. Even if it is possible for a governmental agency to adequately study and evaluate all the factors involved in so complex a problem, and to fairly and adequately deal with the multitude of exceptions, it will require a tremendous number of exceptionally well-qualified personnel of the type that industry finds in short supply.

7. *Collective bargaining by legislation*

H.R. 9802 is another attempt to accomplish, by legislation, objectives which in a competitive enterprise economy should only be attained through the collective bargaining process in which the management of each individual company, based on its own economic and competitive conditions, decides whether or not it can afford to sustain such additional costs. To apply cost-increasing pressures to industry, without regard to the economic health of the individual companies, can only result in the marginal companies going out of business, and thus reducing job opportunities. The economic consequences of a wrong decision by some central authority affecting thousands of companies would be staggering. The growth of our corporation, and its ability to pay taxes for the support of our Government, can only be accomplished through our ability to operate with economy and efficiency. Only on this premise can job opportunities be maintained and increased.

8. *Usurps management's prerogatives*

H.R. 9802 in our opinion would, by legislation, remove key management decisions from corporate management, and centralize this responsibility in the Department of Labor. This shifting of responsibility in our opinion is extremely dangerous, not only in respect to its economic consequences, but in its political implications as well. Where do we stop? The Government now tells us what we can spend our money on, through the allowance or disallowance of corporate expenses for tax purposes. The Government tells us our minimum rates of pay. The Government tells us with whom we can do business. The Government regulates our relationships with our employees. The Government cuts itself in for half of our profits; and, now, it is extending its power to regulate the amount of overtime and overtime pay in our plants. Gentlemen, it seems obvious to us that we are rapidly approaching the time when American industry will be nationalized.

Sincerely yours,

H. G. BIXBY.

STATEMENT OF CLIFFORD V. TOBIN, EXECUTIVE SECRETARY, NEW YORK STATE
CRUSHED STONE ASSOCIATION, INC.

The New York Crushed Stone Association, Inc., which consists of 26 active members, who operate 43 stone quarries and crushing plants in the State of New York, vigorously opposes H.R. 9802, the so-called Overtime Penalty Pay Act of 1964. The members of this association are engaged in the quarrying of rock and the manufacture of crushed and broken stone for use in the construction of highways, airports, bridges, parkways, piers, buildings, and other facilities. In New York, as in other Northern States, this is a seasonal industry, with an operating season normally extending from April until November when weather conditions require a shutdown of production and sales until the following spring.

The application to this industry of a penalty for overtime in excess of 40 hours would, in our considered judgment, result in no new employment. Rather it would simply and severely increase production costs. These conclusions are based partly upon the circumstance that overtime work in our plants is largely sporadic and is generated by fluctuating demands which come with little advance notice.

We realize this legislation would establish an administrative procedure to be followed before penalty pay would be applied to any industry; nevertheless, it is so plainly evident that, as to this seasonal industry at least, the proposal would not accomplish its purpose that the Congress should, itself, by amendment eliminate any possible application to this industry.

We have been informed of the specific objections presented by the National Crushed Stone Association, to which most of our members also belong. Rather than repeat those objections here, we wish simply to say that we endorse each and every one of them.

ESCO CORP.,
Portland, Oreg., March 4, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, Cannon House Office Building,
Washington, D.C.

SIR: This is Escro Corp.'s testimony on H.R. 9802 which you requested in your letter of February 18, 1964, addressed to Mr. H. T. Swigert of our company.

From a study of the businesses with which we are well acquainted, we have concluded that so far as these businesses are concerned double time pay for overtime work will almost certainly prove to be inflationary.

It is our understanding that approximately 95 percent of the existing labor contracts which already provide double time for overtime are contracts which are in effect on the Pacific coast, and our information is that they are not working out as intended—that is, they have not provided employment for any significant number of additional men. In point of fact, the International Molders & Allied Workers Union of North America has just signed new contracts with more than 40 foundries in northern California in which double time for Saturday work has been eliminated and they are going back to time and one-half for Saturday work.

Very truly yours,

NEWMAN WARD,
Chairman of the Board.

MAGNET MILLS, INC.,
Clinton, Tenn., March 3, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee, House Office Building,
Washington, D.C.

DEAR MR. HOLLAND: We would like to place before you and your entire committee our thinking relative to H.R. 9802.

Since 1905 we have been engaged in the manufacture of women's hosiery and have tried over this period of time to provide to our consuming public the best possible product at the lowest possible price. We think we have, for the most part, succeeded in this effort.

Over the past 58 years we have provided employment for a substantial number of persons. Currently, our employment figure is 750, making us the largest private employer in our county. Many of our employees have been with us for 25 years or longer. We feel we have an obligation to provide as much work for our employees as we possibly can.

However, we feel that H.R. 9802 will jeopardize our ability to maintain relatively stable employment for our 750 employees.

Our business is marginal profitwise, to say the least, as well as being highly seasonal. The seasonal periods range up to 12 to 14 weeks each spring and fall. This necessitates overtime for which we pay time and one-half as prescribed by the wage and hour law. To raise the time and one-half penalty requirement to a double time penalty would be disastrous to our company and to our 750 taxpaying employees.

Since it is obvious that we could not absorb additional overtime costs, the net result would be that our employees would earn less annually than they currently earn on the time and one-half basis. This depressing condition has its multiplier effect on the local businessman—the grocer, clothier, and service establishments.

The multiplier effect would damage the entire economy, for I'm sure there are many, many companies in these United States in the same situation as ours.

We do not believe that the purport of H.R. 9802—to reduce unemployment—could be accomplished by the double time penalty. We think it will have the reverse effect in that it would force, and hasten, action on the part of business to resort to various labor-saving devices which would result in the creation of higher unemployment.

We earnestly submit that your committee should reject the proposed H.R. 9802 as not being in the interest of these United States of America.

Very truly yours,

A. D. CRENSHAW, *President.*

TESTIMONY BY FREDERICK G. KELLY, PRESIDENT OF SERVOMETER CORP.

The Servometer Corp. is a small business of 38 persons, manufacturing highly technical metal parts for instruments, electronics, aircraft, and missile applications.

In 1963 we had an average of 9.67 percent overtime above 40 hours per week for all employees except the two owners. This percentage of overtime varied from nothing for part of the year to about 25 percent at periods of maximum business.

Certain key employees of high productivity got as much as 40 percent overtime while some employees got no overtime at all.

There are two chief reasons for overtime:

1. Our monthly business fluctuates over a range of 5 to 1; and
2. Emergencies occur due to breakdowns or spoilage of goods.

THE EFFECT OF DOUBLE TIME ON OUR BUSINESS

We would probably end up by paying double time since it would be cheaper to do so than to eliminate overtime. Also, it would preserve the promptness of shipments on customer's orders and preserve the quality of our products. The reasons for these things are as follows.

THE COST OF DOUBLE TIME FOR OVERTIME

Assuming 9.7 percent overtime hours, our costs over straight time would be, in theory, 9.7/109.7 or 8.85 percent of total labor costs.

THE COST OF ELIMINATING ALL OVERTIME

(a) We would have to hire more people in rush season and lay off in slack seasons. We would lose about 50 percent of our skilled workers who would take jobs where no layoff occurred or where they would get overtime. New workers would require a month to break in during which their productivity would average 75 percent. This is a direct production loss of 0.5 times 0.0833 times 100 percent, or 4.2 percent of direct labor costs.

(b) The cost of advertising, interviewing, and paperwork would be 1.3 percent of direct labor.

(c) Layoffs would damage loyalty and cause work stretch out, resulting in 7 percent loss in productivity.

(d) Fringe benefits at 10 percent of hourly wages would rise to the peak employment rates or 19.4 percent more employees, or to 1.94 percent of direct labor costs.

(e) 19.4 percent more employees at peak load require 19.4 percent more machinery and factory space, increasing capital burden (which is 7 percent of direct labor costs) by 19.4 percent or 1.36 percent of direct labor costs, and factory rental 0.5 percent of direct labor costs.

(f) One-third of our employees are skilled machinists. They are in very scarce supply and with no overtime and with layoffs we would have to pay 40 percent more than at present to get them. This represents 13.3 percent more direct labor cost.

The total cost of eliminating all overtime would thus be the sum of all these factors, or 28.3 percent of direct labor costs. This is 3.2 times the cost of paying double time.

Based on a direct labor cost of 53.5 percent of the cost of the goods sold, this rise in labor cost would increase our prices 15.1 percent. Additionally, it would damage our promptness to deliver in rush season to more than twice as long. Our quality would suffer a little from labor turnover.

CONCLUSIONS

Eliminating overtime by our small company would produce many inefficiencies resulting in a price increase of 15 percent, a deterioration in promptness of shipments, and more difficulty with quality of product.

Paying double time for overtime would increase prices 8.85 percent and would not impair promptness of shipments nor quality of goods.

IF THIS LEGISLATION IS PASSED

It will put more dollars into the pockets of the highly skilled workers, but not into the pockets of the average worker; it will raise prices; it will not materially reduce the number of the unemployed.

BROWN MANUFACTURING CO.,
Oklahoma City, Okla., March 17, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR SIR: The Overtime Penalty Pay Act, H.R. 9802, would be detrimental to industry, labor, and the economy in general. Furthermore, it gives the Secretary of Labor additional dictatorial powers not necessary for the proper administration of that office.

We are strongly opposed to this bill and all other similar legislation obviously instigated by labor unions for the purpose of gaining further control over this country already dominated too greatly by a handful of union officials.

Sincerely,

RUSSELL L. BROWN.

STATEMENT OF DONALD F. KIGAR, EXECUTIVE VICE PRESIDENT, THE DETROIT EDISON CO.

The proposed legislation is, I believe, objectionable for a number of reasons, which may be classified under the following captions:

- (a) It is inconsistent with and contrary to the principles of "collective bargaining" as required by the National Labor Relations Act;
- (b) It will not decrease the number of unemployed;
- (c) It will increase the cost of production or service; and
- (d) The public utilities which are charged with the responsibility to provide reliable service at all times cannot reduce overtime by hiring additional employees during times of storm, destruction, and other emergencies which continually confront the industry.

A brief description of our company and its problems will be helpful in understanding the impact of H.R. 9802 on this company and our industry and why, in the light of our experience, we believe such legislation is not called for and cannot achieve its objectives.

The Detroit Edison Co. is a public utility chiefly engaged in the generation and sale of electric energy in a 7,500-square-mile area of southeastern Michigan. It also furnishes central steam service in the city of Detroit, and water service in the city of Vassar. About one-half of our electric energy goes to industry; another 25 percent to commercial customers; which includes, water pumping stations, street lighting, schools, and hospitals, as well as stores and restaurants; and the remainder goes to householders for heat, light, cooking, water heating, cooling, and such domestic uses. Obviously, our service must be continuously available, in ample amounts, 24 hours a day and 7 days a week. It is essential to the welfare of the nearly 4 million people in our service area—half the population of the State of Michigan. Yet our generation and distribution system is subject to mechanical damage as well as normal wear and tear. Automobiles knock down our poles, vandals break our street-lighting fixtures, cranes tear down our lines, tornadoes and sleetstorms take their toll. These recognized but unpredictable and uncontrollable contingencies are superimposed on the need to plan the growth of our system some 5 years in advance to anticipate and be ready for ever-increasing demands. We can plan our new construction and routine repairs and replacements to the system with a minimum of overtime; that which occurs now and then to finish a job which should not be left uncompleted, or to take care of a sudden short-lived rush of new service orders. This type of overtime is small in amount. However, our total overtime bill is high; it was \$6.5 million in 1963—about 10 percent of payroll. This is normal. The objective of our business is to give service when it is needed. Our product cannot be stored. We do not use overtime to produce more but to repair or protect our facilities.

The company has about 9,200 employees. Of these, over half—4,700—are in the manual operating, construction, and maintenance trades and related occupations. Most of the overtime worked is by these employees and their supervisors. About 3,500 of these employees are represented by two unions, with which we conduct collective bargaining on the very subject which H.R. 9802 seeks to remove from this process by imposing a Government-dictated condition of employment.

(a) H.R. 9802 is inconsistent with and contrary to the principles of collective bargaining

The National Labor Relations Act requires us to bargain collectively on wages, hours, and working conditions. We have done so, and have negotiated overtime provisions much more liberal than the Fair Labor Standards Act requires. We pay time and one-half for work outside scheduled hours; for the first offday; for work done on holidays (in addition to the holiday allowance). Double time is paid for work on the second offday and for work in excess of 12 hours in 1 day. Double time and one-half is paid for work in excess of 18 hours. After extensive overtime which causes loss of regular sleeping time, employees are released for rest during their regular working hours without loss of their regular pay. Some 9 or 10 pages of our labor contracts are necessary to cover the overtime rules. Clearly, they are of a type to encourage regularity of employment, and full employment, rather than overtime work. Negotiations on this subject have been extensive, and concessions in this area have had an important effect on reaching an amicable overall agreement.

The proposed legislation would remove this important subject from the area of collective bargaining, for all practical purposes. Even if our company or industry was found to be exempt by a commission, it is not realistic to assume that union pressure could be resisted. In the past, continuous-process industries, such as ours, were considered to be exempt from the payment of evening, night, Saturday, Sunday, and holiday premiums. Such premiums would not discourage work on such shifts. Nevertheless, such premiums are now an integral part of our pay structure, and this is generally true of others in our industry. If double time pay for overtime is imposed on an appreciable number of companies in our area, or an industry, as a practical consequence we will have to pay it. An important part of the possible area of collective bargaining will be circumscribed if not removed by Government edict. This seems to be inconsistent with the principles of the National Labor Relations Act, and the stated desire of Government to allow free collective bargaining without its dictation.

If H.R. 9802 becomes law, it would in our opinion, be an unwarranted entrance into and interference with collective bargaining. It would be a big step toward additional restrictive measures that ultimately will destroy collective bargaining between employers and employees.

(b) H.R. 9802 will not decrease the number of unemployed

This proposed legislation rests on fallacious assumptions as applied to this company and the utility industry. We, and most companies in our industry, have too many, not too few employees for the normal workload. We have to be overstaffed in order to take care of unpredictable contingencies.

The highest amount of overtime worked by employees of the company in 1963 was in the overhead lines department. This department has 1,060 employees, and the overtime worked amounted to the equivalent of 105 additional employees. On a few occasions, we were short handed, but could not obtain enough linemen through advertisements, starting apprentices, or contracting to avoid some overtime because of new orders. These skills are in short supply. However, the few additional hires which could have been used, if available, would not have helped much. Most of the overtime required in this area was due, either directly or indirectly, to storms. The average premium paid was not 50 percent, but 85 percent over the straight-time rate. Much of the work was done at double time, repairing storm damage. Some was done on a sixth day in the pay week because inclement weather earlier in the week caused the deferral of routine maintenance and construction. During inclement weather, no outdoor work is done except of an emergency nature. So it frequently happens that, because of rain, employees are in the warehouse all day, drawing pay but doing no work. Later, the weather worsens and our lines suffer damage. Employees are then called out at premium rates to restore service. Under these circumstances, a larger work force would simply mean that more idle time would

be paid for during the day. The overtime cost of this nightwork would be as large as it now is, although the hours for any one employee might not be as long. The labor costs, though, would be unjustifiably high. It is not possible to predict the need for crews with sufficient accuracy to put this work on a shift basis, thereby using more employees. The need is most irregular, and is of short duration, seldom exceeding 2 or 3 days. And the repairs must be made as quickly as possible after the damage occurs.

The experience of our centralized construction and maintenance department demonstrates that higher overtime rates would not decrease unemployment, but might, in fact, add to it. These employees, in number about 1,000, do small new construction projects, alterations to buildings and equipment, and overhaul our steam and electric generating units. They work at any location in our 7,500-square-mile service area, at any and all hours of the day on a shift basis. During 1963 the amount of overtime worked was the equivalent of 60 employees at straight time. Yet day in and day out, an average of at least 40 employees had no work in their trade, but were not laid off. They were assigned as helpers, laborers, or to miscellaneous odd jobs which, while useful, were not essential at the time. In this department, overtime is sometimes caused by the unexpected failure of equipment, but more often by the necessity to minimize the "down time" of equipment such as our generating units. In either case, the work is of short duration. So far, our experience has been that on an overall basis, it is reasonably economical to operate with a stable maintenance force, on a few occasions too small but more often too large, for this work. The balance is close, however, and higher overtime rates would almost certainly dictate a reduction in the present force, and hiring on a temporary basis for the short-duration peaks of work, with subsequent layoffs.

A third reason for overtime in this company is not related to storms and like emergencies, but the necessity for furnishing service 24 hours a day, every day in the year. In some of our operations, the optimum shift schedule is one which causes 1 extra day of work every 4 weeks. However, it is not possible to cover these shifts with additional employees at straight time without having a work force so large that each employee is idle for a high percentage of the time. Also, an appreciable amount of overtime is caused by absenteeism. This is a factor that should be explored by this committee before it accepts any assumptions about overtime work.

(c) H.R. 9802 will increase the costs of our production or service

It is apparent from the foregoing brief examples that the type of overtime worked by our employees is not the type that can be lessened by hiring more people, even if the requisite skills were available. Hence higher premium rates would materially increase our costs of production and service. We estimate that double time, instead of time and one-half, would have cost the company an additional \$1.5 million in 1963. As it was, over a half million dollars of last year's cost was paid at double time.

(d) The public utilities which are charged with the responsibility to provide reliable service at all times cannot reduce overtime by hiring additional employees during times of storm, destruction, and other emergencies which continually confront the industry

We must provide reliable service at all times, and our chief reason for overtime is the necessity to repair damaged facilities. This work must be done as soon as possible, regardless of the size of the overtime penalty. The sources of damage—storms and other forms of destruction—are completely outside our control. It is obviously impossible to hire employees for these short contingencies. Therefore, our number of employees has been determined by a reasonable balance between the normal and abnormal manpower requirements. The passage of the proposed legislation will not increase the number of employees in this company nor, do we believe, in the electric utility industry generally. The reverse may be true. Higher overtime rates may force a reduction in number of employees, either through temporary layoffs, or to reach a smaller base force.

Conclusion

The provisions of H.R. 9802, in our opinion, will be most disturbing to the principles of collective bargaining and to the economic forces which govern the operations of this company and the utility industry generally. Any law which increases substantially the costs of operation will mitigate against the

ability of this company to continue electric rates fixed by the Michigan Public Service Commission in 1948 and made effective January 2, 1949.

Finally, it seems unwise to confer such unrestricted power on the Secretary of Labor, no matter who may hold that office.

We trust that the subcommittee will find, as a result of the testimony of witnesses and statements filed as part of the record, that there is no justification for recommending the passage of H.R. 9802.

O'SULLIVAN RUBBER CORP.,
Winchester, Va., February 28, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: H.R. 9802 cannot possibly accomplish its purported objective, but will impose more strain on the already overburdened industry of the size of the O'Sullivan Rubber Corp.

For over 20 years I have dealt with the subject of overtime on a personal and intimate basis and I want to make one pertinent observation:

Overtime is already a highly scrutinized and effectively controlled element of production.

No other item in manufacturing cost receives as much attention as the cost of overtime. Management already makes the decision to displace overtime with new employees in every possible instance. This solution is so obvious that it has been used wherever practicable from the beginning of the overtime premium concept. In almost every plant, such overtime as is worked is unavoidable, is of a temporary nature, is due to reasons beyond the immediate control of management. No amount of additional penalty on overtime will create new jobs in our plant, but rather will temporarily shut down operations and deprive some employees of even regular work.

This legislation will be effective only in generating additional antibusiness side effects. I urge the committee to study these long-range effects very thoroughly and avoid creating additional antibusiness climate in the Federal Government.

Yours truly,

PAUL TERRETTA.

THE CHINA GROVE COTTON MILLS Co.
China Grove, N.C., February 28, 1964.

Re double time for overtime.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR SIR: Our industry, with its many and complex products from both natural and synthetic fibers, is one of the foremost in its consumption of human endeavor. Any legislative action that increases labor costs either directly or indirectly makes automation not only more attractive but a necessity for survival. It is our firm belief, after careful attention to the anticipated long-range effects of double time pay, that the desired result in our industry will be negative. The result will not be relief of unemployment, but will in the long run contribute to unemployment by making further automation a necessity.

Overtime pay in our company is used to regulate temporary fluctuations in production, absences, and balancing production between departments. Double time would simply make it more attractive to add machinery, not people.

Sincerely,

C. J. BEAVER, *President.*

HELENA EMPLOYERS' ASSOCIATION,
Helena, Mont., February 18, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
Cannon House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE HOLLAND: At the February meeting of the board of directors of this association, H.R. 9802 to authorize the Secretary of Labor to issue regulations requiring at least double time to be paid for overtime under certain circumstances came under discussion. It was the unanimous consensus of opinion of all directors present that this association inform you of our opposition to this measure, upon the grounds of its being discriminatory, impractical, and harmful, not only to special industries affected, but to the economy in general.

Among other views set forth during the discussion were the fact that employers are not enthusiastic about paying overtime, that it is a necessity in many instances, because of difficulty in scheduling employees or of obtaining qualified employees or because of union contract restrictions against part-time employees, that such a penalty would not eliminate overtime necessarily, but that it might go to eliminate certain business operations and even create further unemployment.

An example would be a small independent business here in Helena, which necessarily requires some overtime from some employees, at certain times of the year. It is simply not possible to pick up extra workers of the type needed for these operations, on short notice.

Rather than pay double time for overtime, where the additional premium pay could turn a slightly profitable phase of the operation into a losing operation, an employer might simply have to terminate that operation. It is already difficult enough to schedule working hours in many plants, with requirements of seniority, restriction of employees into job categories, and other legal or contractual restrictions upon the freedom of the employer to manage his working force.

Other views voiced during the discussion included questioning the justification for this or any comparable legislation, the harshness of the penalty imposed upon an employer who is trapped in circumstances which necessitate his use of overtime, the additional cost which must be passed on to the consumer, and that an employer faced with such double time penalties cannot afford to give his regular employees any additional wages or benefits at this time.

Such a measure is jeopardizing plans of business and industrial executives for expansion, for research and experimentation, and other growth and development. Until this bill has been disposed of, no employer can safely make any plans or attempt to carry out any projects, without considering the tremendous impact that such a measure might have upon his operations.

We understand that there will be hearings upon this bill, and if it were possible for us to do so, we would like to have at least one representative present to testify as to the impact of this measure upon small business and industry. Since our bank balance is now hovering perilously close to an overdraft, it is simply not possible for this association to bear this expense, and we therefore submit this statement of our views for your consideration.

Sincerely yours,

A. L. LIBRA, *Secretary-Counsel.*

EASTERN NORTH CAROLINA
LUMBER MANUFACTURERS ASSOCIATION, INC.,
Weldon, N.C., March 5, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR MR. HOLLAND: I am writing you on behalf of the membership of the Eastern North Carolina Lumber Manufacturers Association, which comprises most of the larger lumber manufacturers in eastern North Carolina, in regards to the several bills now pending before the Congress concerning a shorter workweek, and more overtime pay for work in excess of the present 40-hour workweek.

I believe these bills are H.R. 355, H.R. 3102, and H.R. 3320 which provide

in effect 40 hours of pay for 35 hours of work; and H.R. 9802 which proposes to raise the overtime rate from the present one and one-half time base pay to double the base rate.

Needless to say, the lumber industry in this section of the country strongly oppose any increase in wages, more so in view of the present alarming trend of our Government in granting more wage increases for less work. We have already seen a significant change in the attitude of labor from the increases they have obtained in minimum wages, regardless of their individual efforts or qualifications.

If the lumber manufacturers were able to pass on these wage increases to the consumer, it would only be another step in the wage-cost spiral of inflation. However, the market value of lumber has actually decreased during the last 10 years, due to competition from west coast and foreign lumber and competition from substitutes. Last year more than 26 percent of our domestic consumption of lumber was imported from Canada and other countries. Due to this competition and competition from other products, our prices have not risen in more than 10 years. I can see our industry fast approaching a situation similar to that of the Appalachian regions which have vast sources of natural material—coal and timber—but no market due to the excessive labor costs.

I am enclosing the latest Dun & Bradstreet list of ratios by industry classifications, which shows that in 1962, a "good" year for most of us, the lumber industry had the lowest net profits on net worth, and lowest net profits on working capital of all types of business. They were the only industry during this period with a minus ratio in the lowest median for these ratios. In other words, the lumber companies in this low median group did not even make 1 percent on sales, net worth, or working capital. I am certain most of the southern lumber manufacturers, with their high stumpage and sawmills, will fall in this low median group.

I am certain you are aware of the importance of the wood products industry to the economy of North Carolina and the South. Not only is it one of the largest employers, but it is one of the few industries in our State which still uses unskilled and uneducated labor. Without locally manufactured lumber, the furniture industry in North Carolina would move elsewhere, and farmers and landowners would not realize a vital source of income.

Also enclosed is a copy of the testimony by Mr. Ralph W. Harrison before the House Select Subcommittee on Labor in registering opposition to this legislation. His figures, gathered from the Price Waterhouse & Co. survey essentially bear out the same sad plight of the lumber industry as that shown in the Dun & Bradstreet survey. It is well to keep in mind his statement that while such legislation is designed to reduce unemployment by spreading the work, the actual result would be the contrary—less work, because of already strong consumer resistance to higher prices. He said we would find fewer persons employed, less profits from which to pay income taxes, and more bankruptcies.

Please give this legislation your earnest study and consideration. I feel that when you obtain the facts, you will see that such legislation, if enacted, could only do much harm to our lumber industry and its employees.

With best regards.

Very truly yours,

PAUL B. BARRINGER,
Secretary and Treasurer, Executive Committee.

[From the Southern Lumberman, December 1963]

AWI TESTIFIES AGAINST SHORTER WORKWEEK BILL—INDUSTRY SPOKESMAN SAYS MANUFACTURERS CANNOT ABSORB COST INCREASE

Ralph W. Harrison, past president and member of the board of directors of the Architectural Woodwork Institute, Nashville, on November 15, appearing before the House Select Subcommittee on Labor to register the architectural woodwork industry's opposition to pending legislation, which would reduce the present standard 40-hour workweek to 32 hours without any reduction in pay. The bill also provides that overtime wages shall be increased from time and one-half to double time. He also spoke on behalf of the following regional groups and associations, which went on record in opposition to the legislation: Southern Woodwork Association, Woodwork Institute of California, Texas Contract Millwork Manufacturers Association, Illinois Woodwork Association,

Michigan Architectural Woodwork Association, National Association of Store Fixture Manufacturers, Cabinet & Fixture Manufacturers Guild.

Mr. Harrison in his testimony pointed out that a reduction in the standard workweek to 32 hours would mean "an increase in direct wages of 25 percent." He added, "Cost in our industry, like any other, is made up of material cost, direct labor and overhead. The Price Waterhouse & Co. survey of our industry reveals that of total cost, material cost is 50.5 percent; direct labor is 17.5 percent, and overhead is 32 percent. What would a 25-percent increase in wages do to these three elements of our cost? It would mean a 4.1 percent increase in the cost of our materials—an increase of 4.375 percent in direct labor—an increase of 3.44 percent in overhead—or a total cost increase of 11.9 percent.

NARROW PROFIT MARGIN

"Our industry cannot absorb any further cost increase without advancing our prices, as we would be forced to do by 12 percent under this legislation. This would only contribute to added inflation of the general price level. This contention is substantiated by Architectural Woodwork Institute's annual cost survey, made by Price Waterhouse & Co., which reveals a 3-year average profit before Federal income taxes in our industry of only 2.2 percent of sales. Let me reiterate, this small percentage of profit is before Federal income taxes are paid. If a woodworking firm is in the 30-percent tax bracket this percentage of profit is reduced to 1.54 percent after taxes, and, of course, if a business is fortunate enough to be in a higher bracket this percent of net profit on sales is reduced even further.

"You are probably thinking that while our net profit on sales is small, our return on investment is probably sufficient to warrant such a low percent on sales. Gentlemen, quite the contrary is true. The same Price Waterhouse cost survey reveals a 3-year average profit on net worth of only 4.1 percent. This again, is profit before Federal income taxes. Considering the 3-year 4.1 percent average return on net worth before Federal income taxes, profits are already so low that we might be better off to liquidate our business, throw our employees out of work, and put our money in savings and loan associations, at virtually no risk, and make 4½ percent on it. These figures show that our industry must pass along any increase in cost to the consumer."

Mr. Harrison went on to say that the four bills under review are obviously designed to reduce unemployment by spreading the work, but that, rather than accomplishing this objective, their passage would result in less work, because of the already strong consumer resistance to higher prices. He said that we would find fewer persons employed, less profits from which to pay income taxes, and more bankruptcies.

He concluded his remarks with the statement that "We who are engaged in what is probably the oldest known manufacturing industry, that of making things out of wood, believe further inflation to be detrimental to the economy of the Nation and the survival of our industry, and therefore urge the Congress not to pass into law H.R. 355, H.R. 3102, H.R. 3320, H.R. 1680, or any similar bills which may be introduced."

Members of the House Select Subcommittee on Labor before whom the hearings are being held are: Democrats: Elmer J. Holland, of Pennsylvania, chairman; James G. O'Hara, of Michigan; Dominick V. Daniels, of New York; Roman C. Pucinski, of Illinois; George E. Brown, of California, Republicans: Donald C. Bruce, of Indiana; M. G. (Gene) Snyder, of Kentucky; and Robert A. Taft, of Ohio.

Line of business (and number of concerns reporting)	Current assets to current debt (times)	Net profits on net sales (percent)	Net profits on tangible net worth (percent)	Net profits on net working capital (percent)	Net sales to tangible net worth (times)	Net sales to net working capital (times)	Collection period (days)	Inventory (times)	Fixed assets to tangible net worth (percent)	Current debt to tangible net worth (percent)	Total debt to tangible net worth (percent)	Inventory to net working capital (percent)	Current debt to inventory (percent)	Funded debt to net working capital (percent)
Automobile, parts and accessories (297)	3.98	3.02	15.04	6.97	5.05	3.40	29	6.7	6.3	23.9	43.4	72.9	41.5	9.1
Cigars, cigarettes, and tobacco (93)	2.77	1.63	7.41	5.65	3.40	3.40	30	4.8	14.5	44.1	76.3	92.4	64.2	22.1
Confectionery (23)	2.01	2.72	3.20	3.24	2.54	3.24	47	3.7	31.1	76.1	115.1	92.4	91.6	39.8
Drugs and drug sundries (93)	2.05	1.57	10.94	23.92	26.62	18.96	18	41.2	3.8	41.8	68.3	53.5	71.8	7.5
Dry goods (142)	1.50	2.08	6.06	19.95	18.96	19.08	28	23.5	22.8	138.3	133.1	87.2	115.8	27.2
Electrical parts and supplies (168)	3.28	7.78	3.18	12.44	19.08	12.44	12	28.3	6.0	138.3	222.9	137.1	171.1	42.7
Fruits and produce, fresh (52)	2.11	4.74	5.88	27.46	13.54	27.46	12	28.3	11.8	61.2	110.0	53.9	76.8	16.6
Furnishings, men's (39)	1.72	0.99	4.49	8.11	6.31	8.11	22	17.7	11.8	61.2	206.3	87.2	102.1	28.9
Gasoline, fuel oil, and lubricating oil (85)	3.63	1.87	9.29	8.21	6.53	8.21	21	4.1	7.0	33.4	72.3	71.5	52.5	11.4
Groceries (305)	2.92	1.92	6.89	6.22	6.54	6.22	33	6.8	16.0	38.9	52.3	59.3	67.9	18.4
Hardware (235)	1.64	4.48	3.40	4.45	4.45	4.45	43	5.8	27.6	93.9	123.7	118.4	106.6	32.6
Household appliances, electrical (104)	5.38	2.27	9.40	7.11	7.11	7.11	36	7.7	5.7	17.7	42.2	59.3	36.2	4.8
Iron and steel sheets, strips, bars, and plates (93)	1.84	1.18	4.39	5.17	3.70	5.17	50	5.8	2.0	17.7	68.1	77.8	77.3	15.6
Lumber (97)	3.19	1.70	11.95	3.70	3.00	3.70	62	4.5	12.3	98.1	166.2	108.9	128.2	30.2
	2.27	0.97	6.29	5.87	5.28	5.87	46	5.3	4.7	34.0	98.4	64.4	63.4	9.9
	1.67	3.31	1.89	4.18	3.46	4.18	61	7.6	25.1	62.7	105.6	84.9	96.4	43.8
	5.60	1.36	29.80	12.58	12.58	12.58	11	93.5	14.5	133.7	165.6	107.9	151.5	32.5
	1.65	4.45	5.04	6.12	6.12	6.12	17	27.6	29.0	24.1	63.6	41.2	133.0	13.3
	3.19	2.31	7.65	6.76	5.36	6.76	35	14.6	53.6	54.1	142.4	73.1	263.4	34.0
	2.11	1.63	3.47	4.08	3.47	4.08	60	6.6	2.9	63.0	104.7	43.3	107.1	4.3
	1.78	1.01	4.62	5.36	4.33	5.36	60	5.6	7.1	63.0	104.7	80.1	133.4	13.8
	3.58	4.43	32.57	14.84	14.84	14.84	24	47.0	12.4	103.9	170.0	111.8	132.4	36.9
	2.26	2.03	7.91	3.25	3.25	3.25	37	24.5	49.3	16.8	36.2	10.1	168.4	12.7
	1.58	0.93	11.15	2.32	2.32	2.32	54	11.3	73.7	58.7	99.7	66.6	161.2	42.9
	3.82	1.23	12.45	16.59	16.59	16.59	8	16.2	8.1	26.0	67.1	78.4	263.3	82.1
	2.38	0.61	6.67	13.07	10.46	13.07	14	11.9	17.7	69.3	110.4	105.4	43.4	30.7
	1.67	2.25	2.60	6.40	6.40	6.40	21	8.6	40.1	108.6	182.9	146.9	70.1	24.4
	5.79	2.73	7.75	9.66	4.81	9.66	35	5.5	5.5	17.7	65.4	84.9	99.3	7.8
	3.27	1.30	4.76	3.00	3.81	3.81	44	4.3	13.4	34.0	37.1	82.3	23.1	17.6
	2.16	0.76	2.46	2.68	2.04	2.68	54	3.3	23.4	67.8	107.8	107.1	53.3	33.3
	2.98	1.70	11.83	7.45	7.45	7.45	36	8.1	4.2	43.0	87.6	171.4	65.3	16.6
	2.02	0.90	6.69	6.17	7.23	6.17	45	6.2	6.9	82.9	128.4	68.7	97.3	16.6
	1.60	0.65	2.94	4.21	4.21	4.21	53	4.2	18.9	82.9	133.9	133.9	126.2	31.9
	4.65	2.71	11.93	4.99	4.99	4.99	30	6.7	15.1	19.4	45.1	66.8	38.9	12.8
	3.27	1.58	8.89	3.23	3.23	3.23	39	5.0	24.6	38.5	66.8	56.6	56.6	26.2
	2.01	0.50	3.32	2.63	3.26	2.63	48	3.8	39.4	68.7	96.3	110.5	101.5	40.9
	6.12	2.69	7.63	4.70	4.70	4.70	26	12.1	5.0	13.7	60.3	49.9	41.0	10.0
	2.70	1.04	3.98	3.23	3.23	3.23	37	6.9	15.6	42.3	94.0	81.4	80.1	27.1
	1.80	- .10	- .63	2.67	2.67	2.67	43	4.1	27.1	94.1	147.0	106.6	142.2	39.5

Line of business (and number of concerns reporting)	Current assets to current debt (times)	Net profits on net sales (percent)	Net profits on tangible net worth (percent)	Net profits on capital (percent)	Net sales to tangible net worth (times)	Net sales to net working capital (times)	Collection period (days)	Net sales to inventory (times)	Fixed assets to tangible net worth (percent)	Current debt to tangible net worth (percent)	Total debt to tangible net worth (percent)	Inventory to net working capital (percent)	Current debt to inventory (percent)	Funded debt to net working capital (percent)
Lumber and building materials (106)	6.30	3.12	7.73	11.57	4.69	5.74	32	7.8	8.8	11.3	33.3	47.6	29.9	6.5
Meat and poultry (48)	3.25	1.64	4.15	6.95	3.36	4.52	43	6.1	20.0	25.6	56.7	69.5	62.5	18.5
Paints, varnishes, and lacquers (36)	2.22	1.18	1.33	1.73	2.30	3.35	57	4.8	32.4	61.7	99.9	96.8	94.7	40.0
Paper (175)	2.88	1.65	11.97	27.80	29.40	46.22	12	145.5	10.2	32.9	57.0	22.1	121.1	10.8
Plumbing and heating supplies (181)	1.87	.57	5.79	10.17	11.17	22.25	16	44.5	20.4	75.0	118.9	46.7	215.5	21.3
Shoes, men's, women's, and children's (59)	1.54	.24	4.40	6.15	6.39	9.65	32	16.4	40.4	111.8	171.5	75.7	396.1	34.3
Wines and liquors (73)	6.13	3.36	6.04	11.55	3.77	5.15	36	6.2	11.5	10.0	34.4	54.7	41.3	3.5
	3.79	1.52	3.01	5.02	2.71	3.79	45	4.8	23.3	28.1	42.9	73.6	58.2	9.6
	2.59	.62	1.29	1.39	2.03	2.48	51	3.8	33.0	64.0	80.4	92.4	69.7	23.3
	3.84	1.93	9.45	12.33	7.18	9.31	29	10.8	4.8	27.0	80.0	54.1	57.5	18.8
	1.93	1.10	4.74	6.71	4.94	6.19	36	7.9	12.4	45.6	80.0	72.3	86.9	35.8
	1.63	.51	2.53	3.98	3.13	3.95	44	5.9	26.2	78.8	151.9	94.9	132.6	18.8
	5.14	2.81	8.55	11.14	4.40	5.04	40	7.2	6.3	19.4	42.8	60.4	38.5	8.9
	3.22	1.49	4.91	6.14	3.45	3.82	53	5.0	14.4	37.2	63.1	76.3	59.4	19.3
	2.21	.52	1.99	2.63	2.45	2.76	68	3.8	23.7	77.1	115.1	96.7	84.3	34.1
	3.01	2.53	9.83	10.76	8.04	7.15	55	7.9	1.2	39.3	59.3	60.6	78.8	8.6
	20.8	.29	5.18	5.28	4.91	5.59	63	5.8	3.7	82.3	103.5	87.7	101.7	19.9
	1.56	.90	1.44	3.31	3.09	3.33	78	3.3	13.7	142.3	179.7	128.4	156.6	35.2
	3.08	2.23	11.24	16.47	9.44	13.47	23	12.6	3.7	33.5	65.0	57.5	69.8	7.3
	2.04	1.38	8.50	11.64	6.54	8.29	36	8.7	11.3	65.5	113.1	94.2	104.4	13.2
	1.50	.56	5.09	7.28	4.72	5.25	52	6.1	30.4	155.8	223.4	174.1	158.5	28.4

AMES BAG & PACKAGING CORP.,
Marion, Ala., March 3, 1964.

DEAR CONGRESSMAN HOLLAND: Since it was not possible for any of us from this small company to attend the hearings on the double time bill, H.R. 9802, I did want to write a letter in some detail. Our company employs about 200 people which is representative of many thousands of such companies in this country. We are located in a relatively small town or rural area. Before writing this letter to you, I took the trouble of checking with 6 other companies employing from 20 to 250 people each. All of us agree that this so-called double time bill would be quite damaging.

From 60 to 90 percent of our overtime goes to employees such as machinists, foremen, maintenance men, and other such skilled type of classifications. Only in our peak periods or during emergencies of some type do we have to resort to overtime on a plantwide or departmentwide basis. It is necessary to use overtime in these skilled classifications to enable the balance of the employees to work their full hours. We would say truthfully that the penalty of double overtime would not add workers to the payroll—in fact, the tendency would be to go the other way.

For those companies located in areas other than metropolitan or large urban areas there are already serious problems in trying to get enough of the semi and skilled labor group. In our own case, there simply are not enough to go around. The extreme penalty of double time for hours worked by mainly skilled people would not add one person to this group.

Although the total profits and economy look good at this particular time, the smaller companies are not quite as well off as the larger ones. Our margins are such that the penalty of this double time overtime would eliminate any usage. Yet at the same time the cutting of production to save this penalty overtime would not warrant temporary new employees for short periods of time. The cost of training such new employees to be used for only short periods of time would be too costly to use it.

Companies both large and small would have to resort to more and more mechanical and labor-saving machinery and equipment to offset increased costs. Many people today believe that the cost increases of year after year have forced more and more automation. As a result, the lowest end of the labor scale keeps being dropped off and in turn form the hard core of unemployed.

The problem of unemployment is primarily with the hard-core group of those with little or no training, education, or skills. There is actually a shortage of people to fill skilled jobs such as machinists, nurses, technicians, and scores more of similar classifications. The penalty of double overtime will not in a magic way make jobs available to the hard-core group of unskilled unemployed.

Being in a rural area we know all about this unskilled labor. For years we have taken completely unskilled labor and trained them into semi and skilled labor. However, it takes years to do so. Our area suffers more from the lack of training facilities than from the lack of jobs for skilled people.

Every time we raise our costs, no matter what the reason, we are further pricing ourselves out of the world market. Even if a company is not directly involved against foreign competition, indirect efforts will be felt. For those directly in this foreign competition, every rise in cost affects exports as well as easier competition within this country.

Companies in large population areas can always find what are known as "moonlighters" to work for them in case they cannot handle double time. Those in smalltown areas do not have this large pool of people who are willing to work at a second job after they finish a regular day's work.

I have tried to cover a few of the many reasons inherently dangerous in this double time bill. Higher costs, increased foreign competition, affecting primarily skilled rather than the unskilled, no real help in reducing the hard-core group of the unemployed, and others are some of those listed above. Others have probably gone into the side effects and repercussions of this, but I have concentrated on the direct efforts as it would affect small companies such as mine and others with whom I have checked.

I would appreciate it if you would pass this letter along to all of the others on your committee and subcommittee.

Sincerely yours,

JOHN B. AMES.

LAY PACKING Co.,
Knowville, Tenn., March 4, 1964.

Representative ELMER J. HOLLAND,
*House Education and Labor Committee,
 House Office Building, Washington, D.C.*

DEAR SIR: We want to express our opposition as strong as we know how against double time over 40 hours. Also, the 35-hour week. Either one of the above would be disastrous to small manufacturers. We are classified as "small manufacturer."

We do not have enough business to operate two shifts—neither do we have enough space in our plant departments to hire more people for one shift, so as to avoid overtime. We do not work all departments overtime every week at present. In fact, some departments are only getting 35 hours weekly now. During most of year all our departments get overtime.

Our business, meatpacking, handles a very highly perishable product. We get our orders today and ship tomorrow. You can readily see we cannot plan our work hours as another company who has orders to be delivered possibly 90 days to 6 months hence.

For your information, our net profit for 1963, after taxes, amounted to 0.017 percent of sales.

It will be difficult for our company to survive if this legislation should pass. We are sure that you realize this will encourage moonlighting.

We need your help and support to defeat these bills that work such a hardship on small business.

Thanking you, we are,
 Sincerely yours,

IRA V. LAY, *President.*

SHIPBUILDERS COUNCIL OF AMERICA,
Washington, D.C., March 6, 1964.

HON. ELMER J. HOLLAND,
*House of Representatives,
 Washington, D.C.*

DEAR CONGRESSMAN HOLLAND: We have closely followed the testimony at the hearings before the subcommittees on H.R. 9802 and have noted the surge of opposition to the bill. The shipbuilding and ship repair industry also opposes this bill and urges that it be disapproved.

The Shipbuilders Council of America represents practically all major private shipbuilding and ship repair companies in the United States. Our members are covered by the Fair Labor Standards Act, and thus have a vital interest in the double overtime penalty amendment to that act proposed by the bill.

We oppose H.R. 9802 for what we consider to be eminently sound reasons. To avoid burdening the record, we submit that the basic rationale for opposition to H.R. 9802 has been ably and clearly set forth in the statement of Mr. W. P. Gullander, president of the National Association of Manufacturers, and in the supplemental statement by the Law Department of the National Association of Manufacturers, both of which were filed with the general and select subcommittees on February 18, 1964. These statements have the unqualified endorsement of the Shipbuilders Council of America.

We have only a few additional points for the consideration of the subcommittees. A substantial share of the work in our industry is performed for the U.S. Government under fixed-price contracts, and the imposition of wage penalties on such contracts would be a significant factor in increasing defense costs. H.R. 9802 clearly recognizes that such cost increases are to be expected. This we believe, and we are confident you would agree, is inconsistent with the views of President Johnson and Defense Secretary McNamara who last December wrote to 7,500 Defense contractors emphasizing the need to reduce Defense costs.

We strongly urge that the Congress reject proposed H.R. 9802 and instead concentrate on creating a climate which will encourage business to expand and create new jobs without increasing costs to the customer and the taxpayer.

Respectfully yours,

EDWIN M. HOOD, *President.*

STATEMENT BY 3M Co., ST. PAUL, MINN., FROM L. H. FISHER, VICE PRESIDENT,
PERSONNEL AND INDUSTRIAL RELATIONS

Legislation of the type embodied in H.R. 9802 and S. 2486—the double overtime bills—exemplifies why Federal Government leadership in socioeconomic areas requires extreme caution. For in its concern for the welfare of citizens, Government may mistakenly deprive them of responsibilities which, for the good of society, should remain in private hands. One of these responsibilities is that of private business to establish wages and working conditions for its employees consistent with its own peculiar economic conditions.

The 3M Co. bargains with some 50 labor unions. At the bargaining table, union and management representatives come to agreement on such matters as holidays and vacations, health and welfare and pension plans, hourly wages, as well as overtime penalties.

With sales, taxes, and other factors, these result in an annual profit and loss statement of the 3M Co. As such, they are primarily the business of 3M management, acting for its 105,000 stockholders, and 3M employees.

This is basic to the free enterprise system, and, because the overtime legislation is diametrically opposed to it, the response of business to H.R. 9802 and S. 2486 has been swift, and negative.

Asides from our opposition to the theory of this legislation, we must object further to flaws in the proposal itself which seem to us to make it impractical and unworkable.

For example, the contention is that there is excessive overtime in some industries. But what—or who—determines when overtime is excessive? The labor needs of an entire industry, or individual firms in an industry, or firms in a given geographical area in the same industry, cannot be judged by the same standards.

Varying with each firm are such questions as whether it is a one-product company; and whether it competes with other one-product companies; whether there are diversified firms competing with one-product companies, and with each other. Locations of production facilities and availability of labor also vary for each company.

No one set of standards can possibly apply to all, yet standards must be established under the bill, since it recognizes the need for variances to accommodate individual industries and "subgroups" within an industry. Under the bill, on the basis of a die presumably cast by a tripartite committee, the Secretary of Labor determines where a firm or a "subgroup" may depart from the norm, or at what point they must pay overtime, and at what rate.

With today's expanding technology, conditions change quickly within an industry. Anyone watching the "glamour" stocks on the stock exchange can attest to that. Pioneering "subgroups" with special lesser overtime penalties, and with a small number of specialized workers, may suddenly on the basis of new technology become dominant. Their products and processes can make obsolete competing products or processes in other more established and more stringently regulated sections of an industry.

If new technology from a "subgroup" firm brings widespread unemployment in the more established section of an industry, it does not seem logical to further hamper management in that section in their efforts to compete, by placing double-time sanctions on overtime, in the hope that more jobs will result.

As a firm that operates in many highly competitive industries, 3M does not believe that there can be an equitable enforcement of a law that attempts to apply different regulations to different firms.

Further, under the somewhat nebulous detailing of how this bill would operate, it appears that firms and industries would be required to make available to the tripartite committee information that would be regarded by any business as confidential information. Such information in the hands of those outside a company could be extremely hazardous to their current condition and future plans. The 3M Co. cannot see the advantage in revealing such information to such a committee.

A circumstance unique to each firm is the availability of competent workers. But under the bill, firm A, located in an area where skilled machinists are in short supply, might be given lesser overtime penalty regulations than its competitor, firm B, which is forced to pay double overtime because it is located in an area of high unemployment.

The theory apparently is that firm A should not be penalized for overtime because skilled machinists are in short supply in its area. Far from being penalized, firm A is given a Government-controlled competitive edge on firm B.

Firm B, assuming it has the space and the machinery, may try to hire more people, if it can find trained workers to operate the machinery. Immediately it incurs substantial new overhead that firm A does not have. Later, when the need for speeded up production is ended, firm B finds its competitive position worsened still further, because it is liable for unemployment compensation on the new employees who must be laid off. In addition, firm B finds its community relations seriously impaired, since severe criticism almost always accompanies a layoff, for whatever the reason.

Meanwhile, firm A goes on as before, working overtime when necessary, at a time-and-a-half rate, unaffected by the Government-created problems that plague firm B.

This bill is called a double time pay bill. By modification, or interpretation, it could easily become a triple time pay bill, or some other figure, set at some future time. The danger lies not so much in the figure used in the title; the danger lies in our accepting as proper, the Government's right to establish, by law, matters which are not the province of government.

As can be seen, what this legislation proposes to control are extremely important management decisions. The Government is in no position to guarantee that the tripartite committee or the Secretary of Labor—whoever he may be—will be correct in their decisions. Business management cannot make such guarantees to stockholders, either. But based on intimate knowledge of its company and its position in the industry, management is in a better position than Government to make decisions affecting its stockholders. Short of Government ownership of industry, this will always be true.

Supporters of this legislation are hopeful that it will provide more jobs. But for the most part, this is based on the assumption that all overtime hours are avoidable, and can be converted into new jobs for unemployed workers. Completely disregarded is the fact that overtime may be seasonal, or otherwise unpredictable. Further, new jobs require new capital investment on the part of business. Overtime does not usually require this investment.

Overhead, as already mentioned, increases with each new worker, with mandatory contributions to unemployment compensation funds, workman's compensation funds and social security funds, not to mention the various fringe benefits negotiated in collective bargaining.

In effect, this legislation would vastly increase the cost of doing business without providing proper potential for new jobs. Jobs are created only through capital investment and industrial expansion. Double time legislation simply increases the overhead, and siphons off money that might otherwise be used for these purposes.

There is no question but that automation is presently reducing the number of unskilled jobs available in American industry. But invoking the penalty of higher overtime premium will not increase the number of jobs available. Instead, it can only increase employer interest in finding ways to decrease labor costs, and automation is the direction in which most employers will turn.

In hearings on the 35-hour week it has been pointed out that among unions' most jealously guarded provisions of a labor agreement are their overtime provisions. The reason is simple. If there is overtime, workers with the highest seniority get the first opportunity to work. This hardly points to a lack of interest in overtime that is sometimes available. And it is in the best tradition of the free enterprise system that the senior man should have first chance at the work, if he is qualified to do it. If his seniority with a company entitles him to overtime, and he wants it, should we pass laws to take it away from him?

George Brooks of the International Brotherhood of Pulp, Sulphite & Paper Mill Workers has said, "Aside from the workers' desire for their paid holidays and paid vacations, there is no evidence in recent experience that workers want shorter daily or weekly hours. The evidence is all on the other side. Hundreds of local and international officials have testified that the most numerous and persisting grievances are disputes over the sharing of overtime work. The issue is not that someone had been made to work, but that he has been deprived of a chance to make overtime pay. Workers are eager to increase their income, not to work fewer hours."¹

¹ "History of Union Efforts To Reduce Working Hours," "The Shorter Workweek" (AFL-CIO Conference on Shorter Hours of Work), Public Affairs Press, Washington, D.C., 1957, p. 18.

The picture that some would have us believe is that there are many men lined up behind every machine operator, waiting for a chance to take his job. This simply isn't true. Labor Bureau statistics bear out that the largest numbers of unemployed in this country are not skilled workers, but unskilled workers, and a good many of them young people who have left school with no vocational training. It is with this group that we should concentrate our efforts. Somehow, we must get across to them that they have an obligation to themselves to prepare to make a living. Again, the penalty of double overtime pay will not provide a job opportunity, nor will it provide the training these young people need.

From time to time we hear about labor unions backing "buy American" drives, pointing up the competition of foreign manufacturers. Every day we must try to sell products that cost a good deal more to make and to sell than those made in other countries. The double overtime penalty will do nothing to help this situation. It can only worsen it.

The growth of a free economy in this country has not come through tight Government restrictions on business or on labor. Legislation that protects against patent abuses and infringement is necessary and proper, as is legislation that protects against labor organizing and negotiating abuses.

But legislation that gets the Government into areas reserved for collective bargaining is Federal wage fixing. Compounding the error of this legislation is that it also has the effect of rigging what must remain free business competition. Neither of these is necessary nor proper in a country founded on the premise of freedom for individuals to seek their destiny, without interference by governmental dictum.

STATEMENT OF EDWARD ATKINS, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF SHOE CHAIN STORES

The National Association of Shoe Chain Stores is a trade association composed of companies operating in excess of 8,000 chain shoestores throughout the United States and employing over 30,000 employees.

This statement is presented in opposition to H.R. 9802 because of our firm conviction that the solution to the unemployment problem does not lie in imposing a penalty overtime rate on American business.

If the operator of a shoestore were to eliminate overtime for his existing work force, they might well be compelled to leave retail employment and join the ranks of the unemployed.

A retail salesman, for example, has no way of knowing when the busy hours will be. He might remain in the store all day and make very little commissions because the particular store is in a night shopping area. Yet, the theory of H.R. 9802 would require the store to send that employee home and hire "additional workers."

The "additional worker," who might even be moonlighting, would thus enjoy the cream from the day's business whereas the regular employee would be relegated to the status of a part-timer.

From the store's point of view, such a procedure would be equally undesirable. The "additional workers" would not have the experience necessary to properly man the operation, sales would be lost, and customers alienated.

If a retail store operator wants to maintain a trained skilled staff, he would have no choice but to pay the overtime penalty rate.

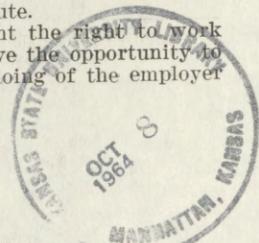
This would not solve the unemployment problem and would have the result only of increasing employment costs which would have to be passed on to the consumer.

There should be no illusions about who will pay the ultimate overtime bill—the public.

The reason the bill would fail of its purpose is that it is based upon an erroneous premise. The bill assumes, it appears, that an employer permits overtime to be worked because in some way there is a cost saving to him.

While it may be true that the cost involved in hiring, training, and laying off incompetent employees may be greater than the overtime cost, there are other factors which force the retail employer to go the overtime route.

1. As pointed out above, the employees themselves want the right to work overtime because it is in the overtime hours that they have the opportunity to make their greatest earnings. (This is not through any doing of the employer



or the employee. It is a simple fact of business life, dictated by consumer practice which cannot be ignored.

2. Even if the retailer and his regular employees wanted to have a separate "regular" and "overtime" crew, it would be impractical because of the excessive employment costs involved in two separate crews, particularly where fringe benefits which would have to be provided for both crews play such a substantial role in the overall direct labor cost.

Thus, the cause of overtime in the retail industry is built into the system of doing business. An increase in overtime premium will serve only to increase costs. It will not reduce unemployment.

To support our contention that overtime has become a way of life, which cannot be changed through the route of an overtime penalty rate, we need refer only to the analysis of the characteristics of overtime hours made by the Bureau of Labor Statistics, which states in part:

"There is great variation in the patterns of working hours currently prevailing in the American economy. The preferences of individuals, the economic requirements of a firm or industry, the contractual labor-management arrangements, and many other factors serve to affect the working hours of any one individual or firm * * *"¹

Overtime is not something that can be turned on or off. As pointed out by the Bureau of Labor Statistics, among the many factors which contribute to overtime work are the economic requirements of a firm or industry. To prevent the use of trained skilled personnel when needed would destroy the efficient operation of any business. To prevent this from happening, an employer will simply pay the overtime penalty in the hope that he can pass on the cost to the consumer. If he cannot, and is required to absorb the cost, the average shoe retailer would find it hard put to stay in business. This would serve only to add to the unemployment rolls.

In order to reasonably conclude that the proposed legislation would have the effect of forcing the retailer to hire additional employees at the expense of overtime work, we would have to assume other facts which simply would not exist; such as:

1. That the regular employee would be willing to give up his most productive overtime hours.
2. That competent help is available.
3. That the extra employment costs would be less than the overtime bill.

THE TRIPARTITE COMMITTEE

Even assuming that in a proper case an overtime penalty rate would have the result of providing additional employment, we do not believe that the procedure of the Tripartite Committee will be workable. One of the conditions which the Tripartite Committee would have to find before it could recommend the overtime penalty is that it would increase employment opportunities "without excessive costs." The term "excessive" is so vague that the Committee and the Secretary of Labor are granted virtually an unrestricted license to assess the overtime penalty where and when they please.

Conceivably, American business could be involved in endless proceedings before the Committee without knowing whether the labor costs they use in establishing their prices are going to be increased or not. One of the most damaging things that could be done to American business is to keep the businessman guessing as to what his labor cost will be.

Will he increase his prices as a hedge against the possibility of an increase in labor cost?

Is the retail "industry" an industry within the meaning of that term as used in H.R. 9802? The term "industry" in the bill is neither defined nor explained.

How will the industries, which the Secretary of Labor will study, be selected?

The bill provides that the Secretary "may appoint and convene a Tripartite Industry Committee for any industry in which it is alleged or he believes that substantial and persistent overtime employment exists and that the payment of overtime compensation * * * would increase employment opportunities in the industry without excessive costs."

¹ Hearings before the Select Subcommittee on Labor of the Committee on Education and Labor, House of Representatives, 88th Cong., pt. 1, pp. 69, 73-74.

We have already pointed out that the term "excessive" without clear lines of delineation is meaningless.

But what is meant by "substantial and persistent overtime employment"? Again the bill affords no guidelines.

Does "substantial" mean "to a large degree" or does it mean "essential," which is one of the dictionary definitions?

This is particularly important to an industry like retail where, by reason of the fact that it is partially a service business which must cater to the whims of the public, overtime is frequently an integral part of a retail employee's duties and desires.

Does the bill mean that the retailer would be required to prevent his regular employees from working overtime merely because, by the nature of the operation, store hours and public demand would make their overtime "substantial and persistent"?

Once the Secretary of Labor decides as a result of "a preliminary survey" that a particular industry is a candidate for further study, he appoints a Tripartite Committee which is to give consideration to "economic and competitive factors," including whether such recommendation minimizes changes in costs and prices and minimizes dislocations in the industry.

Thus, the tripartite committee is asked to reach a conclusion one way or the other but those conclusions will be based upon the philosophy or whims of the particular members of the committee because the bill does not provide any guides.

Since there will have to be a different committee for each industry studied, we would end up with nothing more than a crazy quilt of recommendations.

For example, in the retail shoe industry a store in a shopping center or a freestanding highway store might very well be open every night, because of shopping habits, whereas the downtown locations might work little or no overtime.

Does this mean that in one part of a retailer's operations he would have to pay an overtime penalty rate but in another part of his operations he could pay the traditional overtime rate because in the latter segment of his business overtime is not substantial or persistent? Or, is the retailer to be penalized throughout his business because one segment operates with substantial and persistent overtime?

The same problem is presented because of regional variations. May the Secretary of Labor penalize an entire industry because one part of it works substantial and persistent overtime or may the Secretary of Labor, under this bill, split an industry? If the answer to the last question is in the affirmative, then would not this bill be legislating competitive advantages and disadvantages?

In addition, very serious legal considerations have been overlooked. Can the courts review a determination under this bill or will it be held that the field has been preempted, giving to the Secretary of Labor and the Tripartite Committees exclusive jurisdiction?

If the courts can effectively review a determination, does this mean that the Federal courts can then substitute their judgment as to what is "excessive" or "substantial" or "persistent"?

The hearings under H.R. 9802 do not even have to conform to the Administrative Procedure Act, and those who may participate in the hearing are not identified.

Despite the absence of these and other safeguards, the committee is given broad subpoena powers. Since this tripartite committee must be composed of representatives of the particular industry, labor, and the public, confidential company records will be made available not only to a member of the committee who may be a competitor to the particular company, but also to the labor representative who could be the collective bargaining agent representing the employees of the particular company. There is no restriction on the use such competitor or labor representative could make of the information obtained.

Although we have for the sake of brevity related our objections to the store operations, the bill would equally fail of its purpose with regard to the central office and warehouse operations of shoe chainstores for the reasons set forth above.

In addition, additional employees could not be hired in central offices and warehouses during nonovertime hours because of space limitations. Also, in the case of a warehouse operation because a delivery or pickup truck may be delayed, overtime hours may well be an integral part of the warehousemen's job.

If a company were faced with paying an overtime penalty rate, it would have no choice but to automate as much as possible, thereby creating the very unemployment which the bill was designed to prevent.

CONCLUSION

The argument that an overtime penalty rate would solve the unemployment problem is fallacious. Any sound businessman will make his determination of which course he will follow—to pay the penalty rate or hire new inexperienced employees—on which avenue will be most efficient and the least costly.

In the retail business, night and Saturday and, indeed, Sunday openings have become a way of life. These so-called overtime hours need the services of the experienced regular employees if the public is going to be accommodated. On the other side of the counter, the same need and desire exists. The regular salesman will insist that he be given the opportunity to increase his commission earnings during the busy hours.

Consequently, in the retail shoe industry, the announced goal of the bill cannot be achieved. On the contrary the bill could only result in a decrease in employment attributable to higher labor costs.

It is our opinion that for the retail shoe industry the proposed legislation spells disaster.

AMERICAN RETAIL FEDERATION,
Washington, D.C., March 18, 1964.

HON. JAMES ROOSEVELT,
*Chairman, General Subcommittee on Labor, Committee on Education and Labor,
U.S. House of Representatives, Washington, D.C.*

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
U.S. House of Representatives, Washington, D.C.*

GENTLEMEN: We appreciate the opportunity you have given us to express our views on the President's penalty overtime proposal, as incorporated in H.R. 9802. In a statement submitted on December 3, 1963, to Mr. Holland's subcommittee on the proposed 35-hour workweek, we stated our view to the effect that the shorter workweek will not increase employment. We hold the same position with respect to H.R. 9802—and for essentially the same reasons. With or without a tripartite committee, the imposition of a penalty overtime payment would have no different effect on employment than shortening the workweek. We therefore ask you to incorporate that statement and this letter into the record of these hearings.

The drafters of this bill evidently did not intend to bring much of retailing within its provisions, since it extends only to those covered prior to the 1961 amendments to the Fair Labor Standards Act. Secretary of Labor Wirtz' statement before your joint subcommittee on February 17 gave further indication that it was not the Department's intent to include industries, such as retailing, recently brought under the FLSA into the penalty overtime provision of the bill; rather he would look to the present time-and-one-half requirements to bring about a significant reduction in the number of overtime hours worked.

Also, we wish to call to your attention the fact that retailing is not an industry in which there is a substantial amount of overtime. The latest available figures (October 1963) show that average weekly hours in retailing were 37.6 (Economic Indicator, February 1964.) A Bureau of Labor Statistics survey for June 1962 (before overtime limitations of the 1961 amendments became applicable to retailing) showed that in the retail establishments subject to the Fair Labor Standards Act, 76 percent of the employees worked less than 41 hours a week, and 86 percent less than 45 hours. The amount of overtime worked in the retail industry can be expected to decrease to reflect the downward escalation of the overtime cutoff which became applicable pursuant to the 1961 amendments to the Fair Labor Standards Act. The full impact of this downward escalation will not be felt within the industry until after September 1965 when the overtime cutoff will reach the prescribed 40 hours.

When overtime hours are worked in the retail industry, they occur during seasonal peak periods of relatively short duration. To handle short promotional peaks, the retailer either extends the hours of his regular part-time force (and this is sometimes difficult since most part-timers in retailing work the shorter hours by choice) or schedules overtime among his regular force; usually a combination of both. It is not practical, during these short periods, to hire and indoctrinate temporary workers. Therefore, any additional overtime premium pay would only have the effect of increasing the cost of the merchandise to the customers and would not create any new employment.

During the longer seasonal peaks of fall-spring fashions and Christmas, sizable numbers of temporary employees are added, but the sum of qualified people is limited since these peaks are peculiar to the trade and not to any particular establishment. Therefore, hours of regular, full-time employees may have to be extended during this period.

As stated above, there is continuing evidence that retailing should not be subject to any penalty overtime requirement. We wish, therefore, to reiterate our opposition to H.R. 9802. This bill would not alleviate unemployment, and create more jobs, but would serve to throw unwarranted confusion into current work procedures.

Sincerely yours,

DONALD F. WHITE, *Legislative Counsel.*

OK DELIVERY Co.,
Portland, Oreg., April 22, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
U.S. House of Representatives,
Washington, D.C.*

DEAR REPRESENTATIVE HOLLAND: In your deliberations on H.R. 9802, the double time for overtime bill, the following specifics might be helpful:

Overtime paid by the delivery industry is an incident to unpredictable fluctuations in the employer's workload. A review of overtime paid by my firm—one of the largest delivery systems on the west coast—shows over 94 percent of our overtime is paid for periods of work lasting less than 1 hour each. No individual can be found to have worked as much as 8 hours of overtime in any week, and the median runs at about one-tenth of that amount.

There is no practical way in which we could have employed extra men to avoid the need to use our regular drivers for brief periods—recurring according to no predictable pattern—beyond the limits of the regular working day.

Increasing the overtime penalty to double (or triple or quadruple) the regular pay rate will not improve our ability to forecast its occurrence. It will not add one single additional name to our payroll.

If H.R. 9802 is really just a measure to further inflate wage scales, let's get it out in the open.

Respectfully,

JOHN J. MATHEWS.

BLACK HILLS POWER & LIGHT Co.,
Rapid City, S. Dak., April 7, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Committee on Labor, House Education and Labor Committee,
Cannon House Office Building, Washington, D.C.*

DEAR MR. HOLLAND: The Overtime Penalty Act of 1964 would, if enacted, work a hardship on American industry which is already hard pressed to meet domestic and foreign competition, and doubtfully would accomplish its intended purpose of creating new jobs through the elimination of overtime.

The enactment of this bill would concentrate broad powers with the Secretary of Labor, and he alone would be empowered to appoint a tripartite committee to study any industry, to accept or reject the committee's recommendations, and to appoint subsequent committees if he desires a different recommendation. In effect, the power of the Secretary of Labor in accepting or rejecting recommendations amounts to an "agency determination" in setting overtime standards.

Although the proponents of the bill allege that the tripartite industry committee provisions are "far superior to agency determination" in setting standards for overtime work, the prerogative vested in the Secretary of Labor in rejecting committee recommendations negates the dubious qualities of this feature.

Terminology in the bill is vague and undefined and would make administration of the bill extremely difficult, if not impossible.

Enforcement of this bill could result in unfair competitive factors between various segments of an industry and between different geographical locations.

We oppose this bill in its entirety, and strongly urge its rejection by the Congress.

We propose instead that the Congress work toward a more favorable business climate wherein American industry, through our free enterprise system, will continue to grow and expand, and through this growth will create additional jobs to provide employment for all who seek it.

A more detailed position of industry and its willingness to maintain and accept responsibility in this area will be made clear in a national conference on overtime sponsored by the U.S. Chamber of Commerce on April 8, 1964, in Washington, D.C.

Yours very truly,

NEIL G. SIMPSON.

PITTSBURGH, April 1, 1964.

HON. ADAM C. POWELL,
Chairman, House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR SIR: I would like to go on record as opposing House bill H.R. 9802. Passing of this bill could only have an adverse effect on the general economy of the country. It is my opinion that—

1. Most unemployment is not the result of overtime work. The Institute of Life Insurance recently reported that for the first time in our history families with 2 paychecks outnumber those with 1 by more than a million (as late as 1950 single earners outnumbered the 2 incomes by no less than 6 million).

2. Many of the unemployed are not sufficiently educated to hold a job.

3. Many of the people unemployed and on relief or collecting unemployment compensation would rather collect unemployment checks than a paycheck. This is a way of life (and always will be) with which they are satisfied and don't care to change. Recent surveys indicate that where companies have had large layoffs, and where they have volunteered to retrain these same people so that they could find employment, less than one-fourth of the people took the training courses.

4. We have encouraged people to become parasites and to live at the expense of the Government and taxpayers by providing them with care from the cradle to the grave.

5. Passing House bill H.R. 9802 is bound to result in higher unemployment costs preventing us from meeting foreign competition which in turn would result in future unemployment.

6. Many industries have already felt the effects of the high cost of employment, taxes, union difficulties, and have taken their business abroad. This in turn has produced unemployment and will continue to do so should this bill be passed.

The problem of unemployment is a serious one, and, unfortunately, one that will never be completely solved. We are misguiding the Nation by leading them to believe H.R. 9802 will attempt to correct an impossible situation.

Yours truly,

A. J. PADDOCK.

WOODBURY, CONN., April 6, 1964.

HON. ADAM CLAYTON POWELL,
Chairman, House Education and Labor Committee, House of Representatives,
House Office Building, Washington, D.C.

DEAR MR. POWELL: H.R. 9802, the Overtime Penalty Act, is to be considered by the House and would raise overtime rates to double time in "selected industries." This bill presumably was formulated to eliminate overtime and hopefully to spread work over more people.

May I respectfully request that you lend your opposition to the passage of this bill because, as a businessman, I am confident that such a penalty imposed on business would not effect the desired reduction in unemployment. In general, the people who are getting any overtime are the skilled group who are in short supply. Instead, H.R. 9802 would tend to encourage automation to keep costs down in order that we Americans might hope to continue on a reasonably competitive basis with foreign countries. Encouragement should be given to the semiskilled to obtain training for the better jobs so that the availability of skilled workers would not be such a serious problem to American industry.

May I ask your active opposition to H.R. 9802.

Respectfully,

ROBERT I. COLEMAN.

THE BABCOCK & WILCOX CO.,
Alliance, Ohio, April 2, 1964.

MR. ADAM C. POWELL,
Chairman, House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR MR. POWELL: I am writing to express my concern over pending legislation to impose greater penalties on manufacturers for certain overtime work, as contained in bills H.R. 9802, H.R. 1680, and others.

Greater penalties for overtime work will increase manufacturing costs. This increase will eventually force American manufacturers to raise prices which, in turn, will adversely affect their competitive position with foreign manufacturers. If this occurs, domestic buyers will find it less expensive to purchase materials and supplies from foreign rather than American manufacturers. This would result in a reduced demand for American products which, in turn, would mean less manufacturing and less jobs for the American workers.

A vote for these bills could, therefore, have exactly the opposite effect than that intended. Rather than create jobs, they could destroy them. I urge that you vote against these bills.

Yours sincerely,

A. P. TABER, *Vice President.*

VICTOR COMPTOMETER CORP.,
Chicago, Ill., March 31, 1964.

HON. ADAM C. POWELL,
House of Representatives,
Washington, D.C.

SIR: Recently H.R. 9802, which provides for double time for overtime, was introduced. This company is unequivocally opposed to the passage of this bill. The purpose of this bill is supposed to be to penalize overtime and create hundreds of thousands of additional jobs. This bill could not have this result.

Most overtime is dictated by the practical necessity of normal operations. There are always instances when a company must schedule overtime work for some of their employees. Short workweeks due to holidays, problems of customer purchase schedule, periods prior to and following vacation shutdown, periods of excessive illness among employees, are some of the situations which may make it necessary to work overtime. No employer is anxious to pay overtime instead of straight time. However, it is impossible to cut out all overtime.

This bill is particularly bad in the discretionary powers of administration that are given to the Secretary of Labor. The undesirable situation that would result from employee relations and competitive standpoints if one geographical area were required to pay double time for overtime, while another location may not have to do so, is obvious. The same bad situation would exist if one industry had to pay double time while another industry operating adjacent to it would not have to do so.

In our opinion this is an extremely undesirable and potentially harmful bill and we strongly urge a vote against its adoption.

Very truly yours,

A. C. BUEHLER,
Chairman and President.

MORGOOD TOOLS, INC.,
Rochester, N.Y., March 31, 1964.

To: The General and Select Subcommittees on Labor of the House Committee on Education and Labor Considering H.R. 9802.

GENTLEMEN: The penalty overtime bill 9802 as recently proposed is the subject of much concern among small tool and manufacturing shops in this area. Our company, Morgood Tools, Inc., with 28 employees, has some of the typical problems of small industry; namely, lack of good available skilled help, and high labor costs.

In recent years it has been virtually impossible to hire people with potential and experience for producing special cutting tools. This highly skilled trade requires the sharp ability and the physical stamina of younger men. Additional requirements are patience and a natural aptitude for mechanical work. The best source for trainees that we have found are graduates of technical high schools. However the continuity of their shop training is interrupted when they are called into military service. The minimum training period required to develop men with suitable experience in this field is 4 years. When our apprentice toolmakers go into military service we have no alternative but to work the older employees overtime hours and/or to hire additional trainees. However, it has been our experience that at least 50 percent of those called for military training return to the toolmaking trade when they are discharged. Also, we find they make much better employees at that time.

Manufacturers unanimously agree that overtime hours at double rate would necessarily increase product selling prices. This, in effect, would force people to pay higher prices for goods and services, resulting in an inflationary trend in their standard of living. Considering today's profit margins we are certain that very little overtime work could be afforded if the double rate overtime bill was enforced.

Paralleling this subject, there is a most appalling condition existing in industry today that probably contributes substantially to unemployment. I am referring to the employers who encourage the practice of "moonlighting." By hiring afterhour part-time help, these companies exploit the workers as well as hurting the overall employment condition in the country. The afterhour worker is usually hired at a lower hourly rate than his day rate.

What is more important he cannot possibly give his best to his daytime employer after he has worked long hours the previous night. Some of the direct results of this practice are: low production, overpriced products, and low profit for the full-time employer. In most instances, shops that hire "moonlight" workers do not have their full quota of daytime employees. They are actually cheating someone out of a job and full-time employment.

A proposal that would penalize this practice of "moonlighting" and which would encourage job training for full-time skilled and semiskilled workers, would be most helpful in solving the present unemployment problems. The proposed H.R. 9802 would have adverse effects.

Yours very truly,

RICHARD M. WIRTH, *President.*

PINTER BROS., INC.,
April 2, 1964.

HON. ADAM CLAYTON POWELL,
Committee Chairman, House Education and Labor Committee, House Office Building, Washington, D.C.

DEAR MR. POWELL: We are rather concerned with the above bill which would increase the cost of doing business and still not help unemployment in our particular operation because of the fact that on many of our routes the riding time constitutes one-half or more of a driver's present 8- to 10-hour day.

The question of eliminating overtime even at time-and-one-half rates has been given serious consideration for some years and wherever possible overtime is kept to a minimum or eliminated. It is however, impossible in a business such as ours to eliminate overtime even when we are forced to pay three times the regular rate which happens on occasion on some of these minor holidays when we are forced to operate.

During a presidential election year a great many of so-called reforms are publicized in the hope that they might garner a few more votes, however, in all honesty I must admit that in most industries where people are confined to a specific building all day much of the overtime could be eliminated.

The danger of placing powers to regulate overtime in certain industries could be abused and expanded to a point where it would be much more harmful than the average person realizes at the present time. The penalty of paying double time for overtime could very well inflict a hardship on small business to the point where small competitors would face a disadvantage of higher cost or be totally eliminated by such cost.

We in our industry feel very strongly against H.R. 9802 and hope that you will defend our position to the utmost.

Very truly yours,

JOSEPH A. PINTER, *President.*

STATEMENT OF CHARLES LANG, PRESIDENT, NORTH AMERICAN FOLDING BOX CO., INC., BROOKLYN, N.Y.

My name is Charles Lang, and I am president of the North American Folding Box Co., Inc. I am submitting this statement to the House Education and Labor Committee opposing passage of H.R. 9802 and H.R. 1680, that would amend the Fair Labor Standards Act by setting a double or higher scale for overtime rates.

We are manufacturers of paper folding cartons, with our plant located in New York City, and selling our product to customers throughout the eastern part of the United States.

Because of the acute shortage of skilled labor in our industry, the bill if passed, would materially affect our costs. Therefore, we would be unable to put on any more help.

Overtime rates are largely unavoidable and is only put into effect based upon customers' demands or in peak seasons, and because of the lack of skilled help available to us in our industry. Any overtime instituted would provide no opportunity of spreading the work among the unemployed.

Thus, the belief that levying a penalty rate for overtime work would spread the work around is a false theory and as such oppose passage of bill H.R. 9802 and H.R. 1680.

CHARLES LANG.

WHEELABRATOR CORP.

Mishawaka, Ind., April 16, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
House Education and Labor Committee,
Cannon House Office Building, Washington, D.C.*

SIR: I had originally requested time to testify before the Select Subcommittee on Labor regarding the effects that H.R. 9802 and S. 2486 would have on the operations of the Wheelabrator Corp. My request was initially denied and, therefore, I take this means of expressing my views to you on this legislation.

Our company is not one that believes that it is cheaper to work overtime than to hire new men because of the cost of fringe benefits. Under normal circumstances we would prefer to hire additional men if business conditions warrant, and if our backlog is such that we can see a higher business level in the future. This has been our practice and we will continue to do so. However, the hiring of additional men is not always possible due to the very nature of our business and our manufacturing processes.

During the year 1963 our overtime premium costs were \$94,400. In analyzing this overtime we find that the vast majority was brought about by two conditions in our plant. First, in the area of maintenance where it was necessary to perform certain maintenance operations while the plant was down on a Saturday or Sunday. It would be impractical to hire additional maintenance men because they would merely stand idle while the equipment and machines were in operation. The second area of overtime was in order to meet promised delivery dates for customers. Since we manufacture an engineered custom product our fabricating schedules and delivery schedules depend upon engineering releases. It is not possible to add help at the last minute in order to meet a tight delivery date. As I said before, we are willing and have added men when our backlog increases.

I believe you can see from the foregoing that to require payment of double time for work in excess of 40 hours would merely place an additional cost and a subsequent increase in price of our product or reduction in profits. The

passage of this legislation would in no way increase employment opportunities with Wheelabrator Corp. and, in fact, might have just the opposite effect on the employment picture in our plant.

Sincerely,

JOHN G. FARABAUGH,
Director of Industrial Relations.

KENT-COFFEY MANUFACTURING CO.,
Lenoir, N.C., March 4, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE HOLLAND: This statement is being submitted by Harold F. Coffey, president of Kent-Coffey Manufacturing Co. (furniture manufacturers), Lenoir, N.C., in connection with H.R. 9802 which is now being considered by your committee. I will appreciate your passing on to the other members of this committee a copy of this communication, which I have had mimeographed.

I have attempted to number my objections to this legislation and hope that I have made everything clear in my statements.

(1) The adoption of this legislation would raise the cost of production and thereby damage our industry's ability to compete in the United States or in the world markets for the consumer dollar.

(2) I feel that your basic approach to this situation is entirely wrong and that no amendment of the bill could make it right.

(3) It is my opinion that in our industry the increased overtime penalty would have the effect of reducing the number of man-hours of labor that industry could profitably buy.

(4) Too much power would be concentrated in the Secretary of Labor and taken away from the employer himself.

(5) The majority of overtime is unavoidable in certain seasons and in certain jobs throughout the entire year.

(6) A higher overtime pay rate would mean greater labor costs so far as our industry is concerned but would not mean the hiring of more persons now unemployed, and in the second place, there is no real unemployment in this particular area.

(7) In many businesses, and this holds good in our industry, overtime is a seasonal thing and is not a year in, year out proposition.

(8) In our industry, with dangerous machinery, untrained men would be more prone to have accidents, and we could not afford to have them.

(9) The enactment of this legislation would cut regular employers' pay to the point where they would take other jobs in addition to the present one, in order to supplement their pay, and they would be less efficient on each job.

(10) More than one shift has proven to be ineffective and costly in the furniture manufacturing industry. Where one shift leaves off, it is very hard for another shift to pick up without a lot of lost motion, and then many errors are prevalent. Therefore, two or three shifts would be out of the question.

(11) All past experience with tripartite committees has shown that with few exceptions, the labor members and the public tend to vote together over the opposition of the industry members. Accordingly, our industry would have very little say in the matter.

(12) To sum it all up, this legislation, if enacted, would be very harmful to the furniture manufacturing industry and would increase our costs, thereby causing us to have to raise our prices to the dealers. In turn, they would raise prices to the public, with nothing having been accomplished in the way of arranging for additional employment, or else it would retard our production, causing us to do less business and pay less to our employees in the way of wages.

I am very much opposed to this legislation and do hope that an unfavorable report will be given this legislation by your committee.

Very truly yours,

HAROLD F. COFFEY, *President.*

CATALYSTS & CHEMICALS, INC.,
Louisville, Ky., February 25, 1964.

HON. M. G. SNYDER,
*U.S. House of Representatives,
 Longworth House Office Building, Washington, D.C.*

SIR: I am opposed to H.R. 9802 which would impose overtime penalty of double pay for over 40 hours.

I favor means of increasing employment but from my 25 years' experience in industry, I feel that such a law will not increase employment. It will, however, increase the cost of doing business. Essentially all overtime that occurs in most companies results from holding employees over to fill vacancies left by absenteeism, by unexpected production requirements that will last for only a few hours or at the most a few days, and by maintenance problems which cannot be anticipated. I should like to urge you to use your efforts to defeat this bill.

I am in favor of doing something to discourage people from holding two jobs so that there can be a better distribution of the work. In a recent column, Sylvia Porter points out the degree of "moonlighting," and if most of this could be avoided, our unemployment problem could be solved.

Yours very truly,

R. E. REITMEIER, *President.*

THOMAS INDUSTRIES, INC.,
Louisville, Ky., February 24, 1964.

Congressman M. G. SNYDER,
*Longworth House Office Building,
 House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN SNYDER: It has been called to our attention that hearings will be held on February 26 and 28 regarding H.R. 9802 which proposes to provide for double pay for work done in excess of 40 hours per week.

We very vigorously protest this action and can assure you that, in all cases which we know, it would not accomplish the purpose that is claimed for creating new jobs.

Industries at present all attempt to balance production to the extent possible to make maximum utilization of investments and also to eliminate any overtime if it can possibly be done. Regardless of how well sales are anticipated and production planned, it is not possible to come up with the entirely correct answer which, in many cases, necessitates adding overtime to meet customer demands. This same situation would exist if industry were forced to pay the double time rather than the time and one-half for overtime which would ultimately add to the cost of the production itself. This action would tend to add to inflation as it would naturally increase costs of the production.

In any normal year, many companies budget a certain amount of overtime as they know it is going to be necessary. The only thing the proposed bill would do is to increase the cost of this overtime. We hope that the committee examines all facets of this situation so that we are not saddled with something that has been explained by people who are looking at the problems only from the labor side of the picture.

If there is anything that we can do to be helpful in this matter, we would certainly like to have the opportunity.

Yours very truly,

JOHN G. BEAM, *President.*

CONTINENTAL AIR FILTERS, INC.,
Louisville, Ky., February 21, 1964.

HON. M. G. SNYDER,
*House of Representatives,
 Washington, D.C.*

DEAR MR. SNYDER: It is our request that you transmit to the House Committee on Education and Labor our thinking regarding the subject bill which calls for an overtime penalty of double pay for over 40 hours work per week.

It is our understanding that the intent behind this bill is that it would cause manufacturers to employ additional personnel rather than stand this penalty for overtime work with its regular force. This is false thinking. There might be some merit in this proposal were we confronted only with overtime but, since overtime is generally a temporary expedient, it would be uneconomical at almost

any reasonable overtime rate to hire additional people on a temporary basis, and then be confronted with all the accompanying fringe benefits, plus the cost of training inexperienced personnel.

Ours is a small company averaging about 250 hours overtime a month and, if this bill should pass, we would be forced to go ahead and pay the double time, adding such cost to our products which, in a very competitive field, could possibly mean that we would sell less and, hence, might even find it necessary to curtail our present work force. The passage of this bill would then defeat, in fact work adversely to, the purpose for which it is intended.

Sincerely,

FRANK B. JOHNSTON, Jr., *President.*

INSULATION BOARD INSTITUTE,
Chicago, Ill., April 28, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee on H.R. 1680 and H.R. 9802, House Education and Labor Committee, House of Representatives of the United States, Washington, D.C.

DEAR MR. CHAIRMAN: I, Charles M. Gray, am the manager of the Insulation Board Institute. This statement, on behalf of the many association members, is presented for incorporation in the record of hearings of the subcommittee on H.R. 1680 and H.R. 9802, bills for double overtime.

The institute is vigorously opposed to the proposed legislation because of our belief that it will raise production costs; will ultimately lead to higher consumer prices; will weaken the ability to cope with foreign competition; and will not necessarily increase total employment.

Since the additional labor costs would not be accompanied by a rise in productivity, it seems to us inevitable that the overall cost of doing business would increase. To a large extent, this added cost would be passed on to the consumer in the form of higher prices.

Moreover, the fiberboard industry is seriously threatened by cutthroat competition from other countries where manufacturers are not burdened by uneconomic wage penalties. Higher wage costs would lessen the ability of American manufacturers to cope with such foreign competition.

We doubt that the proposal would have any appreciable effect on the total number of jobs available. Many persons who are currently unemployed lack the requisite skills to perform the overtime work. Some employers would undoubtedly pay the overtime penalties to their regular employees rather than hire unexperienced marginal employees. Others would hire skilled moonlighters as straight time rates for extra work.

Finally, we feel that no real need has been demonstrated for this overtime penalty. Further, experience is such that many of us in the business community believe that once American business is saddled with this penalty, it will be with us from that time on.

We urge that these and any other penalty double time bills be rejected.

Sincerely yours,

CHARLES M. GRAY, *Manager.*

THE YOUNGSTOWN SHEET & TUBE Co.,
Youngstown, Ohio, April 21, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Labor Subcommittee, House Education and Labor Committee, Cannon House Office Building, Washington, D.C.

DEAR SIR: Supplementing my letter to you of February 13, we have conducted a continuing review of the proposed legislation with respect to double overtime and we must emphatically repeat that the acknowledged purpose of this proposal, which is to create additional jobs, cannot be accomplished by this method.

This attempt to provide employment by Federal wage-fixing schemes does not attack the real causes of unemployment; will not promote additional employment through the creation of more jobs.

The legislation itself rests on assumptions as to the interchangeability of skills, the willingness of unemployed to move to new geographical areas, and the ability of many unemployed to fill jobs where overtime is now necessary. The net impact

of the proposal is to transfer power for wage determinations away from the market and from collective-bargaining procedures and to the Secretary of Labor. Double time is a penalty which bears no relation to productivity—the economic factor that makes increased wages possible.

As business grows, jobs are created. And growth, contrary to much that is being preached today, comes from increased labor productivity and efficiency and the expectation of an adequate return. Increased employment is achieved by that growth within the framework of a flexible, dynamic economy.

Real wages can be increased as the result of increased productivity or a reduction in prices. Neither increased employment nor increased real wages over the long run can be achieved through Government programs that increase costs, impose rigidities, and substitute political guideposts for economic guideposts in setting wages.

It is our judgment that such proposals embody more the prescription for spreading unemployment than for resolving the problem of employment.

We urge you to defeat this proposal.

Your very truly,

H. J. SPOERER,
Vice President, Industrial Relations.

ROBERTSHAW CONTROLS CO.,
Long Beach, Calif., April 20, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, House Education and Labor Committee, Cannon House Office Building, Washington, D.C.

DEAR SIR: I wish to bring to your attention some of my objections to the Overtime Penalty Pay Act of 1964.

In our business, despite our best efforts to minimize overtime assignments, we find ourselves working a substantial amount of overtime (about 10,000 hours per month) due to variable factors that are impossible to plan for effectively. It is an absolute certainty that the addition of new employees would in no way provide an answer to our problem. If this were true, you can be assured we would have increased our payrolls accordingly long ago. On the contrary, it would only increase our costs even more than the present excess cost arising from overtime. To further increase these costs by creating a greater penalty cannot possibly serve any good purpose.

There is a great and understandable concern in our country because of the ever-present unemployment problem; however, adding a new and greater penalty to overtime can easily result in a lowering of employment opportunities rather than stimulating the hiring process. Legislation such as this puts the employer in the uncomfortable position of adding to his unemployment insurance costs if he hires too many people or paying out large sums in the form of overtime penalty in the event he hires too few. Increasing the risk of doing business in this manner cannot possibly do other than discourage the very people that provide the job opportunities that are so sorely needed.

The present return on investment is discouraging enough to a large number of employers. Poorly planned legislation resulting in new penalties cannot reasonably be expected to produce the desired result.

We will appreciate your consideration of our views regarding H.R. 9802 and hope you will eventually conclude that your opposition to this legislation is warranted.

Sincerely yours,

GRAYSON CONTROLS DIVISION, ROBERTSHAW
CONTROLS CO.,
O. V. POPE,
Director of Industrial Relations.

STRATTON & TERSTEGGE CO.,
Louisville, Ky., February 21, 1964.

Hon. M. G. "Gene" SNYDER,
*Longworth House Office Building,
Washington, D.C.*

DEAR GENE: In reference to H.R. 9802 which imposes overtime penalties of double pay for over 40 hours, I can assure you that in our company it will not result in the hiring of additional people.

Every effort would be made to automate and accelerate cost-cutting opportunities resulting in fewer jobs.

I hope that we can count on your support to defeat the premium wage rates for overtime work.

Sincerely yours,

J. L. MEAGHER, *President.*

FISCHER PACKING Co.,
Louisville, Ky., February 26, 1964.

Congressman M. G. SNYDER,
Longworth House Office Building,
Washington, D.C.:

After careful consideration of the proposal to increase overtime rates, we feel that we are already penalized by inconsistent daily marketing of livestock which forces us to frequently work overtime to absorb the supply. Farmers and livestock men are not assured seasons without drought or crop failure as well as seasons of crop overproduction, all of which affect the production of livestock that ultimately comes to the packing industry for processing and because of the perishable nature of the product, it necessitates our working overtime. Working overtime in our industry largely is a contribution to the agriculture and livestock industry for meat prices and profits are of such thin margin that any increase in overtime rates would simply prevent packers from performing a useful service to agriculture.

The enactment of such legislation in our opinion, will reduce the price of livestock to the farmer or increase the price of meat to the consumer. We ask that you consider and present our views to the committee.

CARL FISCHER.

FAWCETT-DEARING PRINTING Co.,
Louisville, Ky., February 24, 1964.

Congressman M. G. "Gene" SNYDER,
Longworth House Office Building,
Washington, D.C.

DEAR GENE: With reference to the new bill, H.R. 9802, which would impose overtime penalties of double pay for work in excess of 40 hours in any 1 week, in our plant this would accomplish nothing in the way of solving the unemployment problem.

In our business of printing publications which must be on the newsstands on certain dates and where the size of the publications vary from time to time during the year, the only out is to work occasional weekends for schedule purposes. It is not possible to put duplicate forms on other presses as the preparatory costs to start up a duplicate form would be prohibitive. All this bill would do would be to increase our costs.

Journeyman workers in our industry serve an apprenticeship from 4 to 6 years and are then only beginners when the apprenticeship is ended.

It would not be possible to hire extra people for overtime periods, then lay them off as soon as the overtime period is over—even if this were possible the unions would not allow us to do it and we would become involved in additional unemployment pay penalties. I know of no firm that works overtime if it can be avoided as overtime penalties (even at time and a half) are serious.

We emphatically protest the wisdom of this proposed law.

Very truly yours,

L. L. WILSON, *President*

STATEMENT OF RUSSELL PROCTER, PRESIDENT, BELKNAP HARDWARE &
MANUFACTURING Co., LOUISVILLE, KY.

A penalty in the form of higher cost of overtime in our business would create unemployment, instead of creating jobs. We would be forced to shorten our warehouse workweek from 43 to 42 hours. This would result in slower service to our customers, loss of business to our competitors, and eventually a smaller work force.

KOSMOS PORTLAND CEMENT Co.,
Louisville, Ky., February 25, 1964.

Congressman M. G. "GENE" SNYDER,
Longworth House Office Building,
Washington, D.C.

DEAR SIR: We strongly express our opposition to H.R. 9802 for the following reasons:

1. It is a grant of too much power to the Office of Secretary of Labor.
2. The authority given to the tripartite industry committee gives the Government the right of direct intervention into an area of labor-management negotiations with great risk of compulsory arbitration in this area.
3. Overtime rates now in effect in our industry have virtually eliminated overtime except in emergency situations. Increasing the overtime rates will not therefore increase employment but will subject our industry to additional penalty. The end result will be an increase in automation as our only relief.

High employment is the concern of every responsible individual. We feel this bill will not help the problem but will actually intensify it. For that reason we urge you to exert your influence in opposition to H.R. 9802.

Yours very truly,

E. J. PORTER, *President.*

STITZEL-WELLER DISTILLERY,
Louisville, Ky., February 25, 1964.

Congressman M. G. "GENE" SNYDER,
Longworth House Office Building,
Washington, D.C.

DEAR MR. SNYDER: It is our understanding that hearings are to be held by the House Committee on Education and Labor on H.R. 9802 which would impose an overtime penalty of double pay for over 40 hours.

We wish you would offer this letter as our statement for the record.

We are strongly opposed to this proposal, because we are confident it will not increase employment, but at the same time will increase our costs of operation.

Our business is divided into four categories or departments:

- (1) Distillation
- (2) Warehousing
- (3) Bottling
- (4) Office

(1) *Distillation*

Our working schedules are based on a 40-hour week and the only overtime involved would be occasioned by a mechanical breakdown, or lengthened production hours in extremely hot weather when more time is required to cool our mashes.

In either case, the overtime involved is not an additional 8 hours under any circumstances, and this is the minimum rate we have to pay an additional employee who would be brought in for less than 8 hours.

The jobs involved are skilled jobs for which men have to be trained for weeks and even experienced employees have to be retrained after a layoff or transfer to another job. So, no matter what the new rate for overtime, we would be forced to work our present crew overtime rather than employ additional personnel.

(2) *Warehousing*

The schedule in this department is 40 hours per week, 8:00 a.m. to 4:30 p.m. each day, 5 days per week.

The Federal Government locks our bonded warehouses at 4:30 p.m.—so no overtime is possible.

(3) *Bottling*

In this department, production schedules do vary, but it is the nature of the business that such variations are seasonal. A 40-hour schedule is followed, except in unusual emergencies, 9 months out of the year.

The three peak-season production months are handled with the calling back of peak-season employees, mostly married women who, because of their family responsibilities, do not desire to work year round, but are interested only in making Christmas money.

In the other 9 normal months of the year, the maximum number of overtime hours in any 1 day would be two, due to existing laws on hours ladies can work, and this on rare emergency occasions only.

(4) *Office*

Our office, like most offices, has a 40-hour workweek schedule. In the rare instances where overtime is necessary, of course it requires a trained person on the specific job. Our experience teaches us that about 6 months is the minimum time to train such an employee, so, consequently, overtime would be paid rather than employing inexperienced personnel.

In addition to the above problems in each of our four divisions, there are other considerations that are applicable to all four. These, we will call "fringe benefits," such as hospitalization insurance, pension fund, life insurance, bonuses, paid holidays, unemployment compensation, old-age benefits, etc., that would add to our labor cost for each additional employee we hired.

For these reasons, we earnestly request the defeat of H.R. 9802.

Respectfully submitted.

C. K. McCLURE,
Secretary-Treasurer.

ROHM & HAAS Co.,
Philadelphia, Pa., February 25, 1964.

Hon. M. G. SNYDER,
U.S. Congress,
Longworth House Office Building,
Washington, D.C.

DEAR MR. SNYDER: Speaking in the interest of our newly established plant in the Rubbertown area of Louisville, I would like to express our opposition to H.R. 9802, which would impose an overtime penalty of double pay for hours in excess of 40 hours per week. Our plant employs approximately 150 persons and is engaged in the manufacture of chemicals. As a newcomer to the industrial family of Louisville, we wish to voice our hope that punitive legislation will not be enacted which will add to the problems that are an inevitable part of the struggle in establishing a new enterprise.

While much has been written about the general implications of H.R. 9802, I would like to illustrate some of the reasons for our opposition by means of specific facts drawn from our experience in the construction and startup operation of our facility during the last year and a half.

Let me state first of all that we consider the payment of time and one-half for hours in excess of 40 a sufficient deterrent to overtime work. We have employed the number of people for our permanent work force which will make overtime minimal. Some of our personnel are engaged in operations which are continuous around the clock, 7 days a week. Aside from a small amount of unavoidable overtime that results from dividing the 168 hours per week on a job among four men, our overtime currently amounts to less than 1 percent. The overall average is only about 2 percent.

During the period of construction of our new plant facilities and the startup operations early last year, a considerable amount of overtime was worked for reasons that I shall discuss below. The imposition of double time for hours over 40 per week would have increased our costs substantially without increasing employment. The double time penalty would have increased our costs by \$150,000 during the last 1½ years, which, in a plant employing 150 people, is a heavy penalty. On a single installation during the past year, the double time penalty would have added \$45,000 to the cost of an \$800,000 project.

Most of the overtime work in our plant has occurred in the mechanical crafts during periods of construction. The reason for this was primarily the scarcity of men in these trades when they were needed. Some of those working in our plant construction traveled here from as far away as Houston, Tex., for jobs of only a few weeks' duration. Because of the scarcity of these skills, there was considerable competition between various firms for their services. Most stainless steel welders, pipefitters, and insulators would work only where overtime pay was available. Actually, the only choice open to us (and to others) was between overtime work and indeterminate delays in completion of a project.

The situation in late 1962 was aggravated by a crash program of construction at the Olin-Mathieson Plant in Brandenburg, Ky. As indicated above, it was possible in their case and in ours to secure completion of the facilities within a reasonable length of time only by working an overtime schedule which would

attract tradesmen from distant points. If the penalty for overtime work is increased in such cases, the ultimate result in some cases will be a delay in the completion of facilities, in the creation of new jobs, and in the economic stimulation that new manufacturing plants bring in both private spending and industrial growth. I would estimate that without overtime, the completion of our plant would have been delayed from 3 to 6 months.

A substantial amount of overtime was also worked by our permanent complement of maintenance and operating personnel during the initial months after construction of the plant was completed. During the first several months the overtime amounted to 10 to 12 percent. We were reluctant to hire additional personnel because of the anticipated short duration of the problems associated with starting up a new plant operation, the cost of hiring and training, and the need to discharge the personnel as soon as the operation became established on a routine basis. That this premise was essentially correct is attested to by the low level of overtime that now prevails in our plant.

We hope that you, as a member of the House Education and Labor Committee, will exert your influence to prevent the enactment of H.R. 9802.

Yours very truly,

E. T. SAUER, *Plant Manager.*

VOTATOR DIVISION, CHEMETRON CORP.,
Louisville, Ky., February 24, 1964.

Hon. M. G. "GENE" SNYDER,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SNYDER: We are advised the House Committee on Education and Labor will be holding hearings on February 26 and 28 with respect to H.R. 9802 which would impose an overtime penalty of double pay for work in excess of 40 hours.

The expressed objective of this bill is to create additional jobs. This objective would not be accomplished in our case and, in fact, such a requirement would very likely have a reverse effect in that increased operating costs would necessitate belt-tightening measures in other areas.

We operate a job shop involved in manufacturing capital equipment to order. Production peaks resulting from short deliveries to meet seasonal requirements of processors are a "way of life" and necessitate periodic overtime schedules. A significant number of our manufacturing employees are skilled workers, with about 40 percent of our labor force being composed of highly skilled machinists. Historically overtime has and likely will continue to be required in our industry as staffing for peak demands is neither practical nor possible. Fluctuating demand and the requirement of skills that can only come from experience make it so.

Thus for our operation passage of a bill such as H.R. 9802 would make increased production costs a certainty and reduced employment in support areas a matter of serious consideration.

We solicit your efforts in opposing this bill.

Very truly yours,

T. L. LINDELL, *Controller.*

BROWN-FORMAN DISTILLERS CORP.,
Louisville, Ky., February 25, 1964.

Re H.R. 9802.

Congressman M. G. SNYDER,
Longworth House Office Building,
Washington, D.C.

DEAR GENE: Brown-Forman Distillers Corp. schedules only necessary overtime due to its system of processing in available facilities.

An increase of overtime penalty would result directly in an increased cost and would not cause the employment of additional personnel.

Federal legislation with artificial limitations is unnecessary and unwarranted.

Yours truly,

MARION M. JOHNSON.

B. F. GOODRICH CHEMICAL Co.,
 Louisville, Ky., February 25, 1964.

HON. M. G. SNYDER,
 House of Representatives,
 Washington, D.C.

DEAR SIR: H.R. 9802 as proposed providing for overtime payment of double time instead of the present $1\frac{1}{2}$ time for hours worked in excess of 40 hours per week will increase the costs of goods manufactured at our plant and will not result in an increase in the number of persons employed. We have always kept overtime to an irreducible and unavoidable minimum and prepare and follow overtime records very closely in order to control the higher costs associated with overtime payments.

Some unscheduled absenteeism, some unplanned variations in operations and certain variable short-term operations will always require overtime payments. It is virtually impossible for us to reduce this overtime by scheduling additional employees on a regular basis due to the uncertainty as to when and where they will be needed. Increasing the overtime premium will not reduce this overtime and increase employment, but will merely result in increased payments to those already employed with resultant increases in costs.

Such a rise in costs can have only one of two effects. It could result in price increases which would work to the further disadvantage of those unemployed or living on fixed income, or it could cause the elimination of marginal producers, at or near the breakeven point, with a shift in production to more efficient, more highly automated plants which would actually result in decreased employment.

I respectfully urge you to use the influence of your office to oppose the passage of this economically unsound legislation which would fail in its intent to decrease unemployment, but which would result in higher costs of manufactured goods at our plant.

Respectfully yours,

L. G. CRUNKLETON, *Plant Manager.*

WOOD-MOSATC CORP.,
 Louisville, Ky., February 27, 1964.

HON. M. G. SNYDER,
 Longworth House Office Building,
 Washington, D.C.

DEAR CONGRESSMAN: This letter is in regards to H.R. 9802, concerning double pay for hours worked over 40 hours.

After a thorough review of our union contracts and our actual overtime schedules, we feel this provision would add an additional penalty to our unit cost with a corresponding increase in price; and would not provide additional job opportunities.

The following provisions in our collective bargaining agreement with local 2569, United Brotherhood of Carpenters & Joiners of America (AFL-CIO) are typical of those of industry in general:

ARTICLE IV. HOURS OF WORK

1. All work performed in excess of the normal 8 hours in any one day or the normal 40 hours in any one week, shall constitute overtime and shall be compensated at the rate of time and one-half. This shall not be construed to be a guarantee of hours of work per day or hours of work per week.

2. The company shall not deliberately stagger the 40 hours of straight time work in such a manner as to deprive employees of overtime they would ordinarily receive.

3. All work performed on Saturday shall be compensated at the rate of time and one-half, and all work performed on Sunday shall be compensated at the rate of double time.

ARTICLE V. OVERTIME

When overtime work is required in a department the employees who normally do the work will be given the overtime. If such employees are not available, then senior employees in the department affected shall be given the opportunity in order of seniority to perform the overtime work, provided they are capable of doing the job, and further providing that the allocation of the overtime accord-

ing to seniority will not impede, obstruct, or delay the performance of the overtime work. The decision of the company as to the allocation of overtime shall be controlling and final.

ARTICLE VII. REPORT OR CALL-IN PAY

1. Employees reporting for work during regular workweek unless previously advised not to report, shall receive 4 hours' work. This is not applicable in case of breakdown, power failure, causes beyond the company's control, or where the employee wants to go home rather than work; nor to employees who due to absence fail to receive notice not to report for work, shall receive 4 hours' pay for 4 hours' work.

ARTICLE XI. SENIORITY

2. Seniority shall prevail on a department basis.

3. Seniority rights need not apply on layoffs of 8 hours or less.

6. The company agrees that no new production employees will be hired until all old production employees who might be laid off for lack of work have been given an opportunity to return to work, provided they are qualified for the job and eligible for callback. The method of notification to the employee is by word of mouth, telephone, or registered letter to last known address.

In reviewing the actual overtime in our veneer department for the week ending February 9, 1964, the following work was performed :

	Number employees	Hours worked	Penalty cost
Actual production work.....	15	46.0	\$42.23
Maintenance work.....	2	14.0	14.36
Cleanup work.....	1	5.0	4.90
Setup work for week.....	1	4.0	3.66
Lining up production.....	4	16.3	16.34
Changing knives.....	9	37.9	40.86
Miscellaneous.....	1	4.0	3.66
Total.....	33	128.0	126.01

This \$126.01 is the one-half penalty now provided under the wage-hour laws; double time provisions would add an additional amount.

ANALYSIS

(a) Actual production work: These men are skilled employees working on the drying of wood by use of automatic dryers. This overtime is necessitated by the need to dry wood within a fixed period after it is cut.

(b) Maintenance work: This overtime is partly daily greasing and oiling after production has ceased for the day; and partly on Saturday when machines are not in operation.

(c) Cleanup work: Generally, this overtime is done during the week—after operations are stopped in order to comply with safety rules and regulations and be prepared for next day's production.

(d) Set up work for week: This overtime is performed by lift driver on Saturday who places crating material in areas for use the following week. Generally done during regular 40 hours—but on occasion, overtime.

(e) Lining up production: In each area of production, we have one hourly employee who is responsible for securing necessary work and raw materials before production begins and who removes finished goods from the immediate work area to prevent congestion.

(f) Changing knives: Each lathe has several sets of knives used in cutting wood. These knives must be changed daily by the skilled workmen who perform on that job. This is done at the end of each day and on Saturday.

(g) Miscellaneous: This involves picking up mail from post office, washing equipment, etc.

As you can see from the above summary of overtime, no new jobs or additional personnel would be added as a result of additional penalties imposed by H.R. 9802. Overtime penalties do little more than increase costs. Management today is well aware that excessive hours worked do not yield increased pro-

ductivity. Imposition of penalty pay provisions in themselves do not create job opportunities—and are regarded by employees and labor unions as little more than a method to increase hourly income for actual time worked.

If you would care for a comprehensive study covering all departments of our company or for an extended period, we would be most happy to cooperate with you.

Very truly yours,

W. T. MULHALL,
Personnel Director.

STATEMENT OF W. D. WOODS, GENERAL COUNSEL, SARKES TARZIAN, INC.,
BLOOMINGTON, IND.

Sarkes Tarzian, Inc., is an Indiana corporation with its principal office in Bloomington, Ind., and with electronic parts manufacturing plants in Indiana, New Jersey, Arkansas, Tennessee, and California.

The purpose of this statement is to point out to the House Education and Labor Committee certain facts which are significant as regards the double pay for overtime proposal contained in H.R. 9802.

The company employs over 2,000 people in production line work who, although not skilled as such, require from 2 to 3 weeks' training as a minimum for satisfactory performance.

The customers of Sarkes Tarzian, Inc., are television set manufacturers, the Federal and State Governments, and their various instrumentalities. The demands on production are of a seasonal nature but the peaks are irregular and unpredictable. Sometimes peak demands are of a short-run nature and other times sustained, i.e., lasting for 6 weeks to 2 or 3 months.

H.R. 9802 is designed to discourage overtime so as to cause industries affected to employ people now unemployed in order to avoid paying the double penalty rate. Sarkes Tarzian, Inc., is typical of many companies in the electronics industry where the proposed measure will not accomplish its purpose. This company employs approximately 1,500 people in Monroe County, Ind., but these people have to be drawn from distances as great as 60 miles. In 1961 and 1962 a contemplated expansion program in the Monroe County area was abandoned because there were no more people available who had the aptitudes required in order to learn this kind of assembly work. As a result, the company found it necessary to open plants in Arkansas and Tennessee. But here again, the demand for that kind of personnel in the Arkansas and Tennessee areas is such that it is extremely difficult to find qualified persons to fill the necessary jobs. For these reasons it would be utterly impossible in any of the company's plants to abandon periodic overtime and hire more personnel in order to meet peak sales demands. The new people would have to be trained and by the time they could produce successfully, the company would be in default on its commitments to customers. The same situation is true in New Jersey and in California.

Sarkes Tarzian, Inc., is deeply concerned with the national unemployment problem and wants, in every way that it can, to play its proper part in the solution. However, according to the U.S. Labor Department statistics the vast majority of unemployed in this country are unskilled and need to be retrained and moved as needed geographically; but this takes time and cannot be done on an individual emergency basis. The retraining program previously proposed by President Kennedy seems much more to the mark than the present proposal set forth in H.R. 9802.

Most overtime cannot be predicted. Therefore, it is impossible to avoid such overtime because of the advanced planning and training required in the substitution of new personnel. In this connection, it costs our company approximately \$8,000 to create a production line of 100 people. The training period will average about 3 weeks per person. We have discovered that the line must operate 8 to 10 weeks or we cannot afford to start such a line.

In the electronics industry foreign competition is getting stronger and those companies which sell directly to manufacturers rather than to the ultimate consumer, would be unable to pass on the costs of extra-premium overtime. In an effort to avoid the excess cost and remain competitive, many companies will elect to delay deliveries and cut out overtime completely. This would cause many people, who have adjusted their personal budgets to an estimated amount

of overtime during the year to take evening work. This, of course, is another objectionable practice which hinders the fight against unemployment.

This company feels that if the demands of sound national growth are to be met successfully, our U.S. manufacturing facilities, sales efforts, and business generally must be greatly expanded in the immediate future. Experience has shown in this country, as well as in Europe, that business functions much better and can build more plants and produce more goods and services and hire more people if Government controls are held to an absolute minimum. Our experience indicates that careful consideration should be given to removing some of the restrictions and controls contained in Federal legislation such as the Fair Labor Standards Act, the Walsh-Healey Act, etc. The original purposes for which these laws were passed were legitimate ones and at the time of their passage they filled definite needs. However, the effect on many companies producing for the Federal Government by reason of administrative wage increase decrees, such as those under the Walsh-Healey Act, goes beyond the purposes originally sought and has a dampening effect on American industrial operation.

It is felt that particular attention should be given to the fact that from the employees' viewpoint, overtime has lost its identity as something to be avoided. When overtime penalties were first established, they were not intended to be wage increases as such. The aim was to create a penalty so as to discourage employers from working people too many hours at one time. However, over the years the penalty has transformed itself into a premium which unions and other groups look upon as a desirable thing. We all must recognize that, unfortunately, the situation which now exists is a distinctly objectionable one in that there is a built-in inducement to workers to "slack off" during regular work periods so as to make the premium pay period necessary. To put it another way, what was originally intended as a penalty has become an incentive to do the very thing which Congress intended to avoid, and H.R. 9802 would merely increase that incentive.

CLARK EQUIPMENT Co.,
 Buchanan, Mich., March 5, 1964.

HOUSE JOINT SELECT AND GENERAL LABOR SUBCOMMITTEES,
 House of Representatives,
 Washington, D.C.

GENTLEMEN: Clark Equipment Co. is a manufacturer of industrial trucks, construction machinery, over-the-road trailers, commercial refrigeration equipment, as well as component parts supplier to the automotive and farm equipment industry. Our major plants are located in Battle Creek, Benton Harbor, Buchanan, Jackson, and Niles, all in the State of Michigan, as well as Cincinnati, Ohio; Michigan City, Ind.; Reading, Pa.; Smyrna, Del.; Spokane, Wash.; and Waxahachie, Tex. Our central parts division is located in Chicago, Ill. In addition, the company has sales and service branches under labor contract in a number of major cities across the country.

We have reviewed bill H.R. 9802 (a bill to increase employment by providing a higher penalty rate for overtime work), introduced by Representative James O'Hara, and wish to make our strong views in opposition to this bill known to you.

A study of the overtime hours worked during 1963 by Clark employees demonstrates that almost none of such overtime work was planned in advance or was caused by a shortage of employees in any particular area of the company. Rather, such work was caused, at times, by sudden rushes of orders, by sporadic requirements for increased production in areas where facilities were already being used to capacity, and by ordinary temporary dislocations of production caused by planning and scheduling difficulties.

The company does not regularly schedule overtime work, and our examination reveals that over the course of the year, overtime work was spread throughout the work force and not concentrated among any particular group of employees.

Based on the above, and on our knowledge of Clark's operations, it is our firm conviction that should H.R. 9802 be passed, employment opportunities within Clark would not be increased, but if anything, decreased. The only result the bill would accomplish would be to give an occasional "windfall" to certain employees. We say this because the company would be required in most instances to absorb the additional expenses brought on by the bill and would not be able, immediately, to pass on to its customers these costs. (Of course, if in

the future the company incurs additional expenses because of an increase in overtime rates, these, when added to other cost increases might eventually force the company to raise its prices.) Several results would follow from this:

1. The company might well cease manufacturing certain items which already have very low-profit margins.

2. In an effort to produce without overtime, the company might stretch out its delivery dates when it meets unexpected difficulties (rather than following its practice of curing them through overtime work) thus resulting in less overall production during the period involved. Such a practice might also lead to losses of orders and, therefore, losses of jobs.

3. Because most of the company's overtime is unavoidable and unpredictable, the company cannot protect itself against additional overtime costs by hiring additional employees. Therefore, in order to recoup the money lost by the additional expenses incurred because of any change in rates, the company would be forced to reexamine every facet of its operations in an effort to cut out any and every avoidable expense. This would, of course, involve reevaluation of the company's entire labor force with this view in mind.

In addition to the above, Clark's experience during 1963 (over 100 grievances for overtime work) demonstrates that the local unions regard work at overtime rates as a matter of right, and, if the rate for such work is increased the pressure for its continuance will increase. Although we do not know what form this local pressure will take, we are certain of one thing, that it will not be aimed at the hiring of additional personnel for the purpose of eliminating overtime work.

In summary, H.R. 9802 could not cause the company to increase the number of its employees for the avoidance of overtime work, and would, very possibly, bring about circumstances which would cause a reduction in employment.

Very truly yours,

MALCOLM G. HOUSE,
Manager, Industrial Relations.

POLLOCK PAPER Co.,
Columbus Ohio, March 5, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Labor Subcommittee,
House Office Building,
Washington, D.C.

DEAR MR. HOLLAND: I am writing you with much urgency regarding H.R. 9802 which has been submitted to the committees hearing this bill and wish to state our opposition to this bill. First of all, it appears to be the most fallacious way of dreaming up increased employment that can be devised.

There is no way of absorbing increased direct labor costs resulting from such a bill other than to increase product prices and invite more inflation. I don't know of an easier way to inflate our economy to a very great extent. We would be presenting labor with the best tool they could ask for in future contract negotiations to demand increases beyond reason and which could very easily stifle many operations and put them out of business. It would actually put more people on unemployment rolls. We are a paper manufacturing and converting operation here in Columbus, Ohio. I want to cite some of the very probable instances that could make for unnecessary problems which would develop as a result of this bill and repeat itself many times.

Our plant operates on 24-hour round-the-clock shifts and we would say that "Worker Joe" on the 3-to-11 tour would be asked to work over on the 11-to-7 tour because his partner, "Jack," called in and stated that he had suddenly become ill or was in an accident. (Very oftentimes all phony, regardless of proof given and very easily presented.) So Joe and Jack cook up for Joe to be off the next week and thereby both have had an extra day off but make it up on the double time pay and this conniving exists even now with the time and one-half overtime pay over regular 8-hour day which is applicable in our plants.

Where overtime exists now, it does not to the extent that would warrant additional workers who would be on a standby basis, and become "featherbed" if it became necessary to employ them on a full-time basis to retain them or have them available.

The doubling of rates for overtime, as advanced in H.R. 9802, arbitrarily would have the effect of upsetting all normal work schedules and do more to induce unemployment than any law now in effect.

To sum it up, no employer plans overtime or enjoys paying for it. Like any other cost, overtime premium payments are to be avoided whenever and wherever possible. No employer plans either a shortage or an oversupply of labor. To plan a shortage would result in dissatisfied customers, loss of business, and eventual disaster. Just as surely, an oversupply of labor would inevitably result in business failure. The employees of any successful concern must be sufficient in number and skills to be so placed and organized as to meet production requirements at the lowest cost. In such an organization, and in every organization which strives for efficiency, overtime payments will result only from something unusual, unexpected, and unavoidable, something sporadic in occurrence, which management will seek to overcome promptly. The more successful the management, the fewer and shorter will be the periods of overtime work.

Overtime may be the results of many different interruptions of the normal course of production. Inside the plant, the main cause is the failure of man or machine at some sensitive point. Absenteeism as well as mechanical breakdown frequently necessitates overtime employment. Unexpected increases in customer demand for the product, or for accelerated delivery, may find the industry temporarily short of trained workers. These are some of the more common causes of overtime employment and are sufficiently illustrative. Many others could be cited, but none are the result of plan and they come about in spite of the best planning.

Overtime work is emergency work, sporadic in occurrence, and relatively short in duration.

Overtime work is the result of and takes place in such circumstances that the need for overtime work will not result in hiring additional employees.

Overtime work is usually required of persons with particular skills or training.

We urgently request your efforts in preventing H.R. 9802 becoming a law.

Very truly yours,

W. A. JOHNSON, *Plant Manager.*

CUMMINGS & Co.,
Nashville, Tenn., March 4, 1964.

Mr. ELMER J. HOLLAND,
Member, House Labor Committee,
House Office Building, Washington, D.C.

DEAR MR. HOLLAND: I am writing to you in strong opposition to bill H.R. 9802, more commonly known as the "doubletime for overtime bill."

I am one of those employers who is presently engaged in the "experimental" 25-hour week for 40 hours' pay plan in New York City with the electrical workers. We have found absolutely no evidence that employment has increased in our industry as a result of this measure. In effect, it has done little more than increase the "moonlighting" activities of the employees in general.

The proposals outlined in H.R. 9802 would be a serious handicap to an industry already severely overburdened with Government interference, regulations, and edicts. Unless you have actually been engaged in industry or a manufacturing operation, you cannot possibly understand what this doubletime requirement would do. The very first effect would be an increase in the employer's cost without a corresponding increase in productivity. If anything will start the price wage spiral of inflation again, it is just such action as increased cost without increased productivity.

Secondly, it would be hard for anyone who has never been engaged in the manufacturing process to understand that most overtime is absolutely unavoidable. In my operation we try desperately to avoid overtime at all costs, but in order to placate, satisfy, and retain good customers and good customer relations, we are quite often compelled to engage in overtime activities for which we seldom receive any additional compensation. The added overtime payment is simply a drain on profit. An examination of the records of my company would indicate that overtime use is not an excessive factor, and it in no way would justify the employment of additional personnel for this use.

Next, I would suggest that in many cases where overtime employment does become necessary, it is quite often more economical to utilize a man who is already trained on the job, who is familiar with your operation, and who has demonstrated a marked proficiency at his trade, than to employ temporarily additional personnel who are completely unfamiliar with your operation. I am

inclined to think that even in the face of doubletime payments, this would be more economical than to employ the additional personnel. With this the case, the effect of your plan on the unemployment problem would be nil, and you would have done nothing but increase the cost of production to the manufacturer. One further disadvantage in adding the new personnel is the substantial cost involved in extra fringe benefits, bookkeeping, and training. All of these tend to negate any value which could accrue to the resolutions as outlined in your H.R. 9802.

Next, I would point out that the Government has no place in the determination of overtime payments. This is a matter which belongs strictly on the collective bargaining table. Experience shows that Government participation in tripartite groups tends to favor one particular group. In this case, the tripartite method is, in effect, a device to obtain a wage increase by Government edict. Such activity will ultimately lead toward Government control of both wages and prices.

To some people with reasonably long memories, this arrangement recalls and resembles the old NRA codes of the great depression days when, for a time, the country seemed to be moving in the direction of the corporate state. A Supreme Court, then less inclined toward Federal meddling, knocked that one in the head. It is questionable whether the present Supreme Court would act in the same manner, but, nevertheless, I think that this bill would create great confusion, great waste, and excessive cost, without a corresponding return to the industries upon which it would be saddled.

I would greatly appreciate any influence which you might exert toward the defeat of this measure.

Sincerely yours,

THOMAS L. CUMMINGS, Jr., *President.*

THE BARTON SALT CO.,
Hutchinson, Kans., March 5, 1964.

HON. ELMER J. HOLLAND,
*Select Subcommittee on Labor, House Education and Labor Committee,
Cannon House Office Building, Washington, D.C.*

DEAR CHAIRMAN HOLLAND: I am writing to present some facts for your consideration when debate starts in Congress on H.R. 9802—the overtime rate bill.

In my judgment, this is the worst possible solution to the unemployment problem, as it can have but one conceivable consequence—more unemployment.

This is another step of a chain reaction and vicious cycle. First, wage rates are raised to employees, which causes management to seek laborsaving equipment. Later, unemployment benefits are increased by State agencies and by contract negotiations. These latter costs make it uneconomical and inefficient to call in temporary extra workers. Now, the administration wants to increase costs further by inflating overtime rates. Next unemployment benefits will go up. I repeat—there is no logical consequence of this legislation except more automation and more laborsaving equipment. Business life is the same as animal life—the survival of the fittest. Competition will force every company in every industry to produce at the lowest possible costs or be driven out of business.

Big business has the financial resources to install laborsaving equipment, which, as stated, reduces employment. If small businesses cannot automate because they lack money, they are driven out of business with the same result—more unemployment.

I urge you to give this your most serious consideration and vote against this legislation.

Sincerely,

B. L. HUMPHREYS, *President.*

HENDERSON HOMES,
Edmond, Okla., March 9, 1964.

HON. PAGE BELCHER,
*House of Representatives,
Washington, D.C.*

DEAR REPRESENTATIVE BELCHER: How can you do it to us again? Double time for overtime is un-American. Double time made America great. If you will guarantee me that you will only work 40 hours a week for all of your activities combined, then I will give Congress and the President support for double time for overtime.

Why should ambitious people pay for people who don't want to work? Please oppose this. Stop it now before this becomes another Government way of stopping small business.

Sincerely,

MIKE HENDERSON, *President.*

SAPULPA, OKLA., *March 11, 1964.*

HON. PAGE BELCHER,
House Office Building,
Washington, D.C.:

Only those with short memory can see any possible relief for unemployment in double time penalty payments for overtime worked as per H.R. 9802. Present overtime penalty rate under Fair Labor Standards Act was designed for same purpose. Increased costs to employers only resulted. Pay practices should be settled in collective bargaining and without added Government intervention. Too many special industry committees are already dictating how we run our business. One more is not needed to further interfere by Government decree and price fixing for labor as opposed to management's inherent right to schedule work and direct working forces. Proposed legislation unduly burdensome, unrealistic, imperialistic, and uninspiring. Your support against is earnestly solicited.

LIBERTY GLASS CO.,
GEORGE F. COLLINS, Jr., *President.*

KANSAS-NEBRASKA NATURAL GAS CO., INC.,
Hastings, Nebr., March 6, 1964.

HON. PAGE BELCHER,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BELCHER: I feel it would be a serious mistake for H.R. 9802 to become law. Under the bill the Secretary of Labor may set overtime rates at not less than double the regular rate for a given industry if he makes certain findings. The standards that will guide him are quite loose and vague. Further, the Secretary's order would penalize the entire industry involved, not just those companies considered to be at fault. These are ideas and techniques which were tried, discredited, and discarded 30 years ago. They didn't work then and they won't work now.

The rates charged by natural gas utility companies are in nearly all instances regulated by Federal, State, or local authority. The object of such regulation is to provide a consumer with gas at the lowest possible price. We must limit overtime to emergency situations. Where the nature of the work results in regular and routine overtime it is our practice to employ permanent help so that overtime can and will be an emergency procedure. Conversely, it would be most uneconomical to keep people on full-time pay to perform only the limited amount of work that overtime entails.

If a Federal administrative official were to have authority to require higher overtime rate in our industry it could increase our cost of doing business thus resulting in a corresponding decrease in our earnings which are already limited by regulation. Eventually this increased cost of doing business would have to be reflected in our rates and this in turn would cause the gas consumer to pay a higher price.

No one can object to the purpose of H.R. 9802—to alleviate unemployment. But it has the usual defect of such legislation in employing a nationwide, shotgun approach to a special problem which is for the most part confined geographically to certain industries. This results in standards that are confusing and vague for both the administrator and the industry.

My position requires that I be just as concerned with the well-being of our employees as with that of our customers and stockholders. As such, I am strongly opposed to laws or regulations which I know from past experience will hurt the employees and hamper the growth of the industry. If industry can expand, opportunities for employment will increase. We should be seeking solutions that will encourage industry growth and expansion. H.R. 9802 will have the opposite effect and I hope you will vote against it if it reaches the floor of the House.

Respectfully submitted.

S. D. WHITEMAN, *Chairman.*

AMAX PETROLEUM CORP.,
Tulsa, Okla., March 3, 1964.

HON. PAGE BELCHER,
House Office Building,
Washington, D.C.

DEAR MR. BELCHER: We wish to voice our objection to the "double time for overtime" bill, or the O'Hara bill, for the following reasons:

Its net effect would be to increase an employer's costs without a corresponding increase in productivity.

Most overtime is generated by circumstances of an emergency nature—rush orders, weekend work, equipment breakdowns, or worker absences. These circumstances cannot be predicted, hence they cannot be remedied merely by the addition of new employees.

It would accelerate automation primarily affecting the unskilled and semiskilled—those who already comprise the hard core of the chronically unemployed.

The Secretary of Labor would be given absolute power over industry with respect to overtime. There is no provision for court review as there is under other provisions of the Fair Labor Standards Act.

The Secretary of Labor could order penalty pay of—not just double time—but triple time, or whatever it takes to force an industry out of the payment of overtime.

It would establish more Government-appointed tripartite committees whose "impartiality" is invariably expensive to business.

It would damage our Nation's competitive position in world markets, further deteriorating our already adverse balance of international payments.

Doubt and confusion would stem from the fact that no decisions under this law would be final.

Yours truly,

LLOYD L. PARKS.

MARSHALL SUPPLY & EQUIPMENT CO.,
Tulsa, Okla., March 10, 1964.

HON. PAGE BELCHER,
Congress of the United States,
House of Representatives,
Washington, D.C.

REPRESENTATIVE BELCHER: I am vitally interested in H.R. 9802, the Overtime Penalty Pay Act of 1964. I fully believe that passage of this act in its present form would be a damaging blow to many types of industry and would hasten the inflationary spiral we are all trying so hard to control.

Our company does not require very much overtime of its employees. Therefore, we would not be able to afford extra employees and when overtime was worked, the penalty would be directly against our company profits. In other words, production costs are increased without a corresponding increase in productivity.

The Secretary of Labor would receive inordinate powers under this bill that could be used as a weapon against industries or unions in case of labor strife. I feel this is too vital a matter for departmental decision; rather, this should be for congressional consideration and voting, after open hearings and debate.

I ask that you give your usual full thought to this bill and that you consider the far-reaching effect it would have on the business in this Nation.

DUNCAN C. BROWN, Treasurer.

KEEN MANUFACTURING CORP.,
Millville, N.J., March 31, 1964.

ELMER J. HOLLAND,
Chairman, Special Subcommittee of House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR SIR: This bill of double overtime would surely hurt our business. Our board of directors has gone over this very carefully and we have found the following condition among many other conditions:

We would not have enough business to run our tool and dies and machines two shifts, so we must at times run overtime; the cost would be so great to

make duplicate dies and buy machines to run on one shift that this is prohibitive; we would not have floor space to operate more machines on one shift if we wanted to. (We have thought of two shifts, but we could not get enough business to operate two shifts. Supervision of second shift is also not available.) So, we must operate some overtime. Also, our union contract prohibits us from working less than 40 hours per week for each man (in other words, a guaranteed weekly salary).

Most small businesses are sick and mentally depressed and if they keep getting hit on the head, I feel sure many more will give up the fight for life and die. That's how we feel.

This year our corporation is operating in the red with our fiscal year ending June 30.

Very truly yours,

EVERETT M. KEEN, *President.*

P.S.—Double time would push it's head under a little more just to be sure it could not get above water.

NASHVILLE AREA CHAMBER OF COMMERCE,
Nashville, Tenn., March 31, 1964.

Congressman ELMER J. HOLLAND,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: The Nashville Area Chamber of Commerce is opposed to the Overtime Penalty Act of 1964 (H.R. 9802 and S. 2486) and it respectfully requests that you vote against this measure when it comes up for consideration.

Attached is a report of our congressional action committee, which points out that the bill would not accomplish its avowed purpose of spreading work among the unemployed. It is not practical to draw on unskilled workers to fill highly skilled positions in time of increased production.

In our section of the country, this bill is more liable to result in unemployment, higher costs or the eventual enforced merger of small plants, than it is to provide additional jobs.

Consequently, we urge your opposition to the bill.

Yours very truly,

CECIL BAUER, *President.*

MARCH 24, 1964.

To: Mr. Cecil Bauer, president, and members of the board of governors.

From: Congressional action committee.

Subject: Report of congressional action committee re the Overtime Penalty Act of 1964.

Your congressional action committee has met and given consideration to the Overtime Penalty Act of 1964, now pending before the Congress and herewith submits its recommendation as to the policy of the Nashville Area Chamber of Commerce upon said legislation:

(1) The proponents of this legislation argue that it would cause a decrease in overtime being presently worked and thereby spread such work among members of the work force presently unemployed, consequently reducing unemployment. Such an objective is no doubt desirable, but the premise of the pending bill is fallacious.

In order to accomplish its objective, it must be assumed that overtime work can be carved up and reallocated as between the employed and the unemployed without reference to individual skills, seasonal needs, internal overhauls, inventory surges, working capital, cash flow requirements, and other applicable factors. The nature of the job classifications and the job requirements in industry situations would not permit any such arbitrary reallocation of the required daily and weekly productions result.

(2) The unemployment rate is highest among those under 20, the unskilled, and the uneducated. Overtime is presently being paid in preponderant measure to the skilled, the educated, and those employees with seniority. It is ingenious to suppose that the youthful, the unskilled, and the uneducated could, on short notice, fill such job classifications and thereby reduce the number of unemployed. If any industry or industries were to be selected for such penalty

of overtime pay, it is more likely that the number of the work force would be reduced rather than increased.

(3) The proposed legislation is so broad and so general in its authority extended to the Secretary of Labor that the industries selected would be at the mercy of his rules and regulations. Even in its authorization of a tripartite committee to select the industries to be affected, the Secretary of Labor has made clear that he expects to dominate the selection of the personnel of such committees and to control the content of such committee reports and recommendations. When such powers be added to the body of laws regulating industry and business already upon the books, such as Walsh-Healy, Wage Hour, National Labor Relations Act and others, the Secretary of Labor and his opposite numbers in Government would in effect be extended a legislative management contract. This we oppose.

RECOMMENDATION OF POLICY

(4) The congressional action committee recommends that the board of governors of the Nashville Area Chamber of Commerce adopt as an official policy its opposition to the Overtime Penalty Pay Act of 1964 and that this opposition be communicated to the Representatives of the State of Tennessee now in Congress. Respectfully submitted.

Congressional Action Committee, Reber Boulton, chairman; Charles M. Broome, III¹; W. H. Browder; C. Runcie Clements, Jr.¹; Wilbur F. Creighton, Jr.¹; Edwin S. Gardner; Thomas W. Goodloe; Tyler B. Green¹; Herbert Griffith; Dr. W. G. Kennon, Jr.¹; Dan Maddox; Lovick Pierce¹; C. R. Thombs; Frank W. Zeigler, committee secretary.

STATEMENT OF CENTRAL SUPPLY ASSOCIATION

Central Supply Association, an organization of some 375 full-service wholesalers of plumbing and heating products, pipe, valves, and fittings, is the world's oldest and largest trade association in this industry. The "merchant-wholesale-distributor" businesses represented serve 26 Mid-Central States—from Salt Lake City, Utah, to Pittsburgh, Pa.

Gross dollar volume of business represented by the entire industry during 1963 was in excess of \$3½ billion. Virtually all of this volume follows a normal distribution pattern—from manufacturer to wholesaler to retailer—or, as in the case of certain industrial products, from manufacturer to wholesaler to the individual industrial user. The latter would include factories, public utilities, transportation industries, etc.

The industry which we represent is large, necessary, and growing. By and large, the individuals employed by Central Supply Association members are highly trained in the technical aspects of the industry. Because of a wide variety of products with wide variance of usage, it is often most advisable to "bring a man up through the ranks" in order to assure his having the kind of know-how necessary to adequately perform his job.

Basically, the plumbing and heating wholesale industry is a service industry, composed of small- and medium-sized businesses. In terms of employment, few employ more than 50 persons. An average figure would probably lie within the 10 to 15 employees per establishment range. These businesses perform the functions of buying in quantities, storing or warehousing for ready availability, selling, extending credit, and delivering of literally hundreds of products of manufacturers to thousands of retail and industrial business customers.

Two bills now pending—H.R. 9802 and H.R. 1680—would, we feel, cause serious problems in the plumbing and heating business. According to a survey of our membership (see attached), it appears that this legislation will not increase employment in this industry, but will increase cost of doing business. Since this industry is marginal in terms of profitability, the proposed legislation will, if passed, force many wholesalers into the red or out of business.

As cited above, special skills and long experience are necessary if an employee is to be really productive in the wholesale plumbing and heating field. Size and composition of a plumbing and heating wholesaler's staff, therefore, is not readily adjustable to changing needs.

¹ Not present at meeting when committee adopted this report.

Because ours is a seasonal business, most of our supply houses are overstaffed during several months of the year—the slow month when remodeling and/or new building is at a standstill because of weather conditions. As our survey results indicate, our wholesaler members are loyal to their employees, keeping them on the payroll for a full 52 weeks each year, even though many are not needed in the normal day-to-day business routine.

In most instances, overtime is the result of peak days, peak season requirements, or customer emergencies. Our members report that overtime is most often paid to truckdrivers making last-minute emergency deliveries, or to others in the businesses whose job it is to service their customers.

As a result of the responses to our member survey, we are opposed to the enactment of H.R. 9802 and H.R. 1680 for the reasons listed:

(1) These bills will not increase employment in the plumbing and heating wholesale industry.

(2) The bills would, instead, result in the reduction of needed services to retailers of the industry—particularly small, scattered plumbing and heating firms dealing with the user.

(3) Take-home pay of thousands of employees in this industry would be reduced by this proposed legislation; and

(4) Many wholesale firms now realizing only slight profits would be forced into the red or out of business altogether.

Employment in this industry will not be increased

Basically, wholesalers in the plumbing and heating industry conduct business on a 40- or 44-hour-per-week schedule (see table). In all, 62 percent of the members responding to our questionnaire listed these business hours, with the remaining 38 percent scattered:

	Percent
Open exactly 40 hours.....	35
Open over 40 hours but not over 44.....	27
Open over 44 hours but not over 48.....	15
Open over 48 hours but not over 52.....	15
Open over 52 hours.....	8
Total.....	100

Of the companies responding, 65 percent regularly schedule overtime, with 59 percent of the overtime running to 4 hours or less. In checking responses to question 2b, it will be noted that 83 percent of those scheduling overtime extend the overtime to 10 percent or more of their employees.

Nonscheduled overtime, on the other hand, is encountered by 84 percent of those responding, with 47 percent reporting that the overtime occurs in all months of the year. When nonscheduled overtime occurs, 10 to 25 percent of the total employees do 57 percent of the overtime work.

The main reason for overtime is service. Wholesalers' customers have a continuing and constant need for emergency parts and supplies to maintain their operations. If our wholesaler members cannot or do not supply the equipment and supplies when they are needed, our customers' essential operations would be curtailed, causing definite inconvenience and even danger to the public health and welfare.

Causes of nonscheduled overtime are all beyond the control of wholesalers. As can be seen in the table below, customer emergencies, peak days, and seasonal peaks cause most nonscheduled overtime:

	Percent
Customer emergencies.....	73
Peak days.....	63
Seasonal peaks.....	61
Employee absenteeism.....	34
Demurrage.....	13
Weather.....	12
Other.....	9

Since wholesalers (99 percent normally give all employees 52 weeks of employment each year, and since 98 percent of these wholesalers do not furlough or temporarily layoff employees when business is slow, and since only 15 percent of those responding hire part-time help, additional job opportunities would not

be made available by the proposed legislation. In fact, 89 percent of those responding answered "No" to this question, with 3 percent undecided.

Services to customers would be drastically reduced

As noted previously, most overtime in the plumbing and heating wholesale industry is brought about during peak seasons or days, or by customer emergencies. If the double time penalty were enacted, wholesalers would be forced to alter their operation schedules, thus reducing services to their customers. Typical replies appearing on our returned questionnaires are:

- (1) "We will cut back our operation."
- (2) "If we are forced to pay double time for overtime, we would pass up the business that caused the overtime."
- (3) "We would close down Saturdays and save money."
- (4) "Would probably have to turn down the jobs."
- (5) "Would curtail certain functions and would automate."
- (6) "Would cut workweek to 40 hours—eliminate emergency trips—in other words, drop those services that we now perform strictly for accommodation."

Take-home pay would be reduced

Rather than pay double time for overtime or hire additional employees, most wholesalers would trim their workweeks and services to encompass just 40 hours. Staffs would be staggered to keep business hours at or near present hours, and employees would be asked to combine functions for better operating efficiency. In some cases, wholesalers would lay off regular employees during slow seasons in order to recoup some of the dollars spent in overtime.

Many wholesalers would be forced into the red or out of business

As can be seen from the Central Supply Association operating cost survey for the first 6 months of 1963 (latest figures available), wholesaler members of this association average less than 1 percent net operating profit:

	Percent
Under \$1,000,000 in sales.....	0.91
\$1,000,000 to \$2,500,000 in sales.....	.52
Over \$2,500,000 in sales.....	1.23

Net profit on net worth (after Federal income taxes) is slightly better, but still not at a level which would enable wholesalers to absorb the additional expense of overtime at a double time rate:

	Percent
Under \$1,000,000 in sales.....	2.72
\$1,000,000 to \$2,500,000 in sales.....	1.51
Over \$2,500,000 in sales.....	1.96

Even though the cost of living continues to rise, wholesale price indexes, as reported by the U.S. Department of Labor, leave much to be desired insofar as plumbing fixtures and brass fittings and heating equipment are concerned. As of January 1964, the Wholesale Price Index for plumbing fixtures and brass fittings stood at 100.5 (1957-59 equals 100) while the index for heating equipment showed a marked decrease to 91.9 (1957-59 equals 100).

Wholesalers in the plumbing and heating industry have been and are being faced with rising labor costs, higher delivery expenses and greater taxes, which offset the sales increases which the industry has experienced of late. To illustrate our members' feelings concerning the proposed double time legislation and its effect on plumbing and heating wholesalers, we quote below some of the comments received from our questionnaire:

"Business and economic conditions do not warrant it." (Additional hiring.)

"Our short margin of profit will not support this type of overhead. The lawmakers should begin thinking of ways to keep firms in business, instead of attempting to enact laws that would go a long way toward eliminating them."

"Can't afford much more in labor and taxes."

"A company our size and sales cannot afford double time."

"Would reduce the daily schedule hours of our employees to come closer to 40 hours a week, because the margins of profit in our business do not permit an increased payroll."

"Either double time for overtime or an extra employee might be the difference between our staying in business or closing. This is a branch and the parent company would probably close it if operation became difficult. I submit that all branch operations and many small businesses would be likewise affected."

"The law would only put another financial burden on an industry where the profit margin is dangerously thin already."

"Unemployment, social security, insurance and overhead too high now. We will cut back our operation."

Central Supply Association opposes H.R. 9802 and H.R. 1680

Since it is the finding of our member survey that H.R. 9802 and H.R. 1680 will not increase employment in the wholesale plumbing and heating industry; and since these proposed bills will instead result in a curtailment of services necessary to the retailers of this industry; and since take-home pay of thousands of employees in this industry will be markedly reduced if these bills are enacted; and since many wholesaler firms now realizing only slight profits would be forced into the red or out of business altogether, the membership of Central Supply Association, meeting April 2, 1964, in Chicago, Ill., have unanimously approved the following resolution and ask that it be incorporated into this association's report to the Select Subcommittee on Labor, House Committee on Education and Labor:

RESOLUTION OF CENTRAL SUPPLY ASSOCIATION

(Resolution unanimously adopted by membership April 2, 1964, in Chicago, Ill., opposing proposed amendments to Fair Labor Standards Act providing higher penalties for overtime work by employees)

Resolved, That the members of Central Supply Association hereby register their vigorous objection to the proposed amendments to the Fair Labor Standards Act providing for the payment of double-time compensation for overtime work as contemplated in H.R. 9802 and H.R. 1680 now pending before the Congress, because of the adverse economic effects that such legislation will have on those engaged in the wholesale distribution of plumbing, heating, and cooling products; and

Further resolved, That the officers of this association are directed to transmit forthwith an appropriate communication to the congressional committee or committees considering this legislation setting forth the views of this industry as herein expressed.

OWENS-ILLINOIS,
Shakopee, Minn., March 23, 1964.

Hon. ANCHER NELSEN,
*U.S. Representative,
New House Office Building, Washington, D.C.*

DEAR REPRESENTATIVE NELSEN: The Overtime Penalty Pay Act of 1964 (H.R. 9802), if enacted, would have a harmful effect on the operation of the Owens-Illinois Forest Products Division plant in your district at Shakopee. Ironically, it would not increase the employment in your district as it is purported to do. This letter is to call this serious matter to your personal attention.

This act would be bad for business in Minnesota—as well as nationally—for the following reasons:

1. It would add greatly to the cost of doing business, which would force an attempt to recoup these costs through increased prices of finished goods, and
2. It is not economically feasible to assume that employers would hire additional employees and pay them on a full-time basis for working only when overtime would otherwise be required of present employees. This bill, therefore, would not increase employment.

In view of this, it is clear that as a solution, or even partial solution, to this Nation's unemployment problems, the present inflationary and punitive bill is unsound, unrealistic, and inadequate.

Consequently, we believe that the passage of H.R. 9802 would be detrimental to this Nation's best interest, and respectfully submit this viewpoint for your consideration.

Sincerely,

R. H. WACKE, *General Manager.*

HUBBARD MILLING Co.,
Mankato, Minn., March 16, 1964.

Representative ANCHER NELSEN,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE NELSEN: May we express our vigorous opposition to the proposed double time for overtime which we understand the administration is preparing for action in Congress.

Rather than spread jobs, we are firmly convinced that such a measure would reduce jobs by forcing automation to the extreme. Should we be required to pay double time for overtime I am certain we would find it necessary to use equipment to replace people.

In our business it isn't possible to eliminate overtime by adding more people. We resort to overtime only to meet unusual demands in seasonal peaks. Double time would penalize the company and the worker who is eager for a few hours of overtime whenever possible.

Size of work crews in most industrial situations is determined by the number required to operate the equipment and handle its production. In an overtime situation, one man on full time could not replace eight men when 1 extra hour of production is required.

Adding to the cost of production by double overtime would add to the cost of goods and add further fuel to inflationary fires.

We want you to know our thinking should the proposal reach Congress as now indicated.

Sincerely,

OGDEN P. CONFER, *President.*

STATEMENT OF THE OHIO MANUFACTURERS' ASSOCIATION

This statement is submitted to the joint committee of the House Education and Labor Committee in order to express the views of Ohio manufacturers respecting H.R. 9802, O'Hara. The membership of the Ohio Manufacturers' Association comprises those manufacturers who employ the great majority of industrial workers in Ohio and who produce a preponderance of the goods manufactured in this State. They are opposed to H.R. 9802 because its theory is illogical, its plan is impractical, and its procedures permit unrestrained bureaucratic autocracy. They know that this bill would have little if any effect on unemployment, but would increase manufacturing costs, increase prices, hurt plant morale, and tend eventually to increase unemployment.

The avowed purpose of the double time payments proposed in H.R. 9802 is to reduce unemployment by creating more jobs. The idea that employers would avoid giving overtime work to their regular employees by hiring additional workers to do the extra work and so would reduce the number of persons unemployed is theoretically and practically illogical and unsound because:

Overtime work is emergency work, sporadic in occurrence, and relatively short in duration.

Overtime work is the result of and takes place in such circumstances that the need for overtime work will not result in hiring additional employees.

Overtime work is usually required of persons with particular skills or training.

No employer plans overtime or enjoys paying for it. Like any other cost, overtime premium payments are to be avoided whenever and wherever possible. No employer plans either a shortage or an oversupply of labor. To plan a shortage would result in dissatisfied customers, loss of business and eventually disaster. Just as surely, an oversupply of labor would inevitably result in business failure. The employees of any successful concern must be sufficient in number and skills and be so placed and organized as to meet production requirements at the lowest cost. In such an organization, and in every organization which strives for efficiency, overtime payments will result only from something unusual, unexpected, and unavoidable, something sporadic in occurrence which management will seek to overcome promptly. The more successful the management, the fewer and shorter will be the periods of overtime work.

Overtime may be the result of many different interruptions of the normal course of production. Inside the plant, the main cause is the failure of man or machine at some sensitive point. Absenteeism as well as mechanical

breakdown frequently necessitates overtime employment. Unexpected increase in customer demand for the product, or for accelerated delivery, may find the industry temporarily short of trained workers. These are some of the more common causes of overtime employment and are sufficiently illustrative. Many others could be cited, but none are the result of plan and they come about in spite of the best planning.

In those industries in which the rate of production is expected to vary seasonally or cyclically, overtime work is caused by the lack of sufficient hands to get the job done within the time limit imposed by the nature of the product or other peculiarity of the business. In other cases overtime work is almost invariably the result of some temporary aberration of production which is not according to plan and which efficient management takes immediate steps to overcome.

None of these periods of unusual extra work are such as to afford opportunity for the regular employment of additional employees. In the case of seasonal or cyclical employment, the cause of overtime work is the lack of an available pool of unemployed workers. In other cases, the duration of the emergency is such that it is more economical to pay overtime to the regular skilled or trained workers than to attempt to find or train others for the short periods during which the emergency continues.

Most industrial workers possess skills or job experience for particular work or kinds of jobs. Industries differ greatly and so do the skills of those who work in them. Workers in industry are no more fungible than the myriad kinds of goods which they produce. There is not and never will be a pool of unemployed persons who, when extra work is needed, will be found ready, capable and waiting to do that work during the short periods in which the need for such work ordinarily lasts. Neither can unemployed persons without skills or training be trained so as to be useful during such short periods.

Will a greater cost of overtime work result in hiring an additional force of skilled or trained workers in order to guard against the possibility that overtime work will be needed? The answer is obvious. No plant manager is going to hire extra standby help to be on hand in case of an emergency. Since the necessity for extra work is usually due to an unexpected interruption of production, or an unexpected need to accelerate production, standby help is a luxury which competition will not permit. More than the extra wages are involved. If more employees are hired they must be put to work.

More employees require more plant space, more machines and other facilities ancillary to production. The capital outlay must be justified by expected sales. Avoiding the overtime pay resulting from many periods of overtime work will not justify idle standby employees or the investment of capital for emergency use. Increase in plant capacity and working force must be induced by the need for greater production in response to a permanent increase in the demand for the goods produced.

Besides the capital costs and the wages, fringe benefits for the standby workers will tend to prevent the hiring of extra workers. Fringe benefits of the regular employees are not ordinarily increased by payment for overtime work, but hiring of extra workers would involve substantial increase in the cost of fringe benefits. The relative costs of these alternatives are such that rather than pay for a standby crew, management will incur the lesser cost of overtime work by regular employees.

Since employers cannot afford to train additional workers to be mere standby help, when the need for additional help arises there will be no persons experienced at the job which must be filled and there will be no time to train someone from the ranks of the unemployed. The emergency nature of the situation which requires extra work also requires that the work be done forthwith. Therefore, raising time and one-half pay to double time pay or more will not increase employment. Its only permanent result will be to increase manufacturing costs followed either by an increase in the price of the product or the alternative course of discontinuing manufacture of that product with attendant increase in unemployment.

The unlikelihood that employers will hire extra workers in order to avoid paying overtime to regular workers is not only due to the financial burden of standby help and the inability to find and train extra workers in time of emergency, but also stems from the bad effect of such actions on plant morale. Most employees are jealous of their jobs and anxious to work at the overtime rates. Union contracts regularly require the equitable division of overtime work among the regular employees. Regular employees do not want to see "moonlighters" doing work

for which they themselves might be receiving the extra premium pay. Employees tend to be suspicious of a short shift which is set up to take over extra work. An unusually busy time may be followed by a slack time. Those who experienced the depression of the thirties will recall how unsatisfactory and demoralizing were the results of efforts to "stagger the work" whether the effort was motivated by a desire to aid employees or to keep a working force available and trained, or involved both motives.

Proponents of H.R. 9802 may say that the double overtime penalty is to be enforced only when overtime is "regular," "substantial," and "persistent," these words being the undefined words used in the bill. It is sufficient to observe that should the time come when a manufacturing concern cannot fill its orders without "regular" and "persistent" overtime work in "substantial" amounts, that concern will expand its plant facilities and increase its working force to meet the demand for production. No penalty for overtime will be needed. As has been noted hereinabove, no employer plans a shortage of labor, enjoys losing customers, tries to avoid making sales. Increased orders will do what penalty for overtime can never accomplish. If the only purpose of H.R. 9802 is to coerce employers to hire more employees because of such conditions, the bill is wholly unnecessary.

For the reasons given, the proposed increase in overtime pay will not decrease unemployment. It will not result in any applicable increase in the working force of a manufacturer so long as that manufacturer continues its current rate of production save for occasional emergencies requiring extra work. It will only increase the costs of production and either cause an increase in the price of the product or price the product out of the market.

H.R. 9802 prescribes procedures that delegate to an administrative officer discretionary and legislative powers that border on the fantastic. Using many words the bill directs that the Secretary of Labor may require that "not less than two times, instead of 1½ times" the nonovertime rate shall be paid for work done after the number of hours (not less than 40) which the Secretary accepts from a tripartite committee as being the proper time for commencing the new penalty rate. There are many words used, many undefined terms, but the foregoing is the real gist of it.

The Secretary is directed to appoint the committee when he "believes that substantial and persistent overtime employment exists and that payment of overtime * * * would increase employment opportunities in the industry without excessive costs. Nothing however controls the Secretary's "belief," or defines "industry," "substantial," "persistent," or "excessive." The committee is directed to find the maximum hours "which it determines will have the effect of translating without excessive costs regular and substantial overtime in the industry into increased employment." Again we find undefined, indefinite terms.

Other provisions of H.R. 9802, in equally vague terms, appear to enjoin some responsibility upon the tripartite committee. Later on in the bill however the Secretary is permitted to accept the committee's recommendation if he likes it, or to re-refer the question or to appoint another and yet another committee until he obtains the recommendation that he likes. The bill is beguilingly lengthened by provisions for reports of the committee, for "classification within any industry," for reconsideration of an order when once made. These provisions would produce a welter of committees, hearings, and rehearings, rivaling the bickering and frustrations of the days of the War Labor Boards and Wage Stabilization Boards. But the bill would provide the same final and absolute power if it were shortened to read "The Secretary of Labor may prescribe maximum hours (not less than 40 per week) beyond which an employee shall be paid not less than two times his regular work rate."

H.R. 9802 should be rejected because it proceeds from an erroneous premise, could not accomplish its purpose in our complex organization of private enterprise, and seeks to effect its purpose by bestowing autocratic powers which are not within our tradition. It would increase costs and eventually increase unemployment.

ROCKWELL MANUFACTURING Co.,
Hopewell, N.J., May 19, 1964.

HON. ELMER J. HOLLAND,
Chairman, House Labor Subcommittee,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN HOLLAND: It is our considered opinion that H.R. 9802, or any bill which imposes a double-time penalty for overtime work, will not increase employment and decrease unemployment.

Our own situation seems to fit in with the national figures on overtime which we see have been averaging about 2.8 overtime hours per week in all manufacturing. In a recent 4-week period, we had 1 week which ran up to 4 percent overtime hours; 2 other weeks ran somewhat under 3 percent and 1 week was 1 percent; therefore, we would not say that overtime appears to be excessive.

Furthermore, we would consider it completely illogical to replace these overtime hours on a temporary basis with new employees if we could do so. The necessity for overtime hours arose as follows: 12 percent absentee replacement, 8 percent maintenance work and 80 percent short-term scheduling problems—such as emergency requirements for customers, raw material shortage, other temporary problems. We have checked with other plants in our area and find that the same conditions exist with very little differences in percentages.

The imposition of a penalty overtime rate would lead to increasing costs without a corresponding increase in productivity. This is a disrupting influence on the precarious economic balance which we are all striving to maintain. It could not help but spur inflation and affect the prices of our products in the market.

Overtime is largely used as an adjustment for short-term fluctuations in business and the injection of Government regulation is a circumvention on collective bargaining which has traditionally been a matter between labor and management. The imposition of the double overtime penalty could only inhibit economic growth and eventually defeat the purpose of a free economy. An economy free to expand is the only answer to our unemployment problems.

We urge that you oppose H.R. 9802 or any legislation which would impose the double-time penalty for overtime work.

Sincerely,

K. L. WILLIAMSON,
Assistant General Manager.

STATEMENT OF THE AEROSPACE INDUSTRIES ASSOCIATION PRESENTED BY KARL G. HARR, JR., PRESIDENT, 1964

Mr. Chairman and members of the subcommittee, the Aerospace Industries Association of America, Inc., appreciates the opportunity to submit this statement concerning the proposed Overtime Penalty Pay Act of 1964.

The member companies of AIA, as producers of the Nation's aircraft, guided missiles, space vehicles, and related equipment, and as the largest employer of men and women of any industry in the United States of America, do not believe that increasing the statutory minimum rate for overtime work would significantly increase employment in its industry. The reasons supporting this belief follow:

Regulation of overtime by customer (U.S. Government)

Eighty-five to ninety percent of the aerospace industry's goods and services each year are produced for the Department of Defense, the National Aeronautics and Space Administration, the Atomic Energy Commission, and other agencies of the U.S. Government. The use of overtime work in production of such goods and services is controlled by Government procurement regulations. Typical of such regulations are the Armed Services Procurement Regulations which restrict the employment of overtime at Government expense to specified situations. Overtime, therefore, is not worked by the aerospace industry unless it meets the requirements as defined in the following Armed Services Procurement Regulations:

ASPR 12-102.4 overtime, hereafter referred to as category 4:

1. "Overtime premiums and shift premiums at Government expense may be approved by the Secretary (AF, Navy, etc.) concerned or his designee, when any such official determines in writing that such approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential military objectives;

(b) Is necessary to make up for delays beyond the control and without the fault or negligence of the contractor, or

(c) Is necessary to eliminate foreseeable production bottlenecks of an extended nature which cannot be eliminated in any other way."

ASPR 12-102.5 exceptions, hereafter referred to as category 5:

1. Category 4 "does not apply to overtime or shift premiums which are paid for work:

(a) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) By indirect labor employees, such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting.

(c) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) Which will result in lower overall cost to the Government."

Nature of permissible overtime.—Overtime, as permitted by the above ASPR regulations may be categorized as sporadic or planned.

1. *Sporadic overtime.*—Examples of sporadic overtime include:

(a) Field stations (Cape Kennedy, Vandenberg, etc.): At field stations, launch support capability dictates when overtime is to be expended. In the preponderate majority of cases it is not possible to foresee what specific items will require overtime to meet launch schedules. Hence, the sporadic nature of overtime at field stations.

(b) Temporary production bottlenecks: Equipment breakdown, accidents, etc. Such nonpredictable occurrences require overtime for a short period to regain schedule.

(c) Tests: Performance of tests, industrial processes, or laboratory procedures which are continuous in nature and cannot be reasonably interrupted.

2. *Planned overtime.*—Examples of planned overtime include:

(a) Schedule changes: Overtime necessary to meet schedules which have been accelerated beyond the capacity of a 5-day multishift operation and, therefore, requires a 6- or 7-day workweek. Such schedules are established by the Government customers and are deemed by them to be in the best interests of the Government.

(b) Extended bottlenecks: Overtime necessary to alleviate bottlenecks of a foreseeable or extended nature which can not be eliminated in any other way.

Sporadic overtime.—By its very nature sporadic overtime (ASPR 12-102.5), which amounts to approximately 70 percent of the overtime worked, cannot be eliminated by additional hiring. Therefore, any increase in the overtime premium now paid would only result in increased costs and prices.

Planned overtime.—The majority of planned overtime (ASPR 12-102.4) which comprises approximately 30 percent of the overtime worked in the aerospace industry is necessitated by conditions that preclude its elimination by additional hiring. Examples of planned overtime that cannot be eliminated by the hiring of additional manpower are:

1. *Limited accessibility.*—

(a) Equipment such as the CEA shaker, G. & L. skin mill, autoclave, numerical control machines, etc., can only accommodate a limited number of employees per shift. Since the quantity of this type of equipment is also limited, serious schedule delinquencies can be remedied only by the use of weekend (premium) time.

(b) In the manufacture of items such as modules, circuit boards, instrumentation assemblies, etc., only one person can feasibly assemble the article. Thus, schedule contingencies can only be alleviated by an extended workweek.

(c) Due to design changes (customer or company initiated) "out of position" rework on the missile or vehicle is mandatory. Because of the localized area of the work to be performed, only a limited number of employees may efficiently be used.

(d) A final example is the manufacture of consoles. For space reasons, the installation of electronic equipment in these consoles is limited to one or two persons.

2. *Shortage of skills.*—There is a shortage of qualified workers having the specific skills or experience required to perform certain aerospace jobs. Skills for which open manpower allocations cannot currently be filled from the labor market include:

- (a) High-skilled engineering draftsmen.
- (b) Combination welders.
- (c) Material and process technicians.
- (d) Tool designers.
- (e) Duplicating and profile machinists.
- (f) Milling machine operators.

Cost reduction efforts.—The potential increase in labor costs resulting from an increased overtime pay premium is incompatible with current governmental (customer) cost reduction efforts. The President, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and the Secretaries of the Army, Navy, and Air Force in recent weeks have asked the aerospace industry and other Government contractors to step up cost reduction efforts in an attempt to reduce the cost of products and services to the Government. To this end, the industry has pledged and will continue to direct its efforts. While data are not available, it is reasonable to assume that a substantial portion, if not all of the savings accomplished, could be eliminated by increase in overtime pay rates.

Impact on export sales.—The Nation's aerospace industry has been one of the country's largest dollar earners abroad over the past several years and has thereby done much to alleviate the balance-of-payments problem. In 1963, aerospace products accounted for nearly 7 percent of all U.S. products sold abroad. Between 1958 and 1963 aerospace exports totaled \$7 billion or about 5.8 percent of all goods exported during the same period. During this same period aerospace exports exceeded imports by \$6.4 billion.

Throughout this period, American aerospace manufacturers, especially those building jet and turboprop transports and general aviation aircraft, have had to compete with lower labor costs abroad.

In 1961, for example, average hourly earnings of U.S. manufacturers amounted to \$2.71 per hour, including fringe benefits. By contrast, production workers in France averaged 70 cents an hour, those in Italy averaged 68 cents an hour, and those in the United Kingdom averaged \$1.06 (for men) also including fringe benefits.

Despite this handicap, the technological superiority of American aircraft made it advisable that foreign airlines buy American airliners even though the cost of the aircraft built in America was higher. Today more than 70 percent of all the commercial air transports flying in the free world were built in this country, with concomitant requirements for aerospace manpower. No one knows for certain the full impact on aerospace exports if U.S. aerospace labor costs go higher. Certainly, higher prices resulting from higher labor costs would tend to make U.S. aircraft less competitive with its foreign counterparts. It is evident that at some point, the traditional technological superiority of American-built aircraft and related products will not be enough. Pricing must enter into an airline's buying considerations at some point. If U.S. labor costs climb and aerospace exports consequently decline, the balance-of-payments problem will become aggravated and the outflow of gold will become even more critical than it is now.

SUMMARY AND CONCLUSIONS

1. The aerospace industry does not schedule overtime to avoid hiring additional employees. Overtime in the industry is worked largely in response to the need of its customer—the Government.

2. Any effort to use a double time for overtime approach will not create an appreciable number of new jobs in the aerospace industry. The only possible result of passage of the proposed measure would be increased costs and prices.

3. The higher costs inherent in the payment of increased overtime premiums conflict directly with Government demands that the aerospace industry step up cost reduction efforts.

4. U.S. exports of civil and military products would suffer and the balance-of-payments problem would be aggravated as higher costs are reflected in higher prices for the products we try to sell around the world.

THE WILLIAMSON CO.,
Cincinnati, Ohio, April 9, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
U.S. House of Representatives, Washington, D.C.

DEAR MR. HOLLAND: Our company, the Williamson Co., Cincinnati, Ohio (a small independent company engaged in the manufacture of residential heating and cooling equipment), wishes to call to the attention of yourself and your committee, the almost insurmountable problem which passage of this proposed penalty overtime bill would present to our company.

Our business is highly seasonal, with the major part of our business being realized within an relatively brief period each year. Although we attempt to anticipate the needs of our customers by building inventories, our available capital and space, as well as the extreme risk involved, prevent us from fully accomplishing this. As a consequence, if we are to stay in business, we must on many occasions incur overtime in order to meet the demands of our customers.

It would be impossible for us to introduce new employees, when needed, into our company and train them in the time available. Such employment at best would be casual employment. Our cost-price relationship will not permit the increased cost which this penalty overtime bill would bring about, and our very ability to remain in business would be seriously threatened.

Insofar as our company is concerned, we can see no improvement in the total number of people who would be employed by us. It would only mean added costs making it necessary to try to find relief either through price increases or through further labor-saving changes in an effort to reduce total employment.

We earnestly urge you to reject this overtime penalty bill.

Sincerely yours,

R. L. HERRMANN.

STATEMENT OF PRINTING INDUSTRIES OF METROPOLITAN NEW YORK, INC.

Printing Industries of Metropolitan New York, Inc., a trade association with a membership of more than 1,000 manufacturing printing firms in the New York-northern New Jersey metropolitan area, opposes H.R. 9802 for the following reasons:

1. If applied to the printing industry, the higher penalty rate for overtime work would, in our judgment, raise costs without increasing employment.

2. Although the bill attempts to establish machinery for imposing the double-overtime penalty only on certain industries, where certain specified conditions exist, it is unrealistic to expect that industry in general could resist the pattern which would be set if double pay for overtime became the practice in basic sectors of the economy.

In explanation of point No. 1, a few basic facts about the nature of the printing industry are important. In the New York area, the printing industry is the second largest employer of manufacturing workers—but the employment takes place in thousands of small, individually owned establishments with average payrolls of 25 people.

The 25 people who are employed in the typical New York printing establishment are, for the most part, skilled craftsmen, each performing a specialized role in creating a custom product. Due to the diversity of skills needed in producing the printed product, employees cannot ordinarily be transferred between departments, even if one department is overloaded with work while another is temporarily slow.

The function of the printing business in the New York area is to create custom products on order of individual customers at the time such products are needed by such customers. Time of delivery is a critical element in such work. With minimum control over the customer's date for commencing work on a printing order, and with no control over the date on which delivery is required, the printing employer finds it impossible to schedule an even flow of production as is done in industries which produce a uniform product for inventory.

The result of this condition in the printing industry is a production pattern consisting of peaks and valleys—often occurring in the very same week and frequently occurring on the very same day. It is not at all unusual, for example, for a printer's presses to be idle for a considerable portion of the day—while

work is prepared for press in other departments—and then to be forced to run overtime to meet a customer's demand for next-day delivery.

Due to union contract provisions, it is not possible for an employer to reduce or avoid overtime by changing an employee's daily starting time. Typical contract language requires that "all employees must start and quit work at the prescribed hours of the shift."

Under such circumstances, the use of overtime is not an evidence of understaffing; it is a natural consequence of unpredictable peaks in the printer's flow of production, together with longstanding rigidities in rules and procedures regarding working hours.

It is significant that despite these scheduling problems, the average workweek for production workers in the New York City commercial printing industry in November 1963 (the latest month reported) was 38.3 hours, according to the New York State Department of Labor. With most of the industry on a 36¼-hour workweek under union agreements, and part of the industry on a 35-hour workweek, the fact that overtime averages less than 3 hours per week shows a strong management effort to hold the use of overtime to the lowest possible figure.

Would a penalty be effective?

Assuming, however, that at times it may be possible for an employer to anticipate his peak needs for labor, the question arises whether in such cases an increased penalty for overtime would prompt the employment of additional workers. In the case of the printing industry, the possibility of additional employment due to an increased penalty is unlikely for the following reasons:

A. There exists a shortage of craftsmen possessing the printing skills which are currently most in demand. If an employer is to create an additional permanent job in his shop to avoid the necessity for overtime, he must find a craftsman with the skill and experience to perform the duties currently performed during overtime. Such craftsmen are not unemployed in the New York area. Whatever unemployment may exist among New York printing workers will be found among the less skilled or unskilled who are not affected one way or the other by the issue of overtime in this industry.

B. The employer's decision to work overtime is usually based on equipment considerations as well as personnel considerations. A printer's profit on an expensive piece of equipment may be totally dependent on a few hours of operation beyond the normal workweek during periods of peak activity. Assuming that such a piece of equipment is in steady use, fully manned, during such a peak period, the employer could not reduce overtime by adding another worker to his shop unless he were prepared at the same time to make a major investment in a new machine. But the typical printing employer with only 25 workers cannot economically add a second piece of expensive equipment if his need is only for a few hours of extra operation during peak periods.

Since the above conditions will make it exceedingly difficult for a printing employer to reduce his modest use of overtime despite a higher penalty, the only result of the penalty will be to raise the cost of production and, ultimately, the cost of the product to the consumer. Since the printing industry is in competition with other channels of communication, a boost in production costs and prices will place the printer at a serious disadvantage in selling his product—possibly resulting in decreased employment.

The issue of selectivity

This association recognizes that H.R. 9802 makes a strong effort to establish machinery for implementing the double-overtime penalty on a selective basis among industries. We recognize that the printing industry would have full opportunity to demonstrate the industry's special characteristics which preclude the use of an overtime penalty as a remedy for unemployment.

But we believe it is unrealistic to expect that any major industry such as printing could long escape the pattern-setting impact of a higher overtime rate in basic sectors of the economy. The printing employee who resides next to a steelworker or auto worker is not likely to understand or approve the reasons why certain overtime is valued at twice the normal rate while other overtime is valued at time and a half.

We believe it is essential for the Congress to explore thoroughly the question as to whether this measure can, in fact, be implemented on a selective basis—or whether it is certain to raise the overtime penalty throughout all of American industry. Any across-the-board increase in production costs would clearly have a powerful impact on price levels and the ability to meet foreign competition.

CONCLUSION

Printing Industries of Metropolitan New York, Inc., approves governmental efforts to end the waste of human and productive resources which is caused by a lack of jobs for those who want to work. We believe, however, that H.R. 9802 would fail to achieve its purpose with regard to printing industry employment and would result only in higher costs to the printing employer and higher prices to the printing consumer. We disagree with the penalty approach to a solution for unemployment and urge the Congress to seek a solution in additional positive measures to stimulate and encourage the expansion of business.

J. D. JEWELL, INC.,
Gainesville, Ga., February 27, 1964.

Hon. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

MY DEAR MR. HOLLAND: We are very much opposed to the double time for overtime as proposed in H.R. 9802.

We feel that too much power is being given to one area of government and that this prerogative should remain with the employer. The great poultry industry is somewhat seasonal, and since it is so competitive, this legislation would put an undue burden on the industry.

While in some instances this might mean some additional jobs, we believe the majority of industries, particularly the smaller ones, would be penalized.

We urge that this legislation not be enacted.

Yours truly,

CHAS. J. THURMOND, *President.*

STATEMENT BY G. D. RUBY, SECRETARY, JANTZEN, INC.

That part of H.R. 9802 and S. 2486 which would authorize the Secretary of Labor to increase overtime pay on an industrywide basis is ill advised and not in the public interest for the following reasons:

A. *It is inflationary without resulting in any increased employment.*—1. With no concomitant increased production, the income of workers paid double time for overtime work would result in increased take-home pay as well as increased cost to employers. The Government's professed policy has been to encourage only wage increases which are related to productivity. This measure would depart from that policy by giving wage increases for no productivity increase.

2. Because of the large fixed costs surrounding the hiring of each new employee, it will, in most instances, still be cheaper to pay double time rather than to hire additional full-time workers. For instance, social security taxes are 3.625 percent of payroll on only the first \$4,800 earnings. Most persons now earning overtime pay have annual earnings in excess of \$4,800. This means, of course, that the employer saves the additional 3.625 percent by paying overtime rather than hiring an additional worker. The same principle applies to unemployment compensation taxes, which are 3.1 percent of payroll costs on the first \$3,000 earnings.

Many companies, including Jantzen, Inc., have life insurance, pension, cash profit-sharing and deferred profit-sharing plans as well as health and accident insurance provided for employees. These, together with social security and unemployment compensation taxes, amount to approximately 37 percent of wages for the average direct operator at Jantzen. Because of these large extra payroll costs, it would still be cheaper to pay double time rather than to hire an occasional employee who would be necessary in emergencies for increased production.

Add to the above the costs of training new workers, which at Jantzen, Inc., runs approximately \$500 apiece.

Lastly, there is the cost of capital equipment which is necessary for each employee. In the apparel business, that cost is substantially lower than the all-industry average, but still runs for our company \$13,000 for each employee.

With these costs of capital equipment, training, fringe benefits, and payroll taxes, it is exceedingly expensive to take on additional employees to handle

seasonal peak demands of production. Although at this time it would be almost impossible to calculate the actual break-even point between paying higher premium pay and hiring additional employees, it is safe to estimate that the extra premium would have to be far in excess of double time before it would be cheaper for the employer to take on additional employees rather than pay overtime premium.

3. Production scheduling must, of necessity, depend upon sales. In only a few industries are sales and production constant throughout the year. In those industries the overtime is small. In such industries as fashion apparel, there is always seasonal unemployment despite concerted efforts by management to level production scheduling. Putting additional workers on the payroll to avoid a small amount of seasonal overtime work would result in increased seasonal unemployment compensation claims, thus adding to the total cost of this legislation.

B. *This legislation would not serve the best interests of the employed.*—By these bills, an “employee” representative is to be on each tripartite committee. Since such representative would inevitably be a union staff member rather than an hourly rated laborer, who would be losing overtime pay if the theory of this legislation works, the “employee” representative’s interest would normally be to gain more dues-paying members for his union. Such selfish interest of the “employee” representative would be in direct conflict with those union workers already employed—who are drawing overtime pay to help buy these extra things in life that only the overtime income will pay for. Thus, this legislation has the effect of putting the selfish interests of the “employee” representative in direct conflict with the employed persons whom the union representative is allegedly serving.

C. *This legislation is too broad.*—The legislation calls for a nationwide increase of labor costs, and does not permit the consideration of local factors. For instance, in New York City, 35 hours a week is standard in the apparel business, but 40 hours are customary in the rest of the Nation. Although these bills would require double time only after 40 hours, no geographical distinctions could be made in the Secretary’s order despite such regional difference in business and employment practices. If sufficient pressure were to be placed by, say, the New York City apparel unions, the Secretary of Labor could appoint a committee to study this industry. By section 3(f) of the bill, so long as the committee could support its finding by any evidence, it could recommend the double time rate—or even more. In American jurisprudence, such findings in a court would have to be supported by the “preponderance of the evidence.” This politically motivated bill would only require a bare scintilla of evidence, which may come from but one geographic region.

Another reason supporting the contention that nationwide orders are not wise lies in the fact that much of our labor force is substantially immobile. A high rate of overtime in the California aircraft industry, for instance, would have but slight effect on unemployment in Baltimore. It is for this reason that local flexibility must be in such a plan.

D. *There is an alternate remedy to reduce unemployment.*—Across the land there are hundreds of thousands of men and women holding down two jobs. “Moonlighting” today is a way of life. Naturally, when a person already employed on a full-time basis takes a second job clerking in a grocery store or pumping gas at the local service station, there is an unemployed person who has lost a job opportunity.

If the objective really is to stimulate employment, the direction might better be toward outlawing “moonlighting.” The administration of such a law would not be impossible. Each employee could be required to file an affidavit with his employer that he is not otherwise employed. The income tax returns could serve as a verification of such affidavits.

If the objectives of these bills are to increase take-home pay and labor costs without increased productivity, to increase the number of dues-paying union members, to increase the stimulus for automation, and to increase seasonal unemployment, these bills should accomplish those ends. If the objective is to increase total employment, these bills are ill advised.

We submit that H.R. 9802 and S. 2486 are not in the public interest.

GRAY CONCRETE PIPE CO., INC.,
Thomasville, N.C., February 27, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR SIR: If the proposed Overtime Penalty Pay Act (H.R. 9802) is enacted, it will increase the cost of production in all types of industry and in place of giving more employment, it will reduce employment. No man operating a business today can afford to operate two shifts of 5 hours each and expect to get good men who will be satisfied to work 25 hours a week. It would be very expensive to the employer to attempt to do that. Any operation today requires experienced men who take an interest in their work and try to produce a quality product. To undertake to draw men who walk the streets today, unemployed, into his manufacturing operations he would have to go through a long training period and then he wouldn't get enough trained men who could produce a satisfactory product. Therefore, he would cut his production down, which would result in less pay for the employee. This would create dissatisfaction among his trained men who he requires for the operation of his business to maintain the quality of the product he is producing.

We find, and I think most other industries and employers of labor finds, that men who are unemployed and walking the streets are not worth the time it takes to put their name on the payroll and take it off. They do not want to work. They have been living on relief and every other means to exist and they are not going to work regularly. They are not interested in being trained into good experienced workmen who could perform their duties they were employed for and take an interest in the product they are producing.

We find that all labor today are satisfied with the 8-hour day, 40-hour week straight time, but they all want as much as 5 hours a week overtime, and more if they can get it, at time and one-half, to boost their take-home pay. The present trend among all employers of labor in manufacturing operations is to arrange their operations to where they can give their employees as much as 5 hours overtime above the 40 hours per week that they work which increases his production. Trained men working 30 minutes or an hour overtime for a few days each week will boost his production right much and he is sure of having a quality product.

If this act is passed by Congress, it will put quite a burden on employers and, as stated above, will reduce employment rather than increasing it. No manufacturer of different products would be willing to pay double time for a little overtime each week in order to get a little more production. The result is, he will curtail his operations and stay within the straight time rate on the 40-hour basis rather than to take in green men who are unemployed and try to train them into an organization who can produce a quality product on the basis of a 5- or 6-hour workday, which he would have to do in order to take on any additional men. There would be more liability from accidents of experienced men. Also, we are running the risk of the inferior product that he produces which would be a considerable expense on the employer on wages and material.

I am firmly convinced that this, if enacted, will only increase the cost and sales price of the product that the different industries produce which will not help the economy any and create dissatisfaction with the trained men now employed in industry, due to the fact that they are reduced to shorter hours and will have less take-home pay per week. The result will be dissatisfied employees and if their workday is reduced to 5 or 6 hours, they will wander off into other fields of work to pick up the other 5 or 6 hours required to give them the week's earnings they feel they require to meet their obligations. This will reduce employment in fields that they have not been employed in heretofore, which would take jobs that some of the unemployed possibly could perform and will not help the unemployment situation.

I am bitterly opposed to the enactment of this proposed Overtime Pay Act and is going to put a considerable burden on employers of labor, which is going to increase the unemployment and seriously reduce the take-home pay and the hours worked by the present employees in different industries that have a standard workweek schedule with a small amount of overtime.

Yours truly,

F. B. GRAY, *President.*

FLOWLINE CORP.,

New Castle, Pa., February 26, 1964.

Congressman ELMER J. HOLLAND,
House Office Building,
Washington, D.C.

HONORABLE SIR: All the machines in our plant are operating regularly. When we require additional production, we must run our machinery extra hours. Our product cannot be produced by hand. Our market does not justify the purchase of additional machines. If the law is changed, requiring us to pay greater overtime premium, we will not hire any additional employees as there would be no place for them to work. The effect of additional overtime premium would be either to increase our production cost or to make it economically impossible for us to increase our production.

Your very truly,

A. W. BEATTY, *President.*

STATEMENT OF W. J. CLAPP, PRESIDENT, FLORIDA POWER CORP., ST. PETERSBURG, FLA.

I am W. J. Clapp, president of Florida Power Corp., 101 Fifth Street South, St. Petersburg, Fla., an investor-owned, taxpaying electric power company employing, as of January 31, 1964, 2,301 people engaged in the furnishing of continuous and uninterrupted electric service to 329,865 customers throughout the company's service area in the State of Florida.

I have carefully reviewed H.R. 9802 and its companion bill S. 2486, introduced by Congressman O'Hara of Michigan and Senator McNamara of Michigan, respectively, to provide a double pay penalty rate for overtime work. After careful consideration, I find that I must object to the application of said legislation to the electric utility industry for the following reasons:

1. The majority of overtime incurred by the Florida Power Corp., and for that matter the electric utility industry, cannot be predicted. It results from storms and severe weather conditions and other emergency situations, thus making it unavoidable and unpredictable, and would not, under any circumstances, warrant the employment of new, unskilled, and untrained personnel.
2. In those few instances where overtime is not directly related to emergency situations, the higher overtime premium proposed would probably be paid rather than hiring new personnel because the cost of orienting and training new personnel to avoid nonemergency overtime would more than exceed any overtime premium the employer might have to pay.
3. To hire employees in advance when an overtime period is predictable would surely result in layoffs when the need for such overtime has ceased, thus adding to the general instability of the labor market.
4. Overtime premium pay would undoubtedly not increase employment in companies having union contracts with a guaranteed workweek or a guaranteed annual wage but rather would trigger union demands for higher wages and, from the whole aspect of the employer-employee relationship in collective bargaining, the rates of overtime pay are properly a matter for collective bargaining.
5. Higher overtime premium pay will tend to increase prices, cause inflation and necessitate regulated public utilities to seek new and higher rates. Applications to regulatory agencies for higher rates, with attendant public hearings, are expensive and would again contribute to inflation.
6. Where an employer elects to hire new personnel rather than pay premium overtime, those industrial employees who are regularly getting a certain amount of overtime will be encouraged to moonlight and, being skilled employees, will undoubtedly be hired, thus reducing the number of available jobs and counteracting advantages gained by the proposed legislation to decrease unemployment.
7. The inflationary ramifications of a double pay penalty rate for overtime work will likewise tend to cause moonlighting by salaried, clerical, and white collar employees who find their relative purchasing power affected.

For the above enumerated reasons, it is my opinion, that legislation that will require a double pay penalty rate for overtime work will not achieve the aim of decreasing the ranks of the unemployed in the electric utility industry because of the technical skills required, coupled with the unpredictable, unavoidable nature of the overtime work.

The rates of pay for overtime work have heretofore been an exclusive prerogative of management and any interference will tend to sharply curtail the exercising of labor-management decisionmaking in this area which should properly be a matter for the collective bargaining table. Such action by way of Federal legislation would thus appear to be punitive to both management and labor since this legislation has been referred to as a "double pay penalty rate for overtime work." Accordingly, it would appear management is being penalized for using skilled employees and an attempt is being made to coerce management into using untrained, unskilled employees, contrary to sound business economics and techniques. In the electric utility industry this is contrary to every known safety procedure and could easily result in a rash of fatalities.

I, W. J. Clapp, president of Florida Power Corp., do hereby certify that the facts in the foregoing statement are true and correct to the best of my knowledge, information and belief.

W. J. CLAPP, *President, Florida Power Corp.*

STATEMENT OF THE COMMERCE & INDUSTRY ASSOCIATION OF NEW YORK, INC.

The Commerce & Industry Association of New York, representing more than 3,500 business firms in New York City and throughout New York State, opposes the enactment of H.R. 9802 which, among other things, provides for the payment by employers of double time for all overtime worked.

To further identify our association, the New York Journal American, dated Thursday, September 28, 1961, carried the following statement:

"The Commerce & Industry Association of New York is the largest local chamber of commerce in the United States and, because its membership includes many concerns of national dimensions, its opinions and influence are of nationwide significance."

The industrial relations committee of this association, composed of men nationally recognized as authorities in the industrial relations field, considered the dual problems of the shorter workweek and increased premium time for overtime.

The association committee concluded that shortening the workweek or increasing the penalty for overtime would increase substantially the installation and use of automated equipment. This conclusion is clearly substantiated by the results of a recent survey by the association. The inevitable result of this development means a reduction of present jobs and diminutions in the creation of new jobs. Obviously, this result, drawn from those we consider highly qualified to judge in matters of employment, indicates the proposed legislation may achieve a result directly contrary to the claims made by proponents.

The survey made by this association also produced some management thinking on effective tools for combating unemployment. Basically, the survey respondents indicated that reducing or limiting overtime work is not the answer to solving the unemployment problem.

Executives from 225 firms based in New York City, responding to the survey, pointed out that training to upgrade skills and measures which cut costs, develop greater production efficiency and stimulate economic growth are far more effective tools for combating unemployment. Many noted that most of the unemployed are, in fact, unemployable except for jobs requiring minimum skills. As one executive put it, "It is paradoxical that in New York City ample white-collar employment opportunities exist, while unemployment insurance claims are increasing among people with marginal skills."

Some respondents qualified their answers by stating that while reducing or eliminating overtime might reduce unemployment temporarily, in the long run a shorter workweek would not cut the level of unemployment by an appreciable amount. They cite as reasons: (1) population growth, (2) lack of skills due to demanding requirements as a result of automation and electronic data processing, and (3) the lack of willingness on the part of labor to move from area to area in order to get better jobs.

In response to the question "How would you adjust your employment if the Fair Labor Standards Act were amended so as to make mandatory a workweek of 35 hours without reduction in weekly pay?" the replies showed:

Sixty percent would reduce manpower requirements by various methods.

Twenty percent would maintain the same schedule and pay overtime.

Fourteen percent would hire more personnel.

Six percent would eliminate overtime or institute other cost savings devices.

Those queried replied in almost the same percentages as to what they would do if the Fair Labor Standards Act was amended so as to make mandatory double time for all hours worked in excess of 35 a week. Following are the percentages based on replies received:

Fifty-seven percent—Would reduce manpower requirements by various methods, such as subcontracting and mechanization.

Twenty-four—Would maintain the same schedule and pay the overtime.

Fourteen percent—Would hire more personnel.

Five percent—Would eliminate overtime or institute other cost saving devices.

The above is respectfully submitted in opposition to legislative amendments to the Fair Labor Standards Act providing for double time for overtime, or reducing the hours of work provisions in the act, primarily because subject legislation would not achieve its stated objective.

STATEMENT OF KENNETH C. KELLAR IN BEHALF OF THE AMERICAN MINING CONGRESS

My name is Kenneth C. Kellar. I practice law at Lead, S. Dak. I am a vice president and chief counsel of Homestake Mining Co. which is currently the largest gold producer in the Nation. I appear before you today representing the American Mining Congress of which organization I am a director.

The American Mining Congress represents all phases of mining in the United States. Our organization opposes the enactment of H.R. 9802 for the following basic fundamental reasons.

(1) The proposed legislation grants to the Secretary of Labor unwarranted and excessive powers.

(2) The broad grants of authority given by the terms of the bill to industry-tripartite committees, appointed by the Secretary of Labor, constitute a striking and dangerous analogy to the mandatory thesis of compulsory arbitration with government intervention projected forcibly into the labor-management relations field.

(3) H.R. 9802 if enacted would have such a disastrous impact upon our already harassed industry that rather than cure the unemployment problem exactly the opposite result would be accomplished with considerable increases in unemployment rolls. The economic burdens imposed would be so great that some operations would be forced to shut down and others, caught in the added "cost squeeze" resulting from the legislation, would use their greatest ingenuity through automation and other methods to reduce their employment in order to stay in business.

(4) The mining industry generally hires many highly skilled, well-trained employees and many employers pay overtime compensation under existing law because the hiring of additional employees would be too expensive. They have discovered that the only way to maintain sufficient high production essential to provide a reasonable degree of profit is to utilize the skills of such employees in workweeks in excess of 40 hours. However, in an industry which is already operating in many areas on a marginal basis, the penalties imposed by H.R. 9802 would prove disastrous to employers and employees alike.

(5) The enactment of this legislation, while advocated by top union officials, will, we believe, be disruptive to the economic security of thousands of rank-and-file workers, both union and nonunion, who will be displaced if the inherent bureaucratic mandates of this bill are ever visited upon our industry.

(6) H.R. 9802 is replete with ambiguities, lack of definition, nebulous provisos, and the vesting of dictatorial authority in the Secretary of Labor sufficient to place virtually every industry in this Nation at the mercy of the whim, caprice or judgment of this executive official. Our observation of the functioning of

tripartite commissions in the past does not instill confidence that such proposed tripartite committees as "factfinding agencies" authorized to recommend penalty overtime are a proper barnacle to attach to the hull of industry. Unfortunately, with monotonous regularity, the public members of tripartite committees are recruited from the academic world where theoretical concepts are not consonant with the practical realities of the problems which confront the mine or mill operator in his never-ending struggle to operate at a profit.

We believe that the future economic welfare of the United States would be seriously threatened and jeopardized by granting such Olympian dictatorial powers to the Secretary of Labor. Surely if this bill is intended as one of the weapons in the arsenal for use in the "war on poverty" it will prove ineffectual, and therefore should be aborted by the administration before it wrecks havoc with job security for countless skilled workers in America.

STATEMENT BY FRANK C. PIERSON, PROFESSOR OF ECONOMICS, SWARTHMORE COLLEGE

In the testimony I presented to this committee in June 1963, I indicated my reasons for opposing legislation to reduce the standard workweek below 40 hours, but I expressed support for legislation which would immediately require double time pay beyond some point, say 44 hours, in a given week, and which would make the double time rate beyond 40 hours effective 2 or 3 years from now.

The principal question presently before the committee is whether tripartite committees should be established to report on the feasibility of requiring double time beyond 40 hours in particular industries. While I am in sympathy with the general spirit of this latter proposal, I do not believe that the tripartite committee arrangement would be desirable.

From an administrative point of view, having different committees come up with different recommendations could hardly help but cause confusion. But even if no administrative difficulties were to arise, I question the wisdom of approaching this issue on an industry-by-industry basis. Any value which the higher overtime requirement might have in spreading job opportunities would be largely negated unless the new requirement applied to all firms subject to the Fair Labor Standards Act.

The only way in which a change of this sort could effectively promote job sharing would be if employers in most industries came to the conclusion that sometime in the near future work beyond 40 hours per week would be seriously penalized. Long drawnout committee procedures on an individual industry basis would leave the whole matter very much up in the air. What is called for is a clear declaration of public policy to which employers could then adapt themselves without undue hardship or expense over a given period of time.

Employer spokesmen are quite right in arguing that an immediate change to a double time rate beyond 40 hours per week would prove unduly burdensome in many industries, but the prospect of having to adapt to the higher rate by some future date would be quite different. The important point, it seems to me, is that this adapting process would almost certainly be in a socially desirable direction as employers started actively searching for various ways to avoid longer work-week schedules.

As businessmen in their more candid moments are the first to admit, there is a considerable element of habit of sheer inertia in industrial work arrangements. One of the most important aspects of Government policy in this field, as the experience with workmen's compensation and other forms of social legislation amply demonstrates, is the stimulus to positive action by employers which clear-cut public policy changes or pronouncements can provide.

Business spokesmen, in the interest of protecting their stockholders' welfare, typically resist such policy changes, but it frequently turns out that employers can adapt their operations to comply with new legislative standards without incurring the dire consequences which had previously been predicted. I am altogether confident that the producers in automobiles, steel, and other major industries could largely eliminate overtime work without any untoward complications just as long as they were given 2 or 3 years to make the necessary adjustments.

In this connection it is important to consider what are the most effective ways in which the gains of rising productivity of American industry can be distributed. Insofar as labor's share is concerned, should the gains go in still

higher wages and benefits for relatively small groups of favored workers, or should more of such gains be used to help less favored workers get the necessary training and experience to enter productive occupations?

Employers and unions are both inclined to the view that the latter function should largely be left to Government, and that gains under bargaining agreements should mostly be restricted to workers who already hold jobs or who have built up a great deal of seniority. In terms of their shortrun interests this view makes considerable sense, but in terms of the effective performance of the overall economy it leaves much to be desired.

One of the greatest weaknesses in present day labor relations, whether union or nonunion, is that neither employers nor unions are exposed to any effective inducements to introduce broad recruitment and training programs. Employer efforts in this regard are usually limited to a thin top layer of highly skilled jobs, while hiring and training for the next level of skills is often felt not to be worth the cost and frustration involved. From the viewpoint of the individual firm, training can hardly bring much return because other firms are likely to hire the newly trained workers away. Nor are many unions likely to push training programs aggressively if there is danger that the new workers will compete with already employed workers for the better jobs.

Unless some specific inducements are established by Government action, private efforts to find potentially qualified workers among the unemployed are therefore, likely to languish. A firm declaration of public policy that work beyond 40 hours per week should be avoided where possible, backed up by raising the overtime rate to double time pay after a certain date would help provide just such an inducement.

It would, of course, be foolish to assume that this change alone would materially broaden job opportunities. Clearly, a many-sided attack is called for. At the same time every approach to this problem, such as the one recommended here, needs to be exploited to the full. If this proposal were enacted, employers subject to the Fair Labor Standards Act who faced the possibility of operating longer workweeks would be a good deal more likely to take whatever steps were necessary to spread work opportunities more widely. This, surely, is a more desirable way to distribute the gains of rising productivity than to funnel large amounts of time-and-a-half overtime pay into the pockets of a few, luckily situated employees.

STATEMENT OF JOHN F. NAGLE, CHIEF, WASHINGTON OFFICE, NATIONAL
FEDERATION OF THE BLIND

Mr. Chairman and members of the Committee, my name is John F. Nagle. I am the chief of the Washington office of the National Federation of the Blind. My address is 1908 Q Street NW., Washington 9, D.C.

We of the National Federation of the Blind endorse and vigorously support H.R. 9802, a bill intended to increase employment opportunities throughout the country.

We endorse and support this measure because we, blind people, have a personal knowledge about lack of employment opportunities, and we are vitally concerned about increasing them.

Possessing abilities and talents, many of us are denied the chance to ever use them for our profit and advantage, for the benefit and gain of the Nation.

Possessing developed skills and specialized education and training, many of us are denied the chance to ever work in the usual economic activities and enterprises of the community.

Possessing the desire and the ability to support ourselves and our families, many of us remain dependent upon others for all of our lives—recipients of public welfare, beneficiaries of our family's benevolence—a drain upon its limited resources, the object of its charity and resentment.

Mr. Chairman, it is an economic fact of discouraging and disillusioning reality that when physically fit men and women seek jobs and do not find them, physically and mentally impaired men and women need not seek at all.

When there is a labor surplus, physically and mentally disabled workers are not hired—and this is generally true, however well qualified they may be for particular jobs and positions that are to be filled.

It is generally true, even though these people may be better qualified than their physically fit competitors for such jobs and positions.

It is generally true, even though disabled applicants for work are in nowise limited or restricted in their ability to perform all of the functions and requirements of the work applied for.

During World War II, Mr. Chairman, thousands of men and women—elderly, blind, crippled, or otherwise disabled—were employed to perform a vast diversity of activities in our wartime economy—and they demonstrated beyond all possible doubt or question the capacity of such people to function productively and successfully in our normal economy.

But these workers were not hired as regular members of the Nation's labor force. Rather, they were military rejects, economic discards, and they were only hired when physically fit workers went to war—they were only hired when the number of jobs so increased that there were insufficient numbers of young and physically fit workers to fill them.

Then, Mr. Chairman, when the war was over, when the labor shortage was passed—in spite of the fine work record of these impaired men and women—in spite of their proven reliability and demonstrated competence—in spite of the very low incidence of work accidents among them—in spite of all this, Mr. Chairman, when the war was ended, the overwhelming majority of these people were discharged, for they were no longer needed or wanted—physically fit workers were again available to take back their jobs.

Perhaps, one day, Mr. Chairman, men who apply for work will be judged on their merits, on their ability to do the work applied for.

Perhaps, one day, Mr. Chairman, the best qualified applicant for a job will be hired, even though he is old or crippled or blind—but until that day comes, we who are impaired, we who are physically or mentally disabled—we must hope for full productivity, for a labor shortage economy.

Therefore, Mr. Chairman, members of the committee, we urge you to adopt H.R. 9802, because we believe its enactment into Federal law will help to increase employment opportunities.

We believe that H.R. 9802, as Federal law, will serve to make employment opportunities more readily available for all who wish to work—including trained and qualified men and women who are without sight, or who are otherwise impaired by advancing years or physical or mental disability.

But, you may well ask, Mr. Chairman, what kinds of jobs the blind can do.

You may well wonder what employment opportunities we seek.

Mr. Chairman, although the economic history of man throughout the centuries has attributed to the blind only a competence to make chair seats and weave baskets, as not very skilled craftsmen;

Although, in recent times, there has been given men without sight a grudging recognition that they may possibly possess sufficient ability to perform the simplest of factory operations—as elemental assemblers or "touch inspectors," as sorters and packagers, packers and wrappers; and

Although traditions traceable to the beginnings of recorded history have established the condition of blindness as a condition synonymous with helplessness.

Today, Mr. Chairman, there are many blind men and women whose lives and employments prove that the traditional attitudes about blindness are wrong, that repudiate the "facts" and fictions of the past and demonstrate by the diversity of their gainful activities that blind people, given a fair opportunity, can and will function competitively, cooperatively, and successfully in sighted society.

Although legend has ascribed to the blind a skill in handwork—a skill automatically theirs upon their loss of sight—automatically theirs as compensation for their loss of sight—legend, of course, is wrong.

Denied equality of economic opportunity, refused admission to the regular trades, professions, and livelihoods of the community—not because they were unqualified by lack of talent or ability, but because they were blind and believed incompetent—believed incapable of competing with their sighted fellows—the blind throughout history have lived as best they could—they have worked, when they worked at all, doing that which others would not be bothered doing, being paid little or nothing for their labors—selling their wares and their skills to the charity-minded and the benevolently inclined.

But, Mr. Chairman, the day has long passed when the blind will accept, silent and submissive, their tradition-given and tradition-enforced lowly status, working and living on the periphery of life.

Blindness is a physical loss, a physiological difference, not a psychological one.

Men without sight possess the same capacities and capabilities as men with sight. They possess varying talents and aptitudes, just as do men with perfect vision.

To describe the jobs the blind can do is, in large measure, Mr. Chairman, to describe the jobs the sighted can do.

For sight is only a tool, a means employed by man to accomplish certain desired results—but sight is not man's only tool, nor is it necessarily his best tool.

Time and time again, blind persons have demonstrated their ability to perform particular work when, it was firmly believed good vision was absolutely essential to do the work.

The blind man, employing adaptations, using different methods and techniques, oftentimes can do a particular job as well as—and sometimes even better than—the man with sight.

But, Mr. Chairman, although blind men have proven their ability to function successfully, competively, gainfully, and productively—in a wide diversity of economic activities and endeavors—and they have proven this by actually functioning in them—the blind jobseeker, talented and trained, asking only for the chance to demonstrate his value as an employee, too often is denied the chance he seeks—not because his is unqualified by ability or education, not because he has failed to prove his competencies—but he is denied because he is blind. He is denied even the chance to fail by the refusal of the employer to allow him to show his skills.

Whatever diplomas he may earn and whatever proofs he may give of his ability to fill a vacant position, the blind man is still too often believed to be helpless and incompetent.

The very businessman who will contribute generously of his dollars to an agency providing job training for blind people seldom will give the same blind people the opportunity to qualify for jobs in his business when their training is completed.

Mr. Chairman, these are the realities with which a blind man is confronted when he would work and live as other men in our society.

Today, Mr. Chairman, there is almost a limitless number of jobs the blind can do and are doing with a competence and skill equal to men with sight.

Today, Mr. Chairman, blind people are working as chemists and physicists, as judges and prosecuting attorneys, as lawyers in general practice, as law school teachers, and employees in all levels of government in many different capacities. The blind are working as school and college administrators, as teachers of blind children, and teachers of sighted children.

They are working as electricians and electronics engineers, as bench machinists, as college and university professors in various fields and specialties, as private secretaries, as medical secretaries, and dictaphone transcribers, both in private and governmental business.

The blind are working as regulations analysts, cab dispatchers, insurance brokers and agents, as sellers of real estate and sundry other items, as musicians of all kinds—singers, members, and leaders of orchestras, as teachers of music—as employees of social and welfare agencies, both public and private, in many capacities.

The blind are working as farmers and dairymen, as raisers of cattle, rabbits, chickens, worms, and crickets, as newspaper editors and reporters, authors, radio and TV repairmen, public school system psychologists, librarians, ministers, store and vending stand proprietors, radio announcers, radio commercials artists, telephone switchboard operators, and operators of telephone answering service businesses.

Today, Mr. Chairman, in our Nation's widespread and complex economic structure, with its great diversity of industries and businesses, with its increasingly productive agriculture, its uncountable governmental departments, agencies and functions, there exists an almost limitless number of jobs the blind can do—and the foregoing list is but an indication that this is so, for the list is but a sample of the jobs the blind are now doing.

In conclusion, Mr. Chairman, members of the committee, you may well ask: What do we blind people seek?

Do we seek protection and shelter from life? Do we wish to be shielded from the struggles and challenges of the world, secure but useless, with our destiny determined by others?

No, gentlemen, we seek the opportunity to work, to function, to live and share in equality with all others, with our destiny determined by ourselves.

We seek full and unrestricted opportunity to share in equality with our sighted fellows in all of the duties and responsibilities, as well as the privileges and benefits, of our American citizenship.

We seek the opportunity to participate, in accordance with our ability, in all aspects and activities and hazards of our Nation's life.

So, we urge you, the members of this committee, we urge the Congress, to act favorably on H.R. 9802, for, we believe it offers a way and a means of increasing opportunities for employment, and this is important to men who look for work and do not find it.

This is important legislation to blind men and women, to all disabled people, for, when jobs are scarce, we are not hired—and, to us, the chance to work is more than the chance to earn our own living—it is the chance to live.

COMET FEED MILL,
Ardmore, Okla., March 23, 1964.

HON. PAGE BELCHER,
House of Representatives,
Washington, D.C.

MY DEAR MR. BELCHER: We are writing in protest of bill H.R. 9802 (O'Hara of Michigan) which proposes to amend the Fair Labor Standards Acts to require double time pay for overtime work. This legislation is supposed to help the unemployment by spreading jobs, but as a small business owner we can only see disastrous results if this bill goes through.

We find so many looking for a job but we find very few willing to work. There is a definite difference. Therefore, when we acquire a topnotch employee, even starting out on a minimum wage scale, as he progresses—his pay also progresses. If these employees are cut back to a maximum of 40 hours per week and no overtime at time and one-half, they will terminate and look for something better. Our employees are now making from 12 to 16 hours of overtime which brings their income up to a fair livable wage. Therefore, double time payment of all overtime would be disastrous to this organization and would create hardship on our employees.

Due to the above facts, we stress a definite "no" vote on bill H.R. 9802.

Sincerely yours,

B. J. BAKER, *President.*

FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF MIAMI,
Miami, Fla., March 20, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: This letter is for the purpose of commenting on the proposed Overtime Penalty Pay Act, H.R. 9802. In our opinion, this bill is a dangerous one because it will cause the opposite result from that at which it is aimed.

No one can afford to be indifferent to the unemployment problem facing the country today. It is especially aggravating because it is occurring in the midst of general prosperity otherwise. In the past, unemployment was associated with dips in the business cycle. Trained workers were unemployed because of a slow-down in manufacturing activity. Reports from Government agencies and private studies both agree that a different situation prevails today. The unemployment problem is defined as a structural one. It is concentrated among the untrained and poorly educated. Reports further indicate an actual shortage of trained and skilled workers in many fields.

The Overtime Penalty Pay Act is aimed at ameliorating the unemployment problem by forcing the hiring of additional workers by making overtime too expensive to pay. As discussed above, we are not faced with the typical unemployment situation we have had in the past and which this bill assumes exists now. The effect of the bill would be to increase costs and therefore prices, making us less competitive at home and in world markets. (This would add further difficulties to our balance-of-payments problem.) The effect of the cost and price increases would be to make us less competitive and therefore the most likely result is a further reduction in the labor force rather than a gain as is hoped for by the bill's authors.

The real answer to unemployment is education and training which will equip people to take their places productively in society. We therefore urge the rejection of the Overtime Penalty Pay Act by the Congress.

Sincerely yours,

W. T. ETZEL, Jr.,
Vice President and Economist.

THE LAU BLOWER CO.,
Dayton, Ohio, April 1, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
House Education and Labor Committee,
Washington, D.C.*

DEAR CONGRESSMAN HOLLAND: Since time will not permit further direct testimony on H.R. 9802, I submit this letter of opposition to the bill, together with 25 copies for the committee. I respectfully request that it be made part of the official record of the hearings.

First, let me tell you a little bit about the Lau Blower Co. We are a company doing between a \$13 and \$15 million business annually, employing approximately 700 people in 4 plants here in the United States (Dayton and Cleveland, Ohio; Indianapolis, Ind.; and Irwindale, Calif.) as well as one in Kitchener, Ontario, Canada.

Our primary business is manufacturing air-handling components for the warm air furnace and air-conditioning industry. Thus, we have virtually no control over the scheduling of our production since we must depend on the demands of our customers who are not always able to give extended leadtime on their requirements.

As an example, last year here in Dayton, where we work only 1 shift per day, we spent in wages for overtime production the equivalent of 10 full-time productive and nonproductive people, not including supervisory personnel.

However, because we do not have sufficient facilities to work 10 additional people on the 1 shift, it would have become necessary for us to work a partial second shift. And for the same amount of production that we secured from the overtime we worked, the cost of the second shift would have been one-third higher because 15 men instead of 10 are required to operate a shift. These 15 people, if we had been able to hire them, could only have been employed part of the year.

Throughout the year customers' orders for the products we normally make can and do fluctuate as much as 30 percent on occasions. And the type of products we build here in Dayton does not lend itself to inventory since a large portion of these products are made to customers' specifications.

By working the overtime the way we did, of which approximately 30 percent was in 10-hour days, and 70 percent Saturday work, we were able to satisfactorily serve our customers at a minimum cost. Furthermore, by so doing it was not necessary for us to lay off one man throughout the entire year.

Now, a retaliatory law, requiring us to pay more for the necessary overtime we work, is being proposed just because we don't arbitrarily add 15 men to our organization at a prohibitive cost, and these 15 men would not have steady work, thus adding to our unemployment tax cost.

It is true that H.R. 9802 uses the seemingly innocent term "by industry." But this law in the hands of unqualified bureaucrats means only one thing—all industries immediately will be faced with the same penalty.

Original premise—and a suggested solution

This law was originally designed to provide more employment. I think it would be more desirable to devise an "incentive law" which would give manufacturers a reason for adding employees, rather than trying to penalize them because they don't add employees.

The tax laws could be adjusted which would provide a bonus to the company who added employees. This would be particularly beneficial to the smaller companies who can't afford the investment in elaborate mechanization (machinery and tools) and, consequently, must employ more direct labor than the larger company who can afford to automate and reduce the amount of direct labor in his product.

I am quite sure that if some of the economists employed by the Government were given the proper direction on a subject of this nature that perhaps their fertile brains could devise a fair program that would help bring about more jobs in industry.

Yours very truly,

TOM BYRD, *President.*

STATEMENT BY THE PORTLAND CHAMBER OF COMMERCE, PORTLAND, OREG.

The Portland Chamber of Commerce, Portland, Oreg., is opposed to H.R. 9802 and S. 2486—penalty pay for overtime—for the reasons outlined below:

Overtime is not excessive.—Although there were substantial amounts of overtime hours of work in 1963, they were not unprecedented. The average of 2.8 overtime hours per week in all manufacturing industries in 1962 (the last year for which figures are available) was the same as in 1956. The Commissioner of the Bureau of Labor Statistics, U.S. Department of Labor, testifying before a House subcommittee of the Education and Labor Committee, made this observation regarding the period 1956-62:

"It does not appear that any major change in the length of the average work-week or in the use of overtime has taken place during this period."

Much overtime is unavoidable and arises from factors out of the control of the employer. Some industries must depend heavily upon the weather, working at a fast pace during good weather to make up for the days of bad weather.

In other cases overtime work is required to fill orders resulting from unexpectedly high sales, to meet the demand for seasonal products, to make up for time lost on breakdowns, or because of other emergencies.

H.R. 9802 would increase costs and cause further inflation.—Before hiring additional employees, employers may still find it less expensive to pay additional overtime premiums due to substantial fringe costs, bookkeeping problems, and training requirements involved with new employees.

Because of higher costs in double pay for overtime, employers may find that there is greater incentive for automation in their plants, thus contributing further to unemployment.

Management needs to have flexibility to adjust to changing market conditions.—Use of overtime is one way to take advantage of short-term demand. Increasing the costs of overtime help simply forces the employer to pass up opportunities to meet short-term demand. The result is loss of potential profit, less production, and not even extra pay in the pockets of the regular employee.

H.R. 9802 would not increase jobs.—As pointed out by one economist, these employees (who are working overtime) presumably possess skills which are in short supply, and it would be of no immediate benefit to unemployed workers lacking the needed skills to restrict the hours of employment of those highly skilled people.

Double time pay is a disguise for a pay raise.—Once Congress accepts the principle that double time should be applied, in certain cases, there will follow an attempt to make double time pay mandatory in all industries. In fact, labor leaders are already clamoring for elimination of the discretionary feature in this proposal—they simply want double time for all overtime in all cases.

Congress should not lose sight of the fact that wages and working conditions are basically subject to collective bargaining and union leaders have been given tremendous economic weapons to use in gaining their ends. Negotiated terms of employment already provide ample deterrents to overtime.

Opposition to the creation of a tripartite procedure composed of management, labor, and Government to determine the feasibility of double time pay for overtime worked is based on the following factors:

1. It is unsound as applied to the solution of specified problems which concern day-to-day employment and working arrangements between labor and management. These problems are bipartite and belong on the collective bargaining table. Government intervention will only complicate matters.

2. Experience shows that Government participation in tripartite groups tends to favor one particular group. In this case, the tripartite method is in effect a device to obtain a wage increase by Government edict.

3. Tripartite industry committees are administratively not feasible.

4. Ultimately, tripartitism leads toward Government control of both wages and prices.

The measures would increase the restrictions upon free enterprise. Denying management the right to employ employees on an overtime basis except on prohibitive terms is simply another fetter on management—another restriction to discourage management from expansion and to discourage investors from investing risk capital.

Our country is committed to the idea that in our system it is private enterprise which must provide the jobs and the goods and services we need. Therefore, we must do what we can to stimulate and encourage management and investors to devise new products, to increase production, to push for more exports, and to reduce costs. But arbitrary restrictions such as proposed in H.R. 9802 would do just the opposite.

In conclusion, the elimination of Government restrictions, not the imposition of them, will help provide increased incentives for management and investment capital to increase production and jobs.

AMERICAN CORN MILLERS FEDERATION,
Washington, D.C., April 6, 1964.

Hon. ELMER J. HOLLAND,
Select Subcommittee on Labor, House Education and Labor Committee, U.S.
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American dry corn milling industry, may we register our strong opposition to H.R. 9802. This bill which seeks to accord a double pay penalty for overtime work poses a multitude of serious problems and difficulties for our industry and we are opposed to it.

The dry corn milling industry each year produces over 100 million bushels of milled corn in the form of flour, meal, grits, flakes, and oil for a wide variety of food and industrial uses. Its mills are located in every State of the Union with the possible exception of Alaska and Hawaii. The American Corn Millers' Federation is composed of mills which account for more than 90 percent of the corn products milled by the dry process in the United States.

The Federation is opposed to H.R. 9802 for the following reasons:

1. *It would increase the cost of milled corn products to the American consumer.*—Corn milling volume varies and is a seasonal occupation. The mills pay their highly specialized employees overtime rates to handle these peakloads. They cannot afford to train and keep milling specialists on the payroll to handle only peak demands. Thus if the cost of overtime is doubled, the increased cost must be passed on to the consumer.

2. *Many small corn mills would be hurt.*—In the many small corn mills located throughout the United States, only a few workers do any specific job; even steady overtime could never justify another full-time man. In effect, double time rates would be an extra, unavoidable cost.

3. *Employment would not increase; in fact this bill, if enacted, would cause a net decrease in employment in the dry corn milling industry.*—While many corn mills have automated their operations, the prohibitive cost of "double pay for overtime" will greatly accelerate this trend. Thus the resultant impact of H.R. 9802 would be to ultimately occasion a net decrease in employment in the corn milling industry. One thing is certain, the bill will not achieve the objective it seeks—to increase employment in our industry.

4. *It constitutes an additional and unnecessary load on profits.*—Since the seasonal and specialized nature of corn milling requires overtime at peak periods, the increased cost occasioned by a double pay penalty will constitute an unnecessary encumbrance on profits already very modest.

5. *It would permit the arbitrary intervention by Government into a process which is regulated more efficiently by competitive markets.*—Employees of American corn mills are accustomed to regular seasonal overtime and look forward to increased pay. They will not appreciate Government intervention causing the loss of anticipated monetary benefits: either directly through the hiring of more employees; or as is more likely, indirectly through the acceleration of automation. Further Government intervention in the competitive market is unwarranted and is unnecessary.

6. *Its tripartite procedure is inequitable and unworkable.*—We wholeheartedly adopt the testimony of Dr. Richard S. Landry, U.S. Chamber of Commerce, given before your committee on February 26, 1964, with respect to H.R. 9802's tripartite procedure. This procedure centers power, authority, and con-

trol over penalty rates for specific industries in the Secretary of Labor. Thus the Secretary is empowered to determine what penalty rates shall be ultimately applicable; to appoint members of the industry committee; to refer recommendations back to the committee; to refer recommendations to a newly created committee; to appoint review committees; etc. We agree with Dr. Landry that the tripartite mechanism is often, perhaps too often, used "to secure public acceptance for governmentally created policies."

In summary, Mr. Chairman, may we point out that double pay for overtime in the American corn milling industry would occasion more expensive milled corn products for the American consumer, increased costs for small millers, fewer jobs in the corn milling industry, less profits, and malcontent among the industry's current employees. For these reasons and in view of the bill's inequitable and unworkable tripartite procedure, we are opposed to H.R. 9802. We ask that this letter be made part of your record.

Respectfully submitted,

DONALD M. COUNIHAN, *General Counsel.*

STATEMENT OF ALUMINUM CO. OF AMERICA

My name is John S. Harrison and I am an executive vice president of Aluminum Co. of America with headquarters in Pittsburgh, Pa. In this capacity, I am responsible for the operation of 28 plants in 14 States with a work force of more than 25,000 production employees and the direction of Alcoa's industrial relations program.

At the outset, I would like to say that Alcoa is vitally interested in helping to relieve unemployment. We believe that this should be done by creating jobs through the expansion of an economically sound aluminum industry.

The passage of H.R. 9802 would not, in our opinion, increase employment in our plants but to the contrary, would result in fewer jobs being available. It is often necessary to operate production facilities on a 6- or 7-day workweek basis to satisfy unanticipated customer requirements. With present wages and costs already so high that they impair our opportunity to make any reasonable profit in many of our product lines, we might, if H.R. 9802 were enacted, have to forego customer orders requiring special treatment or fast delivery rather than pay the double overtime required to do the job. An alternative to foregoing these orders might be finding some way to accelerate mechanization of these jobs wherever possible. Either of these methods results in the use of less manpower and would jeopardize present employment. Operating locations that are already economically on the "borderline" and where further labor saving devices are impractical, might have to close because of such overtime penalties, thereby threatening hundreds of present existing jobs.

Alcoa's investment in plant and equipment averages \$36,000 per employee based on our total corporate employment. In the case of newer installations, the investment per employee is drastically higher. These figures are considerably more than the national average. With such high capital investment costs, it is imperative that we operate this equipment on a maximum basis. Further, it is practice in the aluminum industry to produce mill products according to specific customer requirements making it difficult or impossible to predict too far ahead of time what our production schedules will be. Thus, in order to meet customer demands and efficiently utilize this costly equipment, we frequently have to schedule work for the sixth or seventh day of the week. In some locations, we can do this on a staggered shift basis, keeping overtime at a minimum and providing additional employment. At every location where this is practical, Alcoa is following this procedure as an alternative to paying the present costly penalty of time and a half. This permits utilization of the equipment throughout the week by scheduling workers on a 40-hour basis on any 5 of the 7 days of the week.

At other locations, however, it is firmly established community practice and labor philosophy that labor work its 40-hour week Monday through Friday and any work performed on Saturday or Sunday requires scheduling at premium rates in order to get the work done. This custom is so strong in some locations that employees who have missed a day's work during their regular Monday through Friday workweek for sickness or other reasons, will not work on Saturday since no premium payment for hours over 40 would be involved. In other words, they restrict themselves to 4 days' pay while the company must schedule other employees for a sixth day at overtime rates to meet production requirements.

If it were practical to schedule work on a staggered shift basis at all operating locations (regardless of whether H.R. 9802 was enacted or not), we estimate that in our company alone we could increase our work force by upward of 500 jobs. The present provision requiring time and one-half for hours over 40 is already sufficiently punitive to discourage the scheduling of overtime wherever possible and practical.

The limited supply of skilled labor in many communities further demonstrates why H.R. 9802 would be ineffective. Although Alcoa is constantly adding to its skilled work force through apprentice and other training programs, there persists a shortage of skilled manpower. High overtime rates in these cases wouldn't make more jobs but would only give more money to those already employed, thereby further increasing labor costs, producing further inequities in earnings, and jeopardizing the job security of present employees.

I shall not take the time to detail our various reasons for opposition to the industry-by-industry selection process for which this bill provides since these reasons have been well documented by previous witnesses. I submit, however, that no generalization of the criteria to be considered by the tripartite committees could possibly be applied equitably to every company and every plant within an industry.

Further, it is most unrealistic to assume that companies or even single plants can properly be classified into "industries" within which all relevant criteria would lead to conclusions applicable to an industry on an across-the-board basis. It is further my conviction that any extra overtime penalty imposed could not be kept within the confines of the "industry" to which directed. Wages and hours of employment tend to develop into patterns and any advantage given to one group will spread to others. This tendency to spread would most surely develop within a company such as ours that has operations classified in more than one industry, particularly where the same labor union bargains for employees in such other plants or industries.

The aluminum industry is highly competitive. This competition stems primarily from four sources: (1) From domestic integrated aluminum producers; (2) from domestic nonintegrated fabricators; (3) from the suppliers of competitive materials; and (4) from foreign aluminum producers where U.S. aluminum products compete with imports. In the domestic market, where aluminum is in direct competition with steel, copper, zinc, plastics, glass, wood, ceramics, and other materials, the end result as to who gets the business is often determined by a matter of mills, not even cents. With the uncertainty of H.R. 9802 as to its application, aluminum could be hurt if it were required to adhere to the increased overtime provisions and some of these other competing products were exempt.

With the prevailing trend toward freer trade, we can expect foreign competition in the aluminum industry to increase. Foreign labor rates as well as foreign labor costs average substantially below those of U.S. producers. Therefore, any increase in penalty overtime rates as prescribed by H.R. 9802 would add to the already unfavorable labor cost differential. Two examples of the severity of this foreign competition are: imported aluminum circles which currently undersell domestic products on the average of 5 cents a pound (which is actually more than a 10-percent difference) and imported aluminum screw machine stock selling at from 5 to 14 cents (a range of 10- to 20-percent difference) under domestic scheduled prices.

Rather than ration existing employment opportunities among our citizens as this bill proposes to do, it is our belief that a more sound approach to relief of unemployment lies in the creation of more work opportunities through greater reliance on increasing the incentives to the industrial sector of the economy. The recent reduction of corporate and individual income tax rates, which we hope will be coupled with all practicable economy in Government expenditures, is an important step in this direction. If the trend toward a more favorable industrial climate continues, we are confident that our private enterprise system will not only provide sufficient job opportunities for persons coming into the work force, but will also be able to provide sufficient employment so that there will be no compulsion for the rationing of available work.

We believe that the best contribution we can make to maintaining existing job security and the creation of new jobs is to continue to develop new and broader markets for aluminum both here and abroad. Throughout our entire history, Alcoa's efforts in research and development of new products and new markets have been a significant factor in helping to expand business and provide more employment both in Alcoa and the whole aluminum industry.

For the most part, I have confined my remarks here to what I believe the effects of H.R. 9802 would be on Alcoa. I feel certain that this legislation would likewise affect the many other companies in the aluminum industry in a detrimental way.

Further, it is our belief that any device which will tend to raise the costs of production, including increased premium pay for overtime, will not help in adding to the total number of jobs.

Respectfully submitted.

STATEMENT OF NATIONAL PAINT, VARNISH & LACQUER ASSOCIATION, INC.

My name is Donald P. Lynott. I am associate general counsel of the National Paint, Varnish & Lacquer Association, 1500 Rhode Island Avenue NW., Washington, D.C. Immediately prior to joining the association's legal staff, I was employed as an attorney for 6 years with the Solicitor's Office, U.S. Department of Labor, Washington, D.C. During most of this time, I was closely associated with the administration of the various wage-hour and overtime laws administered by the Department of Labor, both in an interpretative and enforcement capacity.

Paint, varnish, and allied products are included in the section entitled "Chemical and Allied Products" under Standard Industrial Classification 28. The Bureau of Labor Statistics annual supplement issue dated September 1963, reported that the paint, varnish, and lacquer industry had a total employment of 62,900; of these 36,000 were listed as production workers. The BLS in this same supplement issue, reported that the average weekly earnings for our industry were \$101.59; average hourly earnings \$2.49. This would make an average of 40.8 hours per week. Part of this 0.8 of an hour overtime would necessarily have been paid at higher than average rate. As a result, the net overtime would be less than 0.8. This illustrates that in our industry, employment would be increased very little by penalizing overtime work.

The paint, varnish, and lacquer industry is basically small business. Also, there is healthy competition within the paint industry and costs are a vital factor in the continued existence of these firms. Overtime is a minute factor in our industry as indicated by the above figures. When used strictly on a seasonal basis, by no stretch of the imagination could such overtime be translated into additional employment.

Paint plants are so designed to accommodate a certain number of employees. Many of them are skilled and not easily replaced. Tintors, particularly, are craftsmen. So are those who mix and grind the ingredients. To arbitrarily state that these skilled people could not work overtime and that management must find such people to work a minimum number of hours per week disregards the facts of life.

If, by chance, the proposed legislation would pass, it must include every industry of every type, large and small. Now let's look at the concentration ratios as developed by the Bureau of the Census for the Senate Subcommittee on Antitrust and Monopoly.

The data is for 1958 and taken from the most recent census of manufactures. There are 1,064 companies operating 1,591 establishments; 1,191 of these establishments, or 83.4 percent employ fewer than 50 people. Another 178 establishments or 12.5 percent employ less than 250 people, and 19 or 1.3 percent employ between 250 and 500. Therefore, there are 97.2 percent in the small-business category and only 2.8 percent in the larger classification.

Certainly the double overtime provision would be harmful to small business. And there is substantial evidence to show that larger companies would find it not only impractical, but impossible to live with. A large paint manufacturer provided some statistics to prove it.

This company submitted statistics for the fiscal year ending August 1963. Out of a total of 4,007,525 man-hours worked by an average of 1,978 hourly factory employees in paint plants, premium pay was received for 227,944 hours. This is 5.69 percent of the total hours. However, please note the difference between "overtime hours" and "premium hours." Overtime hours are those worked over 40, regardless of the reason. This is the effect of the Fair Labor Standards Act and of the proposed bill. Premium hours, on the other hand, cover such items as double time for Sunday, time and one-half for Saturday, call-in pay, hours over 8 in a day, shift changes and holidays worked (in addition to idle holiday pay).

To the extent that the original Fair Labor Standards Act was intended to spread the work, this purpose has been lost to view in labor's insistence upon similar or greater premiums for personal inconveniences to existing employees.

Some labor contracts do not even mention hours over 40 as a basis for premium pay. It is mathematically impossible for a man to work over 40 hours in a week without having received at least the statutory weekly premium in the guise of some other premium—usually daily overtime or weekend premiums as such. In fact, the company does not even know how many hours were worked over 40 as such. It treats all premium hours as "overtime." However, very few hours were worked on holidays, and it should be assumed that practically all of the employees who worked the premium hours also worked 40 straight-time hours.

The subject company further points out that, in addition to the premium hours which are worked other than on weekends, much of the weekend work itself is unrelated to the unemployment problem.

1. The maintenance department has to work on Saturdays in order to maintain machinery which is in operation Monday through Friday.

2. Many factories operate the varnish kettles and other equipment 24 hours a day, and weekend work covers the increased demand. There is no way to increase this part of the work force Monday through Friday.

3. Outside trucks are not available for greater utilization of the warehouse at night. Any additional shipping must be done on Saturdays.

4. Some Saturday work is occasioned by the failure of employees to work their scheduled hours Monday through Friday.

5. What Saturday work which could theoretically be scheduled Monday through Friday occurs only on a limited number of Saturdays, very few of which would be close enough together to justify increasing the work force no matter what the premium. The alternative to the premium would be the refusal of the work.

6. Trained employees working on days refuse to go to nights. Even on the simplest jobs, a new worker would not be adequately trained before he would have to be laid off. The unions quite properly complain of poorly trained foremen. There is never an adequate supply of foremen or technical workers for an increased night shift. Where would the additional chemists come from?

The company estimates that the 227,944 premium hours should be broken down as follows:

(a) Worked Monday through Friday as very-short-term replacement of scheduled workers or as emergency daily overtime.

(b) Worked on weekends on operations which could not be beefed up through the week.

(c) Worked on weekends on operations which could be beefed up through the week—but for fewer than 10 weekends within the same general period.

(d) Additional hours worked on weekends on operations which could be beefed up through the week—for as many as 10 weekends within the same general period.

There were approximately 38,465 hours of work covered by the last category—only 12 percent of the total premium hours worked.

Theoretically, these 12 percent of the premium hours would be replaced by 96 new hires working 10 weeks each. For at least every instance where the company might employ extra help for less than 10 weeks, there would be vacancies which could not be filled by offering even 10 weeks of work.

This is not just a case of working 96 extra people for 10 weeks. They would receive at \$2.50 per hour approximately \$1,000 each, for a total of \$96,000. If they produced \$96,000 worth of work and if that were all that was involved, there would be no problem.

But what about the remaining 189,479 premium hours, which would not be replaced by extra help?

If, in addition to hiring the 96 for 10 weeks, the subject company had to pay even an extra half-time premium for the remaining premium hours, at \$2.70 per hour, the existing employees would receive an inflationary windfall of about \$255,798. (Note that the existing employees have a slightly higher rate of pay than new hires.)

Even if the company received \$96,000 worth of work out of the 96 men, it is difficult to understand why the company should have to pay \$255,798 to existing employees in order to pay the \$96,000 to the new employees. Surely, there must be a cheaper, and less inflationary, method of getting \$96,000 into the hands of the unemployed.

In conclusion we emphasize that the proposed bill will not serve the intended purpose and would, in fact, increase costs without spreading employment. In this regard, as illustrated above, the extra premiums paid to existing employees due to unavoidable overtime would far exceed any wages paid to new employees hired in order to reduce overtime pay. Furthermore, the entire question of increased premium pay should be left to negotiations, in order that the companies might offset any increased costs by reductions in the remainder of the economic packages negotiated with labor organizations.

MOONEY MANUFACTURING Co.,
Flowers Branch, Ga., February 18, 1964.

Congressman PHIL N. LANDRUM,
House of Representatives,
Washington, D.C.

DEAR PHIL: I feel compelled to voice my objections, and urge you not to support the President's proposal for readjusting overtime rates under the wage-hour law. It is possible, in some industries and some areas, overtime might eliminate some jobs, but in the case of the smaller manufacturing business, overtime, when used, is a practical necessity, such as truckdrivers, when there isn't enough work for an additional man; in bottleneck jobs where the work is of emergency nature, and continually changing in type of work.

The most important reason for opposing this is the fact no replacements are readily available in our general area, even if there were no other problems. If this legislation has a chance, serious consideration should be given to the availability of manpower wanting the jobs available.

Enactment of this legislation would certainly exert upward pressure on costs and prices, to the great disadvantage of the employer in the tighter labor markets.

Respectfully,

GENE MOONEY.

CORINTH MACHINERY Co.,
Corinth, Miss., March 10, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR SIR: Our company has followed the discussions in the newspapers, magazines, and trade association newsletters concerning the subject legislation. We understand that your committee is in the process of holding hearings on this proposed legislation, and that statements concerning the matter should be sent to you.

We have very strong feelings against this proposed legislation and want to take this opportunity to present them to you. We are a small business and at the present time employ approximately 65 people. We serve the lumber industry, particularly sawmill operators. A majority of our customers are marginal operators who operate when the lumber market is favorable and close up when the market recedes in price or demand. Since our company is small, we tend to some extent to be marginal ourselves. Legislation such as that proposed will be one more step in the wrong direction for both our customers and us. Neither our customers nor we have available large pools of labor with the type skills needed to allow us to expand our force during periods of increased demand. In times past, we have had to react to increased volume by the use of overtime; and unless our industry changes radically, we will have to continue this practice in the future.

The possibility of increased costs due to increased premium for overtime is alarming to us. At the present time, we are selling our product at prices established in 1960, despite two wage increases and innumerable material price increases that have gone into effect since that time. It's easy to understand that further cost increases due to whatever causes will be hard for our company to absorb.

Our alarm at some of the provisions of the proposed legislation are not due only to the possible effect on our company, but to what we believe will be the effect on business and industry in general.

Industry discovered during the days of World War II from experience with tripartite bodies such as the Wage Stabilization Board and the War Labor Board

that such bodies tend to be "loaded" against industry. We believe that the legislation is basically wrong in that it allows individuals and groups who are not responsible for the operation of businesses to make wage-setting decisions. We further believe that rather than putting unemployed to work, it would result in industry working to find ways to cut down on the present amount of overtime so as to avoid the higher costs and prices that would result from double pay for overtime.

We respectfully submit this letter in the hope that your committee will give consideration to the circumstances of our company and the many companies similar to us in your study of the proposed legislation.

Very truly yours,

ROBERT E. ANDERSON, *President.*

NEW ENGLAND METAL CULVERT CO.,
Palmer, Mass., March 11, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Special Subcommittee of the House Education and Labor Committee,
House Office Building, Washington, D.C.*

DEAR SIR: Representing a small business with three plants in New England and approximately 90 employees, I wish to protest most strongly against favorable action on H.R. 9802, which would give the Secretary of Labor the power to decree payment of double or higher overtime rates under certain conditions to be determined by tripartite committees.

Our business is allied closely with the construction industry, and as such is subject to severe fluctuations in sales during the year. It would be easy for us to hire large numbers of employees during our busy months and let them all go during the winter, keeping only a skeleton force of key people. We have chosen, however, to stabilize our work force and provide annual security for our employees by spreading our production over 12 months. This means that during the summer, in addition to working a full 40-hour week and drawing from inventory at the same time, we must work some overtime to meet peak sales demands. At these times, we offer the additional work to those of our employees who wish to take advantage of it.

By operating in this manner, we have been able to maintain stable employment in an industry notorious for unstable employment. Surely it is not the intent of Congress in the proposed legislation to jeopardize the security of those people now gainfully employed on a full-time basis, and yet that is exactly what H.R. 9802 could do.

In the event our industry were inflicted with a double overtime penalty or greater, we would have to make one of only two choices. We could revert back to a hire-and-layoff policy, or we could continue to operate as we are and pay the excessive overtime premium as required. In the first instance, this would mean more people on our payroll during the summer months, so, in effect, we would be creating more jobs. But almost all of these would join the unemployed ranks during the winter months, and there would be no such thing as job security in our plants. We would be selling our long-term employees down the river for the sake of an artificial redistribution of work assignments. If we made the second choice, we would, of course, be faced with higher employment costs, with no increase in productivity.

This is an honest appraisal of our company's position. Others will, I am sure, more eloquently dwell on other aspects of this far-reaching legislation, such as how far away from our American heritage and tradition are we leaning when the Government begins to tell our people how long they can and cannot work—or the next obvious step, how many jobs they can and cannot hold. Surely nothing will help destroy our free enterprise system any faster than killing a man's incentive to work.

We believe that passage of H.R. 9802 would be most damaging to us and would not be in the best interests of the country. We urge your serious consideration to an unfavorable report.

Yours very truly,

WALTER L. CAMERON, JR.,
Assistant Treasurer.

R. R. HOWELL Co.,
Minneapolis, Minn., March 16, 1964.

Representative ELMER J. HOLLAND,
Cannon House Office Building,
Washington, D.C.

DEAR MR. HOLLAND: This letter is written regarding the pending legislation to require double pay for overtime other than the present time and one-half for the purpose of increasing employment.

Ours is a small company doing approximately \$3 million volume per year in the manufacture and distribution of grain and feed mill supplies and equipment, and supplies, equipment, and machinery for the water well-drilling industry.

Overtime is used in our business for special situations requiring rush deliveries or to get a contractor back in operation after a breakdown of some sort. This is a minor use for overtime and would probably continue even were the premium double rather than time and one-half. Under no circumstances could such a situation create additional employment because the personnel necessary to perform such jobs would not be available on such extremely short notice.

Another use of overtime is in the manufacture of equipment. For this purpose overtime is used very sparingly because if used for more than a very short period, productivity per hour decreases and absenteeism increases to the point where the benefits of overtime are completely obliterated.

Such overtime usage occurs from a bulge in orders for short delivery. This does not occur seasonally nor is it a predictable situation. The only way to fill such orders is by the use of overtime as the skilled trades necessary for such production are not available at once and even if they are obtained there is a training period necessary before their efforts result in increased productivity. Were it necessary to pay double time rather than time and one-half we would in many instances have to turn down such orders, thereby tending to reduce rather than increase our total employment.

When such bulges in orders result in a higher level or indicate that they will result in a higher level of work, the overtime is used only for short periods while obtaining the additional skilled workmen to increase our productivity in line with the increased demand. In such cases additional employees are added as rapidly as possible and the overtime is eliminated as soon as the new employees are able to contribute to the increased production level. Were we unable to use overtime during such periods of development we would be unable to take the additional business and therefore would be unable to increase our employment.

It is our feeling that to increase the cost of temporary overtime would be deterrent to increased sales and production and thereby would produce results contrary to those anticipated by the proponents of the new regulations. We appreciate your interest in this bill and are looking forward to meeting you personally some time in the future.

Kindest personal regards and best wishes.

Yours truly,

R. D. SWANSTROM, *President.*

ALTON BOX BOARD Co.,
Alton, Ill., March 13, 1964.

Re H.R. 9802—Double pay for overtime.

There has been introduced in the House a bill as captioned above. We feel that this bill has no justification as it applies to our industry. We feel that it would only increase the cost without accomplishing the expressed purpose for which the bill was introduced.

As an example, let us tell you how our paperboard mill operates. Our mill operates 24 hours a day, 7 days a week, which means a total of 168 hours. We have four shifts to make up this 168 hours. Each week, three shifts work 5 days each of 8 hours per day, making a total of 40 hours for the week. The other shift works 6 days of 8 hours each, making 48 hours. The assignment of a 48-hour workweek is rotated among all four shifts so that each shift works 48 hours 1 week out of every 4.

When you consider this arrangement, you can readily see that were we to try to eliminate the overtime by putting on an additional shift, all our people would suffer by having to work a shorter workweek, which would only encourage more "moonlighting," a thing which we do not think should be encouraged.

In our box shop fabrication operations, we normally work two 8-hour shifts with occasional overtime when orders are such that normal schedules will not take care of the demand and we work, maybe, 2 hours' overtime.

Again you can see that were we to try to put on another shift, it would shorten the workweek for our regular employees and encourage them to engage in "moonlighting."

We believe that the only effect that would result from the proposed bill would be an increase in costs, which industry can ill afford, because prices would have to be increased in order to meet their increased costs.

We thoroughly believe that the Government, be it Federal, State, or otherwise, should leave the solution of such problems to those of us in industry who are responsible for trying to supply the needs of the buying public at the lowest possible cost. Legislation of this type would serve only one purpose and that is to increase costs and prices. This, we think, is a thing that no one wishes to encourage and we hope that your committee will consider these facts when debating the bill which has been introduced.

Respectfully submitted.

P. E. SHORTAL.

PERFEX CORP.,

Milwaukee, Wis., March 19, 1964.

HON. ELMER J. HOLLAND,
House Committee on Education and Labor,
Washington, D.C.

DEAR MR. HOLLAND: We wish to file a statement in connection with H.R. 9802 to become part of the official record. We are submitting the required 25 copies.

We manufacture a variety of heat transfer products with national distribution, but we are basically a job shop and have about 1,300 employees.

We receive many small rush orders which we must process with overtime labor in order to meet customer requirements.

Overtime payment is not a proper subject for Government regulation but should be left to the parties involved.

This proposed legislation will increase Government's interference with employer-employee relations and will actually result in more unemployment.

This proposed bill:

1. Will not decrease overtime.
2. Will not increase employment.
3. Will substantially increase the cost of many products.

Very truly yours,

V. R. TATE, *Executive Vice President.*

TRUELOVE & MACLEAN INC.,
Waterbury, Conn., March 17, 1964.

COMMITTEE ON EDUCATION AND LABOR,
House Office Building,
Washington, D.C.

GENTLEMEN: Additional premium payment for overtime would not result in creating more jobs in our company or in many companies like ours in this area. The intensely competitive business we are engaged in requires careful control of all costs but the delivery schedules and quotas our customers require of us make it necessary to work a substantial amount of overtime.

There just are not enough skilled mechanics available to handle the work required to tool up and maintain our production machines. Most of our work is so complex that even a coworker of equal skill cannot take over a job from a fellow mechanic without considerable time spend in learning the intricacies. It is, therefore, necessary for us, in order to serve our customers properly, to be able to have the man who knows the job work the hours required. Hiring people of adequate capabilities to take care of our peakloads is completely impossible.

We and many of our competitors are conscientiously endeavoring to create more jobs by training more people. In our operation, about 25 percent of our toolroom work force are trainees. Finding people with sufficiently high capabilities and interest for this training is extremely difficult and it requires constant expenditures of time and money. If we were forced to reduce the amount of time our skilled toolmakers and trainees worked, we could not provide as much employment for our production employees.

We, like all others, have felt the impact of imports but we have not felt compelled to complain because we recognize that foreign trade is vital to our economy. We have, however, lost some business from American customers because of the lower prices available from Europe. We have often been able to retain some business, however, because of our willingness to work extra hours when fast deliveries are required.

We even export a little and almost always this business, too, is generated because of our willingness to improve on normal delivery time.

We thank you for this opportunity to express our views.

Yours very truly,

DONALD MACLEAN.

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION,
Washington, D.C., March 20, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor of the Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR SIR: The National Telephone Cooperative Association is a national trade association representing REA cooperative telephone borrowers throughout the United States.

It has come to our attention that the Select Subcommittee on Labor of the House Committee on Education and Labor is considering H.R. 9802, the double time for overtime bill.

This association is opposed to the enactment of H.R. 9802 for the reasons listed below.

In general, rural telephone cooperatives have very few employees. This means that each employee must be versatile in the skills possessed. The versatility requires considerable training. This means that additional employees are added to the payroll when a permanent need exists and a full-time workload is anticipated for all such employees.

Arguments presented by proponents of H.R. 9802 to the effect that this bill would decrease overtime and thus increase employment are not related to requirements for overtime work in telephone cooperatives because service interruptions requiring overtime work are not planned. Therefore, for the telephone cooperative operating on a small margin, the additional cost of overtime at 1½ times the regular rate will not be planned.

The question becomes one of planned or unplanned overtime work. In the case of most telephone cooperatives, the necessity to restore and maintain continuity of service will, in general, require unplanned overtime. It would be unfortunate to penalize the subscriber with higher service charges through the necessity of the cooperative paying double time for hours in excess of 40 during the workweek. The service interruptions are usually caused by forces beyond the control of the cooperative, yet this legislation could lead to considerably increased costs for the telephone system and to higher telephone service charges for the subscriber.

It is the position of this association that H.R. 9802 is discriminatory and unrealistic, particularly when its potential effects on small utility systems unable to provide work crews on a 24-hour basis (due to their size) are analyzed.

We respectfully request that H.R. 9802 not be approved or that provision be made to alleviate the potential injustices to small utility systems described above.

We would appreciate this letter being made a permanent part of the record.

Sincerely,

DAVID C. FULLARTON, *Executive Manager.*

STATEMENT BY ROBERT O. BASS, PRESIDENT AND GENERAL MANAGER, MORSE CHAIN CO.

My name is Robert O. Bass. I am president and general manager of Morse Chain Co., a subsidiary of Borg-Warner Corp. Morse Chain employs approximately 1,500 persons in the United States, the majority at the largest plant located in Ithaca, N.Y. Morse's products are mechanical power transmission components, including roller chain and sprockets, automotive timing chains and sprockets, clutches, couplings, gears and gear boxes. All our products are highly engineered and require a large proportion of our employees to be highly skilled or semiskilled.

No one can argue against the stated purpose of this proposed legislation which is to reduce unemployment. However, it seems to me that, if adopted, this proposal would be more likely to increase unemployment than reduce it.

The present law requiring payment for overtime work at the rate of time and one-half certainly provides a strong incentive to the manufacturer to avoid scheduling his employees for overtime work unless there are compelling reasons. What are some of these reasons?

1. Sudden and unpredicted increased demand for products or services.
2. Shortage of skilled and/or semiskilled workers.
3. Capacity operation of equipment and inability to purchase, or unavailability of, additional equipment coupled with the fact that it is usually uneconomical and often impossible to operate a third shift.

Third shift operations are almost impossible to maintain outside highly industrialized metropolitan communities suffering from substantial unemployment. People won't generally work on a "graveyard" shift if they can find employment during day or evening shift hours.

It is not unusual for the delivery of machine tools and other capital equipment to take as long as 6 to 12 months from the time an order is placed. This precludes the immediate purchase of additional equipment to permit increased employment even in those instances where it is economically feasible.

4. Maintenance emergencies and rearrangement of equipment outside of normal working hours.
5. Absenteeism caused by totally unpredictable phenomena such as weather, flu epidemic, etc. When excessive absenteeism occurs, it is not possible to suddenly hire workers to keep the machines running and available employees must work overtime to maintain production.

Simply put, the theory seems to be that if the penalty for overtime work is increased, manufacturers will be forced to hire more people. This I question. Admittedly, if the overtime penalty is increased, this increases the cost of operation for those manufacturers who do schedule overtime for one or more of the reasons cited earlier. However, there are several alternative actions which a manufacturer might take in order to lessen the impact of this inflationary measure. In order to avoid the cost increases resulting from increased overtime payments or hiring more people not suited for the work available, he might do one or more of the following:

1. Increase investment in automation and labor-saving machinery.
2. Increase "moon lighting;" that is, hire employees who are already employed elsewhere on a different shift.
3. Increase investment in finished goods inventories so as to avoid overtime resulting from sudden upswings in demand.
4. Refuse orders beyond those which can be filled without working overtime, since with the increased costs many additional orders would be unprofitable.

Whether or not an employer continued to schedule overtime at the increased penalty rate or resorted to one or more of the possible alternative actions, the fact remains that his costs would be increased. In today's competitive market, both at home and abroad, cost increases cannot be simply passed on to the customer. However, neither can they be continually absorbed by the manufacturer. Certainly a portion of these unnecessarily imposed increased costs would result in high prices.

Let us return to the basic problem of how to reduce the number of unemployed. The obvious answer is to create more jobs. I think it is safe to say that all manufacturers are striving to increase their sales and thereby are trying to increase job opportunities. What is the principle reason that has prevented the efforts of American industry from being successful in combating the unemployment problem? It is the same reason incidentally that is primarily responsible for our continuing gold drain and unfavorable balance of trade. "We have priced ourselves out of most marketplaces."

Citing Morse Chain Co. as an example, and it is not an unusual one, many of our products can be and are made in Europe and Japan and sold in the United States at prices ranging from one-half to two-thirds of our prices. American manufacturers are forced, therefore, to compete in their home market against offshore products selling at much cheaper prices. The principle reason for their being able to maintain the proportion of business which they have is that they can give better service. This "better service" includes the willingness and ability to move quickly and give the customer what he wants when he wants

it. The flexibility provided by scheduling overtime work when necessary in order to accommodate customers unusual demands is an important competitive factor. If the cost of doing this were increased by law as it would be by the Overtime Penalty Pay Act, it is obvious that American manufacturers would be just that much less competitive.

It seems to me that this proposed bill would give the Secretary of Labor unwarrantable discretionary powers over industry. The fact that the Secretary or his appointees are authorized to make sweeping decisions which would result in increased costs for an industry without even the protection of court review is a dangerous concentration of power.

The wording of H.R. 9802 is vague and ambiguous. What is meant by "excessive cost," "substantial overtime," and "industry"? If industry is construed to mean all those manufacturing concerns making a similar product, how could a meaningful determination be made, particularly if some of the plants were in areas of high unemployment and others in areas with a shortage of labor?

In summary, I believe that the proposed legislation would:

1. Create very few if any jobs for presently unemployed persons.
2. Increase manufacturing costs and consequently increase prices.
3. Further reduce American manufacturers ability to meet foreign competition.

THE C. M. KEMP MANUFACTURING Co.,
Glen Burnie, Md., March 18, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee of House, Education, and Labor Committee,
House Office Building, Washington, D.C.

HONORABLE SIR: We would welcome the opportunity to testify before your subcommittee on the impact of double overtime upon our company's operations. Since you indicate it is not possible for us to testify, we submit herewith 25 copies of an analysis of the overtime situation in our company for the year 1963. We feel that this year is typical but would be pleased to enlarge upon the study if testimony would have a telling effect before your committee. The following figures are rounded off to the nearest whole hour:

Total factory employment for the period covered: 67 persons.

Hours of layoff: None.

Total hours of overtime: 13,681.

Using a 2,000-hour year, 13,681 hours represents 6.84 workers, or 7 additional workers who could be hired to replace the overtime work. This is almost exactly 10 percent of our present working force, or an increase in working force of 10 percent.

The working force, however, is broken down into the following categories and overtime occurred as follows:

	<i>Hours overtime</i>
Electricians-----	698
Therefore, an additional electrician cannot be hired.	
Assembly crews-----	2,915
Since 2 or more men comprise an assembly crew, this would represent less than $\frac{1}{10}$ of an assembly crew; therefore, a new assembly crew could not be hired.	
Machinists-----	3,508
A new machinist could be hired and eliminate 2,000 hours of this overtime.	
Painter-----	182
A new painter could not be hired.	
Drillers-----	1,328
A new driller could not be hired.	
Welders-----	1,948
A new welder could be hired.	
Truckdriver-----	192
A new truckdriver could not be hired.	
Packers-----	619
A new packer could not be hired.	
Storeroom-----	1,046
A new storeroom clerk could not be hired.	

As you will see from the above, there are nine different categories of workers; assuming that in any given category a new man could be hired, the man hired would have to be at the highest skill level since the overtime generally occurred throughout the entire group and within any given category various skills are required. For instance, in the storeroom group, we have actually included all sweeping overtime. We might also observe that the overtime did not uniformly occur from week to week and varied from group to group, so that while we demonstrated a new welder could be hired and a new machinist could be hired, in fact, this could not be done unless we resorted to layoff during our less busy periods.

CONCLUSION

It is our conclusion that we could hire a new welder and a new machinist; however, we would suffer the penalty of having an oversupply of labor during certain periods of the year since overtime was generally work to accommodate rush production schedules.

Ours is not a seasonal business per se; but during any given year, peak production periods occur and the presence of one or two extra men on the payroll would not eliminate a need to work a large segment of the production force overtime in order to meet specific production needs. By working this large percentage of the production force overtime, there would then be periods when our need for labor would be reduced if an additional man had been added, resulting in an unstable employment situation or the use of layoff. So, in essence, we are describing a situation where either a portion of our work force is unemployed by use of layoff or a specific individual in the Nation's work force is unemployed because we maintain stable employment and do not resort to layoff. Neither is a satisfying situation. We would prefer, however, to maintain stable employment for our people, particularly since they are highly skilled at their jobs; and if we could not offer full-time employment and the inducement of some overtime, it is quite likely that they would seek jobs elsewhere if they were available. When we sought replacement workers, we would settle for persons less skilled without overtime inducement.

It is, therefore, very apparent that if your subcommittee reports favorably on H.R. 9802 and should this bill be enacted into law, in our particular firm we would not employ any additional workers; however, our cost of production would increase materially. This increase in cost would be passed on to our customers. More money, of course, would be placed in the hands of our workers but a price increase by ourselves would ultimately result in other price increases and the value of this money would be reduced because the price of goods in general would increase.

I would conclude that if in a sufficient number of cases double overtime would result in increased prices, as I can assure you they will in our company, then the net effect on the economy is a negative one and the desirable goal of increasing employment will not have been attained.

Respectfully submitted.

W. KEMP LEHMAN, *President.*

STATEMENT OF PAUL W. KAYSER, VICE PRESIDENT, PERSONNEL, ANDERSON, CLAYTON & Co., HOUSTON, TEX.

Gentlemen, I am Paul W. Kayser, vice president, personnel, of Anderson, Clayton & Co., Houston, Tex. By way of definition, our business is, among other things, the merchandising of cotton and coffee, the ginning of seed cotton, the milling of cottonseed and refining of cottonseed oil, the manufacturing of food products made from cottonseed and other edible oils, the warehousing and compressing of cotton and the warehousing of commercial products. I appear before you today representing Anderson, Clayton & Co. and its various domestic divisions and subsidiaries.

To understand our concern with H.R. 9802 requires initially some background on the problems relating to Government which have a serious effect on our business. First, Government price support policies on cotton have virtually eliminated the opportunity for us, as cotton merchants, to function properly. Additionally, these same policies have allowed synthetic fibers to substitute in a large measure for cotton. Sufficient has been written and stated on this, that I need not go into detail on this subject. Suffice it to say, however, that legislation in this instance has virtually eliminated employment opportunities in this area. As an example,

regular full-time employees in our cotton merchandising and compress units in 1955 numbered 2,300. Today, we employ 1,500, and this number will continually decrease. What was once a flourishing, expanding part of our business is now no longer such. Thus the Government's desire for full employment is being hindered rather than helped.

Additionally, Government acreage control policies have the effect of constantly reducing our sources of raw material. As previously mentioned, Anderson, Clayton & Co., in addition to cotton merchandising, also mills cottonseed and refines cottonseed oil. Further, a large part of its business is in the ginning of seed cotton. From gins come the seed to mill. It is axiomatic that ultimately from fewer acres planted will come less cotton. There is a limit to what improved farming practices and fertilizer will do. Thus, again we find ourselves a part of an industry where Government policies, contrary to the expressed intentions of this bill, have and will reduce employment and employment opportunities.

Further, though there are contained in the Wages and Hours Act specific exemptions, many of which intend to apply to the above-mentioned major segments of our business, because we are large, expected to be good citizens and an enlightened, forward thinking employer, we have found it necessary to operate these segments of our business in the main, as though the exemptions did not exist. Our employees expect this, the labor unions expect this, and the communities in which we operate expect this, because $1\frac{1}{2}$ for overtime has by Federal regulation become so standard throughout our country.

This part of the business that we speak of above is further complicated by the fact that it is strictly a seasonal business. Cotton gins normally operate about 60 days per year. While some oilmills can get sufficient cottonseed to give a year-round crush, most do not. Our Phoenix, Ariz., mill operates 8 months, Bakersfield, Calif., 6 months, El Paso, Tex., 5 months, Temple, Tex., 5 months, as cases in point. All these operations must run when the raw material is available. Farm labor of the skills that we need, such as ginners and solvent operators, is already in short supply. Additionally, the bracero will next year not be available to help relieve the shortage, and the situation will be even more severe. There is then no labor supply to which we can go to protect ourselves from the increased cost of overtime required under H.R. 9802. Thus, its passage would simply result in added costs in an industry which is already literally struggling for existence. And anything which hinders our efforts to keep this industry alive obviously tends to reduce employment, which is a direct cross-purpose with the announced objective of H.R. 9802. In this connection I must repeat that the agricultural exemptions of present legislation are not practically available to us.

Today, the farmer, who is both supplier and customer in this industry, is caught in a cost-price squeeze. His cost for growing and ginning cotton in relation to what he gets for his end products, is already high. There is no question but that higher labor costs at the gins and oilmills would have to be passed on to the farmer and consumer. In the instance of the farmer, margins will be smaller, and official Washington will be hurting the very person whom it appears it wants least to hurt, or in the alternative would have to find reason to increase the value of the loan. At present American cotton must be subsidized in order to compete in world markets. The subsidy is $8\frac{1}{2}$ cents per pound, or \$42.50 per 500-pound bale. The taxpayer pays the bill for this subsidy. Any legislation which increases the cost of production will require a wider subsidy. This can only be done at the taxpayer's expense. We seriously question the economics of a bill which under the guise of increasing employment, could have the effect of dipping further into the taxpayers' pocket to pay for it.

The compress end of our business, is by the rulings of the area of production interpretation of the Wages and Hours Act, excluded by and large from the agricultural exemptions of the act. Thus, this important business is required to compete initially from a point of disadvantage with the interior compresses which enjoy the exemption.

It is evident, I am certain, that it is our conviction, double time overtime, if put into law, in principle, ostensibly for selected industries, will find application in practice over most of industry which presently is required to pay time and one-half. It, therefore, follows that our compresses will be doubly penalized. Rather than increase employment then, the effect will be to create greater unemployment. This certainly we would believe is not what is contemplated.

For industry to be so naive as to believe that double time overtime can apply only to selected segments of American enterprise is to stand like an ostrich with his head in the sand. This bill, if passed by Congress, will provide the labor unions a platform from which to justify their demand for double time overtime throughout the remainder of industry. Those of us who have negotiated labor agreements, have too often heard the second-class citizen argument to believe that we could long successfully argue the supposedly special situations which brought about the double time requirement. Thus, H.R. 8902 in our view tends to be a medium by which a further inflationary cycle can be put into motion. This certainly runs contrary to the expressed intentions of the administration.

Further, overtime work in our industry tends to be noncontrollable. We have stated above, that our cotton gins, as an example, normally run only 60 days per year. In days gone by, these gins ran from 4 to 5 months per year. The introduction of mechanical picking has reduced this time, however. When the cotton comes to the gin, it must be processed. A high-speed gin is now the only efficient way to handle the tremendous quantities of cotton that arrive to be processed. Each such gin costs \$250,000 to \$350,000. Certainly, this is a sizable capital outlay to justify when used for such a short period of time. Add to the cost of operations, an additional cost for double time, particularly when this cannot be scheduled, and again operating costs skyrocket, to the detriment of the farmer and the cotton industry.

We would point out, also, that in our industry, where margins are small indeed, we today are continuing the operation of sizable numbers of marginal facilities. The effect of a double time overtime requirement would make us close these facilities. This then would work contrary to the expectations of this bill. Instead of increasing employment, it would decrease employment considerably.

During the last few years, the newspapers have carried many stories concerning our Government's worry about the balance of trade. In 1962 U.S. agricultural exports amount to \$5,031,403,000. Of this amount \$592,601,000, or 12.7 percent, was represented by cotton, cotton linters, cottonseed oil, cottonseed oil cake, and oil cake meal. These exports make a sizable contribution to our balance of trade. We think that the drafters of H.R. 9802 may perhaps have forgotten some basic economics. Anything that contributes to higher costs for the products of our industry makes these products less competitive in world markets. It would certainly appear, then, that the balance of trade will further suffer if H.R. 9802 is passed into law.

Finally, the creation of a tripartite committee, as contemplated in the act, deserves mention. We would much prefer, though we oppose this legislation completely, that the Government were to determine where the double time overtime were to be paid, then to try to solve us with a tripartite committee. The terms of the legislation provide that the Labor Department select the public member of the committee. An industry, therefore, would go into a committee meeting with two votes against it under these circumstances. It, therefore, would be much better that the taxpayers' money be saved, than to do what is planned.

Thank you for this opportunity to appear before you. I am grateful for your courtesy.

FRITO-LAY, INC.,

March 24, 1964.

Re H.R. 9802 (Representative O'Hara, Democrat, of Michigan, and S. 2489, Senator McNamara, Democrat, of Michigan, introduced January 31, 1964).

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

SIR: You are requested to strongly oppose enactment of the above bills.

Frito-Lay opposes enactment because employment will not be significantly increased; instead, the cost of products will be increased and, of necessity, this will have to be passed on to the consumer. The following explanations are submitted:

1. There is neither time nor personnel available to select and train new employees for peak periods only. Sales of our products are seasonal and require abrupt changes in plant workweek levels.

2. Temporary increased production schedules must of necessity be handled by trained employees by means of overtime to insure continuity of quality. Our products are manufactured under strict supervision of city, State, and Federal food and health inspectors, and trained personnel is necessary to the control of high-quality food products.

3. The major part of sanitation work is done immediately following the scheduled production workweek and is usually overtime, but this must be handled by regular production personnel who are familiar with food machinery.

Because of the foregoing, Frito-Lay would pay the double time rate rather than assume the risk involved in loss of quality and sanitation standards the cost of additional equipment, and the additional cost to hire and train temporary employees.

It is our opinion that these bills will not accomplish their objective in most other industries, but will be detrimental to the general public by forcing increased consumer prices.

Respectfully submitted.

FLADGER F. TANNERY, *President.*

STATEMENT ON BEHALF OF THE BERGSTROM PAPER CO.

The Bergstrom Paper Co. is a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin and is located at Neenah, Wis. It is engaged in the manufacture of paper and paper products and employs approximately 460 employees.

This company does hereby respectfully submit its opposition to certain House bills now pending before this subcommittee; to wit, H.R. 9802, popularly known as the Overtime Penalty Pay Act of 1964, and H.R. 1680, popularly known as the double time bill, or similar bills, for the following reasons:

1. The bills do not attack the real cause of unemployment by means of the promotion of additional employment through the creation of jobs.

(a) It represents a step toward wage and price control with the ultimate end of national economic control, or planning, by those least able in view of their training, experience, and attitude.

(b) A more realistic means of achieving the uniformly desired goal can be accomplished by improved monetary policies, training of the circumstantially unemployed, and aids to the physically and mentally unemployables.

2. Subject bills bear no relationship to productivity and the latter's real wage increasing factors.

3. Subject bills further weaken our domestic competitive position with relationship to foreign competition, thus creating a regressive circumstance with respect to the basic problem and, consequently, aggravate the existing problem.

4. Subject bills will further harass an already overly harassed segment of the productive portion of the national population with consequent loss of productivity and the distribution of its fruits to the nonproductive portions of the national community, with a resulting similarity to that situation now being experienced by considerable portions of the population of Asia and East Europe. This situation will be created by the vehicle of a dilatory, technical, and uncertain special tripartite industry committee recommendations organization.

(a) Difficulty of defining such broad ambiguous terms as "extraordinary emergency" or "unusually compelling need."

(b) Denial of valuable property rights without due process of law by secretariat and committee decision.

(c) Lack of clearly defined maximum limit (i.e., "not less than" twice the nonovertime rate).

(d) Excessive ambiguity of terms (i.e., "substantial and persistent overtime exists," "increase employment opportunities * * * without excessive costs," "industry," "necessary or appropriate," and "give due consideration")

(e) No protection from competitively politically or sectionally inspired recommendations or clearly defined right to intervention in preservation of an "industry" from such commercial partisan or provincially inspired attacks by means of the recommendation route.

(f) Unrestrained authority to subpoena, investigate, and cross-examine by patently hostile factions in a "star chamber justice" procedure.

For all of the above reasons, this company does wish to voice its opposition to the pending bills, or similar bills, whose means of achieving a solution to the end of unemployment are based on the increased cost and expense of doing business.

This company does regret that by reason of its size and location it does not have necessary funds or personnel to appear personally for hearing on so vital an issue to its interests and prayerfully beseeches this committee's consideration of this company's opposition to the proposed bills.

This statement is not meant to minimize the problem, even though this company does regard some statements of statistics and assumptions upon which they are based with some question as to their integrity and responsibility. This company and its management recognize that if there is even one individual desiring productive labor and is unable to do so through no fault of his own there is a problem. This company has, and always will, extend its every effort toward increasing its productivity and growth with consequent ability to create more and better employment for all who may or could be employed by it.

Respectfully submitted.

FRANKLIN MOORE, Jr., *Secretary.*

STATEMENT OF R. A. MORGAN, VICE PRESIDENT IN CHARGE OF EMPLOYEE RELATIONS
OF THE WESTERN UNION TELEGRAPH CO.

My name is R. A. Morgan. I am vice president in charge of employee relations for the Western Union Telegraph Co., responsible for the wage and salary program as it applies to employees of all departments of the company. I appreciate the opportunity to appear before this subcommittee for the purpose of presenting my company's views with respect to H.R. 9802 dealing with amendments to the Fair Labor Standards Act.

It is our belief that in our company the proposed legislation would not result in its stated purpose of creating additional jobs because the comparatively insignificant amount of overtime now worked in the telegraph industry (currently 2½ percent of the total hours worked) results largely from unpredictable sudden surges in the message load, frequently resulting from emergencies experienced by other industry or Government users of telegraph service, or from employee lateness in reporting for work or from the temporary absence of personnel beyond that for which we normally staff.

Overtime at Western Union is in the large part made up of small segments of pre- and post-tour overtime and consists of "cleanup" work of employees engaged in handling live messages, involving as little as 20 minutes on a given occasion. Ordinarily our staffing is in accordance with the requirements of the load, however, we are constantly faced with fluctuations which necessitate either our calling an employee in before the beginning of his tour or holding him after completion on his tour for a short period of time. While this results in a substantial total of overtime hours on a systemwide basis, it is insignificant at any one office. I should like to assure you that such daily overtime does not lend itself to utilization for the purposes of H.R. 9802 and could not be supplanted by an increase in the number of employees in Western Union. The double time penalty would simply constitute an increased drain on our resources and would inevitably affect our service, the public interest and the interests of our employees. We believe, therefore, that language should be added to the bill exempting our company and any other service organization performing comparable services and faced with comparable performance requirements.

A brief outline of the basic operational factors in existence at Western Union may further illustrate. Western Union has served the Nation since 1851 and in so doing endeavors to see that telegraph service reaches as many cities and towns as possible. This, of course, entails providing service in many communities where the revenue either does not support or barely justifies the necessary operational expenditures. In such marginal locations, the imposition of further labor costs would inevitably result in curtailment of service.

All of our operations, including the nature and location of telegraph service, fall within the jurisdiction of the Federal Communications Commission, before which an exhaustive investigation of the telegraph industry is currently in progress for the purpose of assuring "continuation and improvement of essential telecommunications services in the domestic field." In the light of this, the legislation before you would further complicate the situation being studied by the Federal Communications Commission.

The terms and conditions of employment including job classifications, rates of pay and hours of work are established through collective bargaining with unions certified by the National Labor Relations Board as far back as 1945. Collective

bargaining agreements with the unions representing all employees within the bargaining unit have resulted in the establishment of a 40-hour workweek. Mutual agreement has been reached as to the "penalties" the telegraph industry can carry with respect to hours of work and the use of overtime. Our contracts have for years carried a penalty of 10 percent in the form of night differential. Our basic workday is 8 hours. Daily overtime beyond 8 hours calls for time and a half with double time for hours beyond 12. The overtime utilization of an employee on a "call in" basis is controlled by provisions for minimum call pay, providing for payment of a minimum of 4 hours' time at appropriate rates of pay including payment for travel time to the office and return home. A great deal of such "call in" relates to the performance of work requiring much less than 4 hours and is, of course, included in the 2½-percent overtime now being worked.

In summary then, it is our general position that the nature of our overtime work is such that it could not be eliminated by additional personnel within reasonable economic number; that the unions representing our employees have already insured maximum employment in the industry through our labor contracts, and that application of the terms of House bill 9802 to this company would excessively increase our operating costs to the detriment of all interested parties. We, therefore, respectfully propose that language be written into the bill which would exempt regulated industry.

STATEMENT OF JAMES W. FARMER, ON BEHALF OF SIMPSON TIMBER CO.

My name is James W. Farmer. I am labor relations administrator for the Simpson Timber Co., of Seattle, Wash.

Our company has been engaged in the forest products manufacturing business since 1890 and now employs 5,000 people in manufacturing plants in Washington, Oregon, and California. We have union contracts in all of our operations.

I wish to submit this statement in opposition to the proposals contained in H.R. 9802.

I believe the imposition of double time rates for overtime would be injurious both to labor and to employers for these reasons:

1. Many of our operations (insulating board, acoustical tile, paper products) have a regular schedule of three shifts per day, 7 days a week. Any overtime which develops is occasioned only by temporary absenteeism, illness, or other temporary causes. The imposition of double time for overtime would in no manner remedy or reduce the effect of these causes and would result only in an added cost burden to the company.

2. Our labor agreements with the IWA, LSWU, IBEW, Millmen's Union, and Teamsters Union, prohibit the employment of part-time or extra help on a part-time basis. All of these contracts prohibit working overtime under any conditions during certain specified holidays. All overtime that develops on any jobs must be granted to the employees who regularly work such jobs.

3. In other instances overtime which may develop in any plant or operation must be rotated among the men or the crews working in each department or departments or operations. In none of our labor agreements is there any provision whereby overtime may be used in any manner to spread employment or to increase employment per se.

It is our judgment that H.R. 9802 is neither needed nor desirable and if enacted would impose further economic hardship upon our company and our industry and would not increase employment in the forest products industry which we understand is the sole purpose of the bill.

PUBLIC SERVICE ELECTRIC & GAS Co.,
Newark, N.J., February 24, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Labor Subcommittee,
House Education and Labor Committee,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: Proposed legislation outlined in a bill (H.R. 9802) entitled "The Overtime Penalty Pay Act of 1964" purports "to increase employment by providing a higher penalty rate for overtime work." Increasing employment is a very worthy objective but increasing the premium pay for overtime work, in my opinion, will not achieve this purpose in my own company.

Failures of equipment and interruptions in supply and service are the principal reasons for overtime work. Such interruptions require the immediate attention of skilled personnel for relatively long continuous periods of overtime work.

Reduction in supply capacity for normal maintenance purposes also requires sustained periods of overtime work by trained personnel in order to restore full capability in the shortest possible time.

Absenteeism, particularly in around-the-clock operations, is another source of additional unavoidable overtime work.

Increases in overtime penalty pay would be merely punitive in nature, would increase materially the cost of operation, and would not achieve the objective of increasing employment.

I firmly believe that, insofar as this company is concerned, the enactment of H.R. 9802 will not accomplish an increase in employment but simply add to the operating costs of this company.

Very truly yours,

DUDLEY C. ALLEN,

Industrial Relations Manager, Electric Department.

THE TOOL STEEL GEAR & PINION CO.,
Cincinnati, Ohio, March 2, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Labor Subcommittee,
House Education and Labor Committee,
Washington, D.C.*

DEAR MR. HOLLAND: Because it was impossible for your committee to provide time for our personal appearance at your hearings on H.R. 9802, we are filing this written statement as you suggested. While we as a company cannot presume to speak for all of industry we do feel that our opinions would generally be shared by industry.

After careful analysis we have reached these sincere conclusions about H.R. 9802.

1. We feel that adoption of this bill would not help the employment situation at all. We feel there is a strong possibility that greater unemployment might result.

2. We think that this bill has the characteristics of another harassment of private management. We feel strongly that for the common good, that is, the welfare of the majority of Americans, that business should have fewer Government restrictions rather than more.

3. It seems to us that many companies would do what we would do if we were required to pay double time rates for overtime work. We would necessarily, because of the cost factors involved, try desperately to reduce the hours of work required to produce our products. We would do this by mechanizing some of our operations which are now done more economically manually.

Our business, like many others, is cyclical. It is also a business which requires high degrees of skill on the part of most of our employees. For a variety of good reasons, we work overtime when the volume of incoming orders demands it. When the volume of incoming orders lessens we are usually able to provide 40 hours work for all our employees. We've had few layoffs. Obviously, if during peak periods we hired and trained additional workers many would be laid off when the workload lessened. In our case the cost of hiring and training these workers, and of paying the cost of unemployment compensation, would be prohibitive. In fact, rather than hire additional workers we would undoubtedly lengthen our delivery schedule. This, of course, has economic implications. If a great number of companies lengthened their delivery schedules we're sure the economy would suffer—and greatly too.

The above are a few of the reasons—there are others—why we object to H.R. 9802. Most of our other reasons have already been submitted to your committee by associations which represent business and industry. We are in particular agreement with the testimony submitted by Machinery & Allied Products Institute.

Very truly yours,

SANFORD M. BROOKS, *President.*

HOME MANUFACTURERS ASSOCIATION,

March 2, 1964.

Hon. ELMER J. HOLLAND,

*Chairman, Select Labor Subcommittee, House Education and Labor Committee,
Washington, D.C.*

DEAR MR. HOLLAND: On behalf of the home manufacturing industry, the Home Manufacturers Association would like to go on record with your committee as being very strenuously opposed to pending legislation in the form of H.R. 9802.

During calendar year 1962 this growth industry accounted for the fabrication of approximately 20 percent of all single-family houses constructed in this country. Statistics for 1963 are not complete as yet, but we anticipate approximately 23 percent of the single-family housing market for this period which is indicative of our growth. As you and your committee know, housing in general is the largest single industry and therefore under no circumstances can the role it plays in the economic picture of this country be looked at lightly. Because of this we are quite concerned over the possible results and subsequent damage to the economy if H.R. 9802 becomes law. Our reasons for this concern are perhaps numerous, but we object basically because among other things it would have the tendency of raising the cost of housing. While labor could theoretically benefit temporarily from such overtime remuneration, it will be labor in the long run who will pay a higher price for the shelter it is to purchase or for the house or apartment it is to rent.

Even though the basic double time is considered a high enough penalty in itself to place on an industry which has to take full advantage of the elements, the shortness of the building season in many locations, and other adverse conditions, to keep the housing supply adequate, an even bigger penalty looms on the horizon in the form of an inefficient labor force. If we continue to coddle this group at every legislative turn, it will not be too many years before our colleges and universities will be bare of students. While this is an obvious overstatement, H.R. 9802 certainly provides no incentives to labor except to suggest that it become grossly inefficient and slow in order that it will be in a better position to collect the lucrative overtime pay.

While the purpose of the bill may be to encourage the employment of a larger work force, it is doubtful if this would ever occur. If anything, employers would tend even more to hire only the most efficient workers, or to delay the production orders, which in effect directly hurts the economy.

Then, too, the higher the cost of labor, the closer the factory comes in its constant quest of procurement justification for the purchase of automatic machinery. This is borne out in our industry quite vividly when one tours the factories of the South where the labor market cost is low compared to factories located in the higher labor markets of the North. The home manufacturers in these high labor markets can more readily justify automatic machinery to replace men, where in the low labor markets, the converse applies. If anything were true, it would be our opinion that such a bill would ultimately in spite of itself be absolutely detrimental to the labor force it is designed to supposedly help.

We, on behalf of the home manufacturing industry, trust that these comments will be of value to your subcommittee in judging the merits of H.R. 9802, and we most sincerely hope that as a result, the vast labor force of this country will not be penalized.

Very truly yours,

J. A. REIDELBACH, Jr.,
Executive Vice President.

RALPH WILSON PLASTICS, INC.,
Temple, Tex., February 14, 1964.

Hon. JOHN G. TOWER,
U.S. Senate, Washington, D.C.

DEAR SENATOR TOWER: We would like to voice our opposition to the proposed legislation to make all overtime wages double time.

The basic premise here is to make overtime so expensive that industry will hire additional people instead of paying overtime, which will result in more job openings and less unemployment. This basic premise is wrong because, with the exception of a few distressed areas, manpower is not in excessive supply. For this reason the majority of industry will find this course very expensive.

Actually, industry does not like to work employees overtime for two basic and sound reasons. The employee rapidly loses efficiency and proper regard for safety after 8 hours of work. This causes production to drop and rejects and accidents to increase. Since the wage rate increases for overtime hours the margin of profit decreases. These increased cost factors must necessarily be passed on to the consumer in the form of higher prices.

While this type of legislation might possibly bring about some slight increase in job openings in distressed areas, we feel that there are many other more effective ways to attack this problem. Even if it were enacted for certain areas and industries, it would set a precedent which could creep into adjacent areas to cause increased costs.

We strongly recommend that you discard this proposal.

Thanking you for your kind cooperation, we are

Very truly yours,

DR. RALPH WILSON, Jr., *Vice President.*

UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION,

Washington, D.C., March 12, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
House of Representatives,
Washington, D.C.*

DEAR CHAIRMAN HOLLAND: In our statement of December 11, 1963, on behalf of the independent (non-Bell) segment of the telephone industry, we made comments on legislation directed either to reducing the workweek or increasing the rate of overtime pay. The purpose of this letter is to comment specifically on H.R. 9802, which proposes to create tripartite committees to consider on an industry by industry basis increasing the overtime premium to double time.

Since filing our statement of December 11, 1963, we have distributed a questionnaire to all of our members and have received replies from companies employing approximately 50 percent, or 50,000 employees, of the total employment in our companies. On the basis of the additional information we have obtained, we would like to submit the following comments on H.R. 9802.

1. The nature of the telephone business is that it provides an essential service on a 24-hour basis, 7 days a week. It is impossible to eliminate the amount of overtime incurred by reason of the fact that much of it results from emergency and unforeseen conditions. It would be unfair to penalize the telephone companies by doubling the overtime rate because such overtime is actually beyond their control.

Overtime in the independent telephone industry according to our sample amounts to 1.84 hours per employee weekly for plant forces; 0.95 hour per employee weekly for traffic forces; and 0.74 hour per employee weekly for other forces.

The largest figure, that for the plant forces, is the result of service responsibilities, either—

(a) "Call out" time for the maintenance or restoration of plant; or

(b) "After 5 p.m." work to save traveltime the next day as well as to provide service over the night hours.

For the traffic forces overtime is required because of fluctuating loads and coverage for absent employees. The overtime for the other forces can be attributed to the need for support of plant or traffic activities. These reasons for overtime are not such that additional full-time employees would be helpful.

Proportionally the greatest amount of overtime is found in those companies with smallest plant forces per exchange. These plant men located in rural exchanges even with the time-and-one-half rate are favored in two ways: With the additional overtime because of greater travel distances required by their jobs, and yet more favored than their urban cousins by having less time required to travel from their homes to their places of employment. Of the companies in the sample whose overtime exceeded 10 percent of the payroll more than one-half involved had 10 or less employees.

2. The hiring of additional employees to do overtime work would be highly impractical and uneconomic because of the fact that such work fluctuates so widely. The hiring of additional employees on a full-time basis would result in creating a surplus work force for much of the time. To hire additional em-

ployees on an occasional or part-time basis for such overtime work, assuming that such workers could be obtained, would also be uneconomic in view of the effect upon unemployment compensation insurance rates which are applicable to the entire payroll.

3. It is misleading and inaccurate to compute overtime hours worked in the telephone industry by merely examining the overtime costs, since included in overtime costs are premiums paid for Sunday and holiday work which is necessary to our employees' scheduling because of the requirements to provide full-time service 7 days a week.

4. An estimate of overtime costs in the independent segment of the telephone industry is 3.6 percent of the total annual payroll of \$484 million. On the basis of the questionnaires we received, we estimate that the additional annual cost to our companies of increasing the overtime rate to double time would be \$5 million, which cost would be entirely unrelated to any increase in productivity.

5. Those who argue for the enactment of H.R. 9802 do so on the basis that a "substantial deterrent is needed to discourage overtime and encourage employers to hire workers." In a service industry such as the telephone business there are practices which prevent the employment of additional help, for example:

(a) Many company-union agreements prohibit the contracting of work.

Such a prohibition should be outlawed by legislation so as to permit the spreading of peakloads and increase employment.

(b) Many company-union agreements prohibit the use of part-time employees. This prohibition should be outlawed for the same reason.

6. Average weekly scheduled hours for all occupational groups in the telephone industry are 40 hours or less. For example, the latest FCC published statistics show that clerical employees in the commercial department were scheduled in 1962 to work 37.6 hours, traffic department 38.3 hours, plant department 38.4 hours, accounting department 37.4 hours. Only the male plant forces were scheduled the full 40 hours. Practically all inside personnel are given relief periods of approximately 2½ hours per week which is counted as worked time. The outside forces have considerable unproductive but paid travel time.

The FCC statistics for the scheduled workweek even though they are weighted heavily by Bell System figures (96 percent Bell—4 percent independent, since all Bell companies must report to the FCC) are indicative of the independents' experience. Only 0.7 of 1 percent of our employees (according to the sample) are regularly scheduled over 40 hours a week. Even this small figure is found primarily in those companies with less than five plant men per exchange.

"Callout" time which constitutes a major item of overtime for both large and small companies and is used in emergencies has minimums or traveltime provided in addition to 1½ times the regular hourly rate. Payment of this premium is no inducement for employers to hire additional employees. Increase of this premium by legislative action either directly or indirectly is unwarranted.

7. Bell System companies undoubtedly have an overtime problem. In some ways our independents have the greater problem. Rates for rural service of the independents generally must be higher than Bell's because of lesser revenues and greater costs. This disparity should not be expanded by across-the-board wage legislation covering both Bell and independent companies.

The definition of the term "industry" in the Fair Labor Standards Act is a "trade, business, industry, or branch thereof * * *." This would permit extremely broad interpretation. It is hoped that for purposes of administration the Secretary would provide separate criteria for the independent segment if legislation should be enacted. In the matter of overtime in the rural areas the independents are in a different position than Bell, namely:

(a) One hundred thousand independent employees operate 10,600 exchanges. Six hundred thousand Bell employees operate 6,800 exchanges. Our independents service more than one-half the geographical service area of this country. As a rough approximation, one independent employee must cover the same area as 10 Bell employees. As a result, greater traveltime is required and there is less flexibility of labor force.

(b) The Bell System, with five-sixths of the Nation's telephones, has the greater density of service. Bell serves an area slightly less than that of the independents. Bell's outside telephone plant is therefore less vulnerable to nature's hazards and its inside plant is maintained more readily.

8. In answer to our question: "How would you suggest increasing employment opportunities in the telephone business?" the most frequent answer was: "To

increase telephone business." Many anticipate the Revenue Act of 1964 to be most helpful. A reduction in the extremely inequitable telephone excise tax would improve our business. On the other hand any increase in operating costs as a result of this proposed legislation would in all likelihood result in at least some of these companies having to obtain rate increases.

In summary, USITA is opposed to H.R. 9802 for the reasons stated above, and it is also opposed to any similar legislation which would arbitrarily increase labor costs without in any way increasing productivity.

Sincerely yours,

H. H. BUTLER,
Director, Government Relations.

THE CUNEO PRESS, INC.,
Chicago, Ill., March 12, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, House Education and Labor Committee, Washington, D.C.

DEAR MR. HOLLAND: As perhaps the largest employer of union printers in the graphic arts industry in the United States, we wish to present this statement protesting against the overtime penalty pay bill H.R. 9802, which is designed to require double time beyond 40 hours.

1. Hardship on seasonal industries

Our industry is a seasonal industry. This is inevitable because the principal volume of large printers is of three main classes—periodicals, catalogs, and telephone directories.

Periodicals always carry more pages and have larger circulations in the spring and fall months than in August, September, December, and January. This is true throughout the United States and we believe it would be true in Great Britain. It results from reading habits which probably are largely affected by consideration of climate and holidays.

The general catalogs of all principal mail-order houses come out twice a year and at about the same time for all houses. This is the inevitable result of competition among mail-order houses.

Telephone directories for major cities come out only once a year and no printer ever has enough of them to provide a year-round operation.

2. This plan would work an undue hardship on union printers as against non-union printers

The largest printer in this country is a nonunion printer and the fastest growing printers in the country are nonunion printers. The union contracts of large union printers almost always require a workweek of slightly less than 40 hours for the first shift and still shorter workweeks for the second and third shifts. Notwithstanding these union contracts, on the part of our equipment that runs three shifts, we are already paying substantial amounts of time and a half overtime in order to make round-the-clock operation possible. Many of our operations, however, are one- or two-shift operations and during peak seasonal periods, we permit employees to work more than 8 hours a day on certain types of work paying them time and a half wages for anything over the base number of hours per day appearing in the union contract. Double time beyond 8 hours would not cause us to add one permanent employee to our payroll and since all of our operations require skill and constant practice, we could not add temporary employees. What they would do is to drive more large union printers out of business because we pay higher wages than nonunion shops and unlike them already start paying overtime after about 37 hours.

Two of the largest union printers in Chicago have closed in the last year. One of them is in bankruptcy. The other one was closed by a large printing organization which purchased the plant of a failing company in the hope they could improve its operations and closed it to stop losses after they found they could not. There is serious unemployment because of nonunion competition.

In our industry, many of the best workers in our plants in major metropolitan areas, such as Chicago, New York, and Philadelphia, earn from \$3.50 to \$4 an hour including fringe benefits, paid vacations, etc., equal to \$5.25 to \$6 an hour at time and a half. However, truck transportation has taken away the advantage of the large union printers in metropolitan areas and nonunion printing plants are starting up all over the country with average wages 30 or 40 percent less than our own. The result of this law, if passed, would be to increase

the burdens of high-cost printers who are already paying overtime in peakload seasons. Our economic disadvantage, as compared with printers in small centers, would be increased tremendously.

Our industry was recently dealt a staggering blow by increases in postal rates. The profits of the whole industry are subnormal. This proposed bill will not create additional employment, it will create unemployment in this industry at least.

Very truly yours,

R. P. FISCHER,
Executive Vice President.

STATEMENT BY KIMBERLY-CLARK CORP.

Application of the provisions of the overtime penalty pay bill (H.R. 9802) to the operations of Kimberly-Clark Corp., would not result in any increase in our employment. At the same time, the bill would have deleterious effects upon both the company and its employees. These conclusions are based upon the following factual considerations:

1. Kimberly-Clark Corp., and the paper industry generally, conventionally schedule operations on a continuous basis throughout the 24 hours of the day. The capital investment, one of the highest per employee in American manufacturing industry, makes such schedules necessary for profitable operation. Such schedules involve four 6-hour or three 8-hour shifts per day. Under our continuous operating schedules, it is obvious that there is no possibility of adding additional shifts or employees. The weekly schedules vary somewhat, but the most practical schedule on a 7-day-per-week basis involves a 4-week cycle with a swing shift which provides three 40-hour weeks and one 48-hour week, with an average of 42 hours per week worked per employee for the 4-week cycle. This schedule is common in the paper industry, is most acceptable to employees and labor organizations, and restricts overtime to a minimum. At the same time, it utilizes the equipment to the fullest extent, and holds down unit costs for the benefit of the consumer.

In some mills we have schedules which entail 8-hour shifts for 5 days per week, and also 6-hour shifts for 6 days per week. Occasional increase in demand for a particular product may require temporary extension of these basic schedules from time to time. In some of our labor agreements, mutual consent of the union is required to extend the basic schedule. If demand is present, and mutual agreement is forthcoming, there will be occasional overtime when equipment would otherwise be idle. A prohibitive overtime rate such as that provided in this bill could make the extra operation unprofitable, and the company in consequence would forgo the additional production. Under the circumstances, there would be no additional employment, but only a reduction in the gross national product. These occasional periods of overtime are too sporadic and uncertain to justify hiring and training of additional workers.

2. The biggest contributing factor to overtime in our mills is the necessary substitution for employees who are absent. A full crew is required for optimum production, and the job of the absentee must be filled immediately. Maintaining a standby crew to alleviate overtime would be impractical and prohibitively expensive. Absenteeism fluctuates widely and the problem is not only beyond the control of the employer, but is not susceptible to a planned program of substitution. An increase in the penalty rate for overtime would not solve this problem, but would merely add to the already high cost involved in handling substitution for absentees. The increase in cost of operations would aggravate the very unemployment the bill is intended to solve.

The problem is pointed up by examining the absentee problem in a specific major mill operated by this company. There were 13,683 cases of absenteeism in this mill in 1963. The substitution for these absences was paid for at time and one-half. If the premium rate was increased to double time, the increased annual labor cost in this one mill would amount to \$100,000. The alternative suggested by the bill—employment of a standby crew—would be even more costly. Such a crew must be trained for the skilled jobs involved, and the training must be continued during idle periods to cope with the technological advances which are constantly underway. Fringe benefits including unemployment compensation and other welfare benefits must be maintained even though the crew would be idle and nonproductive for extended periods.

We firmly believe that the bill is inimical to the interests of employees, employers, and consumers and would only aggravate the problem the bill is intended to solve. We therefore respectfully urge the subcommittee to reject the overtime penalty pay bill, H.R. 9802.

STATEMENT OF GEORGE R. FRANKOVICH

The Manufacturing Jewelers & Silversmiths of America, Inc., is the principal trade association representing jewelry, silverware, and allied novelty manufacturers and their suppliers. It has approximately 500 manufacturing firms as members nationwide, most of which are concentrated in the major producing areas of southern New England and New York and New Jersey.

The association wishes to register its objections to H.R. 9802 on two grounds:

1. It will tend to establish precedents leading to unselective increases in overtime rates for all industry; and
2. Higher overtime rates for the jewelry industry would not tend to increase employment. Indeed, they would tend to depress it.

INDUSTRY BACKGROUND

The industry herein represented is listed under the following census of manufacturers categories:

Census class	Industry segment	Number of establishments	Employment	
			1954	1958
3911.....	Precious jewelry.....	1,302	23,455	21,010
3961.....	Costume jewelry.....	1,046	27,744	25,286
3912.....	Findings.....	249	5,371	5,101
3913.....	Lapidary.....	326	1,759	1,904
3914.....	Silverware.....	209	17,345	13,852
	Total.....	3,132	75,674	67,153

NOTE.—1958 employment 11 percent lower than in 1954.

	Rhode Island		Massachusetts		Connecticut		New York		New Jersey	
	Estab-lish-ments	Em-ploy-ment								
Precious.....	111	3,448	55	3,293	4	40	699	7,120	76	2,630
Costume.....	356	10,878	34	3,674	7	350	467	8,116	22	596
Findings.....	144	2,763	23	1,378			41	1,521	20	300
Lapidary.....	38	186	6	50	1	10	215	975	7	200
Silverware.....	10	1,443	35	2,635	22	3,947	62	3,363	22	727
Total.....	659	18,718	153	11,030	34	4,347	1,484	21,095	147	4,453

Summary: Southern New England, 25 percent establishments, 51 percent employees; New York-New Jersey, 52 percent establishments, 38 percent employees.

I. H.R. 9802 would tend to establish precedents that would lead to unselective increases in overtime rates for all industry

It is believed self-evident that labor practices tend to become more and more standardized throughout the country for two principal reasons: Federal legislation and nationally oriented unions. Examples in both the legislative and collective-bargaining fields are legion. A practice, perhaps a compensation pattern, develops in an industry such as big seal. All industry, regardless of ability to pay, is then pressured to fit into this pattern. Over the years, continuing pressure imprints this pattern on all who can stand it economically, others go out of business. These pressures disregard industry peculiarities, foreign competition, or regional economic impact. It is evident that, if H.R. 9802 passes and higher overtime wages are applied to some industries whose employment might be increased for this reason or other reasons, the broad

brush sweep of labor and Government will soon encompass all. The recent testimony of the AFL-CIO advocating across-the-board penalty overtime leaves little doubt that, even though a bill with selectivity may be passed initially, this "foot in the door" would be quickly followed by an across-the-board bill eliminating selectivity.

II. Penalty overtime rates would decrease the jewelry manufacturing employment, not increase it

A. Much of the jewelry industry exists by chasing fashion whims and fads. Nearly all the industry must stay keenly attuned to style trends. When sleeves lengthen, bracelet sales drop; when the hair is upswept, earrings of the button-type sell; when hair styles go long, dangle earrings are the thing. Beads sweep in as a rage and die out as fast 14 months later. Much of the industry's business comes by feeding this change, creating new fads, and meeting the demands of dress styles and colors, and hair styles.

In a fashion-fad industry, advance production planning and inventorying are not only impossible, but a wrong guess can prove and often has proven disastrous. Mass production is a rarity; short, labor-heavy runs the rule.

B. Jewelry is a seasonal industry, despite costly industry efforts to promote jewelry-giving on birthdays, Father's Day, Mother's Day, etc., 50 percent of all retail sales of jewelry are made in November and December. Coupled with fashion uncertainty, this trend causes retailers and wholesalers to place their Christmas orders at the latest possible time and still be sure of delivery. Mid- and late summer are the ordering times: September, October, and early November are the heavy production months. All experienced help in the heavily concentrated jewelry areas of Rhode Island, southeastern Massachusetts, Newark, and New York work during these periods; inexperienced help is sought; overtime is necessary to meet the orders. Any orders not delivered in November are canceled. Winter jewelry on retail shelves in February is about as salable as last year's Christmas tree.

During the spring months, each plant's problem is to retain enough of a work force to provide a trained experienced cadre for the fall rush. This is usually accomplished by producing staples, doing some gambling on inventory, and perhaps working some short time.

C. Most jewelry plants are small. Four-tenths of 1 percent of the 3,000 plants in the industry do not qualify as small business (under 500 employees). Ninety-seven percent have fewer than 100, and 69 percent have fewer than 10 workers. In spite of their small size, a few have been able to find a different product to make in the off season and thus stabilize the employment somewhat. The vast majority, however, are severely limited in their diversification efforts, by lack of research capital, lack of technical knowledge, and lack of ability to adopt to new production techniques and marketing areas. While they must remain highly flexible as to style trends, their smallness leaves them highly inflexible as to product line.

D. The industry is highly competitive as is indicated by 3,000 manufacturing units. Foreign competition is also strong, particularly from low-wage countries. Japan and Hong Kong have already led several industry segments out of production. Imports continue to increase year by year. Low- and medium-priced imports already constitute 20 percent of domestic production of like products. Exports of jewelry containing any significant amount of labor is at a low ebb and in spite of intensive cooperative efforts by the industry, offers little hope of counterbalancing imports of labor-heavy articles from abroad. One important reason why imports have not completely submerged this industry, where production uncertainty often pits foreign wage to American wage on a nearly direct basis, is the flexibility of the domestic industry in reacting to fashion and fad trends. Mere closeness to the market, short production, and delivery times give the American manufacturer an advantage of his foreign competitor. In the case of high fashion items, this advantage is more important than a price differential initially.

CONCLUSIONS

Penalty overtime in the jewelry industry will decrease the industry's flexibility and thereby decrease one important advantage it has over foreign competition and/or it will increase production costs, thus increasing the advantage foreign competition already enjoys over us.

In either event, the industry's ability to employ will decrease, not increase. We respectfully submit that H.R. 9802:

If passed, would soon lead to penalty overtime being applied to all of American industry;

Penalty overtime will lead to decreased employment in the jewelry industry.

We respectfully urge against the passage of H.R. 9802.

Respectfully submitted.

GEORGE R. FRANKOVICH,
Executive Director.

PETER ECKRICH & SONS,
Fort Wayne, Ind., March 10, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor, House Education and Labor Committee, Washington, D.C.

MY DEAR MR. HOLLAND: Several weeks ago, I wrote to you about the effect of this proposed bill on the operation of our nonslaughtering, meat-processing business. At that time, we were of the opinion that the passage of this bill would not induce us to go out and hire more employees; and I am taking this opportunity to further acquaint you with the basic facts as to how the passage of this bill would affect us.

In the last fiscal year, ending October 31, 1963, we paid out approximately \$453,000 to 1,000 of our employees who are entitled to time and a half after 40 hours of work. This \$453,000 is just the premium pay at half time. It does not include the base hourly pay. We find that this is approximately 11 percent of the total payroll for our plant operations. We feel that we are doing all we can to reduce premium pay, because of the very costliness of this method. If we have done our job properly in the past, the passage of such a bill would only tend to increase our cost to a staggering sum just short of a million dollars a year. This would then represent approximately 22 percent of our total payroll for the people involved.

We feel this could only result in higher prices for a highly nutritional food, to the benefit of only a few people. It would not result in higher prices for livestock; but, rather, would serve to lessen the demand in the livestock industry, which is already in economic trouble.

Sincerely yours,

HENRY C. ECKRICH, *President.*

STATEMENT OF TAYLOR INSTRUMENT COS.

ROCHESTER, N.Y., *February 21, 1964.*

It is the purpose of this statement to focus attention on certain aspects of this proposal which we consider undesirable. While our convictions spring from the thinking and experiences of an individual company, we are confident that they will be found quite consistent with those prevailing in a major segment of the industrial community.

TRIPARTITE COMMITTEES

We, as a nation, successfully resisted Soviet Russia's proposal for such an organizational structure in the Secretariat of the United Nations. It was recognized as a vicious device. Our national and international experiences with such arrangements, and particularly our industrial experiences, are not such as to build confidence in their unbiased objectivity.

The proposal advanced in this legislation appears even more dangerous and considerably less subtle. The tripartite committees would be limited to making recommendations, which in the final analysis, would have to be acceptable to the Secretary of Labor and subject to rejection out of hand, depending on his personal notion of what might be appropriate in a given situation. The possibility of vesting so much arbitrary authority in a single political office is indeed frightening and there appears to be no provision for appeal to higher authority or to seek justice in the courts.

It is difficult to picture competent, earnest, and unbiased public-minded citizens being willing to serve under such conditions.

EXCEPTIONS IN PERIODS OF EXTRAORDINARY EMERGENCY

Surely no one knowledgeable in this field is so naive as to assume that such exceptions, if granted, could be applied intermittently, responsive to shifting circumstances. Attempts in this direction would be certain to produce labor relations controversies and bitterness of the first magnitude.

If such exceptions were feasible, the probability of timely relief would seem most unlikely. It is a long way, and often a devious route, from the site of the emergency to Washington and return. And here again determinations concerning the validity of any emergencies would appear to be a function exclusively of the Secretary.

EFFECT ON INCREASING EMPLOYMENT AND INCREASING COSTS

It is a declared purpose of this proposed legislation to increase employment through the curtailment of excessive overtime work where this can be done without unduly increasing costs.

In our company, for many years we have endeavored to plan production requirements in a manner that would provide maximum year-round employment stability. Our separation rate is substantially less than one-half of that prevailing in manufacturing industries on a nationwide basis. Layoffs for lack of work are exceptionally low, averaging about 0.7 percent over the past 5 years. To accomplish this stability, we frequently find ourselves building inventory and we frequently find it necessary to work substantial overtime on a selective basis in order to satisfy uncontrollable production demands. We hold this operating philosophy to be highly preferable to one that would dictate erratic changes in the work force with its distressing effects on individuals and its disturbing effects in the community.

Our city of Rochester, N.Y., has been designated a "B" employment area by the Department of Labor. This implies that labor supply and demand are in fairly good balance. This is not necessarily true with reference to skills available and skills required. To the contrary, we should be considered a very tight market with reference to skilled labor.

Operating in such an environment, it becomes vitally essential to resort to overtime, costly though it may appear. Any greater costs imposed by legislation such as now proposed would immediately be reflected in the cost of goods sold and would directly influence our pricing. It is unlikely that there would be any significant increase in the work force.

Industry competitors operating in an area of greater labor availability would probably be less affected by a shortage of skills and presumably less immediately affected by any special penalty rate for overtime. This would seem to widen any existing competitive advantage and we fail to see how it would tend to increase employment.

The natural forces of free competition are in themselves severe enough to strain management ingenuity. Every time Government arbitrarily and directly adds to the cost of production through such legislation; and every time Government imposes costly, unnecessary, and sometimes seemingly capricious regulatory burdens, the appeals of foreign sources of supply become just that much more attractive. Surely such developments would not tend to increase domestic employment.

U.S. News & World Report, issue of February 17, 1964, carries this item:

"Members of a United Auto Workers local union in Akron, Ohio, voted 439 to 150 to accept pay cuts to save their jobs. The vinyl division of Goodyear Aerospace Corp. said overtime pay was forcing the firm out of business. The company had said it would have to leave Akron unless overtime pay was reduced."

Does this proposed legislation seek to reimpose overtime pay requirements that labor and management have acknowledged as mutually detrimental and which were threatening an increase in unemployment?

SELECTIVE APPLICATION—INFLATIONARY EFFECTS

It appears totally unrealistic to assume that such regulations could be successfully applied on any narrowly selective basis. Once enforced in any major industry, we can expect it to become a near universal pattern. The normal forces of competition and collective bargaining would hasten the process. We could expect no relative change in general relationships, but we might very well find that we are operating on a new plateau as a result of inherent inflationary influences.

During the years of World War II, industry generally was working substantial overtime at premium pay for an extended period of time. Employees had come to regard abnormal earnings as normal, and living habits became fixed accordingly. In the latter part of 1945, overtime work was largely dispensed with, but as a practical matter, basic wage rates generally were increased to substantially maintain the gross earnings level that had prevailed. This may or may not have been good. The point I wish to make is that this increase in basic wage costs seemed promptly to exert its influence on the prices of things we buy. The Consumers Price Index average for 1948 showed an increase of approximately 33 percent over the average for 1945 with the greatest increases occurring in 1946 and 1947.

There seems to be nothing in the history of our company to indicate that the advent of the Fair Labor Standards Act with its requirement of a time and one-half pay rate for overtime work caused an increase in employment. The postwar side effects, however, were quite pronounced.

I am neither an economist nor a statistician, but it seems safe to conclude that there was some relationship between these economic experiences. It would also seem safe to predict that having established an even higher penalty rate for overtime, and then going through some new international emergency, requiring excessive overtime work, we would have built a powerful inflationary time bomb just waiting to be triggered.

MOONLIGHTING AND BENEFIT COSTS

To escape a penalty rate of double time or more, we might well resort to the recruitment of part-time and temporary employees. We would tend to draw from the ranks of qualified people already employed elsewhere, their skills and capabilities being readily adaptable to our needs. We suspect that other employers would be drawing upon our employees in like fashion. It just isn't practical to employ unskilled personnel to meet peakloads or short-term needs.

"Moonlighting" is already prevalent in some industrial communities even though unemployment persists at a substantial level. We would predict that the practice will be encouraged and spread if this new legislation becomes effective. The employment of "moonlighters" would not only furnish greater immediate skills, but would help to minimize the burden of fringe benefit costs.

It should be remembered that in many situations, part-time and temporary employees would not qualify for some of the more substantial fringe benefits.

PREMIUM PAY FOR OVERTIME, ETC.

Payment of such premiums is long-established practice. In many, many cases the practice predated any statutory requirement, and has a diversity of application not contemplated in the laws. As examples, our company gives premium pay, though not required by law, for work on:

1. Stipulated holidays.
2. Certain shift time.
3. Sundays.
4. Saturdays.
5. Hours after 8-hour day.

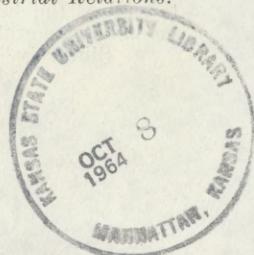
We have always regarded such premiums to be as fair reward for services other than normal and which entail some abnormal burden or personal inconvenience. We have never conceived such premiums as a penalty for some offensive action on the part of management.

We think it unfortunate to have your committee be obliged to conduct its deliberations under the concept that employers should be penalized for taking logical, prudent, and fair measures to meet the operating urgencies with which they may be confronted.

Your courtesy in receiving this statement is greatly appreciated, and I respectfully urge that the proposed legislative bill be rejected as unwarranted, unwise, failing to serve its declared purpose, and contrary to the public interest.

Respectfully submitted.

AFTON S. DODGE,
Vice President, Industrial Relations.



INGERSOLL-RAND Co.,
New York, N.Y., March 4, 1964.

U.S. HOUSE OF REPRESENTATIVES,
Subcommittee on Labor,
Washington, D.C.

GENTLEMEN: The following is a statement of Ingersoll-Rand Co. on H.R. 9802, the Overtime Penalty Pay Act of 1964.

While we regret that the subcommittee could not provide time for a personal appearance by our company at your hearings, we appreciate the opportunity to make a statement on this extremely important matter. We have included 25 copies at your suggestion so each member of the subcommittee may have one.

Ingersoll-Rand Co. manufactures heavy industrial equipment, including compressors, pumps, blowers, condensers, air and electric handtools, hoists, rock drills and mining machinery, and employs approximately 10,000 persons in the United States.

We feel very strongly that the proposed increased penalty for overtime work if adopted would have a detrimental effect on our operations, without the desired improvement in employment level.

As a matter of company policy, we perform all possible work during our regular working hours and use overtime, which can vary from 1 to 4 hours per week average per employee, only to meet customer emergencies and to utilize certain skills and equipment during temporary periods of expanded business where it would not be economically feasible to duplicate these facilities.

Increasing the overtime penalty from time and one-half to double time would raise our labor costs up to 5 percent above current levels. We do not see any way to avoid these higher operating costs in this event, as we will have to continue to work the overtime which is dictated by conditions beyond our control.

Consequently, our competitive position, which is becoming increasingly tight due to swift growth of oversea competition, will be more difficult to maintain.

We have directed our comments to the effect on our operations from an increased overtime penalty, recognizing that the subject bill would provide only for a tripartite committee to survey various industries and recommend appropriate overtime rates. While this leaves some room for industry-by-industry deviation, we feel the ultimate result would inevitably be a higher penalty overall. As we feel there is no merit in increasing overtime penalties as a means of increasing employment, therefore we feel no useful purpose can be served by establishing a committee for the purposes defined in this bill.

Respectfully yours,

DANIEL E. MOORE,
Director, Industrial Relations.

CANTON COTTON MILLS,
Canton, Ga., February 28, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

I have discussed H.R. 9802 with businessmen in this area and all of us feel that this proposed legislation will be harmful both to employers and employees. At our plants double time pay for overtime work will increase the cost of production to the point that our ability to compete would be seriously impaired.

The statement made by W. P. Gullander, president of the National Association of Manufacturers, expresses my sentiments exactly. In testimony before your committee, he said, "NAM does not subscribe to the theory that the solution to the unemployment problem lies in imposing a penalty rate on America's production process."

On behalf of the stockholders of this company I urge you to consider seriously and prayerfully any legislation that would ultimately damage the free enterprise system of economic competition. H.R. 9802 will not serve the best interests of the hourly rated workers in Canton, Ga., nor the American workingman in general.

Sincerely,

LOUIS P. JONES, Jr., President.

STATEMENT BY CABIN CRAFTS, INC., DALTON, GA.

We recognize that unemployment is a serious problem and that an effective solution is of paramount importance. We are in favor of action that will truly assist in alleviating unemployment but do not feel that this proposed legislation will do anything constructive to relieve the situation.

The proposed bill will not achieve its avowed purpose to provide jobs for persons now unemployed. In our company the cost of training new employees and maintaining benefit programs will prohibit the employment of additional personnel to avoid overtime. Most of our overtime work is seasonal and of emergency nature. The end result will be to increase costs without providing additional jobs.

If this bill is passed, many companies, particularly larger ones, will install new machinery and other laborsaving devices in order to keep overtime to a minimum. This could be particularly damaging to smaller companies who are not in position to justify the cost of new equipment and whose workloads are insufficient to justify adding fulltime employees for various jobs. For the smaller companies, double pay rates will only mean an unavoidable extra cost.

THE BOEING CO.,

Seattle, Wash., February 14, 1964.

HON. ELMER J. HOLLAND,

*Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
House of Representatives, Washington, D.C.*

DEAR MR. HOLLAND: We understand that your subcommittee of the House Labor Committee has now under consideration H.R. 9802, the proposed Overtime Penalty Pay Act of 1964, which was introduced on January 31, by Mr. O'Hara. It is also our understanding that witnesses for business and industry will be heard on this matter only on February 18, 19, 26, and 28. This scheduling does not allow us the time to prepare fully detailed information on the impact of H.R. 9802 on our operations nor does it provide us with sufficient time to prepare for an appearance before your subcommittee to discuss our objections to the enactment of this legislation. Nonetheless, we want to express to you and the subcommittee our strong objections to H.R. 9802 and to urge you not to pass it out of committee.

The stated objective of H.R. 9802 is to reduce unemployment. It is our view that passage and implementation of this legislation would almost certainly have the opposite effect, at least in our industry. Few industries have been as competitive in the last decade as the airframe and aerospace industry. In the field of commercial aircraft, competition from abroad has been acute and sometimes successful even though there is the capacity in this country to build considerably more than the free world's entire demand for aircraft. In the national defense segment of the aerospace industry, we have properly been under great pressure to reduce costs and to increase productivity. Against this background, our use of overtime, and we believe this would be true of all of our industry, is weighed on a scale of costs and productivity. The use of overtime is by the operation of national and international markets and by national defense and national budget considerations held very close to its optimum utilization. It is our firm conviction that introducing a tripartite committee into this complex economic picture to make a value judgment on excessive costs would certainly result in higher costs of production, lower productivity, and a general debilitation of the economy.

Consider for a moment the problem of determining what might or might not be excessive costs. In the commercial airframes business, we are in sharp competition with Government subsidized foreign producers and, in the past decade, have enjoyed considerable success in this competition. Our foreign sales from 1959 through 1963 amounted to over \$551 million which obviously had a very beneficial effect on the balance-of-payments problem. To compete successfully with foreign airframes producers, we must overcome a basic cost disadvantage arising from our much higher labor costs. To overcome the higher labor costs, we must excel in design technology, research, manufacturing, and management. Even though we have been successful in the foreign field, we cannot say precisely at what point our costs would be excessive in the minds of our foreign customers. We are aware that in a highly competitive industry no producer is ever very far

from that point. This is a point discussed and described in economic theory through the years but always difficult, if not impossible, of delineation in a specific instance. It seems to us an extremely dangerous thing to put in the hands of a tripartite board the determination of what is or is not an excessive cost.

In addition to the general economic objections to the approach taken in H.R. 9802 to the unemployment problem, the committee should consider some practical aspects of replacing overtime work with new employees. First, most overtime worked in our industry, and we presume in most other industries, is by highly skilled workers who simply cannot be replaced on a short-term basis. Therefore, the application of the double time would add materially to our costs of production. Secondly, overtime in our company, and again we presume in most others, is used as a method of reducing costs and meeting schedules. It is not generally understood but it is nonetheless true that overtime hours, even when a penalty is paid, can sometimes be more economical than regular hours. This is especially true when a single shift, high-fixed cost operation is involved. The airframe and aerospace industry is often engaged in important national defense or space work which requires the meeting of firm schedules that can be met only by the use of some overtime. Because it is almost always impossible to add new employees with adequate skills, mandatory double time for overtime would not only increase defense and space costs but would do nothing to solve unemployment problems.

It is apparent that any additional costs in the production of commercial aircraft will be advantageous to our foreign competition and will result in lower levels of employment in the airframe industry in this country. It is also obvious that additional labor costs in the defense and space segment of our industry will reduce either the amount of defense we can buy per dollar or the number of people employed. It therefore seems to the Boeing Co. that implementation of H.R. 9802 would result in more, not less, unemployment.

The Boeing Co. is opposed to this legislation but certainly not to its objective. We agree that all thoughtful Americans should be concerned about the unemployment problem and should be seeking ways to solve it. We believe that the solution cannot be found by replacing the mechanics of a free market with a tripartite board. We urge you to defeat this legislation.

Sincerely,

LOWELL P. MICKELWAIT,
Vice President, Industrial and Public Relations.

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION,
New York, N.Y., February 28, 1964.

HON. JAMES ROOSEVELT AND HON. ELMER J. HOLLAND,
Chairmen, General and Select Subcommittees on Labor, House Committee on Education and Labor, Washington, D.C.

DEAR CONGRESSMEN ROOSEVELT AND HOLLAND: The American Newspaper Publishers Association takes this opportunity to comment on H.R. 9802 which is now the subject of hearings by your subcommittees. The ANPA is an association of newspapers representing more than 880 daily newspapers with more than 90 percent of the daily newspaper circulation in the United States.

As we read it, the proposed legislation would carry out the administration's recommendation to put a penalty rate of double time on overtime under certain conditions in individual industries for the purpose of increasing the number of jobs. The penalty rate would take effect only where (1) substantial overtime is being worked in an industry and it was recommended that double time for overtime hours might create more jobs without unduly raising costs; (2) an industry committee has recommended the maximum hours standard (not less than 40 hours a week) to which double time should apply. A separate committee would be set up for each industry in which excessive overtime practices have been revealed. Such committees, to be appointed by the Secretary of Labor, would be made up of management, labor, and the public.

The newspaper publishing business differs from most other businesses in the United States in that it is widely scattered and composed of many units, most of

them relatively small. There are 1,760 daily newspapers published in hundreds of villages, towns, and cities throughout the country. The circulation of these newspapers ranges from less than 1,000 a day to more than 2 million.

Yet notwithstanding the widely scattered locations and the great differences in size of newspapers, the service rendered by each is substantially the same as that rendered by all. In its community of newspaper of less than 1,000 circulation is just as important to the people of that community as is a newspaper of large circulation to the people of a metropolitan city.

Circulation and advertising are the two sources of revenue of a newspaper, of which advertising is the primary source.

By the very nature of its business, a newspaper must always be ready to serve the public when or where news will break. Since a newspaper has no control over exceptional news events, it must operate on a flexible basis to meet the breaks of the news. As a result, newspapers must employ a working force that is considerably larger than if they had constantly level production situations. To meet these peakloads, sufficient equipment and machinery must at all times be available.

This puts an economic burden on daily newspapers. There is a ceiling on income for a daily newspaper—its advertising and circulation revenue is primarily limited to that which is available in its local community. There is no such ceiling on wages, or taxes, or cost of materials with which to publish.

In the field of advertising, the local daily newspaper has a mass of competitors. It must compete with network and local television, radio, magazines, other daily newspapers circulating in its community, outdoor billboards, direct mail, specialized publications, weekly newspapers, and even advertising gimmicks such as matchbooks and ballpoint pens.

We are convinced that the proposal now before you would seriously add to the economic burden of daily newspapers if it were ever applied to the newspaper publishing business. We believe, too, that the bill before you would establish a principle which could lead to discrimination between one industry and another industry with which it competes—newspapers and the electronic media of mass communications, for example. This would result not only in unfair competition, but in a cost squeeze impossible to be offset by increased revenue.

We make this point as a matter of principle even though the figures available to us at this time indicate that the newspaper publishing business is among those groups referred to by Labor Secretary Wirtz in his testimony before you on February 17 as showing an increase in production worker employment and presumably not appropriate for consideration in imposing penalty rates on overtimes.

In his testimony, the Labor Secretary also presented data showing that the number of production workers in "printing, publishing, and allied industries" in 1963 was 590,200, and average weekly overtime was 2.7 hours; there were 559,600 production workers in 1956 who worked an average of 3.1 hours of overtime a week.

The number of employees in the daily newspaper business went up from 248,500 in 1947 to 324,100 in 1962; the number of man-hours for production workers went from about 230 million in 1947 to about 300 million in 1961, while the total payroll for production workers went from about \$375 million in 1947 to approximately \$910 million in 1961. Source for this information is the Bureau of Census, U.S. Department of Commerce.

Overtime recorded in the newspaper business often is not the result of excessive hours of work or work beyond 40 hours. Much overtime is paid due to the peculiarities of contracts pertaining to shift starting times and the effect of necessary publication schedules. An increase in the overtime premium in many cases would have no effect except to inflate earnings and impose heavier employment costs on the business.

We believe that the views herein expressed will be of service to your respective subcommittees in their consideration of H.R. 9802. We thank you for the opportunity of expressing our association's views on this important subject, and we request that this letter be incorporated in the record of your hearings. We hold ourselves ready to assist the subcommittees in supplying any further information which may be deemed pertinent if you decide to call upon us.

Respectfully submitted.

STANFORD SMITH, *General Manager.*

WEBSTER BRICK Co., INC.,
March 2, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

DEAR SIR: I wish to submit this statement in opposition to the above proposed bill. Our objections are based on the impact it would have in the clay products industry.

(1) Ours is a seasonal industry, and overtime is primarily a seasonal thing.

(2) This act would damage further our ability to compete with other materials due to the increased cost of production undoubtedly resulting from its enactment.

(3) It would do absolutely nothing to increase employment within this industry. Every possible effort now is being made to eliminate overtime. It seems obvious to us that if additional people would eliminate overtime, additional people would be hired. As a practical matter, however, these overtime hours cannot be connected to straight time hours usually except in theory.

(4) Assuming this bill would cure all the ills its proponents claim, we still would oppose it as now drafted. We can't imagine placing such discretionary authority in the hands of the Secretary of Labor.

I urge your opposition to this measure and your consideration of these views.

Very truly yours,

PAUL C. BLAIR,
Vice President and Treasurer.

STATEMENT FROM R. B. PAMPLIN, PRESIDENT, GEORGIA-PACIFIC CORP., PORTLAND, OREG.

Georgia-Pacific Corp. employs 20,000 people who are situated throughout the United States at manufacturing plants, forest operations, and sales and distribution centers.

We are convinced that passage of the Overtime Penalty Pay Act of 1964 would be a deterrent to industrial growth in this country. Instead of increasing employment as its backers say, we believe it would result in decreased employment in the long run.

Denying management the right to employ employees on an overtime basis except on prohibitive terms is simply another fetter on management—another restriction to discourage management from expansion and to discourage investors from investing risk capital.

Our country is committed to the idea that in our system it is private enterprise which must provide the jobs and the goods and services we need.

Therefore we must do what we can to stimulate and encourage management and investors to devise new products, to increase production, to push for more exports, and to reduce costs. But arbitrary restrictions such as proposed in H.R. 9802 would do just the opposite.

Management needs to have flexibility to adjust to changing market conditions. Use of overtime is one way to take advantage of short-term demand. Increasing the cost of using overtime help simply forces the employer to pass up opportunities to meet short-term demand. The result is loss of potential profit, less production, and not even extra pay in the pockets of the regular employee.

The current penalty for use of overtime along with the fact that as work hours lengthen inefficiency increases, are ample deterrents to excessive use of overtime. Generally speaking, management would prefer to employ additional personnel rather than work regular employees longer hours at premium pay. But these are choices which must be made by management on a day-to-day basis without further interference by Government.

Congress should not lose sight of the fact that wages and working conditions are basically subject to collective bargaining and union leaders have been given tremendous economic weapons to use in gaining their ends. Negotiated terms of employment already provide ample deterrents to overtime.

In our own operations, we are sure that increasing the penalty for overtime to double pay would not result in increased employment—the effect would be reducing total employment.

We urge that H.R. 9802 be defeated.

HUDSON HOSIERY Co.,
Charlotte, N.C., February 28, 1964.

HOUSE EDUCATION AND LABOR COMMITTEE,
House Office Building,
Washington, D.C.

GENTLEMEN: Our company has read a résumé of the proposed bill H.R. 9802, and we are astounded by the implications.

Our business is seasonal and some overtime is absolutely unavoidable. If we are faced with a constant threat of additional costs because of this bill, we, as a small company, would find such costs unbearable.

If this bill should pass, it would involve an additional agency or group in Washington with whom we would have business. According to our understanding of the bill, this group can rule that our particular industry must pay double time or more, instead of time and a half for overtime. They can subpoena us as a witness or demand our records. The costs of our representation in Washington would be enormous in relation to the size of our business. We are a small business in a very competitive and depressed industry. These extra costs could very well be the burden that would put us out of business.

As a matter of information, the costs we incur currently in answering all Government inquiries from various agencies, collecting taxes, and making all necessary Government reports is an enormous burden. Our company is not in position to afford specialized personnel to handle these matters and, therefore, management loses a disproportionate percentage of their productive time in the process of handling Government matters. This additional Government group would mean a still greater burden. Somewhere there seems to be major misunderstanding regarding smaller businesses by both the Congress and Government agencies. While very large businesses can afford the luxury of specialists to deal with Government, small industries cannot and find themselves at a competitive disadvantage when compared to large industry. The constant addition of regulatory bodies, as this one will be, means that smaller companies will find it even more difficult to exist.

Should our industry be picked as one who should be penalized for overtime, it would be impossible for us to hire additional workers. The training costs, plus the short duration of their employment (3 to 4 weeks in the spring and 3 to 4 weeks in the fall), would make the costs prohibitive. The payment of double time, or more, for overtime work is clearly impossible. Our only alternative would be to cut down on shipments during the busy periods and, therefore, lose business to larger members with more flexibility.

Therefore, the only results we can see from this proposed bill would be:

1. Increased costs.
2. Loss of business.
3. No additional workers.
4. A greater Government load on management.
5. More unemployment for our people during slow periods.
6. An acceleration of the decline of small business.
7. The establishment of a regulatory body with unlimited power to call for records and witnesses and to set rates.

We respectfully urge that this proposed bill, H.R. 9802, be rejected by your committee as being completely impractical.

Yours very truly,

CURT SEIFART.

STATEMENT BY W. MICHAEL AICHER, VICE PRESIDENT-INDUSTRIAL RELATIONS,
UNITED STATES BREWERS ASSOCIATION

1. My name is W. Michael Aicher, vice president-industrial relations for the United States Brewers Association, whose headquarters are at 535 Fifth Avenue, New York, N.Y. The United States Brewers Association, the oldest active trade association in the United States, represents employers who brew more than 82 percent of the beer and ale produced in our country. The brewing industry has a long, rich history of collective bargaining with organized labor, extending back to the origins of the labor movement in the United States. The association itself negotiated the first labor agreement with Local 1 of the Brewers, Beer Drivers & Maltsters Union, on April 16, 1886, of the Knights of Labor, which anteceded the American Federation of Labor.

2. We honestly wish we could appear before you in support of the bill known as H.R. 9802. Certainly our members, like all good employers, are in favor of any move or effort of our President or our Congress that would result in creating jobs and providing fuller employment for our people. We share the belief that a Nation's prosperity is enhanced when its citizens have job opportunities and are gainfully employed. We do not appear, therefore, as an adversary of the principle that motivated our President in requesting this proposed legislation. We believe, however, that the method suggested for accomplishing the desirable objective is fraught with imponderables, pitfalls, and serious threats to established collective bargaining practices, to the concept of collective bargaining itself, and to the security of many employers and perhaps of entire industries, whose continued success is essential to the well-being of our country.

3. The National Labor Relations Act, as amended, still has as its basic concept, the proposition that it shall be the policy of the United States to "encourage the practice and procedure of collective bargaining" and to protect the "exercise by workers of full freedom of association * * * for the purpose of negotiating the terms and conditions of their employment * * *." We will leave to economists, and others, the evaluation of the extent to which this policy of encouraging collective bargaining has contributed to our economic growth since 1935. But anyone even remotely involved in the practice of collective bargaining during the last 29 years, or any of the years which preceded 1935, when collective bargaining was practiced in our country without Federal regulation, knows that high on the calendar in every labor negotiation are the issues of overtime pay, as well as call-in pay, guaranteed workday or workweek, and many other items that involve the manning of jobs, the size of the work force, the employment of casual or seasonal help, the conditions under which extra help may be employed.

4. Every one of these items influences seriously the determination as to whether extra personnel should be hired or overtime should be worked. We respectfully submit that if the Congress invades the field of contract negotiation by way of the overtime provision, it will, in all good conscience, have to insist that any other contract provision or provisions which are in conflict with the overtime penalty that may be affixed, or which might militate against the principle sought after by the overtime penalty legislation, are rendered illegal and invalid. In doing this, we submit that the Congress would open a Pandora's box of labor-management conflict that would readily destroy more jobs than the proposed legislation would hope to create. Furthermore, is there an implication in H.R. 9802 that collective bargaining has failed or that organized labor has been unsuccessful in negotiating with management "the terms and conditions of employment." We do not think so.

5. In manufacturing, where the overtime constitutes less than 30 percent over and above the regular working time, employers, with or without union collaboration, who are not operating on an incentive plan, would be induced or certainly greatly encouraged by H.R. 9802 to develop incentive plans which would be at the same time economically feasible for the employer and lucrative to the employees because it will protect them against the loss of income represented by loss of overtime; in many instances, a gain of 30 percent can be achieved. Hence, there would be no gain in employment.

6. The Congress will also wish to consider other reasons that discourage the employment of persons for whom the employer could not readily provide and foresee full employment. The moment a person is hired, the employer is obligated to provide workmen's compensation, unemployment insurance, social security, State disability insurance (where applicable); and, in a relatively short time, a host of other benefits including holiday pay, welfare and pension contributions, vacations, etc., the total cost of which, in the brewing industry, runs as high as \$1.25 per hour, in addition to the hourly wage rate.

7. These are among the considerations which make many an employer weigh very carefully—if he wishes to remain in business—the economics of overtime pay versus an increase in the working force. The burden imposed on the tripartite boards will demand Solomon-like judgment and decisionmaking. Where is the line to be drawn between seasonal or occasional or ever regular built-in overtime which should not be penalized, and other overtime that should be penalized beyond the employer's endurance and thus pave the way for new jobs?

8. The brewing industry is not a heavy overtime industry. For the past 7 years Bureau of Labor statistics reports indicate average hours (including overtime) at 39.9, 39.9, 39.4, 39.5, 39.6, 39.3, 39.2. But we do require seasonal, occa-

sional, and, for certain classifications, regular overtime. The seasonal or occasional occurs chiefly in packaging beer and ale and may run as high as 2 hours per day while it lasts. Regular overtime is scheduled for maintenance, powerplant, and other special and continuing "make ready" or repair work which just could not be done by extra men. Adding heavier penalties for overtime would merely add heavier costs for getting this work done. To employ extra men in lieu of the overtime would require doubling a plant's packaging and warehousing space as well as its packaging facilities which would be economically ridiculous, and, in many instances, virtually impossible; or would require an extra shift for which but 2 hours of work would be available. But our labor contracts call for minimum call-in pay of 4 hours, or 8 hours, or a full week of work for anyone employed at any time during the workweek.

9. We question seriously whether the 10 best informed, most competent men in our industry, if required to render a just decision in cases that would arise in our industry, could come to a majority agreement on what should be done in specific instances in which the proposed legislation were invoked. How could others then, no matter how well intentioned, but not connected with the industry, discharge the grave obligations that would be submitted to them? And what about the pressures on labor unions representing our employees? Their members, like most of us, are impressed by what has been done for us lately. If double or triple time is awarded in some other industries, how long can our unions permit our industry to remain "unfashionable" no matter what the reasons or circumstances are for the awards elsewhere? And as the pressure mounts, and double or triple time become the federally approved "patriotic thing to do," won't all tripartite industry boards have to yield to patterns or industry guides?

10. We dislike, very much, the role of seeing nothing but trouble in the proposed legislation; but we have lived through many experiences, including War Labor Board participation, long strikes in which overtime was the prime issue, and we have shared in working out some amicable solutions over a long period of years to the complex labor relations problems that are involved in the overtime issue. One specific instance occurred in Metropolitan New York almost 16 years ago, in which the employers and unions became enmeshed in 29-day and then 84-day strikes over the payment of overtime. The settlement that was eventually worked out has enabled employers, their employees, and unions to live in reasonable accord for 16 years; and the concept of that settlement was embodied in the wage-and-hour law as amended in 1961. In granting our industry an exemption from the overtime provisions, the Congress gave its stamp of approval to a labor-management solution of an overtime problem. This solution might not be acceptable to a tripartite board and require an important segment of the industry to defend itself all over again, regardless of the merit of its position.

11. In another prominent brewing center, one of our largest companies, through judicious planning of vacations during low business cycles and discerning scheduling of overtime during peak activity, has balanced employment so that man-weeks of lost time (layoffs) have dropped from 20,000 in 1959 to 2,500 in 1963. This employer, too, might find himself compelled to defend his program in endless hearings, inquiries, briefs, etc., and, if compelled to pay heavier penalties for overtime, would have no choice but to eliminate the employment stabilizer he has developed.

12. The President and the Congress have embarked on another course that all believe will stimulate our economy. We refer to the impending reduction in income taxes; which, it is generally believed, will encourage greater investment, greater circulation of expendable income, and more jobs. This, we submit, is a positive program, free from the compulsion, controversy, uncertainty, and "riverboat gambling" that, in our opinion, would accompany H.R. 9802. We hope the Congress will permit this positive priming of our economy through the reduction of taxes prove its worth before experimenting with the highly questionable device proposed in H.R. 9802.

13. In sum then, we must oppose H.R. 9802 because: (a) it would invade the collective bargaining relationship between employers and unions. If the Congress regulates one major item of a labor agreement, it must, in equity, regulate all other provisions of that same agreement, particularly since many will have a much greater bearing on whether or not extra men should be hired in lieu of working overtime; and (b) overtime is often worked on a seasonal, occasional, or regular basis because the extra work cannot be assigned or spread out among additional new employees, or because it is used, together with the scheduling of vacations, as an employment stabilizer. If the employers were required to pay

heavier overtime penalties, extra cost would result, and not the gain in jobs desired by H.R. 9802.

14. H.R. 9802 approaches the matter of overtime in a rather cavalier fashion, and the Secretary of Labor's testimony on February 17, 1964, does nothing to correct this impression. The prudent employer regards overtime, at best, as a necessary evil and certainly not as a luxury in conducting his business. The prudent employer, if he wishes to remain in business in a highly competitive economy, schedules his production and plans his costs on the most economical basis he can contrive. This obviously calls for straight time pay for the working forces. The employer never ceases his quest for better engineering, greater expert professional knowledge and advice, in his effort to manufacture a product or render a service on the lowest cost to himself and at a price which will let him compete successfully. He is forced into overtime for many reasons that generally are beyond his control. The reasons are many.

15. In the brewing industry we know that our employers schedule overtime to meet seasonal peaks of production; to run out or complete the production of a line; to finish a job started by skilled people who must stay at it to completion. Ours is a perishable product, affected by weather conditions; and when a large order must be filled, plant and manufacturing facilities simply will not permit filling the order through additional personnel, whereas the occasional overtime is the only feasible way of getting the work done.

16. In delivering our products we deplore the overtime which is prevalent among many of our employers. Any employer who delivers his products wrestles constantly with the problem of overtime. Doubling the work force and the delivery facilities will merely double the costs but will not eliminate the overtime. If the Department of Labor, or anyone else, has a workable solution for overcoming the overtime problem of employers who deliver their products, the solution would be warmly and gratefully received.

17. Overtime in the brewing industry now represents a very costly item of doing business and is not the easy alternative to employing extra help. We believe we could successfully prove that our overtime could not be converted into extra jobs, but we fear greatly, on the basis of past experience, that pressures on our unions based on patterns or guides developed by tripartite boards elsewhere would create serious problems for our industry. Demands for double time or triple time would be made upon us, and, if resisted by our members, would result in costly labor strife; if acceded to by our members, would merely serve to saddle us with additional costs that ultimately would have to find their way into higher prices for our products.

18. We attach, hereto, as exhibits A, B, and C, letters addressed to us by three of our members who employ substantial numbers of workers. These letters are typical of the problems of the industry in scheduling work and the reasons for occasional overtime. We have not shown the names of the employers but, if given an opportunity to present our views in a personal hearing, would be glad to answer any questions that might be asked in connection with these letters.

19. We have not addressed ourselves to the many administrative and procedural defects of H.R. 9802. The almost unprecedented power vested in the Secretary of Labor, the virtually impossible decisions expected of the tripartite boards, the failure to provide for court review of decisions rendered, are illustrative of the host of problems added to a proposed bill that we believe is wrong in concept and destined to produce results diametrically opposed to those sought by its authors.

EXHIBIT A

On behalf of _____, I am wholly in accord with your attempt to testify on the penalty overtime bill. As far as we are concerned, this will not aid employment but will increase costs on many jobs which must work overtime; such as, powerplants, maintenance, and other special and continuing weekend work.

As a matter of fact, a further penalty on overtime will tend to disrupt employment and make the situation worse rather than better. For example, _____ man-weeks of lost time for lack of work have dropped from 20,000-plus to 2,500 during the period 1959 through 1963. We were able to accomplish this not only with increased volume but also making judicious use of planning vacation schedules for low periods and overtime for peak periods.

A further penalty on Saturday work would eliminate this employment stabilizer.

EXHIBIT B

Last Friday, in discussing the proposal made by Labor Secretary Wirtz that overtime pay rates be increased from time and one-half to double time, I stated it was my thought that enacting such legislation would not have the desired effect, in the brewing industry, of increasing employment.

To begin with, the brewing and bottling processes require a continuous operation from the brewing department to the final loading operation. The brewing process cannot be stopped, nor can the bottling process be stopped at will, as might be the case in the durable industries. Bottling and canning machines once started must continue until the run is finished. A bottling machine cannot be left unattended for the next day. The equipment must be emptied and completely cleaned; otherwise it would be unusable and would require many hours of cleaning before it could again be placed in use.

If a component part of a bottling unit breaks down, it does so at a time when bottles may be in the soaker, the pasteurizer, or in the filling machine. When the breakdown has been repaired, the unit is again started up but sufficient time must elapse before the unit is completely emptied. Overtime payments often result in connection with the "runout" of a bottling unit. Such runoff will depend on the amount of time that the unit is "down." An employer would not bring additional men in for another shift for such a runout for the simple reason that there would be no work for them to do after the last bottle or can had been packaged. It would result in nothing more than the employer being forced to pay an additional labor cost which would either have to be absorbed by the company or passed along to the consumer.

The same situation is found when it becomes necessary to finish a loading or unloading operation after the normal stopping time. If a trailer, freight car, or truck is not completely loaded at the end of a shift, it is customary for those employees performing the loading operation to stay over until the operation is completed. Here again, such small amount of work would not warrant bringing in a new crew of employees to finish the job.

There are several other instances where overtime is paid, but where, again, increasing the cost of overtime payments would not provide additional employment. Consider, for example, the case of an employee who is required to stay on his job until he is relieved by a replacement covering the next shift. This situation is found many times in those companies whose brewing, bottling, and loading operations are conducted on a 24-hour basis. Then there's the problem of an emergency repair. An off-duty employee is often called to make the necessary repair, after which he returns home. Here again there would not be sufficient need for an employee to remain on the job for a full shift. Furthermore, such employees usually are specialists in their particular field and have a specialized knowledge of the work to be done. There is also a certain amount of planned preshift overtime to prepare equipment for operation. As you know, before a brewing operation is started, it is necessary to get up steam, check refrigeration lines, and to perform other duties in advance of regular shift startup time. Certain jobs similarly have early startups to prepare equipment for bottling, inspecting and oiling conveyors, etc.

On very rare occasions it might become necessary for an employee, due to his replacement being absent, to be required to work one-half of his shift while an employee on the third shift might be required to come in early to cover the second half of the absent employee's shift. However, this will only happen on such specialized operations as are found in the boiler and engine rooms, or on similar specialized jobs where considerable training, knowledge, and experience is required. This is never normally done on jobs where a replacement for the absentee can be readily found. For example, if a warehouseman reports that he will be absent, it is to our advantage to find a replacement at straight time rates rather than to pay time and one-half for the entire shift.

Summed up, I cannot see how, in the brewing industry, increasing overtime payments in any way, shape, or form will provide employment for additional people. As stated above, it will do nothing but increase our costs which, as you know, are amongst the highest in American industry today.

EXHIBIT C

In response to your request that we give you our thoughts of a requirement that double time be paid for overtime as it might affect employment, the following is submitted:

BREWING DEPARTMENT

Here, the work is scheduled quite well in advance and there are rarely any sudden changes due to unanticipated changes in volume of business. As the brewing schedule is stepped up, employees are added and overtime is kept at a minimum. The only time any overtime is used is when our brewing schedules require operation for more than 5 days on a 24-hour basis. There is also some overtime worked regularly on weekends because of the necessity of gassing beer on certain schedules. Since overtime which could be prevented by additional employment arises solely because of a shortage of facilities and since this shortage is usually only for peak periods of short duration, the additional cost of overtime would have to be quite substantial before it exceeded the additional cost arising from an investment in additional buildings and equipment.

PACKAGING

Overtime in this department comes about in two ways. The first is because of quickly developing unanticipated changes in the volume of sales; and second, the fact that it is uneconomic to provide production facilities to take care of peak periods short in duration. We operate nine lines and a can line on a 24-hour basis when we are running at full capacity. In periods of the year when business is not at its peak, lines are cut off for one or more shifts. Sales fluctuate quite substantially in response to sudden weather changes. These are quite often flurries which must be met quickly and production must be cut back promptly when the flurry is over. Time is usually not available to recall laid-off men or hire new men to meet these sudden changes. Our union contract makes it impossible to lay off immediately, thus when the sudden increase in sales subsidies it is difficult to cut off production as promptly through layoffs. Our usual way of meeting these changes is to run some units an hour or two overtime, or we might run a part of the units on Saturday. Generally, we do not hire or recall unless we can be reasonably sure of giving the men a week's work. This, of course, is done in the spring when we get a steady uptrend in business which makes it possible to recall or hire with some assurance of giving employment for several months.

Perhaps our problem becomes a little more clear when it is understood that our warehousing facilities make it possible to store less than 2 days' production and that normally we will only have 1 day's production on hand. There is the further consideration that beer as a perishable product cannot be produced and stored for any considerable period ahead of the date of sale.

The second cause of overtime is a shortage of production facilities at peak periods. There have been times during summer peak periods when it was necessary because of an unusual volume of business to run all units on Saturdays and even some on Sundays which, of course, results in a substantial amount of overtime. The only way of obviating overtime in this situation is to increase our production facilities. A new line would cost somewhere around \$1,250,000 and a building and the building facilities to house it would probably cost not less than half that amount. Since the facilities so added would ordinarily be used for maybe a month a year if their only purpose were to avoid the occasional overtime it would represent a substantial increase in our total cost of doing business as compared with paying overtime even at a double rate.

DELIVERY

Delivery overtime has been a problem for many years. In this last year we have finally worked out a program and compensation plan with the union which has practically all of our men working an 8-hour day. These men work out on their routes without direct supervision and overtime premiums constitute a tremendous incentive for them to build up the length of time required to do their work. I am very much afraid that if double time were required for overtime, we would be faced with strong pressure from the union to permit overtime work or to increase compensation rates to give these employees the equivalent of the overtime pay they will feel that they are losing. At the moment, the only overtime in the delivery department is that occasioned by sudden increases in business

due to weather or other circumstances which cannot be foreseen and which our operation is not sufficiently flexible to handle within the 8-hour period. There is no Saturday or Sunday overtime in this department.

In conclusion, it is my opinion that a substantial part of the overtime worked at this company cannot be eliminated, regardless of the amount of premium pay required simply because it results from changes impossible to anticipate and to meet through an increased work force. The balance of the overtime which is occasioned by insufficient facilities would undoubtedly be continued in large measures simply because it would be less expensive to pay the increased overtime rather than to make the substantial investment required for additional facilities to be used for such short periods. There would seem to be no conclusion possible except that a requirement of double time for overtime would increase costs in our company which, of course, would be passed along to our customers to the extent that competitive conditions would permit.

FEBRUARY 12, 1964.

Re the administration's bill, H.R. 9802.

Hon. ELMER J. HOLLAND,
House Office Building,
Washington, D.C.

DEAR SIR: Doubling standard rates for overtime will not result in more jobs for more people in our plants. It will, however, necessitate an increase in our price schedule and result in an inflationary move.

Our business is seasonal. We experience two valleys and two peaks. We would not have the time or will to train new employees that would be dropped from our payroll 6 to 8 weeks later.

The regulations being dreamed up for all segments of our society by our representatives in Government have reached the ridiculous but critical stage where businessmen are ready to throw in the sponge and go fishing.

Perhaps this is what is desired—Government ownership and control of all businesses, as well as the populace.

Vote "No" on this bill or any other like it.

Very truly yours,

M. & D. STORE FIXTURES, INC.,
R. J. LIECHTI,

President.

LANCE, INC.,
Charlotte, N.C., February 28, 1964.

Hon. ELMER J. HOLLAND,
House Education and Labor Committee,
Washington, D.C.

MY DEAR MR. HOLLAND: We wish to register a strong objection to the Overtime Penalty Pay Act (H.R. 9802). Our business is the manufacture and distribution of bakery and peanut foods. The operation of a production unit requires an investment of approximately \$2 million and 50 to 60 highly skilled technicians. Our overtime is unavoidable. It is caused by seasonal fluctuations and technical problems common to our industry.

We have managed to continue retailing most of our products for 5 cents. Additional labor costs resulting from passage of H.R. 9802, in our opinion, will feed the fires of inflation by forcing increased prices.

We firmly believe that imposing an overtime penalty on America's production process as the basic approach to solving the unemployment problem is wrong. Therefore, H.R. 9802 should be defeated.

Sincerely yours,

GLENN G. RHODES.

STATEMENT OF C. R. VAN NORDEN, SECRETARY, KENNAMETAL INC., LATROBE, PA.

Kennametal, Inc., together with its subsidiary companies, operates nine plants in the United States and is a leading producer of tungsten-base carbide products, principally in the form of tools.

With the metal working and extractive industries as its major markets, the company supplies perishable tools to thousands of small, medium, and large machine shops throughout the country, to coal, hard rock, and metal mines, and to oil and gas producers.

Its business is not characterized by an order backlog of any significance nor by predictable reorders of uniform type, style, or quantities. The result, therefore, is short-range surges in the production cycle, a problem that cannot be solved by long-range planning nor by merely adding more employees to the permanent work force.

If the company is to retain flexibility to accommodate unusual and urgent requirements of its customers, it is imperative that company remain in a position to schedule overtime at a cost that the customer will not consider prohibitive.

Imposition of the penalty overtime provisions of H.R. 9802 would result in prohibitive costs, fewer satisfied customers, and a decline in the company's total overall business. The outcome would not be an increase in employment opportunities—the purported objective of H.R. 9802. On the contrary, H.R. 9802 would generate a cycle of reductions in the work force and add to total unemployment.

I urge your committee to reject H.R. 9802 in its entirety.

GWALTNEY, INC.,
Smithfield, Va., February 18, 1964.

HON. ELMER J. HOLLAND,
House of Representatives,
Washington, D.C.

DEAR MR. HOLLAND: We write in opposition to H.R. 1680—a bill to require the payment of double time for overtime in some industries. We are very much opposed to this bill for there is no surplus of skilled or common labor in this area; and in this specialized industry, you cannot hire just ordinary laborers to do the work before they have undergone the training program of several weeks.

The operations of the meat industry as to hours worked and the available livestock are highly flexible. To have to add additional employees and not to continue to pay time and one-half overtime to those presently employed, would work a hardship on our employees, for most of them have already purchased on installments and made commitments to liquidate their debts based on the average salaries over a long period of weeks with us.

In our particular industry, it would not add any additional workers, but would add to the cost of the finished product, thus causing us to raise our prices with the ultimate consumer paying more for the same item.

Incidentally, 62 percent of our 750 employees are Negroes who were hired from the farms and whose living standards have been raised 200 to 300 percent since coming with us.

Very truly yours,

H. W. GWALTNEY,
President, Chief Executive Officer.

J. W. GREER CO.,
Wilmington, Mass., February 28, 1964.

Re H.R. 9802, double overtime bill.

HON. ELMER J. HOLLAND,
Chairman, House Education and Labor Committee,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: The above-captioned bill shows a complete lack of understanding of the complexities of American business operations. It would add many complications and increase costs, in the case of my own business. This company employs 200 or so people. We design and build special high production, automatic machinery to produce food of various types in large quantities. Our orders run anywhere from \$5,000 to \$500,000. It is impossible to plan a steady production program for any length of time. In other words, our workload fluctuates quite widely.

We must work overtime on occasion to take care of peakloads and to meet critical delivery times specified by customers in placing orders with us. In addition, we have emergency repairs which sometimes must be made on short notice. Paying double time for overtime would merely add to our costs of production, which due to the nature of our business are already high. We are squeezed out of the oversea market to a large extent because our costs are so high.

I am sure there are those in other types of business who have problems which would make the passage of this bill a hardship on them, just as it would be on us. For this and many other reasons, I urge your efforts to defeat this proposed legislation.

Very sincerely yours,

DON S. GREER, *President.*

INDIANA STATE CHAMBER OF COMMERCE,
Indianapolis, February 27, 1964.

HON. ELMER J. HOLLAND,
*Chairman, House Education and Labor Subcommittee,
Washington, D.C.*

DEAR CONGRESSMAN HOLLAND: We respectfully wish to submit to you and the members of your subcommittee now studying H.R. 9802 the views of the Indiana State Chamber of Commerce on this important proposal.

In the past we frequently have received a rash of protests from Indiana business over other controversial measures under consideration by the House Education and Labor Committee, but the general business community response in this State in denouncing this proposal to penalize employers further for overtime work has been overwhelming.

The Indiana State Chamber of Commerce has approved a policy in opposition to added premiums on overtime pay.

It is our considered judgment, based upon our own analysis of the problem and on contacts with our membership representing all types of industry, that the current overtime penalty now imposed pursuant to the Fair Labor Standards Act is a sufficient deterrent to excessive use of overtime.

Generally the overtime now worked is a necessity in order to maintain a production schedule occasioned by a rush order, a seasonal condition or to meet a special customer request. Under these and similar circumstances some overtime is worked and consequently does add to production costs which can be borne if it occurs infrequently.

To further penalize the employer who attempts to provide full-time steady jobs is not likely to result in the addition of new employees until such time as it is apparent a full-time job is available.

Cost-conscious Indiana businessmen are expressing concern over the almost certain increase in production costs that would result from enactment of H.R. 9802. This condition would constitute an additional handicap to those either doing business in, or contemplating doing so, in foreign markets—an area to which we are looking to improve materially the employment situation in our State.

The mechanics of the bill calling for committee determination on an industry-by-industry basis of those industries to be forced under a new and higher overtime penalty rate meets with considerable disapproval in our State also.

In view of the expert testimony that has been presented to your committee by representatives of many branches of American industry, it would be pointless for us to review here all of the numerous valid objections to the proposal.

In summary, however, we are reporting that Indiana businessmen wish to register for the record a strong objection to this measure. The objective of attempting to find employment for additional persons is laudable, but this bill in both theory and principle is subject to severe criticism and we ask that the subcommittee reject it in its entirety.

Cordially yours,

JOHN V. BARNETT.

NORFOLK SHIPBUILDING & DRYDOCK CORP.,
Norfolk, Va., February 28, 1964.

Representative ELMER J. HOLLAND,
*House Education and Labor Committee, House of Representatives, U.S. Congress,
Washington, D.C.*

GENTLEMEN: As president and general manager of a company with three plants in the Chesapeake Bay area engaged primarily in conversion, overhaul, and emergency repairs to ships, I recently received letters from both the President of the United States and the Secretary of Defense, requesting our cooperation in reducing costs of defense work.

Approximately 80 percent of our ship repair work presently underway is on naval or other Government department vessels, and the other 20 percent mostly on cargo vessels of the U.S. merchant marine—some of this work on vessels in whole or part subsidized by funds appropriated by the Congress.

In ship repair work, where the nature of each job is different and it occurs and must be completed on short notice, the use of a large amount of overtime, both over weekends or around the clock is unavoidable. Either the ship must be gotten out of a drydock to make way for another emergency, or the warship must be returned to the fleet in the interests of defense, or a merchant cargo ship whose crew and maintenance cost thousands per day to operate, must pick up freight loaded on trains or trucks or in warehouses and meet deadlines for delivery at other ports to meet the competition of merchant ships of other nations. Therefore, any requirement by law to increase or pay certain overtime rates will merely tend to vastly increase the costs to our Department of Defense for unavoidable overtime in repairs and overhauls to vessels, and will add another increased cost to our merchant marine and require it to ask for even larger subsidies to remain competitive with other countries—or to exist.

I urge that you vote against H.R. 9802, and thus allow us, the private shipyard industry, to attempt to utilize our bargained wage rates, resources, and experience in scheduling, and our ability to control our own decisions on each job, in such a fashion as to be able to comply with our President and Secretary of Defense's requests to use our experience and techniques toward reducing the costs of defense work.

Sincerely yours,

JOHN L. ROPER, 2d,
President and General Manager.

ROBBINS & MYERS, INC.,
Springfield, Ohio, February 26, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
Cannon House Office Building,
Washington, D.C.*

DEAR MR. HOLLAND: Your response of February 18 regrets that you cannot provide time for a personal appearance at the hearings on H.R. 9802, but urges that I file a written statement for the record, explaining that you will furnish a copy to each member of the subcommittee.

I welcome this opportunity, for I am very conscious of the unemployment problem from which the country suffers at the present time and hope that some idea can be devised which will alleviate this strain on our economy.

I'm afraid, however, that the proposed bill might worsen the problem, instead of alleviating it, for by far the majority of manufacturing companies in this country cannot change their present overtime practices and therefore will not hire any additional workers as a result of increasing the present penalty overtime rate, but will merely find labor costs increased. The unemployment problem will then be worsened, for as you perhaps are aware, manufacturers today must constantly attempt to decrease costs. One method is the use of a cost formula to determine whether laborsaving machinery (automation) is justified. This is a continuing formula, so that some items of further automation are always close to being justified. Any increase in labor costs, whether by contract, social security increases, etc., justify these borderline pieces of automation equipment. The same is true of purchasing components, such as Japanese bearings, abroad.

I suppose the bill might reach a very small percentage of the companies in this country, perhaps those which mass produce certain items such as automobiles, who might be working a labor force overtime in an effort to escape the penalties recently imposed by S.U.B. If so, then to fasten additional cost on all of industry to reach these few companies seems to be burning down the house to cook the pig. I realize, of course, that the bill provides that its penalty will be applied to an industry only after a study of that industry, but for any ordinary industry it can have a possible beneficial effect only when a particular plant within that industry manufactures a standard product from a sales forecast for stock, with the labor operations so subdivided that only comparatively unskilled workers are used.

The basic problem is pointed up in the operations of our particular company for we are a \$40 million (sales) manufacturer with perhaps 10 different divisions and 13 to 15 major lines of product, so that the average sales volume for

each of these divisions is not large. Furthermore, in our Springfield plant particularly, we produce to customers' order, and our manufacturing hours of work must fluctuate with the volume of orders received. It cannot be leveled off by making completed products or parts for stock. For example, we have a fractional electric motor division, an integral motor division, a subfractional motor division, a series motor division, an industrial fan division, a hoist and crane division, and a pump division. Each division has several machine shops, some have winding departments, and all of course have subassembly and assembly departments.

Therefore, we do not work any one department or division overtime for any lengthy period, for our group overtime is sporadic and comes about only through a temporary bulge in customers' orders, or a return to what might loosely be called normalcy after a temporary dip in customers' orders. These work bulges pass through a division like the ripple in a pond, first striking the various machine shops and then passing on into subassembly, and assembly departments while the machine shop bulge subsides.

Actually, probably the bulk of our overtime comes from the absenteeism for a day or two of a particular worker at a particular machine, where his loss of production must be made up when he returns so that the flow and sequence of operations will not be disturbed.

Whether or not we work a particular man, or a certain department, overtime depends more upon the time factor than economics. For example, if our order backlog, plus the general state of the economy, looks as though an increase in production will continue for some months, we will hire additional employees and go through the lack of productivity and excess cost occasioned by their training. If we have sufficient space and machinery, we'll hire these additional workers for the day shift. If we do not have additional machinery or space, and if we have enough trained supervision, we'll expand our night shift. It's only when our order backlog shows a very, very temporary increase in production that we work any group of workmen overtime.

As an example of the time factor, when our salesmen are promising a delivery date for a motor order to a prospective purchaser, they usually promise 4 to 6 weeks from the date of entry of the order. Since the customer picks a delivery date to fit his production schedule, and since we have many customers, our production schedule is bound to be uneven and to contain temporary bulges. One might believe, at first blush, that if overtime were made expensive enough manufacturers might be forced to level production, hire more people, and prevent these temporary bulges. On closer view, however, the fallacy in this thinking becomes apparent, for a manufacturer is limited in his volume of manufacturing by the space and machine tools he possesses, so that he cannot level out his production by hiring another worker here and there; all he could do would be to increase his production time from 4 to 6 weeks to 6 to 8 weeks. He wouldn't be able to produce any more motors, or hire any more people. The economy would be merely slowed down.

Another major cause of overtime in our company is found in the toolroom, or in the special machinery department, where skilled tradesmen with long years of experience in our product are sometimes handed a rush job; here, the hiring of additional employees for a temporary period is out of the question.

To illustrate the foregoing explanation, I am attaching a statement from our payroll department in the Springfield plant showing that in the 5 months since the beginning of our fiscal year on September 1, 1963, the overtime hours amounted to 19,500 as compared with 938,575 total hours worked, or 2 percent of the total. Again, at first reading, this approximately 4,000 hours of overtime a month might seem impressive and might sound as though we could have hired 23 or so additional workmen. A quick glance at the considerable number of departments throughout which this overtime was scattered, however, shows that the average department has not had $173\frac{1}{3}$ hours a month which is the equivalent of one person. Any department, therefore, on the attached sheet which shows less than 865 hours could not have provided work for one additional man for 5 months. And you cannot hire a man, train him to operate a machine, or do even semiskilled work, for 1 or 2 months. Even if you could, it wouldn't be fair to the man.

A further cause of overtime, as illustrated on the attached sheet, stems from our union contract, which calls for time and a half to be paid for work performed on Saturday or holidays, double time on Sunday, as such, regardless of whether the employee has worked 40 hours in the particular week. This clause par-

ticularly affects maintenance men, who often must do emergency repairs or work that cannot be performed while the shop is in operation. An increase in the rate obviously would not cause the hiring of more people.

Again, I cannot agree that the industry approach is a valid one to this problem for our Springfield plant alone is involved in four sections of the electric motor industry, is part of the hoist and crane industry, the industrial fan industry, and the pump industry, while our Memphis plant is in the electric fan industry, the electric heat industry, and the subfractional motor industry, and our west coast plant is in the homebuilder's industry. It's possible that some plants in some of those industries, for instance, a southern assembly plant using comparatively unskilled labor, and building one or two types of motors for stock could eliminate some overtime (though I doubt it, for again space limits, or lack of supervision for a night force), but the bulk of us can't. Therefore, it would seem that a plant-by-plant approach rather than an industry approach would be necessary—and you can imagine the Labor Department staff this would require.

As I stated in the beginning I am concerned with this unemployment problem, and I would like to propose a solution which, while it's not original, would, I believe, go to the heart of the unemployment problem, the heart being the unskilled worker, the dropout, the distressed area unemployed, etc. The proposal is to allow as a deduction from individual income tax, payments made for labor performed in or about a residence (not of course in the building or improvement thereof). The unemployed could then be hired on a permanent or a part-time basis for this yard work, handy man, housekeeper, cleaning woman, etc. The earnings of the employee would be subject to income tax, and if anyone's earnings would be too meager to be taxable, at least it would save an equivalent amount in unemployment compensation, relief, etc. I won't waste your time with any more details of this proposal for I'm certain you've heard it before.

Thank you for your time and consideration.

Sincerely yours,

ARTHUR F. BECKEL,
Vice President.

The following are the actual overtime hours worked on the factory payroll, by department, from September 3, 1963, through February 2, 1964.

Department	Hours	Department	Hours
Special machinery:		Toolroom—Continued	
3100-Z-----	146.60	6800-Z-----	259.70
3300-Z-----	164.20	7200-Z-----	116.70
4600-Z-----	1,947.30	7900-A-----	25.00
4800-D-----	27.00	7900-B-----	347.60
4800-F-----	17.10	7900-C-----	1,085.80
4800-M-----	375.10	7900-D-----	235.62
4900-Z-----	7.40	7900-F-----	1,053.30
5000-X-----	471.26	7900-G-----	830.00
5000-Z-----	28.00	7900-M-----	283.80
Guards, janitors, and maintenance:		9000-M-----	341.40
5300-A-----	1,245.70	9000-W-----	510.70
5300-B-----	19.60	9100-A-----	283.20
5300-C-----	38.52	9100-B-----	473.40
5300-E-----	906.60	9100-C-----	1,375.50
5300-G-----	393.42	9100-F-----	247.00
5300-J-----	395.56	9100-M-----	922.10
5300-M-----	748.80	9100-R-----	498.50
5300-T-----	72.56	9100-W-----	1,257.00
Toolroom:		9100-Z-----	519.60
5400-Z-----	1,001.00	9600-Z-----	200.50
5600-Z-----	103.94		
5700-Z-----	80.40	Overtime hours-----	19,503.08
6500-Z-----	114.90	Total hours worked-----	938,574.00
6600-A-----	30.60		
6600-M-----	17.80	Percent of overtime hours worked to total hours worked-----	2
6700-A-----	272.80		
6700-B-----	10.50		

STATEMENT BY HENRY BISON, JR., GENERAL COUNSEL, NATIONAL ASSOCIATION OF RETAIL GROCERS OF THE UNITED STATES

My name is Henry Bison, Jr. I am general counsel to the National Association of Retail Grocers of the United States on whose behalf I submit this statement. The association represents single and multiunit food store operators many of whom are now subject to the Fair Labor Standards Act. The overtime provisions of this law were made applicable to food store employees for the first time on September 3, 1963. At present, overtime based on 150 percent of regular rate of pay is required for work in excess of 44 hours per week. On September 3, 1964, the maximum straight-time workweek for retail food store employees will become 42 hours, and 1 year later it will be reduced to 40 hours per week.

I

H.R. 9802 proposes a new law entitled "The Overtime Penalty Pay Act of 1964" as an amendment to subsection (a) of section 7 of the Fair Labor Standards Act of 1938. It provides authority for the Secretary of Labor to appoint and convene a tripartite industry committee for any industry in which it is alleged or he believes that substantial and persistent overtime employment exists and that payment of overtime compensation as provided in the bill would increase employment opportunities in the industry without excessive cost. The industry committee representing management, labor, and the public is authorized to investigate conditions in the industry, and may hear witnesses and receive evidence to enable it to perform its duties. Under the terms of the bill, each industry committee is required to recommend to the Secretary of Labor for its industry the maximum hours standard of not less than 40 hours in a workweek after which an overtime penalty of at least double time will apply. It is not clear, under the terms of the bill whether the tripartite industry committee has authority to recommend the amount of the penalty rate for overtime work. It is clear, however, that the Secretary of Labor is given authority to order any industry, with respect to overtime employment therein to pay an overtime penalty rate which may not be less than two times the employee's regular rate of pay, but which may exceed this amount without any specific limitation provided in the proposed measure.

The size of the industry committee to be appointed by the Secretary is left to his discretion. Apparently, although the bill does not so state, employees, employers, and the public are to have an equal number of members on the industry committee. This bill provides that the industry committee shall file with the Secretary of Labor a report containing its recommendations. If a majority of the committee cannot agree on a recommendation, the public member or members shall report that fact to the Secretary. Upon filing the report, the Secretary of Labor may hold a hearing based on the record of the committee. Following such hearing, the Secretary may approve the recommendations of the committee, and issue an order placing them in effect.

If he disapproves the industry committee's recommendations, or if a majority of the committee members have not agreed on a recommendation, the Secretary of Labor may either refer the matter again to such committee or to another industry committee which he can appoint.

The bill does not clearly state whether the Secretary of Labor can issue an order imposing a penalty overtime rate for work above 40 or more hours per week which does not follow the industry committee's recommendations. The Secretary may have power to modify such recommendations in certain instances.

The Secretary is directed, under the terms of the bill, to conduct preliminary surveys and other studies on the extent and amount of overtime in the various industries subject to the act. He is also directed to submit to the tripartite industry committee information from such studies with respect to the impact on cost and employment resulting from the payment of overtime compensation.

The scope of the proposed legislation with respect to employees in food stores subject to the Fair Labor Standards Act is a matter of considerable doubt and uncertainty. Many such employees now come under the overtime provisions of the present law only by reason of paragraph (2) of section 7(a) of the act. This provision applies in part to employees in an enterprise engaged in commerce or in the production of goods for commerce as defined in section 3(s)(1) of the act. Section 7(a)(2) was added to the law by the 1961 amendments.

Prior to this time, the law did not provide for coverage of employees on an enterprise basis. An employee came under the overtime provisions of the law only if he himself was engaged in commerce or in the production of goods for commerce, as provided in paragraph (1) of section 7(a), and was not otherwise exempt. The test, prior to the 1961 amendments, was not the kind and size of the employer's business as is now provided under section 7(a)(2), but rather the activities and duties of each employee in relation to interstate commerce.

However, it is very important to note that the 1961 amendments to the act did not remove the coverage tests based on the individual employee's activities. Instead, Congress added to these tests a new concept dealing with size and nature of the business or enterprise acting as an employer. Under this new and broader procedure added to the law by the 1961 amendments, all employees of an enterprise subject to the law, whether or not individually engaged in commerce or in the production of goods for commerce, are under its overtime provisions, unless of course, they are specifically exempt by application of some other provision of the law.

Section 3 of the bill states in part: "The Secretary may by order prescribe for any industry, with respect to overtime employment therein of employees to whom the maximum workweek provided in paragraph (1) of this subsection is applicable, maximum hours within a specified period (not less than 40 hours per week for the period) beyond which any overtime employment of such employees shall be compensated by the employer at the overtime rate specified in this paragraph." Section 3 also states: "Such overtime rate of pay shall not be less than 2 times instead of 1½ times the nonovertime rate on which such employee's overtime compensation under this section is authorized to be computed * * *"

The subsection referred to above is subsection (a) of section 7. As we have seen, the maximum workweek provided in paragraph (1) of section 7(a) is applicable to employees on an individual basis depending on whether each is engaged in commerce or in the production of goods for commerce. The coverage test here is not related to the type or size of business employing the individual.

The maximum straight time workweek is now set at 40 under section 7(a)(1) referred to in the proposed bill. The same maximum will apply on September 3, 1965, to employees coming under the law by virtue of the type and size of their employer's business, as provided in section 7(a)(2).

This raises the question of whether on and after September 3, 1965, the proposed bill could be applied to retail food store employees not individually engaged in commerce or in the production of goods for commerce, but who are nevertheless covered by the overtime provisions of the present law because they are employed in an enterprise under the terms of section 7(a)(2).

The bill does not provide a clear answer to this question. This fact is a good indication of how loosely drafted and confusing it is. Passage of this measure would create great uncertainty over a considerable period of time when neither employees nor their employers would definitely know who is under its terms. Many years of litigation with back wage claims creating immense unexpected liabilities threatening financial ruin on thousands of retail businesses would result from its enactment. Retailers would face a period reminiscent of that experienced by many employers covered by the law in 1946-47 which finally led Congress to pass the Portal-to-Portal Act of 1947.

Aside from the great confusion and uncertainty H.R. 9802 would create, this association, representing many thousands of food retailers now subject to the Fair Labor Standards Act, is opposed to it for the following additional reasons.

One of the most basic and fundamental objections to the proposed bill is that it confers on the Secretary of Labor a power and authority which Congress should not delegate to any official in the executive branch. It has always been the policy of Congress to maintain its authority over the fixing of overtime penalty rates under the Fair Labor Standards Act. The delegation of such authority to an appointed executive officer involving a matter of such prime importance to the economy should not be sanctioned by Congress. The duly elected representatives of the people should retain such power. Our constitutional form of government requires strict adherence to the concept of a separation of powers between the legislative and executive branches so the duties of each will be carried out in accordance with constitutional principles.

The Constitution provides that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives" (art. 1, sec. 1). And the Congress is authorized to "make all laws which shall be necessary and proper for carrying into execution" its general powers (art. 1, sec. 8). Congress should not abdicate or transfer to others the essential functions with which it is thus vested. While it is true that occasions arise when there is necessity for adopting legislation dealing with complex economic conditions, this should not be used as a basis for Congress delegating authority, which is inconsistent with its constitutional prerogatives and duties.

The objection to Congress delegating its authority has particular application to H.R. 9802, since under its terms the Secretary of Labor would be given a vast amount of power over the economy. It authorizes the Secretary, on his own motion or upon petition, to appoint a special industry committee to recommend for such industry a maximum straight time workweek. The Secretary would have the power to issue an order placing such a recommendation into effect, including an overtime penalty without any maximum limitation. Thus, he would have the power to appoint each committee, to convene it, and to place into effect its recommendations required by law under his own order. In addition, the Secretary would have the duty to furnish data to the committee and summon witnesses on its behalf. His power would also include a determination as to whether the committee's recommendations are supported by the evidence and are in accordance with the purposes of the bill. He would also have the power to refer a matter back to the same committee or to another committee in the industry if, in his judgment, the committee's recommendations will not, among other things, carry out what he regards as the purposes of the legislation.

It is clear that this procedure gives to the Secretary of Labor immense power over final determinations that are made. While it is true an order issued by the Secretary would be subject to judicial review under section 10 of the Administrative Procedure Act, this review is so limited in its scope that unwise determinations would be upheld upon judicial review.

It is obvious that the power to determine a maximum hours standard and penalty overtime rates by industry can, if it is misapplied or misused, have a tremendously harmful effect not only on the industry involved, but on the economy in general including employees, employers, and the general public. In our system of government, no single individual should have such authority. Decisions of this kind are properly and necessarily reserved to the Congress. The proposed bill does not, and cannot, provide sufficient safeguards to prevent an industry committee and the Secretary of Labor from making a decision which will have harmful economic effects. The proper and only way to prevent injurious consequences is for Congress to retain and reserve its legislative authority over imposing penalty overtime rates and maximum hours standards.

Another objection to H.R. 9802 is that it does not offer a reasonable and practical approach to the problem of increasing employment. The fact that there is now a relatively high level of unemployment, and that many employees are working more than 40 hours a week, does not mean that a cause-and-effect relationship exists.

The Secretary of the Treasury pointed out a few weeks ago that as production processes and demand patterns continue to change in our dynamic economy, many of those who are looking for jobs do not have enough skills, or the right skills; are not in the right places; or otherwise lack access to jobs that are open.

Of all the factors considered by employers in deciding whether to have their employees work overtime or hire additional workers, the availability of skilled, competent, industrious employees is a major consideration. This fact would seem to indicate that the most desirable method for reducing unemployment is to develop among the unemployed the proper training and initiative that will be useful to them and to prospective employers in meeting unfilled employment needs.

Since profits are determined in large measure by personnel who are competent to make proper judgments so customer satisfaction will result, employers are not only willing but anxious to employ additional persons competent to fill job openings. Therefore, manpower development and training represents a more direct and beneficial approach to the unemployment problems than does H.R. 9802.

An additional objection to the proposed bill is that the best and most desirable answer to the unemployment problem is a soundly growing economy. This is a necessary condition to increase employment. A substantial deterrent to sound

economic growth is the absence of stability in the value of the dollar. Erratic cyclical fluctuations depressing profits, increasing costs of doing business, and raising prices make economic progress and prosperity difficult to achieve.

Since imposing a penalty for overtime will not have a substantial effect in increasing employment, it will tend to increase labor cost. The result must necessarily be higher prices and lower profits. As a consequence, economic growth will be stifled. This will have the effect of limiting the increase in job opportunities and undermining the efforts to reduce unemployment. Increasing labor cost is certainly no answer to the problem of unemployment. If anything it will increase the difficulty.

Another very important objection to the proposed bill is that the procedure for appointing tripartite industry committees, composed of persons representing the public, employees, and employers in the industry is unworkable. At least it is unworkable in retail food distribution.

Currently, there are some 200,000 food stores in the United States. At present we would estimate that almost 30 percent of these are now, or will soon be subject to the Federal wage-hour law. As time goes on this percentage will increase.

Among those now covered by the wage-hour law are both single and multiunit operators, local food retailers affiliated with a wholesaler-sponsored voluntary group, and those who are members of a retailer-owned cooperation, as well as operators not affiliated with any buying or merchandising group. Also included are local, regional, and national chains. Not only is the form used in doing business subject to considerable variation among food retailers covered by the Fair Labor Standards Act, but their methods of doing business also vary to a considerable degree. Some operate on a cash-and-carry basis, others on a credit-and-delivery basis. The hours of operation also vary. The number of departments in stores, the products stocked therein, and the size of the store are by no means uniform.

The retail food distribution industry is as diverse in its practices and policies as it is large in sales volume and in its effect on the economy. Stores must operate to meet customers' individual needs and desires. These are not the same across the country. There are innumerable and substantial differences within this industry with respect to methods and procedures of operation, as well as in its form and structure.

It is, therefore, unrealistic to expect the tripartite industry committee procedure provided in H.R. 9802 to be a reasonable and practical approach to the problem of increasing employment in retail food distribution. No single individual or group of individuals which the Secretary might appoint representing employers in this industry could recommend a sound proposal for a maximum hour standard and special overtime penalty that would be fair and workable and would increase employment in this industry. Such an individual or individuals would have an impossible job. They would not be able to make a sound and reasonable recommendation based on costs, prices, and other economic and competitive factors which are so many and so diverse in retail food distribution.

For these same reasons, the persons representing employees and the public on such an industry committee would likewise be unable to recommend equitable and reasonable standards for the entire food distribution industry. There are too many differences within the industry for any committee to make a judgment with respect to what amount of overtime payment would increase employment opportunities without excessive cost. Whatever conclusions would be reached could not, in fairness and equity, be applicable to every food retailer who might be covered by the proposed bill. In short, the procedure recommended in the proposed measure for providing a higher penalty rate for overtime work is unrealistic and unworkable in this industry.

STATEMENT BY MATTHEW I. COTABISH, LABOR AND COMMUNITY RELATIONS
DIRECTOR, CLEVITE CORP., CLEVELAND, OHIO

Mr. Chairman, members of the House Select Labor Subcommittee, my name is Matthew I. Cotabish. I am labor and community relations director of the Clevite Corp., whose headquarters is in Cleveland, Ohio. We are a medium-sized manufacturing organization engaged in the manufacture of automotive bearings, rubber and metal parts, electronic components, and electronic instruments. We operate a fair-sized research center in Cleveland, doing work in both the mechani-

cal and electronic fields. We employ about 5,900 men and women in the United States, where we operate a dozen manufacturing plants.

I have requested permission to testify on H.R. 9802 which pertains to penalty rates for overtime work, since it would apply to situations we encounter in the operations of our plants. The purpose of this bill has been stated as intending to promote employment by imposing a higher penalty on overtime work. We respectfully submit that this will have many adverse effects on increasing employment, and will put many obstacles in the way of reducing overtime.

Overtime work is a consequence of many business conditions each coming to bear on the other. We are fortunate in having a relatively high level of business activity which enables us to provide regular work on a 40-hour-per-week basis. We are faced today with tough business competition from other U.S. producers who will supply our customers with their products if we fall down on our deliveries. We likewise have competition from foreign sources who would like a larger share of American business. If we are faced with a choice of missing important delivery dates and working overtime, we will work overtime in most cases rather than give our competition the chance of taking away our business.

We are a major supplier to the automotive industry where the matter of continual supply of parts to large assembly plants is critical. Large assembly plants can carry only a minimum inventory of the thousands of parts they use; and they rely on their suppliers, such as Cleveite, to keep a constant flow of parts coming into their plants. Changes in their production schedules often cause considerable rescheduling of parts that are being run by the suppliers. It is likely that this situation causes overtime work, as we can carry only a limited inventory of our customers' parts. Such rescheduling may mean setting up complete lines of machines for different parts during the middle of a production run. Should an auto assembly plant find itself short of parts and in need of overnight delivery, there is no question but what the supplier will do everything possible to get parts to the customer. These sudden shifts present no opportunity for additional employment; the only recourse is overtime work where necessary.

When a plant is running at full capacity and is on a three-shift basis, it is not uncommon for a man who has worked his regular shift to work an additional 4 hours to keep an operation going because the man on the following shift was absent from work. Usually this information is obtained an hour or so ahead of the shift change, and arrangements have to be made hastily to cover for the absentee. This is especially true where the operation is a process-type, crew operation rather than a single-machine operation. To complete the coverage for that job, the man from the next shift is called in 4 hours early. Here, time and one-half is paid to get 8 hours of ordinary production work done. There is a 50-percent labor cost increase for those hours worked. This sporadic overtime doesn't warrant hiring additional employees.

Many times, our overtime work occurs in our maintenance areas. Men whose job it is to keep machinery running expect to be called in to work in case of a breakdown in equipment. All of our union contracts recognize this situation; and union officers and stewards respond to emergency calls, if they happen to be maintenancemen, just the same as any other worker in the plant. This type of overtime is always with us to a greater or lesser degree the year around. Electrical failures, conveyor breakdowns, burned-out motors, etc., occur even with the best preventive maintenance programs.

Much maintenance work can only be done when production machinery is not in use. Therefore, Saturday and Sunday work is sometimes necessary to service equipment which is in operation throughout the week. Our agreements with the unions representing our employees would never permit leaving these men home during the week in order to do this work on Saturday and Sunday at straight time pay.

While we have maintenance employees on all three shifts, it is sometimes impossible to get some jobs done in a single night. A good example is painting. This is often done over weekends so that the paint can dry and the equipment can be put back in operation afterward.

Overtime work is the source of real plant jealousy. Every contract we have with the unions representing our employees contains specific provisions covering the equal distribution of overtime work. The men and women in our plants like premium pay, and, if the overtime penalty is raised from time and one-half to double time, the workers in the plants will fight to get every minute of it they can. Increasing the overtime premium simply provides more pay for those who are already earning premium wages.

An easy way to scale down some overtime work would be to farm out certain jobs; subcontract the work to contractors who could make tooling, do plumbing or painting jobs, or even supply production requirements of semiprocessed materials. However, since the Supreme Court handed down the Warrior and Gulf Navigation, and companion cases, unions have resisted subcontracting most vigorously. Their interest has been the preservation of jobs and work for their members, and, where it was not feasible to hire additional people for the work that would have been contracted out, they insist on doing it at overtime rates. The employer no longer has the discretion of making business decisions based on economic factors; he must discuss these with the union in his plant. This avenue of employing more people through subcontracting specific jobs has been pretty thoroughly blocked by our Court's decisions and the adamant position taken by unions on this matter.

It is wholly unrealistic to expect an employer to man his plant for peak conditions of every description. We have no economic absolution for inefficient operations. If our costs are greater than the income we get for our products or services, we will be conducting our businesses at a loss. No board of directors will tolerate management of that sort from the people running the business. It is up to the managers of a plant to employ only the number of people they need to get the work done just as it is required that they buy only the amount of material needed or invest in the proper amount of equipment and machinery to do the job.

Overtime is often the steppingstone to higher levels of production. In one of our plants, this has been exactly the case over the past 3 years. By meeting customer requirements on quality and delivery, we were able to gain a larger portion of his business. At first we were required to work considerable overtime in order to handle this increase in volume. During the past 3 years, we have had two major plant expansions and a substantial increase in the work force. During this time, we turned temporary gains in business into a stable level of higher production because we went all out to satisfy a customer's needs. If overtime penalties were too severe, it would be impossible to expand a business in this manner.

In present-day pricing for a highly competitive market, overtime costs are seldom factored into the price of a product. Customers expect to buy products based on straight time wages. Occasionally, if a customer needs material because of errors or changes he has made, he will authorize overtime payments. This is by far the minority of cases. Overtime penalty in most cases is a direct reduction of earnings on the sale of the product involved. If the labor content of the article is small, the overtime penalty is not as severe; but if it is high, then a 100-percent increase in labor cost can make a profitable article become a decided loss.

At our main plant during 1963, we worked about 3,345,000 hours, of which 305,000 were overtime hours; roughly 10 percent. This by no means would support the assumption that we could increase our work force by 10 percent by eliminating the overtime. The examples at the beginning of my statement would illustrate the reasons for this.

With the limitations of today's markets, labor conditions, and Government restrictions, an increase in overtime premium would require us to either seek price relief from our customers in the form of higher prices for our products, or take a reduction in earnings on the products we sell. Either of these alternatives would have an adverse effect on our ability to expand employment. Our expansion is governed by several factors among which is our flexibility to absorb increases in sales volume; our ability to invest earnings in new plant and equipment; and ability to earn a profit on the additional business we do. If these factors are missing, our ability to grow is severely limited and our ability to provide additional employment is nil.

The proposal in H.R. 9802 is a coercive approach which has been advocated by the unions for quite some time. In the February 1 issue of the AFL-CIO News, Walter Reuther, president of the Automobile Workers' Union, is quoted as saying: "The fact that millions of Americans are forced to work overtime while other millions are unemployed amounts to nothing less than a national scandal. * * * If managements find it cheaper to pay time and one-half for overtime than to hire new employees, then we had better raise that penalty high enough to meet that problem." Mr. Reuther's oversimplified approach to a complex economic problem indicates the fallacy to the approach contained in this bill. If it were possible to solve this problem by increasing employment, profit-

motivated employers would have done this long ago in order to avoid a 50-percent overtime penalty. Doubling the penalty will not suddenly alter the problem and produce new employment. It could well have the result of many employers making a sharp analysis of their marginal business and marginal product lines and deciding to discontinue these items altogether.

The prospects of a tripartite industry committee made up of labor and public members, and industry members who might well be your own competition, investigating your "economic and competitive factors," to quote the bill, is enough to give most businessmen a severe jolt. This is the fine hand of those who persist in labor's right to "look at your books" and tell you what they are entitled to as the price of their services. This bill would give unions an advantage in collective bargaining which would be unsurpassed by nothing in the entire field of labor relations. If this proved to be the case, the effect of this bill would be stultifying as far as economic growth or expanded employment are concerned.

If the administration is serious about wanting to reduce overtime in order to expand employment, it should provide a legal rate of 75 percent of the regular rate for overtime work. The employees would enforce this rule themselves and would exercise their free choice to work or not work. Most would refuse to work longer hours for lower wages and, the result sought in this bill, would come closer to being accomplished.

Seriously, the one major contribution the employer can make in the whole field of manpower is the creation of jobs and the employment of people. This we can do by developing new products which will create new markets and attract customers who are ready and able to buy. Our present markets are well supplied with today's goods and services. What our economy needs is innovation in the form of new goods or services to stimulate the interest of the buying public. I would suggest the Government's attitude toward business should be to sponsor those measures which would encourage growth and expansion as a means of increasing employment, rather than promoting coercive legislation which handicaps and penalizes industry in its efforts to produce its goods and services. Legislation in the direction of tax relief and tax incentives for research and development will enable business to provide genuine growth in a free economy. The course indicated in H.R. 9802 cannot be expected to produce substantial expansion in employment by raising the cost of those already on the payrolls of industry.

SOUTHERN COAL PRODUCERS' ASSOCIATION,
Washington, D.C., February 27, 1964.

HON. ELMER HOLLAND,
Chairman, Select Subcommittee on Labor, House Education and Labor Committee, House Office Building, Washington, D.C.

DEAR CONGRESSMAN HOLLAND: Southern Coal Producers' Association, a nonprofit organization, composed of operators of bituminous coal mines located in southern West Virginia, eastern Kentucky, Virginia, and Tennessee and producing in excess of 50 million tons of coal per year, is opposed to H.R. 9802 which is currently being considered by your committee. Although this organization is opposed to this type of legislation as a matter of general principle, more importantly, we are opposed to H.R. 9802 because we are convinced that it would not accomplish or achieve the objectives for which it is intended.

The effect of this bill, insofar as the coal industry is concerned, would be to increase costs without increasing employment. As you probably know, the coal industry is a high-labor-cost industry; consequently, work at overtime rates is held to the lowest amount possible consistent with the maintenance of an efficient and competitive operation. The overtime that is worked in the industry is usually of a maintenance or housekeeping nature and is necessary to insure safe and efficient operation. Only a very small amount of production work is done at overtime rates and this only when unusual circumstances occur. Unforeseen customer demand of a temporary nature; the need for additional tonnage to meet a boat schedule for the export market or similar situations, occasionally make it mandatory that production work be performed at overtime rates. However, if conditions should change making substantial overtime necessary, double pay would be very expensive and might increase the selling price of coal thereby creating further burdens on an already depressed industry.

Moreover, since swing or rotating shifts are not worked in our unionized mines, the penalty would not in any way spread the work or increase employment.

Admittedly, there are problems of unemployment in our industry; however, there are also shortages of certain skilled labor such as mechanics and electricians who are qualified to do maintenance and repair work on complicated mining machines. Because of this shortage, men with these particular skills must of necessity at time be worked at overtime rates. The coal industry, particularly the smaller operators, needs the flexibility which they presently have in order to cope with the many situations that arise at their operations which necessitate overtime work. Punitive restrictions would not reduce the need for this overtime work, for, as I have stated, it is now being held to a bare minimum. Such restrictions would result in increased costs and would adversely affect the operators' ability to compete in the highly competitive fuel markets.

The subject matter should be left to the parties to collective bargaining agreements. The current wage agreement in effect between the United Mine Workers of America and the members of this organization provides for time and one-half pay on Saturdays and double time on Sunday whether or not the hours worked are in excess of 40 hours for the week (36¼ hours for outside employees). Furthermore, the wage agreement does not provide for swing shifts or the floating out of production workers during the week in order to do production work on Saturday at straight time rates. Therefore, any attempt to increase employment in the industry by providing for more punitive overtime pay would not be effective in those mines covered by the United Mine Workers of America wage agreement. It would result in increased cost of production and loss of markets which would ultimately result in fewer jobs and more unemployment in the industry.

These are some of the reasons why we are opposed to H.R. 9802. We respectfully request that your committee give serious consideration to our position on this proposed legislation and that our opposition thereto be made a part of the record of your committee hearings.

Yours very truly,

C. W. DAVIS, *President.*

WAYNE KNITTING MILLS,
Humboldt, Tenn., February 28, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR MR. HOLLAND: We are very much disturbed by both the fact and philosophy of H.R. 9802, the so-called Overtime Penalty Act, which is now being considered in hearings by the House Committee on Education and Labor.

May we pass on a few thoughts concerning this measure:

Apparently, it is being overlooked that the present requirement for payment of time and a half regular rates is, in itself, a deterrent to capricious overtime scheduling by any business.

In a large percentage of industries, much overtime that is worked is unavoidable due to surges of seasonal business. It is economically infeasible in many industries, including those making fashion merchandise, where high peaks and low valleys of seasonal demand are normal, to hire additional people for peak production periods. There is insufficient time during such periods for the training of new personnel. By the time they are reasonably productive, the peak period has passed and a valley is developing.

On the other hand, to gear personnel lists for peak periods would mean serious short-time operations during much of the year, working a hardship on all production employees.

The necessity for paying double time or more for overtime operations would necessarily increase unit costs. Obviously, if normal profit margins were to be protected, these costs would have to be passed on to the consumer. The result would be that nothing would be added to the welfare of the economy.

From another angle, consider the employees who, because of the seasonal nature of the industry in which they are working, enjoy some overtime work during, say, 25 percent of the year. If overtime payments were required at double regular rates and this were to make overtime operations impractical, costwise, these employees would suffer a loss in annual income and a lowering

of their standard of living. Are such employees not being denied some of their rights by governmental action?

Cordially yours,

HARRY C. MANGOLD,
Administrative Vice President.

THE WARREN CO., INC.,
Atlanta, Ga., February 28, 1964.

Re proposed Overtime Penalty Pay Act (H.R. 9802).

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

MY DEAR MR. HOLLAND: Overtime is seldom a planned production but is caused by unexpected rushed delivery schedules or maintenance problems that cannot be scheduled in advance.

We do not believe that this would create new positions, but would tend to add a penalty, resulting in increased costs of production.

Penalties of increased costs either have to be absorbed by the manufacturer or passed on to the purchaser. Double time penalty could well result in delays rather than increasing employment.

Yours very truly,

J. D. HARRIS, *President.*

LEAS & McVITTY, INC.,
Salem, Va., February 28, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR MR. HOLLAND: We would like to protest the proposed bill as unnecessary, futile, and unworkable.

Most overtime is unavoidable, as manufacturers are not needlessly incurring a 50-percent penalty. A more drastic penalty would tend to increase efforts to reduce overtime, but these would likely be directed toward automation, or simply reducing output where the extra time was unprofitable.

The theory behind this bill is evidently that overtime would be drastically reduced, and additional help hired to balance up production, which might be true in some cases. However, the assumption is that all men and skills are similar, and the addition of part-time or untrained employees would seldom be practical.

If the same amount of overtime continued with higher penalties, costs would be increased and with competition what it is, demand might fall off and a net loss of jobs and overtime result.

In our industry, production must be geared closely to sales and it is not practical to go out and hire new untrained employees every time we have some additional work to do. This would not only be expensive in quality of product, but in actual costs and would disrupt our efforts to give continuous employment where possible.

Our considered opinion is that the proposed bill would not accomplish its avowed purpose and merely result in confusion and increased manufacturing costs.

Very truly yours,

L. M. WHITMORE.

SOUTHERN BAKERIES CO.,
Atlanta, Ga., March 2, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: The avowed purpose of H.R. 9802 is to create additional employment by increasing the penalty on overtime. This bill would not have this effect in Southern Bakeries Co.

Southern Bakeries Co. employs over 2,000 people who would be affected by the provisions of this bill. The average workweek in Southern Bakeries Co. is

approximately 44 hours. Our company basically has one man per machine. We primarily operate a single shift, and the requirements for production for this shift in our bakeries are approximately 44 hours per employee per week. This production requirement varies from day to day, from week to week, from month to month, and from year to year. Bread is a perishable product. It has a 48-hour shelf life generally. The production requirements are planned usually 6 to 12 hours before the beginning of the production day. No long-range plans with respect to the amount of production can possibly be made, as bread is basically consigned to the grocery stores in amounts equal to what the sales department in its best judgment feels that the housewife will buy from the grocery shelf. There are heavy shopping days and light shopping days. The production requirement for a light shopping day ranges from 4 to 6 hours. The production requirement for heavy shopping days ranges from 6 to 12 hours. All is produced 6 days per week and marketed fresh 6 days per week.

To increase overtime premium from time and one-half to double time would mean to Southern Bakeries Co. merely increasing its premium cost on present hours. It would not provide additional jobs for any employees. It would further burden the company with increased costs. In order for the penalty to provide additional jobs, it would be necessary that the company produce more than 60, but less than 80, hours per week per plant. At the present rate of overtime penalty 66 $\frac{2}{3}$ hours is the break-even point for a determination of being an advantage to the company costwise to employ an additional employee. Under the proposed double time provision 60 hours would be the break-even point, and, as above stated, Southern Bakeries Co. does not operate 60 hours per week, and consequently, the only thing to be gained from imposing the double time provision would be that the employee would have more take-home pay.

The baking industry is already burdened with excessive costs imposed by Government regulations. Southern Bakeries Co., as a part of the baking industry, is also burdened by these additional costs, and the increase in overtime penalty would merely add to this burden. We do not feel that this would accomplish the purpose for which it is intended and would strongly urge that H.R. 9802 not be enacted.

Yours very truly,

CARL V. DENDY, *Vice President.*

NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION,
Washington, D.C., March 4, 1964.

GENERAL AND SELECT SUBCOMMITTEES ON LABOR OF THE HOUSE COMMITTEE ON
EDUCATION AND LABOR CONSIDERING H.R. 9802,
House of Representatives,
Washington, D.C.

GENTLEMEN: The National Machine Tool Builders' Association wishes to voice its strong opposition to H.R. 9802, the Overtime Penalty Pay Act of 1964.

As applied to the machine tool industry the effect of H.R. 9802 will be to increase production costs without any corresponding increase in employment.

The overwhelming majority of machine tool builders are small business concerns, employing fewer than 100 employees. These companies typically manufacture one or two lines of machine tools, which are designed and fitted to meet the specific and use requirements of the customer. The special requirements of custom design and fixturing inherent in machine tool production makes it impossible for most machine tool builders to manufacture machine tools in large production runs, or to build for inventory. Thus it is essential for the machine tool builder to maintain a high degree of flexibility in his manufacturing operations, so that production schedules can be maintained covering a large number of highly specialized small-unit or custom-built orders.

At times production can be kept on schedule only through overtime work in one or more of the design, machining, or assembly operations. Each of these operations involves the application of special skills—skills which have been developed on the job over a substantial period of time are presently in extremely short supply and are unobtainable from any pool of unemployed. It is unrealistic to expect that an employer in this situation would hire additional employees to avoid the overtime penalty pay even if workers with the necessary skills were available. It would simply not be practicable to employ a standby, part-time work force to perform what otherwise would be the necessary overtime work in a machine tool plant. Application of the penalty overtime pay

provisions of H.R. 9802 would therefore mean only an increase in our direct labor costs, not an increase in total employment.

Direct labor costs in the U.S. machine tool industry are already double and triple those of our principal foreign competitors. A further increase in these costs at the present time will only lead to further deterioration of our competitive position abroad and further inroads into our domestic market by foreign manufacturers. The loss of these markets would mean jobs lost to American workers and harm to this country's balance-of-payments position. Such a result would certainly not relieve unemployment in this country. The only other totally unacceptable alternative would be to limit production to straight-time work so as to avoid the excess overtime penalty proposed by this bad act. This effort to keep costs low would retard the machine tool industry's output, weaken its stature in world markets, and ultimately lead to the hiring of less, rather than more employees.

We agree that unemployment is of serious national concern, and we applaud our Government's determination to seek means to alleviate the problem. In the long run, however, domestic unemployment will be reduced only by the maintenance of conditions which encourage strong demand for American products and services, both at home and abroad. Positive Government action to encourage consumer demand, plant modernization and new investment, such as the recent tax bill and the investment credit are steps in the right direction. Programs to train (and retrain) workers to meet the labor shortages which now exist are also salutary (aside from their obvious and immediate benefit to the workers involved) because they improve the overall skill and efficiency of our work force and thereby increase our Nation's ability to compete in world markets.

But a penalty measure such as H.R. 9802 could cancel out much of the benefit which can be derived from these positive programs, by forcing domestic producers either to pay the penalty rates or to adopt inefficient labor practices, in either case increasing production costs and reducing the ability of American business to meet foreign competition.

In the competitive world of the 1960's the adoption of H.R. 9802 would be a step in exactly the wrong direction. We urge you to reject this most undesirable and damaging act.

Respectfully submitted.

GRAHAM E. MARX,

Chairman, Government Relations Committee.

STATEMENT ON BEHALF OF THE NATIONAL LUMBER & BUILDING MATERIAL DEALERS
ASSOCIATION

Mr. Chairman and members of the subcommittee, my name is John H. Else and I am legislative counsel of the National Lumber & Building Material Dealers Association upon whose behalf this statement is presented for incorporation in the record of hearings of the subcommittee on H.R. 9802 providing for penalty overtime.

This measure would authorize tripartite committees to make recommendations to the Secretary of Labor concerning double time for over a certain number of hours in certain industries.

The proponents of this legislation contend that enactment of this legislation would increase employment opportunities through curtailment of excessive overtime work.

The Secretary of Labor could accept or reject the recommendations of the tripartite committee.

Although the pending bill would not, in its present form, include those firms which came under the 1961 amendments to the wage-hour law (which includes coverage of retailers), this association is vigorously opposed to such legislation.

As has been the case under the Wage-Hour Act, the approach of the proponents of that legislation, realizing they could not, at one time, successfully cover all places of business and employees, a gradual approach was used to ultimately gain broad coverage a step at a time.

In H.R. 9802 we see the same approach and the proponents will not be satisfied until there is an across-the-board coverage of the double-time provision.

The next step will be a 35-hour workweek with double time over 35 hours. This legislation is already the subject of hearings before another subcommittee of the House Education and Labor Committee.

There have already been presented to this subcommittee proposals that the double pay for overtime should be "across the board."

Consequently, we see a very real threat to our industry in this legislation and this association is vigorously opposed to its enactment.

In this legislation we see increased costs of doing business, more Government interference in private business, ultimately higher prices to the consumer, and no significant increase in employment.

Where a higher rate for overtime would be paid under this proposal, labor costs would increase because there would be no accompanying increase in productivity.

This would either force an industry affected to absorb the increased cost, result in higher prices to the consumer, or require members of an industry to revise their operating and production procedure.

A higher penalty rate for overtime would, we believe, result in "peaks" and "valleys" in employment, by the employment of people at high levels of business and discharge them when business falls off.

Aside from the foregoing arguments against this bill, there are a number of questions which would go unanswered if this bill is enacted in its present form.

There is no definition of "industry" contained in the bill, and we do not believe there can be an effective and workable definition written into law.

The bill virtually gives the Secretary of Labor a free hand to determine the coverage of this bill after the tripartite committees make their report.

In establishing a cutoff point for overtime in an industry, there must necessarily be some consideration to the varied types of operation, the geographical differences and competitive factors within a particular industry.

The information to be gathered by the committees from individual members of an industry might well include data affecting the competitive advantage or disadvantage of one company over another.

If a tripartite committee is to be made up of members of the industry along with labor and public members, the industry members and labor members are in a position to gain information concerning the internal operations of their competitors.

In conclusion we do not believe the proponents of this legislation have substantiated their contention that it would increase employment.

We do believe the evidence is irrefutable that such legislation is ill advised, will not result in increased employment, and would be adverse to the interests of the industries affected as well as the consumer.

We respectfully urge this subcommittee to reject H.R. 9802 and other similar measures pending before the committee.

STATEMENT OF ROBERT M. KOCH, PRESIDENT, NATIONAL LIMESTONE INSTITUTE, INC.

Mr. Chairman, my name is Robert M. Koch. I am president of the National Limestone Institute, Inc., a trade association representing 562 limestone producers in 36 States and I am presenting this statement today on behalf of this membership. We appreciate the opportunity to express our views on H.R. 9802, that would amend the Fair Labor Standards Act by setting a double or higher pay penalty overtime rate in specific industries after recommendations are made by tripartite committees.

This is a matter of great interest to our membership and we wish to go on record as opposing enactment of this legislation for the following reasons:

1. H.R. 9802 fails to take into consideration the fact that the unemployed would not be productive enough to offset the high fringe benefits and the necessary training cost involved to make the person productive in this particular industry.

2. The available information on overtime, particularly information applicable to this industry fails to indicate that it is generally excessive.

3. By adopting these punitive rates, not all overtime would be abolished, because of the fact that there are many self-employed persons, a substantial number of people who hold down two jobs, as well as those people who work in noncovered employment.

4. In this industry, the instances where the unemployed could perform the work now being performed on overtime, would only constitute part-time work.

5. The tripartite industry committee system proposal must, out of necessity, raise problems of administration, discriminatory treatment of industries in companies within a given industry, as well as that of an interindustry nature.

Within the limestone industry, overtime is not excessively high. For the month of November, under the heading of "Other Stone and Mineral Products" the figure amounted to 3 hours' overtime. For the 1962 year the figure was 2.8. Our industry is but one of many comprising the mineral product industries. Therefore, it must be assumed that the overtime is almost negligible on an annual basis. This is particularly true when certain factors are taken into account—the difference between overtime pay and premium pay. An employee on a regular 40-hour schedule—which happens with a high degree of regularity in the construction industry which we are dependent upon—works 32 hours Monday through Thursday, is absent on Friday, because of illness, weather conditions, etc., and works 8 hours on Saturday, has worked a 40-hour week. But he has put in 8 hours of overtime, according to the Bureau of Labor Statistics method of calculating overtime hours. Actually, 40 hours is a standard workweek. What is involved is 8 hours of premium pay, not overtime in the sense that indicates work available for an unemployed person.

As the Secretary of Labor stated in his testimony before you on February 17, "where overtime is involved, it frequently arises from situations beyond the control of the employer—including the need to speed up maintenance work, handle rush orders, and the need to make up for scarce skills." Naturally, some overtime can be eliminated by better planning of the workload. This removes unemployment, but usually does not decrease it. There are innumerable reasons why a company within our industry will work a man overtime and only a few of them could warrant a penalty. Levying a penalty overtime rate in an effort to eliminate unemployment assumes automatically that the unemployed will be productive enough to offset the high charges necessary for paid leave, similar fringe benefit programs such as insurance, hospitalization, social security, etc. Additionally, there would be training costs of an incalculable nature for what would become part-time employees. The characteristics of many of the unemployed belie the assumption that they can replace or substitute those now employed.

Unemployment, according to the Department of Labor, as has been stated many, many times, is concentrated among those under 20, the unskilled, the uneducated, and the nonwhite. This group receives the lowest wages when employed because of their low productivity. The unemployment rate among married men has declined to 3.4 percent, according to the Department of Labor, and is considerably less than it was before the 1960 recession. Perhaps over a long period of time, an increase in overtime costs could change to some extent the amount of overtime scheduled by employers. However, in view of the characteristics of the unemployed, the result could very well be more mechanization to avoid the higher labor costs that would result from a higher penalty overtime rate and, in turn, lower employment forces than now exist.

THE TRIPARTITE INDUSTRY COMMITTEE SYSTEM

This type committee system presents many complex and difficult administrative problems. First, not all firms in our industry or any other industry will have overtime simultaneously. Should the successful limestone producer, who is a low bidder on a rather large construction job, be penalized by the imposition of a higher overtime penalty rate? As is generally the case within our industry, the amount of overtime rises with the demand for our products—when construction is going full steam, our product is needed—during the off season, our product is not needed as much—and added costs rise much faster than usual because of higher penalty overtime rates. The competitive standing of the various firms within this industry will, of necessity, be affected capriciously by such an arbitrary cost factor.

Since labor and management negotiate overtime rates under existing collective bargaining procedures, employer and labor union costs of participating in the tripartite committee procedure would be a burden, and what's more, a duplication.

In H.R. 9802, a tripartite committee procedure would appear to be under such complete control of the Secretary of Labor that the industry committee system

could conceivably amount to only a formal exercise. For example, the Secretary of Labor may:

1. Determine what penalty rate would be ultimately applicable;
2. Appoint the industry committee members;
3. Again refer the recommendations back to the committee;
4. Refer the recommendations to a newly created committee for the same industry for further consideration;
5. Appoint and convene a review tripartite committee for an industry either before or after an order has been issued;
6. Conduct a preliminary survey of the various industries subject to the act, prior to the creation of a tripartite committee;
7. Submit witnesses and relevant information with statistical data for the industry and thus be assured of a dominant role in the deliberation;
8. Establish all rules and regulations prescribing the procedure to be followed by the committee; and finally,
9. The Secretary would be permitted to issue additional regulations on overtime—for example, what would be an exception to an overtime order such as “extraordinary, emergency, or unusually compelling need.”

In conclusion, I would like to point out that nowhere in H.R. 9802 is there a proposal that would promote productivity or increase total output. Our membership favored the tax bill because it would stimulate and create jobs. We have pressed for an accelerated highway program and other public works programs in an effort to create jobs. We have sought an expansion of the rural areas development program because it is believed that it too will create jobs. We do not feel that the present proposal as contained in H.R. 9802 will have this result and effect. We do believe that, if enacted, it will increase the cost of our product, and thereby increase the overall cost of construction and in turn contribute to placing us in an uncompetitive position with respect to providing economical construction material.

Thank you.

STATEMENT OF BENJAMIN R. MILLER, DIRECTOR, INDUSTRIAL RELATIONS DEPARTMENT, AMERICAN TRUCKING ASSOCIATIONS, INC.

This statement is made in behalf of American Trucking Associations, Inc., the national trade association of the trucking industry, representing all types of motor carriers, both for-hire and private, and having affiliated associations in 49 States and the District of Columbia. Our offices are located at 1616 P Street NW., Washington, D.C.

The trucking industry is opposed to section 304 of H.R. 9824. That section, if enacted, would amend section 13(b)(1) of the Fair Labor Standards Act so as to reduce substantially the present Motor Carrier Act exemption from its overtime provisions—an exemption for which the Congress has recognized a need since the birth of the act in 1938.

In brief, the Motor Carrier Act exemption is an extremely narrow one. It relates solely to the overtime provisions of the Fair Labor Standards Act and is only a partial one at that. The exemption applies only to four specific job classifications in the trucking industry. We are not, as is trucking's chief competitor, the railroad industry, completely exempt from the overtime provisions of the act. Furthermore, we do not ask such an exemption. Neither is the trucking industry exempt from the minimum wage provisions of the act. Nor do we plead for such an exemption. Employee earnings in our industry are among the highest in the country and far exceed the minimum wage required by law.

Our only plea is that this considerably limited and now well defined overtime exemption afforded four basic employee classifications in trucking be maintained.

Section 13(b)(1) of the Fair Labor Standards Act, as it is today, provides an exemption from the act's overtime provisions for “any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act of 1935.” That act provides that it shall be the duty of the Interstate Commerce Commission to regulate carriers by motor vehicle and “to that end the Commission may establish reasonable requirements with respect to * * * qualifications and maximum hours of service of employees, and safety of operations and equipment.” [Emphasis supplied.]

As determined by a series of ICC and court decisions, the exemption is applicable only to those employees whose job duties center on activities in a class of work defined as that of a driver, driver's helper, loader, or mechanic, and then, only if their work directly affects the safety of operation of motor vehicles on the public highways in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act.¹

It is the present limited exemption which H.R. 9824 would needlessly and unjustifiably reduce still further. It is the position of the trucking industry not only that the proposed amendment is without justification but that absolutely no one would be benefited by its passage.

The necessity, to motor carriers, for retaining the present exemption in section 13(b) (1) and for continuing the authority of the Interstate Commerce Commission over qualifications and hours of service for certain trucking employees has not lessened in all the 29 years in which the ICC has had such jurisdiction, and the 26 years in which the FLSA has been in effect.

The trucking industry's position as to why the Motor Carrier Act exemption should be retained in its present form rests on seven basic facts:

1. The present Motor Carrier Act exemption does not impair the purpose of the Fair Labor Standards Act;
2. The vital need for motor carrier flexibility precludes a standardized workweek in the trucking industry;
3. Complex wage structures in the trucking industry necessitate that the present overtime exemption be maintained;
4. Serious confusion would result from further limitation of the Motor Carrier Act exemption;
5. Industrial strife would be created by this amendment;
6. The proposed amendment, by retaining the railroads' exemption, discriminates severely against the trucking industry; and
7. Absolutely no one would be benefited by reduction of the Motor Carrier Act exemption.

We shall now establish the veracity of these seven points.

I. THE PRESENT MOTOR CARRIER ACT EXEMPTION DOES NOT IMPAIR THE PURPOSE OF THE FAIR LABOR STANDARDS ACT

It is immediately obvious that the trucking industry's slight exemption to the FLSA in no way impairs the purpose of the act, which, as stated in its preamble, is geared to reach those industries having "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." It should be noted that when Congress provided the Motor Carrier Act exemption in 1938, and on numerous subsequent occasions refused to change that exemption, it must have concluded that the trucking industry was not one which the act was attempting to reach.

Trucking is an industry which provides high wages. If the earnings of trucking employees were above standard in 1938, they are even more so today. Wage increases and earning in this industry have outstripped many others in the intervening years.

To support that statement we attach hereto a chart which indicates the average earnings of trucking industry employees as compare to average earnings of employees in other major industries.

This chart (app. A) is based on U.S. Department of Commerce data. The figures show that the 1962 earnings of trucking employees increased \$265 over the previous year and reached a new peak of \$6,388. These Government statistics also show that the average employee in the trucking industry in 1962 had an income approximately 12 percent higher than employees in manufacturing and 27 percent higher than others in private industry as a whole.

Comparable 1963 data will not be available from the Government for several months although we know the upward trend continues.

Our industry's wage rates have increased by a substantial amount under the terms of its labor agreements. It is significant to your consideration and record that this chart does not indicate the complete story, in that trucking employees will be enjoying wage increases each of the next 3 years as a result of recent national bargaining with the Teamsters.

¹ See *Pyramid Motor Freight Corp. v. Ispass*, 330 U.S. 695; *Levinson v. Spector Motor Co.*, 330 U.S. 649; *Morris v. McComb*, 332 U.S. 422.

On February 1, 1964, they received an additional 10 cents per hour. They will get another 8 cents an hour in 1965, and another 10 cents in 1966.

An ATA industry employee earnings survey developed for the national negotiations disclosed that in 1963 all truckdrivers, including those in city and intercity service, enjoyed average weekly earnings of \$160.70 as compared with \$98.35 claimed for production workers by the U.S. Bureau of Labor Statistics. On the basis of hourly earnings truckdrivers received \$1.06 an hour above those for production workers.

Wage rates of more than \$3.10 per hours are prevalent in trucking today, and it is not uncommon for a truckdriver to earn \$10,000 per year. Moreover, he enjoys liberal paid vacations, holidays, health and welfare insurance, and has established pension rights among other emoluments. Since these compensations have come about despite the Motor Carrier Act exemption, it follows that the employee wage rates have been satisfactorily adjusted to offset the necessity of longer hours required by trucking's public service nature.

It also follows that these highly paid employees enjoy a much higher standard of living than those whose compensation meets the act's minimum wage of \$1.25 per hour. Therefore, it is obvious that there are no detrimental wage and hour conditions in trucking, and the present limited Motor Carrier Act exemption has not and does not impair the purpose of the act.

II. VITAL NEED FOR MOTOR CARRIER FLEXIBILITY PRECLUDES STANDARDIZED WORK-WEEK IN TRUCKING INDUSTRY

Congress, in establishing the Motor Carrier Act exemption and having refused to modify it through the years, rightly recognized that motor carriers are a public service industry entirely dependent upon the requirements of the public they serve. As such they have no control over "production." Motor carriers operate "round the clock." They do their work before and after the manufacturer or producer or seller or user opens or closes his establishment. By the very service nature of their operations, motor carriers' workloads are tied directly to the short turn or even seasonal rise or fall of the business of those they serve.

As an example, agricultural products and livestock are important sources of revenue to a large number of carriers. However, these carriers have no control over when or in what amounts such shipments must be moved. Therefore, they must be sufficiently flexible to cope with such movements. Another example may be found in shipments required by various services within the Defense Department. Motor carriers cannot always have advance information on such movements and must therefore be able to adapt readily to transportation needs. So it is with the delivery of raw materials or finished products. The time element or volume is publicly controlled.

Flexibility and availability of service have made the trucking industry a vital and significant servant of our Nation's commerce. In fact, it has been said that motor carriers have made much of our Nation's commerce possible.

As stated before, Congress has continued to recognize this public service aspect of motor carriers in maintaining the limited overtime exemption for motor carrier employees whose workweek cannot be made to fit a standard pattern.

III. COMPLEX WAGE STRUCTURES IN TRUCKING INDUSTRY NECESSITATE PRESENT OVERTIME EXEMPTION

The wage structure which as developed within the trucking industry is extremely complicated. To the uninitiated, it can seem hopelessly confusing.

Road drivers are for the most part paid on a mileage or trip basis. However, drivers' wage rates vary with different types, sizes, and weights of trucks. They change with the distance traveled, the terrain covered, the road speeds, the climate, and many other factors. (Please see excerpts from labor agreement—app. B.)

The industry's mileage rates are further complicated by involved minimum guarantees establishing a floor for driver earnings often well above the rate received if computed on a straight mileage basis.

For example, on "through runs" drivers are guaranteed 8 hours pay or mileage pay whichever is greater. On so-called "turnaround runs," the guarantees become quite involved. I again refer you to appendix B.

On "subsequent runs," in the same workday, the employee receives the established daily guarantee for the first run and additional graduated guarantees for all runs thereafter. These "subsequent run" guarantees vary from a minimum of 6 hours' pay to a maximum of an additional 8 hours' pay.

So-called "multiple leg runs," the most remunerative of the established guarantees, gives the men one-half the appropriate mileage guarantee for each leg of the operation regardless of the number of legs driven. An excerpt covering these multiple leg operations is also included in appendix B.

On top of all of this, road agreements provide a penalty rate for such things as: breakdown, pickup and delivery, layover, blockages, snow time, scale time, and fuel and check time, in addition to loading and unloading.

The problems posed in determining an hourly rate for overtime purposes can easily be seen by computing a fictitious hourly rate on the basis of the speed limits established in the area. For example, men driving single axle units in any of the 12 Central States receive, aside from their guarantees, a mileage rate of 10.25 cents a mile after including their cost-of-living increment. Assuming speed limits of 20 miles an hour, their rate would be \$2.05 an hour; at 30 miles per hour, their rate becomes \$3.07½; and at 40 miles per hour, they would be paid \$4.10 an hour. Those men driving double bottoms or combination units presently receive 11.650 cents a mile in the same area. At 20 miles per hour, their rate would be \$2.33 per hour; at 30 miles per hour, \$3.49½ an hour; and at 40 miles per hour, they would receive \$4.66 an hour. It must be noted that any given driver might drive two different types of equipment with different mileage rates on runs involving at least two or three different driving speeds in the same day. And these might be through runs, turnaround runs, subsequent runs or multiple-leg runs or combinations of them.

New England carriers have been paying their road employees under labor agreements on a trip rate basis. The pay hours for each trip were established long ago under the following formula: First 10 miles of a one-way trip, 1 hour; last 10 miles, 1 hour; with the remaining distance at 1 hour for each 20 miles. This mileage was computed in units of 10. But even these trip rates were not based on actual hours worked—a trip rate of 10 hours' pay might be given for a trip of only 7 hours driving time.

We have, in these examples, merely touched upon a few of the major guarantees existing today in trucking industry labor agreements. We believe, however, that they will illustrate the involved method of determining the pay rates in trucking and point up the impracticability of computing wages on the basis of time and one-half of a nonexistent hourly rate after 40 hours of work.

Most of these rates mentioned apply to intercity operations. It should be noted, however, that a single driver is often required to perform both local and intercity operations during one workweek. Under the proposed amendment to the act, a driver engaged in local operations 4 days a week and needed for an over-the-road operation involving overtime on the fifth day would be provided overtime pay. Extreme complications arise, however, as we have just demonstrated, when one attempts to calculate overtime wages on the basis of a nonexistent hourly rate. Certainly, a driver engaged during any part of his workweek in intercity operations should be exempt from the overtime provisions of the FLSA. Furthermore, we have shown that wages are sufficiently high in the trucking industry more than to compensate for that part of a drivers' workweek involved in what might be termed by some as overtime operations.

It should be reemphasized that the complicated wage structure of the trucking industry has been put into delicate balance over a period of years through free collective bargaining and would be completely disrupted if Congress were to reduce the Motor Carrier Act exemption.

IV. SERIOUS CONFUSION WOULD RESULT FROM FURTHER LIMITATION OF THE MOTOR CARRIER ACT EXEMPTION

Much of the phraseology of the proposed amendment can only lead to serious problems of definition as well as to confusion and industrial strife. Section 13(b) (1) of the Fair Labor Standards Act does not exempt an employee of a carrier from the act's overtime provisions unless, among other things, his activities as a driver, driver's helper, loader, or mechanic directly affect the safety of operation of motor carriers on the public highways in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act. The newly proposed amendment would grant exemption only to "employees employed during the *greater part* [emphasis supplied] of any workweek as a driver or

driver's helper * * *." Such a choice of words cannot only cause general confusion and new administrative problems but it clearly shows a disregard for the original intentions of Congress when it endorsed section 13(b) (1) and has repeatedly refused to change it. Previous attempts at stipulating the amount of an employee's time which must be devoted to work affecting safety have proved both impractical and infeasible. It has long been recognized through a series of important ICC and Court decisions that when the safety of operations is in question, it is not the actual percentage of an employee's time engaged in safety work which is of most importance but rather the nature of the work and the fact that it affects safety. In the *Levinson v. Spector Motor Co.* (330 U.S. 649) decision it was noted that " * * it is not a question of fundamental concern whether or not it is the larger or the smaller fraction of the employee's time that is devoted to safety work.

"It is the character of the activities rather than the proportion of either the employee's time or of his activities that determines the actual need for the Commission's power to establish reasonable requirements with respect to qualifications, maximum hours of service, safety of operation and equipment." In the same decision the wisdom of keeping partial-duty loaders, as well as full-duty loaders, whose work affects the safety of operations within the jurisdiction of the ICC's safety program was underscored. The amount of time so spent during any given workweek was deemed unimportant. In *Morris v. McComb* (332 U.S. 422) the Supreme Court determined that drivers and mechanics are entitled to the exemption when they spend as little as 3 to 4 percent of their total weekly service in interstate activities affecting safety of operation. It is significant that in the *Levinson v. Spector Motor Co.* decision the Court emphasized: "We have set forth the Commission's record of supervision over this field of safety of operation to demonstrate not only the extent to which the Commission serves Congress in safeguarding the public with respect to qualifications, maximum hours of service, safety of operation and equipment of interstate motor carriers, but to demonstrate the high degree of its competence in this specialized field which justifies reliance upon its findings, conclusions, and recommendations."

Further confusion necessarily arises from the words "over-the-road transport operations (as defined by the Secretary [of Labor])" which appear in the amendment under consideration. The trucking industry maintains that it is not only impractical but also impossible to define "over-the-road transport operations" without creating considerably more new problems than it would ever possibly solve. Neither the trucking industry nor the Teamsters' Union has deemed it helpful to attempt a definition in the past. Even the most recent national master labor agreement, completed in January, does not define the phrase. Regional and local agreements likewise do not define "over the road"; those which separate road and local drivers do so on a mileage basis, but there is great variation between localities. For example: the local driver radius for the States of North and South Carolina is 15 miles; for the city of Chicago, 25 miles; for the city of Philadelphia, 40 miles, and for the State of Iowa, 75 miles. In the New York-New Jersey metropolitan area the limits are within a local union's jurisdiction and are subject to changes. In central Pennsylvania local operations vary from employer to employer. In New England a driver is considered to be a road driver when he is paid on a trip rate basis for driving "terminal to terminal." All other drivers are deemed local drivers even though they drive the same distances.

To illustrate further the confusion involved in defining "over the road" we present the case of the peddle driver, who is engaged in activities characteristic of both local and road operations. He operates approximately within an area 15 to 150 miles distant from the home terminal, making pickups and/or deliveries and returning to the terminal on the same day. It is easy to see that his work cannot possibly conform to a rigid time schedule. It frequently requires 9, 10, or more hours to complete a routine run. His stop-and-go work is similar to that of a local driver; yet he works in the geographical area of many "road drivers."

Because of the volume of business, large companies are likely to classify their employees into groups according to the type of work they do. Small truck operators, on the other hand, cannot always hire a road driver, a local driver, a mechanic, and a loader. Their employees must perform several kinds of work. Every driver must be ready to load or unload, engage in local or road operations.

A six-State southeastern labor agreement provides that "the employer may utilize employees interchangeably in the various classifications."

Moreover, many factors require flexible interchange of drivers for both city and over-the-road operations. Any definition of "over the road" would have the unfortunate effect of freezing workers into unnecessary categories which would hinder both flexibility and efficiency of operations.

V. INDUSTRIAL STRIFE WOULD BE CREATED BY THIS AMENDMENT

Trucking is a highly unionized industry. Over 90 percent of the personnel in the exempt employee classifications are covered by collectively bargained labor agreements between the truck operators and the International Brotherhood of Teamsters or the International Association of Machinists. These labor organizations are among the five largest in the United States. They are known to be hard bargainers. To them can go much of the credit for the high pay of our industry's employees.

Since these unions are well organized, militant, and powerful, the employees they represent do not need the protection of the Fair Labor Standards Act. It is obvious that where the labor agreements do not require overtime pay after 40 hours, the union has recognized the impossibility or impracticability of insisting upon it. It is equally obvious that the unions have demanded and obtained other considerations for those they represent to more than offset any return available through statutory overtime.

Labor agreements, which do not contain overtime pay provisions, do grant such monetary benefits as high wage rates, and daily or weekly guarantees.

Is it conceivable that the powerful Teamsters Union would forgo overtime pay for its membership if it were to the latter's advantage and if it were feasible for the industry to pay it? Experience indicates otherwise. In fact, it should be noted that the Teamsters Union specifically requested, in testimony before the Labor Subcommittee of the Senate Committee on Labor and Public Welfare, May 13, 1959, that Congress retain the present exemption. (Please see app. C.)

Most of the employees under consideration here are covered by multiemployer labor agreements involving all trucking in the Nation, or a city, State, or area. They are, in the main, long-term agreements, effective for periods of from 3 to 6 years.

These agreements were not easily reached. Hard collective bargaining brought them about. The 11 Far Western States, in 1955 and again in 1958 were nearly paralyzed for 4 and 5 weeks, respectively, by strikes and lockouts in the process of bargaining in that area. Again, in 1959, the San Francisco area suffered a serious 4-week strike.

In those circumstances where labor and management have found it possible and practical to apply overtime pay after 40 hours, they have done so only after consideration of many factors. Most important was the development of a formula for an orderly stepdown in weekly hours, whereby employees, other than road drivers, would obtain a weekly guarantee to protect them from a reduction in pay, and their employer would have some 3 years to adjust his operations.

This is illustrated by the following clause in a recent 3-year labor agreement in the Central States:

"Ninety percent of the regular employees shall be guaranteed 40 hours work or pay. It is agreed that the standard 40-hour workweek need not apply to 10 percent of the regular employees with a minimum of one."

Here, then, is a clause which clearly recognizes the practical impossibility of effecting an across-the-board workweek reduction to a standard of 40 hours. It came about through hard collective bargaining without a strike or lockout.

We are convinced that neither labor nor management would want to renegotiate their long-term agreements for no real purpose except to engage in industrial strife. We do not believe that Congress would wish that to happen either. The peaceful relations now enjoyed by labor and management in the trucking industry must not be jeopardized by reducing the Motor Carrier Act exemption.

VI. THE PROPOSED AMENDMENT, BY RETAINING THE RAILROADS' EXEMPTION, DISCRIMINATES SEVERELY AGAINST THE TRUCKING INDUSTRY

We are unable to see any justification for reducing the longstanding, limited and well-defined exemption from the overtime provisions of the Fair Labor Standards Act afforded the motor carrier industry, while retaining, in its entirety, the exemption granted its chief competitors—the railways. Such treatment would contravene the national transportation policy of the Interstate Commerce Act which provided for “fair and impartial regulation of all modes of transportation * * * so administered as to recognize and preserve the inherent advantages of each.” “Fair and impartial regulation” would certainly require an overtime exemption for the motor carrier industry equal to that granted our railroad competitors. But we are not asking for equality. All we ask is that the limited motor carrier exemption be retained. H.R. 9824 would intensify the discrimination which the motor carriers presently suffer by reducing still further their limited exemption without reducing that of train service employees.

The original basis for the railroad exemption from the overtime provisions of the Fair Labor Standards Act was that they were already regulated under other labor legislation. Congressman Mead, speaking in favor of the proposed rail exemption at the time the original law was under consideration, said:

“For a long period of time the House has eliminated railroad workers from various acts which apply to industrial workers. This was done in the case of the Wagner Labor Relations Act, again in the passage of the Social Security Act, and prior to that in the passage of the National Recovery Act. The railroads and railroad industry have their own social and labor legislation. As you know, they have the Adamson Hours of Service Act, the Railroad Labor Act with its mediation and arbitration boards, and they have the Railroad Retirement Act. Therefore there is sufficient precedent for the committee to accept the amendment of the distinguished gentleman from Ohio [Mr. Crosser] and in doing so eliminate all railroad workers from the provisions of this bill.”

* * * * *

“True, some employees of the railroads are working for less than what I deem to be a satisfactory wage, but in view of the fact that already 90 percent of all railroad employees are organized and operated under collective-bargaining agreements, it will perhaps be only a short time—yes; a short time, and made shorter by the passage of this bill—until 100 percent of the railroad employees will be under collective-bargaining agreements. There is real democracy on the railroads, and this is the same democracy we hope this legislation will develop among the low-wage groups employed in private industry” (82 Congressional Record 1698, Dec. 16, 1937).

Congressman Mead's observations may have illustrated a valid basis in 1938 for allowing the railroads a much broader overtime exemption than motor carriers. However, it is obvious the situation has changed considerably since then, where today collective bargaining in our industry has likewise “advanced to a marked degree” and more than 90 percent of our employees now exempt under section 13(b)(1) are covered by collective-bargaining contracts with one of the strongest unions in the country.

Furthermore, it is distressing to note that the amendment now under consideration would continue the exemption for all employees of express companies, which are also motor carriers operating in direct competition with light package delivery truck operators.

We could argue that trucking, because of its peculiar operational problems, is even more in need of the exemption than its chief competitor, the railroads. But it is our firm view that all forms of transportation require this exemption. We ask fair and equal treatment.

VII. ABSOLUTELY NO ONE WOULD BE BENEFITED BY REDUCTION OF THE MOTOR CARRIER ACT EXEMPTION

No beneficial purpose would be accomplished by reduction of the exemption. A reduction would only serve to cause confusion and inconvenience or hardship to employees, employers, and the public. We believe that absolutely no one would gain by it.

Surely most employees would not gain by a further limitation of the existing overtime exemption. Rather than sustain the burden of costly overtime payments, employers may find it necessary to reduce an employee's workweek, thereby cutting his take-home pay. For example, instead of assigning a driver to five 9-hour runs in 1 workweek and paying him overtime after 40 hours, the employer would assign him only four—which would reduce his take-home pay considerably. This was the concern of the Teamsters Union when they appeared before Congress in May 1959 to oppose removal of the Motor Carrier Act exemption, saying: "By changing the present hours and overtime practices, wages of our members would be cut."

In the many situations where overtime is not within the control of the employer, his increased costs will naturally result in higher prices for the consuming public.

Grave administrative problems would also arise as a result of granting exemption only to over-the-road drivers and drivers' helpers—as defined by the Secretary. Policing the overtime provisions in trucking would require an extensive and specially trained force of Government inspectors at substantial cost to the public—and for no understandable purpose whatsoever.

CONCLUSION

We have briefly recited several fundamental reasons for retention of the limited Motor Carrier Act exemption which is now present in section 13(b)(1) of the Fair Labor Standards Act. We have shown that there is absolutely no justification for any change in this exemption. It is clear that the present Motor Carrier Act exemption does not impair the purpose of the Fair Labor Standards Act, which was to eliminate substandard conditions and wages in employment. In proof of this we have drawn attention to the consistently high earnings and fringe benefits of trucking employees. We have demonstrated that the vital need for motor carrier flexibility precludes a standardized workweek in the trucking industry. Furthermore, complex wage structures in the trucking industry necessitate that the present overtime exemption be maintained. Employees could face a reduction in take-home pay. Overtime payments would necessitate higher costs to shippers. And this would mean higher prices for the consumer since nearly all goods are shipped at least in part by truck. Serious industrial strife and confusion would result from further limitation of the Motor Carrier Act exemption since such changes would automatically reopen all of our industry's labor agreements. The proposed amendment, by retaining the railroads' exemption, would additionally discriminate severely against the trucking industry. Moreover, no one would be benefited by reduction of the Motor Carrier Act exemption. Rather, we have demonstrated that inconvenience, hardship, and chaos would result. Therefore, we respectfully and strongly urge this subcommittee to recommend that the Motor Carrier Act exemption be continued as it has been since 1938 when the Fair Labor Standards Act was enacted.

APPENDIX A
Average annual earnings of employees in trucking and selected industries¹ (1947-62)

ANNUAL EARNINGS

Year	Highway, freight ² transportation and warehousing	Local and highway passenger transportation	Railroads	Metal and metal products	Autos and auto equipment	Rubber products	All manufacturing	All private industry	All transportation
1947	\$3,063	\$2,833	\$3,216	\$2,972	\$3,143	\$3,085	\$2,793	\$2,501	\$3,145
1948	3,355	2,695	3,611	3,345	3,381	3,201	3,040	2,840	3,456
1949	3,245	2,987	3,706	3,587	3,618	3,228	3,092	2,906	3,556
1950	3,814	3,096	3,782	3,782	4,010	3,543	3,300	3,006	3,696
1951	3,934	3,255	4,164	4,221	4,221	3,837	3,606	3,255	3,994
1952	4,192	3,387	4,338	4,130	4,614	4,127	3,828	3,444	4,205
1953	4,513	3,515	4,418	4,370	4,952	4,268	4,049	3,632	4,398
1954	4,629	3,591	4,545	4,390	5,070	4,324	4,116	3,707	4,503
1955	4,885	3,727	4,701	4,545	5,445	4,755	4,351	3,876	4,697
1956	5,065	3,824	4,984	4,984	5,450	4,818	4,584	4,066	4,972
1957	5,261	3,927	5,421	5,217	5,703	5,126	4,781	4,238	5,243
1958	5,465	4,053	5,816	5,389	6,092	5,212	4,939	4,349	5,490
1959	5,810	4,175	6,058	5,721	6,359	5,561	5,215	4,570	5,765
1960	5,957	4,223	6,228	6,558	6,558	5,561	5,342	4,712	5,928
1961	6,123	4,314	6,388	6,021	7,007	5,723	5,509	4,837	6,085
1962	6,388	4,437	6,596	6,243	7,070	5,936	5,715	5,014	6,328

"REAL" EARNINGS³

1957	5,368	4,007	5,532	5,323	5,819	5,231	4,879	4,324	5,350
1958	5,432	4,029	5,781	5,357	6,056	5,184	4,910	4,323	5,437
1959	5,724	4,113	5,968	5,636	6,265	5,479	5,138	4,502	5,680
1960	5,778	4,096	6,041	5,653	6,361	5,397	5,181	4,568	5,750
1961	5,876	4,140	6,131	5,778	6,245	5,492	5,287	4,642	5,840
1962	6,061	4,210	6,258	5,923	6,708	5,632	5,422	4,757	6,004

¹ Latest available data compiled by the industrial relations department of ATA from U.S. Department of Commerce data. Survey of Current Business, July 1963. Earnings refer to employees' income consisting of wages and salaries. Excluded are supplements such as employer contributions for public and private pension, health, and welfare funds. Employees refer to persons in all occupations on payrolls, including salaried executives. Excluded are proprietors and self-employed persons.

² Local and highway for-hire trucking.
³ Real earnings are computed by devaluating the yearly annual earnings on the basis of the Consumer Price Index.

APPENDIX B

[Extract, Central States supplement to national agreement]

MINIMUM GUARANTEES

The guarantees provided for by this agreement for each of the various runs described shall be the minimum pay for the performance of each of such described runs.

The present compensation for agreed-upon runs shall not be disturbed except to be increased in accordance with the increases agreed upon in the 1964 negotiations. It is understood, however, that where the mileage rate is greater than any guarantee, such mileage rate shall prevail. It is further mutually agreed that where disputes regarding bona fide agreed runs are made, such disputes shall be referred to the joint area committee for consideration and final decision, with the intent of substantiating and protecting all such established agreed runs.

MILEAGE AND HOURLY RATES

The rate of pay per mile for drivers on all runs other than peddle runs shall be as follows:

	<i>Per mile (cents)</i>
Single axle units:	
Effective Feb. 1, 1964-----	10.25
Effective Feb. 1, 1965-----	10.50
Effective Feb. 1, 1966-----	10.75
Tandem axle units (4 axles):	
Effective Feb. 1, 1964-----	10.50
Effective Feb. 1, 1965-----	10.75
Effective Feb. 1, 1966-----	11.00
Tandem axle units (5 axles):	
Effective Feb. 1, 1964-----	10.625
Effective Feb. 1, 1965-----	10.875
Effective Feb. 1, 1966-----	11.125
Tandem axle units carrying a cargo of 40,000 pounds or more and jeeps:	
Effective Feb. 1, 1964-----	10.75
Effective Feb. 1, 1965-----	11.00
Effective Feb. 1, 1966-----	11.25
Double-bottom units or a combination of vehicles or units:	
Effective Feb. 1, 1964-----	11.650
Effective Feb. 1, 1965-----	11.900
Effective Feb. 1, 1966-----	12.150

Plus the following additional allowances:

(a) When runs of tandem axle units and jeeps carrying a cargo of 40,000 pounds or more are paid on an hourly guaranteed basis, the minimum hourly guarantee shall be:

	<i>Per hour</i>
Effective Feb. 1, 1964-----	\$3.14
Effective Feb. 1, 1965-----	3.22
Effective Feb. 1, 1966-----	3.32

(b) The rate for double bottoms or combinations carrying a cargo of 40,000 pounds or over shall in no event be less than the mileage or hourly rates or guarantees for tandem axle units carrying the same cargo weight.

(c) Where regular highway semis are used for double-bottom purpose of delivering or transporting freight other than steel or perishable commodities in which case the rate shall be 13.515 cents per mile effective February 1, 1964; 13.765 cents per mile effective February 1, 1965; 14.015 cents per mile effective February 1, 1966.

If two-man operation is involved each man shall receive one-half of such rate.

(d) Time spent in making pickups and/or deliveries at points en route and intermediate terminals and time lost through delay in pickups and/or deliveries at intermediate terminals shall be paid for at the minimum rates of:

	<i>Per hour</i>
Effective Feb. 1, 1964-----	\$3.07
Effective Feb. 1, 1965-----	3.15
Effective Feb. 1, 1966-----	3.25

Mileage pay shall be allowed for driving time in making pickups and/or deliveries at off-line points en route.

(e) When warheads, live ammunition, and similar items excluded from regular tariffs are carried, the effective mileage and hourly rates shall be increased one-half cent per mile in the mileage rate and 15 cents on the hourly rate. Such increases are to apply only on driving time.

Penalty rates shall apply to all types of ammunition, bombs, bullets, cannisters, cartridges, charges, clusters, dynamite, projectiles, rockets, shells, shot, shrapnel, warheads, powder, and flake TNT, that carry the term "fixed." (The penalty shall not apply to small arms ammunition carrying the term "fixed.")

TURNAROUND RUNS

On turnaround runs within a 60-mile radius from the home terminal and where the roundtrip does not exceed 120 miles, drivers shall be guaranteed a minimum of 6 hours' pay. (EDITOR'S NOTE.—Effective February 1, 1964, through January 31, 1965, the hourly rate on the guarantee shall be \$2.99, effective February 1, 1965, through March 1, 1967, \$3.02 per hour.) The rate for time worked other than driving shall be the regular hourly rate of pay. However, such drivers shall receive an 8-hour guarantee for such short turnaround, or where the driver receives only one such short turnaround runs.

On turnaround runs exceeding a 60-mile radius or 120-mile round trip, but less than a 190-mile round trip, drivers shall be guaranteed a minimum of 8 hours' pay in the first 10-hour period, plus pay for all additional time at the above applicable rates per hour. The 10-hour period shall include 1-hour mealtime to be taken at the point farthest away from home terminal. The 2-hour allowance to obtain where driver is effectively released from duty.

On turnaround runs of 190 miles or more, round trip, the above 2-hour free time allowance shall not apply, but the driver may be requested to take his lunch period for not to exceed 1 hour, and with no additional pay, at the point farthest away from home terminal.

The above guarantees are for miles driven only. Where pay for miles driven only, would be higher than the guarantee, the mileage pay will prevail. Additional compensation at the above applicable rate per hour shall be paid for all time spent in performing work other than driving.

THROUGH RUNS

On all through runs of 1 up to 160 miles there shall be a minimum guarantee of 6 hours' pay for miles driven only, and additional compensation for all time spent in performing work other than driving at the above applicable hourly rates. The minimum daily guarantee for all work performed shall be 8 hours' pay. By "all work performed" is meant driving time, pickup and/or delivery work and/or hookup and switch time.

SUBSEQUENT RUNS

Where employee accomplishes two or more turnaround runs in the same day, whether of the same or different type, he shall receive the established guarantee provided for by this agreement, for the first run. In respect to the subsequent run, if the same is of more than 4 hours and less than 6 hours, he shall receive a second guarantee of 6 hours on such run. If of less than a 4-hour run, he shall receive the hourly or mileage pay called for by the operation. In determining whether a subsequent run is less than or more than 4 hours, all time spent by the driver on such run shall be included.

If such second or third run is of more than 6 hours' work, he shall receive the 8-hour guarantee on each of such runs over 6 hours. Where payment on the mileage rate will pay more than the hourly rate, the mileage rate shall prevail. The above guarantees are for miles driven only.

The foregoing shall not affect present arrangements where the employer now pays two or more guarantees where employee performs two or more runs irrespective of length of time involved.

MULTIPLE-LEG RUNS

The multiple-leg run is defined as a run which is not provided for in articles 26, 27, 28, and 29, and on which a driver picks up or drops more than one trailer and returns to his home terminal in a tour of duty. On multiple-leg operations, the driver shall receive for each leg of such operation one-half of the appropriate hourly or mileage guarantee, whichever ever is the greater, for miles driven only. All work done en route shall be paid for in addition to the guarantee.

APPENDIX C

[Excerpt from International Brotherhood of Teamsters statement before Senate Subcommittee on Labor, May 13, 1959]

"Our union specifically wishes to record our opposition to section 9(b) of S. 1046 which, if enacted, would amend section 13(b)(1) of the Fair Labor Standards Act and thereby eliminate the present overtime exemptions for employees in the trucking industry. Enactment of this section would establish one standard for the trucking industry and a much more liberal standard for the railroads and other competing forms of transportation. We do not believe it to be just or equitable to hobble one type of carrier and leave its competitors free to operate under much more favorable condition. * * *

"Teamsters local unions throughout the country, through free collective bargaining and with due consideration to basic economic and competitive factors, have effectively reduced hours of work in this country. We shall continue to secure shorter hours and provide for overtime pay, consistent with the ability of the industry to provide such conditions without impairing its competitive vitality."

STATEMENT BY EUGENE A. HOFFMAN, DIRECTOR OF PERSONNEL, WEYERHAEUSER CO., TACOMA, WASH.

Mr. Chairman and members of the committee, my name is Eugene A. Hoffman. I am director of personnel for Weyerhaeuser Co. in Tacoma, Wash. I would like to present the views of Weyerhaeuser Co. regarding H.R. 9802, the Overtime Penalty Pay Act of 1964.

We have asked for time to comment because the conditions of this proposal could have considerable impact on our operations. Additionally, it is our belief that this legislation will not satisfy the announced intent—the reduction of unemployment. We are convinced that the provisions of this measure, if applied to our industry, could substantially impair our competitive position by raising production costs without materially reducing unemployment in areas where our plants are located.

To illustrate the reasons for this opinion, let me briefly outline our company structure and operational activities. With this background, I can explain in greater detail how requirements to increase overtime pay rates would damage our competitive ability.

Weyerhaeuser is a forest products company. Our manufacturing operations depend primarily on the resources from company tree farmlands located principally in the States of Washington, Oregon, California, North Carolina, Mississippi, and Alabama. Our products include softwood lumber, softwood plywood, hardwood products, laminated and fabricated wood products, manufactured panels, pulp and paperboard, printing, writing and industrial papers, shipping containers, milk cartons, folding cartons, and other products. Manufacturing facilities are located in 27 different States and include 30 lumber, plywood and other wood products plants; 16 pulp, paperboard and papermills, 50 converting plants for shipping containers, milk cartons, folding cartons, and bark fiber and other products.

Approximately 22,000 of our hourly employees are subject to union agreements. We currently maintain labor contracts with 130 bargaining groups from 35 different international unions. The great majority of our hourly employees occupy skilled or semiskilled job classifications. The skilled workmen required in most of these operations are currently in short supply.

In order to determine accurately the effects of the proposed increase in base rates for overtime pay we have consulted each of our operating divisions. Specifically, we asked for precise information on why overtime is usually worked, the classification of employees generally required for overtime, and whether increasing premium rates from time and one-half to double time would in any way increase employment.

We asked each of our location managers to indicate what effect would occur from raising premium to double time. They all indicated that premium rates would only increase operating costs without increasing employment opportunities. We find that practically all overtime performed in our operations requires skilled personnel—who, as I have stated earlier, are already in short supply. The major reasons cited for overtime work performed by these skilled personnel include weather conditions, temporary peak production requirements to meet seasonal demands, maintenance, emergency repairs, balancing our production, rotating shifts in continuous run operations as well as overtime for vacation relief.

Our logging and wood construction operations are constantly subject to the dictates of the weather. Extreme conditions in both winter and summer can halt work and require overtime to make up lost time. In most plants, regular maintenance must be accomplished when we are not in operation. This requires overtime work for skilled maintenance personnel. In many continuous run operations such as pulp and paperboard mills, employees work rotating shifts. In these plants, Sunday is normally considered an overtime day as such. This means employees receive overtime pay for Sundays when this day falls within the scheduled 5-day 40-hour workweek. To the employer this means that one-seventh of the workweek is automatically an overtime day. Forced premium rate increases would immediately boost production costs with no possible inducement for the employer to add more people.

Our operation managers agree unanimously that increases in premium rates would in no way solve the problems that now require overtime work—nor would there be any conceivable reason to increase the working force.

I feel reasonably sure that the threat of such an added cost factor to our operations would work in reverse fashion. By this I mean we would be forced to seek methods to automate more operations, reducing the number of existing employees to offset increased premium time costs that cannot be avoided in the forest products industry.

We are currently engaged in a severe competitive battle with foreign producers of pulp, paper, lumber, and other materials we manufacture. To use one example, Canadian lumber imports to the United States amounted to about 7 percent of the total in 1951. Today, Canadian lumber producers have more than 20 percent of the entire U.S. market. American lumber producers lost those markets because higher resource, labor, production, and shipping costs forced the price of our product up. Further forced cost increases make it more difficult to meet this kind of competition. In this country we find new materials like plastics and the light metals making significant inroads on markets once almost exclusively served by the forest products industry.

I would like to cite one further and potentially disturbing factor which the provisions of this proposal might create. As I have explained, there are 35 different international labor unions, and 130 individual bargaining units, and a vast range of work skills and job classifications within Weyerhaeuser Co. alone. The industry totals are far greater. With such a variety of classifications, variations in job requirements in different operations, as well as in the numerous union jurisdictions, it is entirely possible that different union groups representing employees of the same company could be in the position of vying against one another for the increased premium rates. As a company we might also find ourselves in the position of being forced to pay mandatory double time premiums to one segment of our working force while others on the same plantsite would not be entitled to this advantage.

It is obvious that if one company location or industry were chosen as one for the double time premium, other operations at the same location would be drastically affected by this action. As I have said, the majority of the overtime work now is required because of special needs for skilled employees who are not available in adequate numbers. If one portion of a company or one industry in an area were required to pay double time for overtime, those skilled employees would gravitate to that company and ultimately force the others in the area to also pay double time for overtime whether they were chosen as an industry

subject to the double time for overtime action or not. The practical effect of applying this principle to any substantial segment of American industry is in fact to require double time for overtime for all industries.

Even if we agreed with the principle of double time for overtime in certain situations, which we do not, we think the method provided in this bill of establishing a so-called tripartite committee is bad as a matter of principle. Management has had too many unfortunate experiences in the past with so-called tripartite committees with so-called neutral public members. The logic of picking someone not elected by the people, to make major industrial decisions is unsound. We think that this approach is an abdication of congressional authority. If this kind of a decision is to be made, it ought to be made by Congress and not by a piecemeal act of a third party not representing union members, management, or the electorate. It is our view that in lawmaking, Congress represents the public interest and no one else.

For the reasons I have cited, Mr. Chairman, we are firmly convinced that mandatory increases in premium rates would not produce increased employment in the Weyerhaeuser Co. operations or in industry generally. We are convinced that passage of this bill will increase costs, force further mechanization or reduce employment because of increased costs. The net result would be directly contrary to the announced intent.

Thank you for the opportunity to appear.

STATEMENT OF H. C. STACKPOLE, PRESIDENT, STACKPOLE CARBON CO.,
ST. MARYS, PA.

As president of the Stackpole Carbon Co. which employs approximately 3,000 people in our plants in St. Marys, Johnsonburg, and Kane, Pa., I wish to state that we manufacture component parts for the electronics industry and for the electrical and automotive industries. Our component parts are of vital importance to the manufacturers of the equipment in which our products form an essential and integral part.

The position of our company and some of our competitors, both foreign and domestic, is distinguishable from the manufacturer who sells directly to the consumer. We must bear the added burden of supplying necessary parts to the manufacturer who, in turn, sells completed units to the consumer. To enable our manufacturer customers to satisfy the ultimate consumer, service with speed and skill is imperative, in fact it is our life's blood. This must be accomplished at a minimum of cost if present employment is to be maintained.

We have certain continuous operations which operate day and night, such as baking furnaces and graphitizing furnaces, three 8-hour shifts, 24 hours per day including Sundays and holidays. Under no circumstances could we employ additional help to operate these continuous production facilities.

We are a large job order shop and are constantly changing our products to meet the ever-changing specifications of our customers requirements.

Orders fluctuate in a manner that necessitates a constant upheaval and displacement of the work force with resulting disposition in accordance with our labor agreement. Training is continuous and poses a sufficient problem without being further compounded by a requirement to train additional workers who at best would have an insufficient workweek to reply upon in their quest to support their families.

Necessary overtime work requires skilled operators. New employees who pass their probationary period are entitled to share overtime equally with veteran skilled operators. This would result in less efficiency and in the end would mean loss of orders and more unemployment.

It is indisputable that many of our labor problems have their roots in overtime. There is already great incentive for industry to eliminate overtime when it is at all feasible.

The addition of further overtime penalties will have the effect of rejecting business rather than disrupt the quality of our products. We would prefer to suffer the resulting inability to employ the unemployed, rather than to risk the unemployment of a work force that numbers over 440 employees with more than 25 years of continuous service.

Penalty overtime in our opinion is a device that will drive our business to Japan and the European Common Market faster than it is already being driven by such legislation as the Walsh-Healy and Davis-Bacon Acts.

At this particular time in history, we need as much encouragement as we can receive in order to grow economically and provide more jobs.

In our opinion the imposition of a roadblock, such as is proposed by H.R. 9082, cannot be categorized as encouragement for economic growth. Economic growth alone is the major answer to unemployment, and legislation that does not serve to aid this growth should not become law.

UNION CITY, IND., *March 3, 1964.*

Representative ELMER J. HOLLAND,
House Office Building,
Washington, D.C.

DEAR SIR: We are a relatively small manufacturer of truck bodies. Our production is on an assembly line basis and the hiring of additional employees to replace unavoidable overtime is unrealistic in this type of operation. A higher overtime premium would mean greater labor costs and with labor representing approximately 45 percent of our cost per unit it can easily be seen that we would have to rule out any production on overtime. This, of course, would be disastrous.

Even if it were practical to replace overtime hours with additional employees, we, like many other manufacturers, are located in a small community where additional manpower is not readily available.

We feel that overtime hours and overtime premiums are strictly a matter that should be left to collective bargaining and that the passage of H.R. 9802 would be a crucial blow to our company and to the thousands of other companies in the Nation. We urge you to see that this bill does not become law.

UNION CITY BODY COMPANY, INC.,
S. L. WOODWARD, *Comptroller.*

SOABAR Co.,
Philadelphia, Pa., March 3, 1964.

Hon. ELMER J. HOLLAND,
U.S. House of Representatives,
Cannon House Office Building, Washington, D.C.

MY DEAR MR. HOLLAND: Your letter informing me that it would not be possible to provide time for a personal appearance on H.R. 9802 bill was received with regrets. We are aware of the number of requests your committee has received concerning the penalty overtime bill and fully realize that from a standpoint of time and economics everyone that requested personal hearings could not be accommodated. The statement you requested is as follows (25 copies of our statement are enclosed):

Continuing unemployment problems should concern everyone and a strenuous effort must be put toward alleviating unemployment. It is our opinion that the penalty overtime bill H.R. 9802 will increase manufacturing costs and consumer prices, and this will eventually increase the problem of unemployment.

There are so many reasons against the penalty overtime bill that it is impossible to list all of them. Some of the major reasons that this bill should not become a law are listed below:

(1) A growing company, such as Soabar, requiring skilled employees, cannot continue to grow without working a certain amount of overtime because of the difficulty in obtaining skilled employees. Many companies, such as ours, are specialized and it is impossible to hire skilled help; consequently, we must train our employees on the job. It requires 1 to 3 years, depending on the job, to train a worker.

(2) Many activities within a company require a small work force and fluctuation in business is handled through overtime. Many jobs require one employee. Hiring additional employees would most certainly add to the cost of doing business and the additional employee would only be needed a small percentage of the time. This is especially true of the small companies and will put them in an unfair position within an industry when compared to their larger competitors.

(3) Fluctuations in demand, rush orders, mechanical breakdowns, absenteeism, and other unforeseen problems must be handled with overtime work.

(4) A lot has been written about the spreading of the workload through the use of a second and third shift. This sounds very good but if you have tried to build up a night force composed of a large number of women and skilled employees, you will find that in some areas it is practically impossible.

(5) The thought of penalty overtime for various industries and companies, and to exempt other industries and companies, is ridiculous. A company exempt from penalty overtime would be forced into it very soon in order to hire and hold qualified employees. Workers would naturally move to industries and companies paying double overtime. Labor-management relationships would suffer, turnover would be increased, and the entire problem of maintaining a work force would become practically impossible.

There are many more realistic problems that would arise if the penalty overtime bill is passed, and the benefit for correcting the unemployment problem if the bill is passed is only a theory. Again I wish to emphasize that the passing of this bill would create additional costs and it would eliminate us from certain markets.

Sincerely,

LEONARD G. SHANNON,
Production Manager.

BLUE RIDGE STONE CORP.,
Roanoke, Va., March 3, 1964.

HON. ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR SIR: I am writing you in opposition to H.R. 9802, double time for overtime.

Our company operates a number of quarrying and crushing stone production plants in Virginia. This business is very seasonable and a large amount of overtime is involved during the production season. It is very impractical to operate a quarrying and crushing plant two shifts due to the hazards of drilling, blasting, operation of heavy power shovels, hauling equipment, and crushers except during the daylight hours.

Due to heavy investments in equipment it would be extremely expensive (probably unprofitable) to work only 40 hours per week during the relatively short season.

The addition of more men would not increase production unless our plants were rebuilt on a much larger scale, and then probably automation would prevent the use of additional men. The final results would be curtailed production of our product, less pay for employees, and higher costs to the highway departments, both Federal and State, homebuilders, railroads, and all phases of construction using crushed stone, and an extremely curtailed profit for our company.

Very truly yours,

ABNEY BOXLEY, *President.*

FRANK BANCROFT CO., INC.,
Dearborn, Mich., February 21, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
U.S. House of Representatives, Washington, D.C.

HONORABLE SIR: Thank you for the opportunity of sending a written statement to you and your committee as suggested in your letter of February 18, 1964. My objections to bill H.R. 9802 are as follows:

I think our Founding Fathers who formed this Republic must be quite dizzy turning over in their graves as modern lawmakers try to change our Government slowly but surely to a socialistic form. They tried to put checks into the system to forestall this sort of thing but you are gradually overcoming them and lulling us to sleep. I don't think the Federal Government should transgress further into the operation of private business.

I manage a small grinding wheel company and one of our big selling points is fast delivery of our products. Our business is a job-shop operation, since all wheels are made on order, therefore we cannot stock ahead. (This is somewhat true of the entire grinding wheel industry.) When we get jammed up with too many orders to fill on schedule then we have to work overtime to catch up. This is not a regular thing, but may be quite a bit at certain times and none at other times. If we hire more men at these peak periods and lay them off in slack periods this will add considerably to our unemployment compensation payments and certainly won't help the unemployment situation much. While if we are allowed to work overtime for these periods without paying ex-

orbitant premiums, we gain in size and more steady jobs become available. To bear this out, last year we started to work too much overtime and in the course of the year we hired five new men to alleviate the situation and they now have permanent jobs with us. In our plant this is a 16½-percent increase in workmen. Don't you think this is a much saner way to face our problems?

We pay our men the highest rate in the grinding wheel industry due to our location near the large automobile industries. If you keep forcing our wages higher you will have another Appalachian district on your hands as I can remember how the coal miners priced themselves out of work. Automation is costly to install and costly to maintain but if the price of labor becomes too high then we have to look to other means to stay competitive.

Let's look at it from labor's point of view for a moment. Sure they will take double time if it is forced on them, but I have been asked by several of our men if we could afford this sort of thing. They realize that just because we are in business we don't have a "money tree" that we can always pluck to get these demands. The point I want to make here is that although the big union organizations may state that they want this, doesn't mean that the rank and file working in the plants are actually in agreement with them. Don't lose touch with the individual as you ponder these problems.

In conclusion let me state that for the above reasons I think this bill H.R. 9802 would defeat your purpose and add to a price spiral that could get out of control.

Respectfully yours,

A. R. KNAUER,
Vice President, General Manager.

AVONDALE SHIPYARDS, INC.,
New Orleans, La., March 2, 1964.

Representative ELMER J. HOLLAND,
House Education and Labor Committee,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN HOLLAND: The Overtime Penalty Act proposed by H.R. 9802 would be very detrimental to the economy of this country. We feel, as the operator of a medium-sized shipyard, that this bill is bad for the following reasons:

1. The approach to the problem is wrong and could not be cured by any type of amendment.
2. The increased cost of overtime would serve to reduce the number of man-hours of labor that industry would find it profitable to use.
3. Would raise the cost of production and therefore damage industry's ability to compete in the world market.
4. The bill places the power in the Secretary of Labor to manage the affairs of an employer and takes it away from the employer.
5. No overtime spent today is unavoidable and means would be made to lessen overtime if the present bill is passed.
6. Higher overtime pay will increase labor cost but will not mean hiring unemployed people.
7. In many businesses overtime is a seasonal thing.
8. In specialized industries such as ours untrained men are more accident prone.

We strongly urge the defeat of this ill considered piece of legislation.

Sincerely,

HENRY Z. CARTER, *President.*

COLD SPRING BLEACHERY,
YARDLEY, PA., *March 9, 1964.*

HON. ELMER J. HOLLAND,
Chairman, Special Subcommittee, House Education and Labor Committee, House Office Building, Washington, D.C.

DEAR REPRESENTATIVE HOLLAND: We are a small cotton textile dyeing, bleaching, and finishing company.

The proposal to require double pay for overtime is giving us great concern. Most of our employees work overtime—but that overtime is unpredictable and cannot be regularly scheduled in most of our operations. In such instances, we would not be able to obtain "standby" help, would accordingly be required to pay double time for overtime hours, and, in so doing, add to our cost per yard.

We presently pay time and a half for overtime over 8 hours per day and, of course, 40 hours per week, as well as for any and all hours worked on Saturday. We are in very highly competitive industry, and a great many of our employees stay with us only because they can now get overtime and have planned annual budgets on income derived from wages augmented by the overtime pay they receive. We feel we cannot afford double overtime, and to be forced to make such payment would jeopardize the livelihood of the corporation and our employees.

It is our studied opinion that passage of double overtime legislation will increase our costs and place us at an even greater handicap with our foreign competition.

We urge that your committee recommend rejection of the proposal which would impose such penalties.

Very truly yours,

C. W. MILLS, *Treasurer.*

MATTCO,

Houston, Tex., February 24, 1964.

DEAR SIR: I want to call your attention to the "double time bill" Lyndon Johnson is proposing. I think a vote against it is in order for the following reasons:

We are in the machine business, and our men are accustomed to working some overtime. We work one shift 8 hours, and on Saturday 4 hours, which is overtime. We pay the extra at time and a half. The double time will be cut off if passed. Most of the time, we do not particularly need the extra work. Even if the men were available, it would not be practical to put a few men on the second shift. Supervision personnel is impossible to get, and generally, if a man is good enough to be a supervisor, he would rather have a day job with no responsibilities. Also, with only a few men on second shift, supervision is too expensive.

In the Houston Chronicle, of the past Sunday, there were 12 pages of help wanted ads, from professional men to common labor. Every skill I know was named in the want ads. These skills are not available in this area, and I travel a lot and find the same condition all over. I believe if a skilled worker is not working, he is either an alcoholic, or is drawing some sort of relief, or is plain lazy.

Lyndon Johnson says, "Train more men." It is impractical in this line of business, because of the high price per hour, to teach the man, who probably will leave shortly because he thinks he should be paid full machinist's salary in a short few months.

V. R. Mattingly, President; A. C. Chatfield, Vice President; L. A. Lenert, Vice President; John Preston, General Screw Products; G. S. Mattingly, Secretary-Treasurer; A. M. Wendt, Chief Engineer; L. V. Plumlee, Superintendent; Marceil Esquivio, Bookkeeping Service; Glenn Kennedy, Shop Foreman; Charles Esquivio, Jr., Certified Public Accountant; R. Garcia, Office Manager; James Farmer, Independent Accountant.

STATEMENT BY B. T. KINSEY, JR., PRESIDENT, TITMUS OPTICAL CO., INC.,¹
PETERSBURG, VA.

Gentlemen, the avowed purpose of H.R. 9802 is to create more jobs and thereby decrease unemployment. All businessmen as well as other citizens are aware of the serious unemployment problem and desire to cooperate with the President and the Congress in solving this problem. The main objection to H.R. 9802 is that it will actually result in less jobs and more unemployment because it increases wages without increasing productivity.

Any increase in wages without a corresponding increase in productivity is unjustified and uneconomical. President Kennedy recognized this fact and stated it publicly on several occasions. Experience has shown that increases

¹Titmus Optical Co., Inc., is the largest independent manufacturer of ophthalmic lenses in the United States. The company also manufactures ophthalmic frames, sunwear, protective eyewear, and ophthalmic instruments. At the present time Titmus Optical Co. has more than 1,000 employees and is the second largest employer in the city of Petersburg, Va.

in the minimum wage, social security, unemployment taxes, and all other fringe benefits always result in less jobs and more unemployment.

The way to create jobs is to give manufacturers more incentive and not to increase their cost of production.

STATEMENT OF HOWARD JENSEN, VICE PRESIDENT AND GENERAL COUNSEL, LONE STAR STEEL CO.

Lone Star Steel Co. requested that the chairman of the Select Subcommittee on Labor, Hon. Elmer Holland, grant time for a representative of the company to appear and testify in opposition to H.R. 9802, one of the double-time-for-overtime bills. We were advised, however, that time would not be available for oral testimony, but that this company could submit a written statement for the record. This is that statement.

Lone Star Steel Co., which shall hereafter be called Lone Star for convenience, is a relatively young company, even for Texas, and certainly small for the steel industry, having assets of considerably less than \$150 million and sales less than \$75 million. Although it was incorporated in Texas in 1942, its business life may be said to date, for practical purposes, from 1948, when it purchased from the War Assets Administration a blast furnace and related facilities in northeast Texas, together with coal mines in Oklahoma. In 1950, Lone Star built a foundry to produce cast iron pressure pipe.

In 1953, the company completed an expansion program which made it an intergrated steel company for the first time. The new facilities included open hearth furnaces and auxiliary departments, rolling mills, and two electric weld pipe mills. Other facilities have since been added, so that now Lone Star's end products include cast iron pressure pipe, oil well casing, line pipe, tubing, standard pipe, and large diameter spirally welded pipe, as well as concrete reinforcing bars.

The Lone Star plant is located in northeast Texas about 150 miles east of Dallas, near the Texas-Louisiana boundary. The nearest city of even moderate size is Longview, some 30-odd miles to the south, with a population of approximately 40,000. The area around the Lone Star mill is predominantly rural with many small towns. Lone Star has been the largest employer of labor in the area for over a decade.

Prior to the advent of Lone Star, the economy of the plant area was based upon farming, livestock, and timber. The land is sand and clay and the area has never been well suited to agriculture. It was one of the poorer sections of Texas, with substantially lower income per capita than the average for Texas.

The Lone Star plant has made a tremendous economic impact upon an area of some 8 to 10 counties. The company's annual payroll has grown from about \$12 million in 1953 to about \$31 million in 1962. Although total employment has varied, Lone Star now has a total of about 3,700 employees. It has approximately 18,000 shareholders scattered over the United States and in several foreign countries.

The health and well-being of Lone Star is important. It is important to its shareholders. It is important to its management. It is important to its employees. It is important to every man, woman, and child in northeast Texas. We think Lone Star's economic health and well-being would be adversely affected by H.R. 9802.

Mr. Wirtz has advanced the proposition that the enactment of H.R. 9802 would result in the creation of new jobs. We do not agree, but we leave to others the task of painting the broader economic picture. The Congress should know and realize, however, how small business can be caught in this artificial and non-productive pay raise trap. The purpose of this statement is to point out some serious questions which inhere in the proposal and its effect upon Lone Star and other companies similarly situated.

Although the press reports have been that the administration proposal (H.R. 9802) was for double time for overtime, the bill itself does not limit premium rates to twice the standard rate. It specifically says that the Secretary of Labor may specify a workweek beyond which the overtime rate shall be "not less than" twice the standard rate. It certainly does not limit the Secretary to a mere doubling of regular hourly pay. He could order triple or quadruple penalty pay. We must admit that we have been influenced by the publicity into terming the bill a double time bill, as has most of the rest of the country.

The proposed legislation first enjoins the Secretary to conduct a survey to estimate the extent and amount of regular and substantial overtime in the industries subject to the Fair Labor Standards Act. Presumably these surveys are to be made by regular personnel of the Department of Labor and would be submitted along with "statistical information and such data as he (the Secretary) may have available" to tripartite committees appointed for each separate industry.

Who appoints these tripartite committees? The Secretary of Labor makes the appointments, after deciding that the amount of overtime worked in the particular industry requires a committee. In other words, the Secretary makes the preliminary finding and then appoints the tribunal which is charged with the duty of determining the correctness of his preliminary determination. It is respectfully submitted that this procedure virtually insures that the Secretary will alone decide questions of overtime pay which may cost industry hundreds of millions of dollars. We in Lone Star know that such determinations can cost our company hundreds of thousands of dollars and have a crippling effect on our already weakened ability to compete with foreign steel producers. Other provisions of the bill giving the Secretary authority to disregard committee recommendations and convene a new committee provide absolute insurance that the will of the Secretary will prevail.

We are concerned that small producers in particular industries will not be represented on the industry committee for their particular industry. The bill leaves this to the Secretary. Without representation on the committee, small producers can be ruinously affected by the committee's determination. On the other hand, it can be, and undoubtedly has been, argued that the bill permits the industry committee to recommend reasonable classifications within the industry. This is true, but the bill provides no guidelines as to what would amount to a reasonable classification, or what criteria would suffice to differentiate between a giant of the steel industry and Lone Star. In this connection, it is interesting to note that existing law, in providing for minimum wage orders for Puerto Rico and the Virgin Islands, provides for similar industry committees. It gives the industry committee power to recommend reasonable classifications within the industry, but says that no such classification shall give a competitive advantage to any group in the industry, and no such classification shall be made on a regional basis. H.R. 9802 imposes no limitations on the classification process. While we do not necessarily agree with existing law on this subject, particularly as it bars regional classification, we must say that it at least tells us something fairly definite. The proposed bill does not and is gravely deficient by reason of this omission.

The bill provides for a maximum hour penalty pay order by the Secretary, if he finds that committee proposed limitations will "increase employment opportunities without unduly increasing costs." Of course, he probably has already made such a finding before convening the committee, since the bill states that "upon petition or upon his own motion the Secretary may convene * * * a committee for any industry in which it is alleged or he believes (that increased overtime compensation) would increase employment opportunities * * * without excessive costs." At any rate, the phrases "excessive costs" and "unduly increasing costs" are not defined. Mr. Wirtz and his successors may have a very different notion of the proper content of such descriptive terms than the management of Lone Star, which has the ultimate responsibility to the owners of the business. Furthermore, the objective meaning of the term "excessive costs" (if such a term may have an objective meaning) may be quite different as applied to a company such as Lone Star which is struggling up from a substantial loss situation from its meaning as applied to a giant of the steel industry which might in fact be exceedingly profitable because of more favorable product mix or other factors. These observations merely accentuate what is obvious to us, but not always to the Congress—that costs and prices should be left to find their proper level through the operation of competitive pressures and economic laws. The Congress understands this principle, perhaps imperfectly at times, but generally quite well, in its devotion to the principles of free competition as they are upheld by our antitrust laws.

Although much more could be said, and has been by others, about the content of the bill itself, we will note only that no provision is made for court review of the Secretary's determinations. With all of the ambiguities in the bill and its possibly devastating effect upon industry, it would seem that minimal ideas of justice and due process of law would require review of the Secretary's orders by a court. However, this is not to be under H.R. 9802 as it stands before the

subcommittee, even though the Congress provided for court review of minimum wage orders applicable to Puerto Rico and the Virgin Islands. It is difficult indeed to see why a person aggrieved by such an order in Puerto Rico or the Virgin Islands should have access to the courts, but all of American industry subject to the Fair Labor Standards Act of 1938 should be denied judicial review of penalties imposed under H.R. 9802.

Employees are not worked at overtime rates at Lone Star if it can be avoided. Overtime which is worked falls into two general classes, scheduled and non-scheduled. The nonscheduled overtime is mainly caused by absenteeism of other employees. At Lone Star, over one-half of all overtime hours are nonscheduled. It is difficult to see how the imposition of higher overtime penalties will reduce or eliminate absenteeism. It could not be the intention of the bill to encourage the hiring of ordinarily useless standby employees to fill in for absentees. Therefore, over one-half of any increase in premium pay which Lone Star would be required to pay would be pure penalty, with no possibility of resulting benefit to unemployed workers. It would constitute a fine against the company for the act of an employee in absenting himself from the job.

Even the scheduled overtime at Lone Star is unavoidable in any realistic economic sense. It is sometimes caused by changing customer requirements on short notice which require additional shifts, or by seniority provisions in the labor contract which make it impossible to avoid overtime. Overtime resulting from these causes is of brief duration and could not justify or permit the hiring and training of new employees. The fact that total overtime hours at Lone Star were reduced in 1963, a modest profit year, from 1962, a substantial loss year, shows that management is seeking always to reduce overtime and not to expand it. Engaged as we are in a difficult struggle to attain consistent profitability, we are firmly opposed to this artificial raising of our costs.

Lone Star paid approximately \$250,000 in overtime premium pay in 1963, which was a reduction from about \$265,000 in 1962. While a strictly arithmetical calculation would indicate that double time for overtime would have resulted in about \$500,000 in overtime premium pay for 1963, or a reduction in after-tax profit of about \$120,000 from a total net of about \$4 million, the actual impact of this increased cost would have been much more severe. Competition in our industry has been keen. In no segment of the steel industry is it as keen as in our pipe business. This situation has resulted from a number of things. First, domestic drilling for oil and gas has been in a slump for several years due to a worldwide glut of petroleum. Reduced drilling rates are reflected by reduced demand for pipe for casing and tubing. The trend to smaller diameter holes has reduced tonnage demand. More pipe mills have been built. Foreign pipe has been dumped in our domestic market. All of these factors and others which could be named are reflected in prices and in the necessity for close figuring in calculating bids. A statutorily imposed extra cost will cause some business to be lost which could otherwise be profitably handled. Thus our net income for 1963 could have been reduced much more than the 3-percent reduction which bare arithmetic shows, if our overtime premium pay bill had been doubled.

In conclusion, we wish to call the attention of the subcommittee to other activities of the United States and others which might suggest a possible inconsistency. Negotiations looking toward tariff reductions are due to begin this year. Even now, hearings are progressing before the Tariff Commission and the Trade Information Committee, Office of the Special Representative for Trade Negotiations, in Washington, D.C.

The steel industry has been caught in a two-front war prior to the hearings on H.R. 9802. First, it is claiming in various proceedings under the Anti-Dumping Act, and correctly we think, that foreign low-wage steel producers are dumping various steel products in the United States at less than fair value (home-market prices). These efforts have not been notably successful thus far but are continuing. The industry has, on its second front, been trying to convince the Tariff Commission and the Trade Information Committee that U.S. tariffs on iron and steel products are now too low and that certainly the coming so-called Kennedy round of negotiations at Geneva should not reduce them; in fact, they should be raised. While fighting on these two fronts, we in the steel industry observe that the European Coal and Steel Community has recently raised its external tariffs.

Now the two-front war becomes a three-front war. Our industry must contemplate the possibility of increased employment costs resulting from action of our own Government in imposing additional penalty overtime rates. This is the

very same Government which would encourage exports in the hope of redressing our unfavorable trade balance. It is also the same Government whose Area Redevelopment Administration has granted several loans to finance the construction of competitive steelmaking facilities and has a number of other such loans pending. The whole picture might seem to be confusing and discouraging.

Yet, as a part of the steel industry, Lone Star must continue to fight on these three fronts, and even on the ever-present fourth front of continuing to search for ways to reduce costs. This is our duty to our shareholders. It is also our duty to our employees, because their jobs are only as secure as their company. It is our duty to our community, because our company is vitally important to that community. It is our duty to our State because a local steel industry is the foundation upon which a strong and diversified economy is built. It is our duty to our Nation which needs its basic steel industry geographically dispersed and strong and healthy, even in its smaller components. We trust that our efforts may not be in vain and that sober and sensible counsel will prevail in the subcommittee and the Congress. Not even the Congress of the United States can create something out of nothing and that is what H.R. 9802 would attempt to do.

MECHANICAL SPECIALTIES Co.,
Los Angeles, Calif., February 28, 1964.

Subject: H.R. 9802—Premium wage rates for overtime work.

HOUSE LABOR COMMITTEE,
House Office Building,
Washington, D.C.

SIRS: I am the owner and the president of Mechanical Specialties Co., located a few blocks east of the Los Angeles International Airport. We are engaged in the tool, die, and precision machining industry and are subcontractors for the Aerospace and Atomic Energy Commission prime contractors.

I am writing to express my views on H.R. 9802—Premium wage rates for overtime work. I am in complete agreement with the stand that is taken by the National Association of Manufacturers that this legislation would result in increased costs and reduced employment opportunities, rather than to increase employment as the bill is designed to do.

Our standard workweek at Mechanical Specialties Co. is 55 hours. Almost everyone in our industry works from 45 to 55 hours per week as a standard workweek. The reason for this is simply that there are not enough skilled tool and die makers and precision machinists available. At the present time, we are able to absorb the time and one-half overtime premium. Should we be forced to pay double time, it would simply have the effect of forcing us to back down to a standard 40-hour week. Should our customers be willing to pay the increased prices if we paid double time over 40 hours, it would just increase the expense to the Government in procuring defense and aerospace services. It could not possibly have the effect of increasing employment. We could not absorb the double time for the overtime rates, thereby reducing employment rather than increasing. Our industry and my plant are very active in apprentice training programs. Still there are not enough skilled people to go around. An acute shortage has always existed.

We recently discussed this bill at great length at the board meeting of the Southern California Tool & Die Association of which I am vice president. Earlier this month we discussed this bill at great length at the winter board meeting of the National Die & Precision Machining Association, in which I am very active. I can assure you that the feeling of my colleagues in the tool, die, and precision machining industry is unanimous in affirmation of this stand.

Sincerely,

L. M. WETZEL, *President.*

STATEMENT OF THE AMERICAN APPAREL MANUFACTURERS ASSOCIATION, INC.

The American Apparel Manufacturers Association represents a membership producing approximately \$3½ billion annually in wholesale value of apparel products. Our membership employs approximately 350,000 people in 46 States.

This association is opposed to H.R. 9802 because the proposed overtime penalty, if applied to this industry, would not attain the primary objective of the meas-

ure—increased employment—and would, in fact, occasion serious damage to the industry and adversely affect its capacity for providing jobs.

The overtime penalty proposed in H.R. 9802 would not result in increased apparel industry employment because the apparel industry is the most seasonal of all major industries in the United States. It is also the industry, among all major American industries, which is most vulnerable to totally unpredictable fashion influences.

These two influences—seasonality and unexpected demand—constitute major reasons for the use of overtime in this industry. Other reasons for overtime use will be identified in the comments of industry employers quoted below.

Because it requires a minimum of 20 weeks to train our major occupational group—sewing machine operators—to meet production standards it is evident that apparel manufacturers could not, even if they wanted to do so, meet their seasonal and fashion-generated swings in demand through the elimination of overtime and the employment, instead, of additional workers.

What, then, would be the result if passage of H.R. 9802 should bring double time, or higher rates, for overtime in this industry? The Bureau of National Affairs has calculated that if the overtime rate in October 1963 had been double time this industry's overtime charge would have been increased by \$1.4 million a week or \$72.8 million annually. We call it to the attention of your joint subcommittee that the total profit of this industry in all of 1962 was only \$217 million. Consequently, the application of the double time provision to this industry would have curtailed our corporate profits by 33 percent in the most recent annual period for which industry corporate profits are known.

This curtailment in profitability would have occurred in an industry which, at the present time, is the least profitable of all American industry; whose failure rate is the highest of all American industry; whose products are at the bottom of the consumer price index and the least susceptible to increase because of bitter competition among almost 30,000 manufacturers competing for an ever-decreasing share of customers; and whose vulnerability to foreign competition is so serious as to have attracted special attention and action from the President of the United States.

This curtailment in profitability would also have occurred in an industry which is the Nation's fourth-largest employer of manufacturing labor; which, because of low capital requirements and higher labor intensity, is uniquely qualified to provide jobs in communities which may be unsuccessful in attracting industries with more demanding requirements; an industry which is presently helping many of the Nation's distressed areas by providing jobs; an industry which is helping importantly to meet the Nation's desperate need for greater employment opportunities among our youth and our minority groups; and an industry which has plants in more locations through the United States than all but two other industries.

For the benefit of the record, we should like to insert comments pertaining to H.R. 9802 made by certain of the firms represented on this association's board of directors and one comment made by a member firm not represented on our board. Because of the haste with which these hearings were called it was not possible to solicit reaction from our entire membership. However, the firms represented in our board are a valid cross section of our association's membership and they constitute a total work force of many thousands.

"The basic intent of this bill is to put more people to work and reduce our number of unemployed. In the apparel industry and in particular our own company, such a law would not add people to the payroll but would simply add to the cost of goods manufactured.

"Overtime is used basically in our industry to cover emergency situations, usually of a seasonal nature, that no amount of new hiring would alleviate. Our industry peaks in sales about three times a year, and at these seasonal peaks the ability to move fast on reorders on highly successful items can be the difference between success and failure.

"The apparel industry with its high percentage of skilled female operators is constantly training new employees because of an industry turnover of about 42 percent annually. Absenteeism runs 3 to 5 percent. This coupled with a high level of women on leave of absence keeps our industry continually training people and frequently forces a manufacturer to use overtime to meet schedules missed because of the high rate of turnover and absenteeism among female employees.

"To place our industry at the mercy of the Labor Department to set hours to be worked and to prescribe through a special tripartite industry committee whether or not double time would be used for the overtime rate, is setting a dangerous precedent, that can't possibly relieve unemployment, but could very well lead to a higher rate of unemployment as costs rise through arbitrary increases in wages without any offsetting advantages.

"I am opposed even though our industry may not be singled out for this double time for overtime. The very fact our fate would hang in the balance of a decision that could at any time mean dire harm to the industry is dangerous. Our experience with tripartite industry committees has been to find the body usually ends up two-thirds to one-third for regulations favorable to labor, with the public interest third usually favoring labor.

"We go on record as vigorously opposing this legislation as a bad bill that cannot possibly do what is intended; i.e., reduce unemployment.

"A large segment of the apparel industry produces apparel for which there is a heavy seasonal demand. It is impossible to anticipate in advance the degree of this seasonal demand. When the demand is heavy, prompt delivery is a prime requisite.

"Since it requires a minimum of 3 months to train an apparel production operator on a power sewing machine and 5 to 6 months, on average, before the operator can reach standard production, it is obvious that the immediate demand in such situations cannot be met by adding trainees. Their production is negligible for a period of 60 to 90 days as outlined. Accordingly, if the demand is to be met, it must be through overtime work of skilled operators. The supposed purpose of the proposed legislation is to increase employment and we stress very strongly that increased employment will not result in the apparel industry. Accordingly, the only result would be increased costs to the consumer and contribution to inflationary trends. It is obvious to any thinking person that no manufacturer is going to pay a time and one-half penalty and to add substantially to his operating costs if overtime work can be avoided.

"In terms of industry generally, we feel very strongly that if a double time penalty for overtime work is established, it would only intensify automation so that the end result would be the reduction of employment rather than increased employment.

"This legislation appears to us to be another proposition that sounds well in theory but will be self-defeating in practice.

"The cumulative cost of countless hearings, both direct and indirect, will be tremendous.

"More and more, the time, thought, and energy of top management executives is taken up with extraneous activities, and the needed time to devote to management planning and operations is constantly being reduced. Obviously, this is harmful to efficient operation.

"It is our sincere conviction that this legislation will not result in increased employment. Over a period of years it will result in decreased employment and higher product cost to the American public. We feel that every effort should be made to have these facts presented to the joint subcommittee of the House Education and Labor Committee in the public hearings that are being conducted."

"Our company, as we believe most others, is vitally interested in reducing unemployment, but to us this bill would do nothing toward increasing employment rates.

"We feel that you are aware that the majority of industry in this State is operating on a one-shift or an 8-hour day. Overtime is used for two purposes: (1) To balance production lines where absenteeism or subpar employees have caused the out of balance. (2) to expedite delivery of merchandise during a rush season.

"In the apparel industry, the use of overtime to balance is used only with a minority number of the employees. The use of overtime for expediting delivery usually covers a period of 4 to 6 weeks at most. When it is evident that the overtime must be continued for a longer period, I believe you will find that for the most part employers will take the necessary steps under present law to purchase additional equipment and provide additional jobs to eliminate the overtime as rapidly as possible. This is almost a must as the margins of profit are quickly eaten up by the use of overtime even at a time and one-half rate.

"Working within the present laws it has been possible for our company to add several hundred workers during the past 5 years. With the success of so many companies working under the present laws, it is our firm belief that there is

definitely no pressing need to make any change that would add to production costs and would do nothing toward creating additional jobs.

"The bill before Congress, if enacted, would probably drastically curtail the practice of running production lines on overtime. The additional cost would make this prohibitive. Instead, balancing would be done on straight time, which would curtail the workweek for the majority of the employees. Furthermore, so far as the garment industry is concerned, the proposed bill would drastically curtail the current practice of overtime being used during emergencies. It would not create new jobs more rapidly as no employer can be convinced to hire additional personnel until business conditions can justify the expense of purchasing the additional equipment necessary to create new permanent jobs. It is certainly not practical to hire temporary employees to replace the overtime for a short period when the normal training period in our industry requires 20 weeks."

"We oppose H.R. 9802 because we feel very strongly that the only real effect of this bill will be to increase the cost of American manufacturers who more and more each day must compete in a world market.

"The stated purpose of the bill, as I understand it, is to increase employment and we feel quite confident that the opposite effect will occur. Because of the added fringe benefits of adding on new workers, the manufacturer would still find it advisable to work his present work force overtime, but the fact that this is going to cost double instead of the present time and one-half would certainly make him exert stronger efforts to eliminate overtime, thereby reducing the pay of his present work force."

"The proposed increase from 1½ to double the straight time rate would result in an additional labor cost to our company.

"In most cases those working overtime are the top-paid, skilled personnel, in engineering, design, and maintenance departments. It would not be feasible to have additional permanent personnel in these areas to take care of seasonal changeover, emergencies, and the like. In reviewing the hours of overtime worked, the addition of extra personnel would not solve the problem. Our margin of profit is low and with this extra cost added we should review the reasons, need, and value of any hours worked in excess of 40. This may result in a reduction in production in some areas, which would decrease the number of operators we now have or reduce the number we have been looking forward to employing in 1964 and 1965.

"Frequently, overtime is worked either to balance production for customer needs or satisfaction and to provide a full week's work for our employees. Faced with this additional cost we must do better planning and eliminate overtime. I feel that other companies will react the same. Therefore, no new jobs will be created and there is a good possibility production will be reduced or the excess cost will be passed on to the consumer.

"Overtime in our industry at double regular time or higher would be disastrous, as you probably know. We are already fighting imports from low-wage countries with what in our case is one of the highest wage scales in the work clothing industry. One of the reasons that we can keep our labor in communities is that we give overtime when needed to above-average machine operators who fill in or add to production as needed.

"Actually, what is even more important, in my viewpoint, is the fact that here is another ill-conceived and possibly poorly considered measure designed to add to employment simply by cutting down the income of those already employed. Industry as a whole, and particularly the garment industry, must make the strongest possible case against this bill. * * *

"Anyone in business knows what will happen if this bill should be enacted as proposed. I do not think we would add one-half of 1 percent to our work force, but we would certainly eliminate overtime completely, regardless of consequences to our production.

"Overtime in our industry where labor rates are such an important factor in our cost price would simply mean that anything so produced would have to be sold at an actual dollar loss. Our industry is not the only one; the same would be true in any area where labor costs are a substantial portion of the cost dollar.

"You may quote me as being in direct 'opposition to Federal legislation designed to establish a double time rate for overtime.' My reasoning is quite simple. Our physical facilities preclude the opportunity to add people for brief highly seasonal periods. The usual pattern in the men's pajama industry is for a peak production demand in October and November each year. If the cost for

overtime were made more prohibitive, this would simply add to our cost burden and would not create additional jobs.

"If the intent of the Congress is to inflate prices, I can think of no better way than by increasing overtime costs.

"The apparel and textile industry already has more burden than it can carry due to foreign imports being brought into this country and produced at about 10 percent of our labor cost, to say nothing of advantage in lower cost raw materials. Any change from the present labor cost would result only in additional penalties.

"We do not believe that a change in overtime rates would increase employment."

In conclusion, this association submits that the application of the penalty overtime provisions of H.R. 9802 could not result in an increase of jobs in the apparel industry. We submit, instead, that this industry because of fashion and seasonal influences on demand and the long training period involved in developing productive sewing machine operators has no alternative to such overtime as it is utilizing. We submit that in an industry with the brutally competitive characteristics of the apparel industry the use of overtime at the present is held to the absolute minimum and employed only because it is, on occasion, unavoidable.

We believe that the drastic curtailment in profitability which would result from the overtime penalty, since there is no feasible alternative to overtime short of curtailed production, could only increase competitive pressures from both domestic and foreign sources and might well result in fewer job opportunities in this industry, rather than more, and lower pay checks for those presently employed in the industry.

The impact of H.R. 9802's double time provisions, applied to this industry, would be immediate and extreme damage to scores of communities and thousands of individuals most desperately in need of employment opportunities.

Respectfully submitted.

ELLIS E. MEREDITH,
Executive Vice President.

UNIVERSAL-CYCLOPS STEEL CORP.,
Bridgeville, Pa., March 2, 1964.

To the Chairmen and Members of the General and Select Subcommittees on Labor of the U.S. House of Representatives:

It is my understanding that the theoretical objective of this proposed legislation is to decrease unemployment and/or increase the number of job opportunities by imposing such a severe premium on overtime work that an employer will be forced to hire additional employees instead.

As you know, the steel industry has, over a number of years, granted a wide range of benefits to its bargaining group hourly employees. These benefits include such things as pensions, group insurance, hospitalization, SUB, increased regular vacations, extended vacations, additional holidays, etc. Even though Universal-Cyclops is a relatively small steel company, it has been necessary for us to generally conform to the industrywide pattern in adopting these benefits. Obviously, these programs have become a very significant factor in our overall cost structures. For the year 1963, our average hourly employment cost was \$4.07. Of this amount, \$0.83 per hour, or 20.4 percent of the total, was for the time not worked in the form of the above benefits. In periods when we are forced to reduce our level of employment, many of these benefits continue for an extended period of time to employees on layoff. Furthermore, each time an employee on layoff is recalled, even if for only a short period of time, he again becomes eligible for many of these benefits should he revert to a layoff status.

Out of economic necessity, we must continuously pursue every opportunity to lower our costs or at least minimize the rate at which they are increasing. If it is less costly to incur overtime than to reactivate numerous benefits for employees on layoff, we feel compelled to do the former. This is not to infer that we are in favor of overtime as a basic principle but, instead, look upon it as the lesser of two evils.

In spite of the intensive efforts that have been devoted to controlling and reducing costs, as well as the huge expenditures that have been incurred for plant and equipment modernization, the American steel industry is no longer able to compete with foreign steel producers in many large segments of world markets. It is an even greater tragedy that it cannot even compete with foreign steel com-

panies in numerous segments of our own domestic markets. In 1957, the industry exports exceeded imports by approximately 5 million product tons. In 1963, imports were almost 3 million tons greater than exports, a net change of almost 8 million tons from 1957. It is also no secret that during this same short span, the industry has suffered a serious erosion of profits (even after allowing for the modest recovery in 1963), and a significant decrease in total employment.

There is absolutely no doubt in my mind that H.R. 9802, as it might be applicable to our company, and probably the entire steel industry as well, can only have a substantial adverse economic effect. It will unquestionably increase costs but, it is my opinion, it will not increase employment, except on a very short-range basis. Stated another way, I believe that H.R. 9802 would operate to the detriment of all of the people still employed by that industry.

Yours very truly,

W. G. STEWART.

BUSINESS SYSTEMS INC.,
Los Angeles, Calif., March 9, 1964.

HON. JAMES ROOSEVELT,
Chairman, General Subcommittee on Labor,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: Your personal letter of February 11 responding to a wire which I sent to you on the administration's proposal to pay overtime at twice the regular rate is indeed appreciated.

I have been following since then the hearings before the General and Select Subcommittees on Labor setting forth the opinions of industry, labor, and trade association executives on proposals for overtime legislation. I have also noted the effective comments and questions of the members of the subcommittees, including your own.

It is quite apparent that a realistic concept of the downgrading effects of double overtime pay is being developed in these extensive hearings.

The graphic arts industry, of which our firm is a member, consists primarily of small business units throughout the country. The industry generates a large annual volume, employs many people, but the size of the average plant or shop is small. A firm of 25 employees is perhaps larger than average. Our plant of 175 shop employees is undoubtedly one of the largest in the West.

Some of us have discussed at length the impact of double overtime pay on our work forces, our delivery schedules, and our production costs. We have come to the conclusion that, since our production is highly customized and is obtained job by job to the specifications of individual users, the leveling of a work force from week to week is extremely difficult so that overtime and overtime alone can absorb the emergencies.

Even if it were possible to employ a compositor, a pressman, or a proofreader on short notice and for an interim period, by the time we hired him and indoctrinated him into the methods and procedures of the particular plant, the emergency would be long over.

Aside from this, in a plant of 25 or even 175, there are a great number of specialized skills and few employees are available to interchange crafts. In some union contracts, such an interchange would be prohibited even if two or more skills were available to one employee. What is perhaps most compelling is that it is not possible to hire one-tenth of the services of a compositor for a week or one-eighth of a proofreader's time. Fractional employees do not yet exist in either nature or in industry.

We anticipate in southern California if double overtime provisions are enacted and if they are made applicable to our industry, nothing will change except that our production costs will go up proportionately. In turn, this will mean that we would be even less able to compete against out-of-State competition where labor rates in our industry, as you know, are often much lower than they are within the borders of our State. The end result as far as California printers are concerned might well be less opportunity to compete, less sales volume and, therefore, less total employment rather than the hoped-for increase in job opportunities.

I would much appreciate your placing this memorandum in the records of your subcommittee with the hope that it may be of some reference value to its several members.

Respectfully yours,

H. N. KAMPH, *President.*

RIVERTON, N.J., March 3, 1964.

Hon. JAMES ROOSEVELT,
Chairman, General Subcommittee on Labor,
Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor,
Cannon House Office Building,
Washington, D.C.

DEAR SIRS: In your letter of February 18, you urge that I file a written statement expressing my view on H.R. 9802, with the assurance that it will receive careful consideration by the joint subcommittee before action is taken. I regret that a personal appearance at the hearings could not be arranged because of the accelerated schedule but I sincerely thank you for the opportunity for presenting reasons why H.R. 9802 will add fuel to the fire rather than help to alleviate the unemployment problem.

Although, my views are similar to those shared generally by industry leaders, I have elected to talk as a personal witness rather than as a representative of any particular company or industry group. Unemployment is a social problem. The solution to the problem can best be obtained by considering the causes for unemployment, so that corrective measures can be taken. It requires objective thinking. It is not a question of labor's views versus the views of management, Republican versus Democrat, etc. Moreover, it is this in which other major problems, such as the need for retraining, which is presently an issue of paramount importance, being caused, ostensibly by automation.

Passage of the bill will result in either more members for the unions (in the short-term view), or more money in the pockets of union members, so that an affirmative stand must be taken by the witnesses for labor. Costs will increase for those companies affected by the bill and these additional costs will be passed on to the consumer, further limiting his ability to buy in volume and, thus, further reducing the demand for products, which is the key to employment. Companies, meanwhile, will adjust prices and continue to make profits, but only to the extent that they are still able to meet foreign and domestic competition. Thus, there is a need to consider the bill in a completely unbiased atmosphere.

It is, also, beyond reason that the provisions of the bill would be rescinded were the economy to improve so as to absorb the present unemployment. Rather, double time will become the new standard and a bargaining objective in future labor contract negotiations.

Now, to get down to the basic reasons why the proposed bill will add to the problem of unemployment rather than correct it in any way, shape, or form:

In the early 1950's, a new concept gained acceptance in contract negotiations and wage settlements. The theory became popular that as productivity improved within a company, the employees in that company should reap the benefits, so that it became practice to base wage increases on the improvement in productivity. If productivity improved 3 percent, then wages should increase 3 percent. In addition, it was theorized that if the cost of living increased, then wages should be adjusted accordingly. As a result, wages and prices have spiraled during the last 15 years.

Meanwhile, improvements in technology and labor-saving equipment (automation) can only be justified to the extent that capital so invested can produce an adequate return. Automation is made profitable through labor savings, and as the cost of labor increases, companies can afford greater outlays for new equipment, methods, and technology. Therefore, the spiraling wage costs have resulted in huge outlays aimed at labor savings. It is advanced, however, that automation has not kept up with the trend of wage costs. Prices have continued to rise. More automation is needed in order to balance the economy.

All of the fruits of automation, therefore, have gone to the employees, and costs and prices have still increased. The consumer, who creates the demand for products which in turn creates employment, has had to pay the difference. In fact, it is axiomatic that when a small segment of the population receives an increase; for example, employees in the auto industry, industry is further limited in its ability to pass savings on to the consumer. In this respect, when a general wage increase is granted, all other people, in effect, take a cut in purchasing power. Such increases may increase the purchasing power of the relatively few people benefited. It is well to contemplate, however, how much the general economy might be improved, if half the 3-percent-per-year increases could have been passed along to the consumer through lower prices. Industry would be in a better position to meet foreign competition. More products could be purchased, therefore, greater production and increased employment.

In our judgment, the proposed double time bill, if enacted, will further limit most producers' ability to price competitively, and, instead of solving the unemployment question, it will tend to make it more acute.

We are at a high level of prosperity today. This is due, however, to new product innovation and huge outlays for advertising, among other things. Thus, while the unemployment problems are acute among the unskilled, there is a perennial shortage of engineers and technicians as well as all college graduates in general. Salaries among these groups are pegged high because of the demand.

Unemployment is a problem only in the lesser skilled groups. The solution to unemployment of this nature is to provide demands for more production. A study of budgetary requirements for manpower needed for increased production shows that relatively few skilled people would be needed. The demands would be met by upgrading the present work force and by employing people at the lower end of the scale. Given the opportunity, industry will absorb the unemployed and provide adequate training. Hence, there is a need for promoting those things that will increase production.

Unfortunately, the proposed bill will only add to costs and be a deterrent to solving the problem.

In short, spiraling costs due to inflationary wage increases over the past decade have retarded the consumption of goods. The solution to the problem lies in finding ways to reduce prices so that more units can be sold. This is becoming more and more urgent as foreign competition increases in an ever shrinking world.

Obviously, we must stop taking potshots at industry whenever social problems arise. We must take the positive view and find ways to increase production of units. We must counteract the negative spirit which motivates such legislation, and educate the general populace on these economic facts of life. We must bear in mind that our present standard of living is high because of our ability to produce economically, and thus, provide employment. We must reverse the present trend of thinking which will stifle this ability to produce. At one time we were singularly blessed, but we no longer have this advantage because other countries have had the courage and the legislative climate to promote growth.

These views are submitted for your serious consideration. It is felt that the Government should devote more energy to the study of positive, constructive measures rather than to the introduction of negative steps which will ultimately destroy the incentive to produce. The goose that lays the golden egg is sick from unnecessary and sometimes unwise control. Let's not kill him, or open a door which will lead to his death and the death of jobs which he can create.

Many thanks for your attention.

Sincerely,

T. D. THORNTON.

LOUISVILLE CHAMBER OF COMMERCE, INC.,
Louisville, Ky., February 21, 1964.

Congressman JAMES ROOSEVELT,
Chairman, General Subcommittee on Labor.
Congressman ELMER J. HOLLAND,
Chairman, Select Subcommittee on Labor.

GENTLEMEN: Thank you for advising us of the hearing dates for industry and public witnesses regarding H.R. 9802, the proposal to place an overtime penalty rate for work in excess of 40 hours. As you know, several Kentucky business organizations were represented jointly by Mr. Mark D'Arcangelo, manager, employee compensation, for the Major Appliance Division, General Electric Co., before the Select Subcommittee on Labor.

To the extent to which it is relevant we wish to have Mr. D'Arcangelo's testimony utilized by your joint subcommittees in considering H.R. 9802. The inflationary effects of a double pay for overtime penalty would be substantially the same as the inflationary effect of a shorter workweek since either would tend to undoubtedly result in an unduly increase in costs and, of course, price.

In addition to using our previous testimony in considering H.R. 9802 we will, in the short time between now and the end of next week, attempt to obtain some additional statements from local industry to be submitted for the record in these hearings. Such statements will be channeled through Congressman

Snyder, a member of the Select Subcommittee on Labor for insertion into the records.

Again, thanks for your courtesy in notifying us of those hearings and for remaining aware of our intense interest in this vital matter which can have an extremely adverse effect on the Nation's economy at a time when foreign competition to American business is becoming increasingly critical.

Cordially,

LEWIS B. KERBERG, *Administrative Secretary.*

'STATEMENT OF NATIONAL BEER WHOLESALERS' ASSOCIATION OF AMERICA, INC.

The National Beer Wholesalers' Association of America, Inc., on behalf of its 2,000 members, opposes House bill 9802 and Senate bill 2486.

The House bill was introduced by Mr. O'Hara of Michigan and the Senate bill was introduced by Senator McNamara. Both bills were referred to the Committee on Education and Labor and were cited as the "Overtime Penalty Pay Act of 1964."

The wholesalers of malt beverages, like many other wholesalers, are small businessmen. The growth of their business has been by the personal efforts of each distributor.

About 75 percent of the beer wholesalers in the United States operate at a sales volume below \$500,000 annually. About 44 percent of beer wholesaling firms are individual proprietorships. The average beer wholesaler has a payroll of only nine employees. Certainly, the operation herein described should not be compared with those of large corporations.

Consideration should be given to the financial plight of the beer wholesaler and the contention that a double-time provision in the wage-hour law would increase employment in the beer wholesaling industry.

It should be noted that the financial position of beer wholesalers throughout the United States is extremely poor. In 1962, the general average after-tax net profit for beer wholesalers in the United States reached an alltime low of 1.11 percent of sales. There is no relief in sight financially for beer wholesalers, for several reasons:

(1) Intense competition in the brewing industry, with brewers vigorously striving to utilize their production facilities which are operating well below capacity. This prevents passing on costs to customers.

(2) Beer consumption is increasing very little from year to year.

(3) Teamster union contracts result in a heavy wage and fringe benefit burden for the beer wholesaler.

(4) There is little opportunity to utilize laborsaving devices to cut costs in beer wholesaling, beyond those which are already being used.

Thus, it is apparent that the beer wholesaler is in no financial position to withstand an arbitrary increase in the overtime rate.

For many wholesalers, paying double time, instead of time and one-half for overtime work, would force them out of business. They cannot afford less work from their employees nor can they afford to hire new employees.

The likely alternative to paying double time would be to eliminate all overtime work or a substantial part of it, or to lay off the less efficient employees, thereby compensating for paying more to the highly efficient workers. Fewer people would be working, but earning more and working for longer hours.

These alternatives would reduce the beer wholesaler's promotional efforts or customer services, and no doubt his total sales, since less time or personnel would be devoted to taking care of these important functions.

Neither alternative would result in more employment, while each would result in less employment, either directly or indirectly, through decreased sales and inability to pay on the part of the wholesaler.

With the high wage and fringe benefits rates paid by beer wholesalers to their unionized employees, it is unlikely that additional employees would be hired, in order to decrease overtime. Static sales and decreasing profits in beer wholesaling make such steps remote.

In conclusion, if double time is adopted, in place of the present time and one-half for work performed after 40 hours, these small operators, who work on a narrow margin and who have a difficult time keeping in the black, will not be able to meet the higher dollar requirements and could be forced out of busi-

ness. As a result, the employer will require more production from his employees during the regular workweek and consequently he will hire fewer employees. This will cause less employment—not more employment.

Respectfully submitted.

MARSHALL A. PIPIN, *General Counsel.*

NATIONAL CONFECTIONERS ASSOCIATION
OF THE UNITED STATES, INC.,
Chicago, Ill., February 28, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Please accept this communication as an expression of position of the members of the National Confectioners Association in opposition to H.R. 9802 by Representative James G. O'Hara, referred to as the Overtime Penalty Pay Act of 1964, which would authorize by administrative action a requirement of double time pay for overtime work under certain conditions.

The National Confectioners Association is a national trade association whose members are manufacturers of confectionery and suppliers of goods and services to the industry. It is estimated that our manufacturer members produce approximately 85 percent of the confectionery manufactured in the United States and that the confectionery manufacturing industry employs in excess of 79,000 persons.

There are many broad reasons for our opposition to such legislation, which reasons we believe will be adequately outlined to you by other opponents of the bill—reasons why a requirement of double time for overtime instead of reducing unemployment would serve to increase it and at the same time, reduce the volume of industry production.

I would like to detail reasons for our opposition to this legislation which are particularly applicable to the confectionery industry. For years, in the candy industry there were thousands of workers who did not have year-round employment. Practically all companies to day have policies which provide for steady, year-round employment for their reliable workers which include most of their employees. This is due to the conscientious efforts of our industry which have been made possible in substantial part due to technological developments, particularly low-temperature storage facilities. About half the candy deliveries occur during the first 8 months of the year and the other half of the candy deliveries take place in the last 4 months of the year. However, even with such unequal deliveries, there are other special circumstances. For example, notwithstanding facilities for low-temperature storage, the summer months represent the months of lowest production. There are many special days which attract considerable specialty items, as well as increase the market for year-round items. These include, but are not limited to, Valentine's Day, Easter, Sweetest Day, Mothers' Day, Halloween, and Christmas. In each instance leadtime is vital and although manufacturers do their utmost to spread out the work and to make the most use of low-temperature storage facilities to take up the summertime slack, there are periods when overtime is necessary. Time and a half for such overtime presents financial problems to the manufacturers. We are confident that a requirement for double time would cause sales offers to be declined. The double time rate would be more than the manufacturer could justify with his regular prices and it would not be feasible to employ additional temporary workers.

If more temporary workers should be employed additional employment costs would be involved for training such employees. Some industries raise their prices for special holiday events. This is not a practice in the candy industry. If double time were paid and the candy still manufacturer, higher prices would be necessary to the public for these special holiday events. This would not be in the interest of anyone.

It is true that the bill recognizes varying conditions and circumstances in different industries and, therefore, authorizes administrative determination regarding double time pay for overtime varying with different industries. We think our country today already is run too much by too many Federal administrative determinations which have the effect of law. It should be recognized that

there is really no practical appeal from a factual determination by an administrative agency as long as it is not completely arbitrary. The arm of the Federal Government already is too heavy in the area of wage fixing. It should not be further extended.

We urge the committee and the Congress to leave well enough alone.

Respectfully submitted.

L. R. HOPKINS,
Vice President and Chairman
of Washington Committee.

STATEMENT OF A. C. POLK, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER,
DOWELL DIVISION OF THE DOW CHEMICAL CO., TULSA, OKLA.

My name is Carl Polk. I am general manager of the Dowell Division of the Dow Chemical Co. with headquarters at Tulsa, Okla. The industry I represent is that of oilfield services.

Dowell and similar companies are not the oil industry as it is normally considered. We do not drill for oil, operate wells, or produce and market petroleum products. In essence, our services consist of taking various materials such as cement, acid, and other chemicals, transporting them to a well location, blending them to specific proportions, and injecting them into the well through the use of highly specialized equipment operated by highly trained and skilled personnel.

We furnish the specialized services of acidizing, cementing, and fracturing to the oil- and gas-producing industry. These services require such extremely high capital investment and highly trained people that even the largest of the oil-producing companies cannot economically furnish the services themselves. Because these may be unfamiliar terms, I will very briefly describe these services:

CEMENTING

As an oil or gas well is drilled, steel pipe is inserted at intervals to hold back the formations and keep the hole open. At some time during the drilling of a well, cement is used to fill a portion or all of the annulus formed between the open hole and the pipe. In fact, the cementing of an oil or gas well is required by the conservation statutes of most States to prevent pollution of fresh water zones and to protect oil- or gas-producing zones from invasion of salt water and other unwanted substances. Cementing also is used in remedial work such as plugback of abandoned wells. In high-pressure wells, cementing may serve to prevent blowouts which could result in loss of life as well as loss of valuable oil or gas reserves.

During a cementing operation, hundreds of sacks of cement are mixed to an exact slurry weight and pumped into a well at predetermined rates and pressures by specialized mobile equipment. Success or failure of the service depends to a great extent on the skill of the cementing engineer and effective operation of the equipment. One or more cementing operations is performed on almost every well drilled.

ACIDIZING

Approximately one out of every five oil or gas wells produces from a limestone formation. Normally, these limestone formations are tight and the oil or gas is not released. Hydrochloric or other acids is spotted against or pumped into the formation to dissolve the limestone rock and release the oil or gas. One or more acidizing operations usually is performed on every oil or gas well producing from a limestone formation.

FRACTURING

Four out of every five producing oil or gas wells produce from a sandstone formation. Such formations do not react to chemicals such as hydrochloric acid. To stimulate this type of well, hydraulic fracturing is used. Basically, this is the use of hydraulic pressure, applied at the surface through specialized equipment, to break open the formation and create additional flow channels so as to release the oil or gas. One or more fracturing treatments usually is performed on every well producing from a sandstone formation.

These services are major factors in the conservation of this Nation's oil and gas resources. Without them, the majority of wells in the United States today

would not be productive. It is conservatively estimated that acidizing has been responsible for the addition of over 3 billion barrels of recoverable oil to the reserves in the United States. Formation fracturing has added over 5 billion barrels more. These two processes are vital factors in the business of producing oil and gas for home use, industrial use, and national defense. Exhibit 1 is a copy of an article which describes a situation typical of the oil and gas-producing industry. Here, an entire field of almost 200 commercial wells exists today because of fracturing services.

Drilling, completing, or working over a well are expensive and critical operations, and the servicing of these oil and gas wells is a highly skilled profession. To provide the necessary personnel and equipment, the service company is required to devote large sums of money annually in the training of personnel and the design of new equipment to meet industry demands.

Service equipment is highly specialized, complicated, and expensive. It must be designed to supply the necessary horsepower and pumping rates to fracture formations thousands of feet below the surface, often calling for pressures up to 10,000 pounds per square inch and pumping rates up to 300 barrels per minute, or more. Such units average over \$50,000 each, with many over \$100,000. Due to these extremely high costs and rapid obsolescence, it is impossible to maintain spare equipment. Dowell's present fleet consists of over 1,000 of these highly specialized units. They are located in areas strategic to oil and gas production. Still, the average minimum distance traveled in the performance of services is approximately 50 miles—200 and 300 miles are not unusual. Exhibit 2 is a map of the United States showing the operating points used by our company.

Personnel to operate this equipment must be highly skilled and require many hours of costly training. Each service unit is supervised by an engineer and operated by these highly skilled, nonexempt equipment operators. It is difficult and costly to maintain these people.

The potential loss in personal injury and in capital investment is high. Service companies have an enviable safety record which contributes greatly to the use of our services by oil companies. Safe operation thus is a major consideration, making the selection of people critical. With both safety and skill as prime requisites, it is impossible for us to employ and train spare crews.

Because of the high cost of operating a drilling or workover rig, the oil or gas operator must have the service available at the exact moment he is ready for it. He, therefore, calls the service crews out to the well location in plenty of time so that they can be set up and ready to go when conditions are appropriate. This almost always results in waiting time at the well where the crews are not free to leave the premises. This waiting time is due to the very nature of an oil or gas well. When working thousands of feet below the surface of the earth, many unforeseen and uncontrollable conditions frequently result in numerous delays. It is estimated that our men spend something less than 25 percent of their working time driving, and something less than 25 percent of their time in actual service work. The remainder is waiting time. Since they are not free to leave the premises, our men are paid for this time even though they have no particular duties to perform.

Remote locations make it impossible to return crews to town during such delays or to substitute a new crew. Also, the success of a job depends to a great degree on the knowledge of well conditions acquired by a crew while on location preparing a well for a service or actually performing operations prior to a service. Substitution of crews during the course of a job could not only jeopardize this success, but could greatly increase the dangers already inherent in the job.

Not only are our hours dictated by our customer, the oil company, but many of our services are of an emergency nature, such as assisting in control of high pressure wells. Our service operations, therefore, are not subject to prior planning or scheduling. Neither are they consistent in duration as there may be a very high level of activity in a booming area or good weather and very little activity where there may be no market for oil or during the period of very unfavorable weather. We assure our equipment operators 40 hours a week pay. This enables us to keep our highly skilled crew intact during slack periods, but results in a great deal of overtime when business is booming.

In our company alone, there are over 900 highly specialized equipment operators located in 70 different operating locations. The workload fluctuates greatly. Some weeks, it will be 80 or 90 or more hours and others less than 40. All of these operators, however, average much more than 40 hours a week. We have

no one in the organization averaging less than 50 hours. In 1963, the average was 60 hours. Overtime is basic to our industry and our people. H.R. 9802 is diametrically opposed to the manner in which the service industry must operate. Any attempt to regulate overtime hours by legislative action can only increase and add to the inherent dangers in our type of work and can seriously affect the outcome or success of a service job.

Further, double time for overtime would increase costs 15 percent and more in an industry already working on a small margin. The proposal to double the overtime rate to make more employment will definitely not add more employees to the service industry. It will only serve to increase costs and so have the reverse effect by cutting down on the number of employees. Such increased costs would ultimately be passed on to the consumer in the form of increased prices for gasoline and fuel oil.

I have tried to illustrate how adversely our people and our industry will be affected should H.R. 9802 become law, and respectfully urge that you do not penalize our people and our industry.

TESTIMONY OF THE NATIONAL COUNCIL OF FARMER COOPERATIVES

The National Council of Farmer Cooperatives is a national organization of farmer business organizations, with 122 direct members, which are owned and controlled by about 5,700 local cooperatives serving approximately 3 million farmer memberships.

A number of the national council members which operate animal feed mills, petroleum refining and distribution plants, fertilizer plants, and nonexempt canning and processing operations, may be seriously affected by the passage of H.R. 9802.

It is our judgment H.R. 9802 will not spread employment as its title indicates but will increase labor costs. We base our belief on three premises:

(1) The present cost of fringe benefits makes it prohibitive to add additional employees in any plant unless a complete new shift can be added to the operations.

(2) The current costs of hiring preclude a substitution of new employees for employees on the payroll and available for overtime. The hiring costs include interviewing, completion of appropriate employee records, instructions into company operations, and the placing of necessary data supplied by the worker on the permanent payroll and fringe benefits' records.

(3) The cost of training new personnel is heavy and is rising because the use of unskilled labor is dropping sharply while the trend toward skilled labor, which requires greater training, is increasing. This is the experience of national council members operating feed mills, petroleum refineries, fertilizer plants, and canning and processing plants.

In the past 10 years, according to information supplied by our members, the costs of fringe benefits paid either through collective-bargaining agreements or through competitive conditions in hiring, have risen from about 2 to 3 percent of the total hourly wage costs to approximately 33 percent of hourly wage costs.

Therefore, the tendency among members of the national council has been to utilize overtime rather than hiring additional workers particularly when the greatest need for the workers comes seasonally in direct relation to farming operations.

For example, in the fertilizer business, the principal season is during the spring months when farmers are preparing their fields for planting. Petroleum distribution and refining is spread throughout the year somewhat more than the fertilizer business, but generally the heaviest volume is during peak periods when farm tractors and other petroleum-using equipment is utilized.

Mills producing animal feeds operate on a nearly constant basis year round, but there are peak periods, particularly in the poultry industry which is the largest user of commercially manufactured feeds. The peak needs for starting baby chicks and turkey poults continues to be during the first 5 months during any given year, with the heaviest requirements occurring in March, April, and May.

In canning and food processing, many workers are nonexempt under the Fair Labor Standards Act because of their inability to qualify for exemption under sections 7(b) (3) or 7(c). Most canning and processing operations are extremely seasonal.

The general employment policy of many of our members is to maintain the skilled employees on a year-round basis, even during periods of little activity in the operations, and increase the number of hours worked during peak periods.

SKILLED EMPLOYEES NEED ADDED TRAINING

As workers' skill requirements increase, the training time necessary for workers to reach effective productivity is longer. For example, in minor skilled jobs in feed mills, the average worker takes 14 to 21 days to train. For a higher skilled maintenance man, it takes 2 to 3 years to train. Similarly, in fertilizer plants, crew chiefs and workers engaged in the granular fertilizer business require considerable training because of the specialization in handling and storing this commodity.

In canning and processing, with the advent of automated operations, the skills of the workers necessary to maintain these highly sophisticated in-plant operations has increased sharply. It takes several years for maintenance men to become thoroughly familiar with the operations. During this period, their productivity is relatively low and many of them act as assistants to other maintenance men until they acquire the skill to become responsible for a part of the processing line.

The principal number of unemployed workers at this time is among the uneducated and unskilled. According to the U.S. Department of Labor, two-thirds of the unemployed have less than a high school education. It is quite feasible that expanded opportunity for the unemployed will be available for those who can be trained, but it is highly unlikely that those with little education and low skills will be hired by many individual firms for training in skilled occupations. No doubt some other means of training these uneducated and unskilled workers will have to be undertaken to permit them to gain sufficient knowledge and skill so that they can become a part of the higher skilled labor force. But until that time is reached, it seems unlikely, with the trends in employment today, that a bill calling for an increase in the overtime rates would have the impact of providing jobs to unemployables.

SUMMARY

We do not believe that increasing the overtime rate will substantially increase employment. We do not believe that cooperative organizations, regardless of the overtime rates prescribed by the Secretary of Labor, will begin hiring additional workers. This is prohibitive because fringe benefits and costs for time of training will require cooperative organizations either to alter their production schedules in order to avoid paying the excessive overtime rates, which will increase costs, or to lower production schedules in order to keep the costs of production below the selling price of articles produced.

THE COLUMBIA GAS SYSTEM, INC.,
New York, N.Y., April 9, 1964.

Hon. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
House Education and Labor Committee,
Washington, D.C.*

DEAR CONGRESSMAN HOLLAND: The companies of the Columbia Gas System, with over 12,000 employees, supply gas directly and indirectly to 3,500,000 consumers in the Appalachian area and the eastern part of the United States. Columbia Gas of Pennsylvania, Inc., which distributes gas in Pennsylvania, serves a part of Allegheny County.

We have followed with keen interest and deep concern the proposals to increase premium overtime rates in certain industries for the purpose of reducing unemployment. Because of our concern we have analyzed the proposed legislation and developed a "statement of position." This statement sets out our views on the proposed bills and similar legislation. We enclose four copies of our statement of position and ask that it be included in the record of the Select Subcommittee on Labor in lieu of a personal appearance before the subcommittee.

We are convinced that the legislative proposals being studied by your committee—H.R. 9802 and H.R. 1680—will not reduce unemployment but will increase costs, first to the affected industries and then to the consumer. Columbia Gas System companies have a firm policy restricting overtime work to the absolute

minimum on an emergency basis. A legislative increase in overtime rates could not decrease the amount of overtime necessarily incurred but would increase costs. The higher costs which we would incur can only be recovered by increasing gas rates as there would be no increase in productivity or service.

Very truly yours,

JOHN W. PARTRIDGE.

STATEMENT OF POSITION

Several proposals have been made to increase the present penalty rate for overtime pay under the Fair Labor Standards Act as a means of reducing unemployment. At the present two bills are under consideration by the Select Subcommittee on Labor of the House Education and Labor Committee. Hearings on these bills will continue through April 10.

(1) H.R. 9802 would authorize the Secretary of Labor, upon recommendation of advisory committees, to prescribe maximum hours (not less than 40 hours a week) beyond which additional overtime premium pay (not less than double time) must be paid by an industry under the Fair Labor Standards Act. These maximum hour standards and premium rates would vary from industry to industry on the basis of investigations undertaken by the Secretary of Labor and the advisory committees. Under this bill the additional penalty rate would not be applicable where overtime is required because of "extraordinary emergency or unusually compelling need" as these terms may be defined by the Secretary of Labor.

(2) H.R. 1680 would require the payment of double time for all hours worked in excess of the maximum workweek now applicable under the act in the following industries: mining, communications, and other public utilities (excluding transportation), wholesale trade, contract construction, and manufacturing.

Position of company: The company opposes these bills and similar legislation increasing penalty rates for overtime pay.

Reason for company's position: 1. These proposals would not reduce unemployment. Although the stated purpose of these bills is to increase employment by providing a higher penalty rate for overtime work, there is little evidence to show that an increase in the premium rate for overtime would result in increased employment. The theory behind the bills is that existing labor practices result in excessive overtime which can be converted into additional jobs. The present premium rate of time and a half for overtime now effectively discourages excessive overtime. The company's existing policy is that overtime work should be kept to the absolute minimum on an emergency basis. Increasing the penalty rate to double or triple time would not decrease the amount of overtime which would necessarily be incurred, but would increase costs.

In industry generally the usual reason for overtime work is the occurrence of short-term unforeseen increases in labor requirements. It is difficult or impossible to hire and train suitable employees to meet these short-term labor requirements. Also a lack of tools of production may prevent the hiring of additional workers to satisfy a temporary increase in demand.

Furthermore, only a small percentage of persons now working overtime would be affected by these bills. The Bureau of Labor Statistics has reported that in May 1963 one-third of the labor force, or nearly 23 million workers, reported workweeks of 41 hours or over. But, this figure includes nearly 20 million persons who were self-employed, moonlighters with more than one job, professional and managerial personnel or other workers not covered by the overtime pay provisions of the Fair Labor Standards Act. Of these 23 million people reporting overtime, only 3 million might have been affected by these bills. Labor statistics show no significant increase in overtime work; the average overtime hours in all manufacturing industries for the year 1962 was the same as for 1956. The existing overtime figures do not indicate excessive use and it is apparent that even if overtime was cut to the irreducible minimum there would be no significant reduction in unemployment.

2. Higher penalties for overtime work will increase prices. As stated above, a certain amount of overtime is unavoidable. Most of the overtime work now done cannot be eliminated by the employer and would be incurred regardless of an increase in overtime rates of pay. The imposition of higher rates of premium pay for overtime work would mean greater labor costs without an increase in productivity. Higher costs without higher production will force prices up. Higher costs for material and labor for the company could only be recovered by increasing gas rates. Higher prices for goods and products competing with for-

eight manufacturers would adversely affect our critical balance of payments situation.

3. Both proposals are discriminatory. Discrimination against certain workers and certain industries is inherent and indeed required by these bills—one calls for varying maximum hours and penalty standards among industries and the other would be applicable only to certain industries. Under H.R. 1680, for example, the company would incur increased costs for double time while competing fuel oil dealers would be unaffected. This discrimination is contrary to elemental standards of fairness and would impair the ability of affected industries to compete effectively for business.

4. H.R. 9802 would result in unwarranted governmental intervention in labor management affairs and its administration would be expensive and time consuming. The proposal to investigate and establish differing maximum hour standards and penalty rates in selected industries and classifications within these industries is unsound as it would require Government intervention in the problems which concern day-to-day employment and working arrangements between labor and management. The amount of time consumed, energy spent, and money wasted by Government and industry alike in the administrative process to determine the maximum hours standard and the penalty rate would be very large. Not only would each industry be subject to investigation and administrative hearings by the Secretary of Labor and his committee, but also hearings on classifications within the industry frequently be necessary.

In summary, the company opposes these and similar bills because such legislation cannot accomplish its stated purpose, i.e., a significant reduction of unemployment. Rather, it would increase costs and prices. In addition H.R. 9802 would be expensive and difficult to administer and both bills would result in unfair discrimination among industries and groups of workers.

NATIONAL MILK PRODUCERS FEDERATION,
Washington, D.C., April 30, 1964.

HON. ELMER J. HOLLAND,
Chairman, Select Labor Subcommittee of Committee on Education and Labor,
House Office Building, Washington, D.C.

DEAR MR. HOLLAND: Members of the National Milk Producers Federation are vitally interested in H.R. 9802, the Overtime Penalty Pay Act of 1964, which is now before your subcommittee. It is feared by federation members that while provisions of H.R. 9802 refer to time worked in excess of 40 hours per week, actual application, should this become law, would undoubtedly be on the basis of time worked in excess of each 8-hour day, especially in those areas where union contracts are prevalent. Application of the proposed double time for overtime provision on this basis would be extremely impractical, especially in view of the tremendous variations in the working day of the milk processor. Due to seasonal variations in milk production during the year, as well as varying sales patterns throughout the week, long runs and overtime work may be required 2 or 3 days a week, while, on the other days of the week less than 8 hours a day may be worked. In the processing of such a perishable product as milk, a certain amount of overtime is unavoidable and certainly cannot be corrected by putting additional employees on the payroll as is the stated objective of H.R. 9802. Instead, the only effect of an increase in the overtime rate would be in provisions of H.R. 9802 refer to time worked in excess of 40 hours per week, actual increased expenses of operation. These expenses would, in turn, be passed on to the consumer in the form of higher prices or would result in reduced payments to dairy farmers, both of which are undesirable.

Consequently, the National Milk Producers Federation is opposed to H.R. 9802.

We will appreciate it if you will make this communication a part of the record of the hearings by your subcommittee on H.R. 9802.

Sincerely,

E. M. NORTON, *Secretary.*

NATIONAL CANNERS ASSOCIATION,
Washington, D.C., April 1, 1964.

Hon. ADAM C. POWELL,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, D.C.

DEAR MR. POWELL: On behalf of almost 600 member canners with plants located in more than 40 States, the National Canners Association respectfully wishes to record with the committee its strong objection to H.R. 9802, entitled, "A Bill To Increase Employment by Providing a Higher Penalty Rate for Overtime Work." We respectfully request that this letter and the enclosed NCA statement on H.R. 9824 be made a part of the record of the committee's hearings on this bill.

The National Canners Association is a nonprofit trade association whose membership includes both independent canning companies and cooperative canning enterprises which in the aggregate pack approximately 80 percent of our entire national production of canned fruits, vegetables, meats, seafoods, and specialties. Although some of these members are large companies that pack a large variety of products in a number of canning plants throughout the country, the great majority of association members are small businessmen operating only one or two plants and packing just a few items that are distributed on a regional basis.

As outlined in the enclosed copy of the National Canners Association statement to the General Subcommittee on Labor in opposition to H.R. 9824, when Congress enacted the Fair Labor Standards Act in 1938 it wrote in canning industry exemptions from the time-and-a-half penalty overtime requirement of the act. These overtime exemptions are vital to the continued successful operation of the great majority of the canning plants in the industry who find it necessary to process all or most of their production during a few months of the year when labor is in short supply.

The stated purpose of H.R. 9802 is, of course, to spread employment by penalizing employers who offer overtime work to regular employees, rather than hire additional employees. As we have outlined in our statement on H.R. 9824, most canners would find it impossible to find more workers during the seasonal peaks of harvesting and canning—when there is a shortage of workers, not of jobs—in the rural areas where canning plants are typically located.

It is thus clear that the basic purpose of H.R. 9802 could not possibly be achieved by the imposition of additional overtime penalties in the canning industry. Indeed, the overtime exemptions in the Fair Labor Standards Act would continue to be applicable even if H.R. 9802 were enacted, and an increase in overtime penalty rates could not be applicable to the canning industry except during nonseasonal weeks when the overtime exemptions would not be available.

Even though it is extremely doubtful that under H.R. 9802 the canning industry would be subjected to increased penalty overtime rates, we, nevertheless, believe that the enactment of this bill would be a serious mistake which would have the effect of increasing costs and prices throughout our economy. We will not attempt to repeat the detailed objections that have been made to the bill by many of the witnesses appearing before the committee except to say that we agree with those statements that point up the vagueness and inadequacy of the procedural aspects of the bill. But even if the bill could possibly be improved in some way to eliminate these procedural objections, we, nevertheless, believe that its enactment would be ill advised, particularly at this time.

The effect of imposing double time rates on selected industries would eliminate for them the beneficial effects of the recent tax cut enacted by Congress. Funds now set aside for capital investment in these industries, which will of course create new jobs, would have to be channeled into the payment of increased penalty overtime. An additional effect of increased overtime penalty rates would be to raise the Government's cost of procurement for goods purchased from these industries, at a time when the President has urged Government contractors to cut costs and reduce prices wherever possible on sales to the Government.

In the light of these considerations, and with reference to the factors outlined in our statement on H.R. 9824, we urge that this committee not recommend the enactment of H.R. 9802.

Respectfully submitted,

MILAN D. SMITH.

STATEMENT OF THE NATIONAL CANNERS ASSOCIATION

The National Canners Association is a nonprofit trade association with almost 600 members canning in 44 States and the territories. Members of the association, including both independent canning companies and cooperative canning enterprises, pack approximately 80 percent of the entire national production of canned fruits, vegetables, specialties, and fish.

This association, on behalf of its members and the entire canning industry, wishes to express its opposition to that provision of H.R. 9824 that would curtail the basic overtime canning exemptions by repealing section 7(c) of the Fair Labor Standards Act of 1938.

As this subcommittee well knows, ever since enactment of the Fair Labor Standards Act in 1938, Congress has recognized the reliance of the canning industry upon natural, uncontrollable factors that make wholly inequitable and inappropriate the payment of penalty overtime by canners and that justify the canning exemptions. These exemptions are contained in:

Section 7(b) (3), which provides a 14-week overtime exemption up to 12 hours a day, or up to 56 hours a week, for employees employed "in an industry found by the Administrator to be of a seasonal nature." This has been found to include the "canning of perishable or seasonal fresh fruits and vegetables."

Section 7(c), which provides a 14-week exemption from the overtime requirements of the act for employees in any place of employment where "an employer is engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits and vegetables."

In his testimony before this committee on February 7, Secretary of Labor Wirtz proposed to repeal the section 7(c) exemption and thereby reduce from 28 to 14 the number of weeks that canners of fresh fruits and vegetables may operate free of the penalty overtime requirement. The Secretary referred to a study of a study of the agricultural processing exemptions undertaken by the Department in accordance with the Congressional directive contained in the 1961 amendments, and said that "the amendments in the bill (H.R. 9824) are based on the results of this study." He did not, however, give any concrete factual basis for the repeal of 7(c), except to assert that employees of many processors "are not protected by the 40-hour workweek standard for a period of nearly 7 months in any year." He added that if section 7(c) is repealed as proposed "584,000 employees will be given greater overtime protection than they now have."

No other reasons were advanced for the curtailment of the canning exemptions. No evidence was offered to indicate that the conditions on which the exemptions were based have changed, and no showing was made to support the application of penalty overtime to an industry that cannot control working hours during the packing season, and must rely upon whatever labor is available in areas typically short of manpower at that time.

The theory of penalty overtime

The legislative history of the Fair Labor Standards Act of 1938 makes it clear that the 40-hour workweek was written into the act in order to spread employment and to establish a year-round regular workweek for as many workers as possible. These purposes were achieved by the imposition of penalty overtime upon employers who employed workers in excess of the 40-hour limit.

Secretary Wirtz recently reaffirmed before this subcommittee that the purpose of the overtime provision of the Fair Labor Standards Act is to spread employment. He strongly endorsed H.R. 9802, which would authorize an overtime penalty rate of double time on an industry basis in order "to reduce unemployment and to strengthen the economy by a better distribution of work presently performed—when it isn't necessary—on an overtime basis." He pointed out that "a basic aim of the Fair Labor Standards Act of 1938 was to discourage excessive overtime work," and asserted that this could be achieved in some industries only by increasing the penalty rate from time and a half to double time or more.

This theory of spreading work among laborers and throughout the year by requiring the payment of penalty overtime is necessarily founded on two basic assumptions:

- (1) Employers can control working hours and spread production evenly over all the weeks of the year; and
- (2) Labor capable of doing the work is in plentiful supply, and is available on a year-round basis.

It was immediately recognized by Congress in 1938 that neither of these assumptions was valid with respect to most industries processing perishable agricultural commodities. The 7(c) and 7(b)(3) exemptions were thus enacted in order to prevent the inequitable imposition of the time and a half penalty when the basic purpose of the overtime requirement could not be achieved.

The justification for the canning overtime exemptions was very well stated by Mr. Metcalf Walling, the then Administrator of the Wage and Hour Division, when he testified before a Senate committee in 1945 in response to a proposal that the overtime exemptions be removed or modified. He noted that in some industries—

“* * * the need for overtime work is apparent. The industries subject to severe pressure of seasonal activity in the moving or processing of a crop fall into this category. In the canning of perishable fresh fruits and vegetables, for example, the entire available labor supply in the areas in which the establishments are located is frequently utilized during seasonal operations. At such times, employees often must work considerably more than 40 hours in order to prevent the spoilage of food. If the purpose of section 7 is to spread employment through penalized overtime work I wonder whether it would be appropriate to apply the penalty under such circumstances.” (Hearings before subcommittee, Senate Committee on Education and Labor on S. 1349, 79th Cong., 1st sess., p. 241.)

In 1948 Wage Hour Administrator McCombe testified before a Congressional committee that—

“* * * all the industries which process and handle agricultural and fish products have a basic similarity. Their primary problem under the act concerns the overtime provision, since they are affected by seasonal peaks of activity which, to a considerable degree, are not controllable since they depend upon the uncertainties of weather and other natural phenomena. Moreover, these industries are frequently located in small towns in rural areas where additional labor is not readily available.” (Hearings before subcommittee, Senate Committee on Labor and Public Welfare on S. 49, S. 154, etc., 80th Cong., 2d sess., 1948, p. 40.)

The continuing need for the canning overtime exemption

No question has been raised as to the continuing presence of those factors that gave rise to the canning industry overtime exemptions. “The Department of Labor Study of the Handling and Processing of Agricultural Products,” which has been referred to above, reaffirms the facts that fruit and vegetable processing is inherently seasonal in nature, that most of the seasonal pack is accounted for by highly perishable commodities, and that efforts by processors to reduce the seasonality of employment have been substantially unsuccessful.

The study lists several measures that have been taken in an attempt to control the seasonality and variability of raw-product deliveries, but concludes that “little is known as to the magnitude of these activities,” and that “even with these controls, the weather variable often limits the degree of control that can be achieved.” The industry continues to experiment with staggered planting schedules, the development of late and early maturing varieties, and the spaced scheduling of raw-product deliveries within the season, but none of these methods shows any promise of significantly spreading over the year the flow of seasonal commodities, and of thus reducing seasonal peaks of employment.

The study also emphasizes the extreme perishability of most canning commodities and the need to process them within hours of harvesting. After reviewing some efforts to control perishability, the study concludes:

“Although there are specific instances of partial control over the perishability of fresh fruits and vegetables delivered for processing, as discussed above, an overwhelming part of the seasonal pack is accounted for by highly perishable commodities—such as peas, corn, tomatoes, green beans, and cling peaches—for which little or no postharvest control of perishability is exercised. For these commodities, the canner or freezer must be prepared to process the raw product within a matter of hours upon delivery.”

A third factor considered by the study is the effect of commodity diversification on the seasonality of canning industry employment. It is noted that many processors have lengthened the canning season by processing a large number of commodities with different harvesting seasons, and that a large number of canners

obtain year-round use of their plants by canning nonseasonal specialty items. Nevertheless, the study concludes:

"Viewing the industry grouping as a whole, it would seem that commodity diversification has not resulted in lessening the seasonality of employment to any great extent. Several factors are involved. First, there are still large numbers of one-commodity processors. Second, of those processors who may extend the season by adding one or two additional commodities, the ability to lengthen the season may be modest with reference to even a 14-week exemption. Third, isolated data suggest that even year-round processors packing several fresh commodities have highly seasonal labor requirements."

The final factor considered in this part of the study is the effect of technological change on seasonality of employment. It is noted that mechanical harvesting equipment promotes a shorter harvesting season, but that effective machine harvesting has not yet been developed for such major commodities as tomatoes, cucumbers, asparagus, grapes, berries, peaches, and oranges, or for most of the minor canning crops. For the few crops in which it has so far been found to be effective mechanical harvesting reduces somewhat the demand for seasonal field labor, but no matter how the raw product has been harvested it still must be processed in plants operating at peak capacity during the season. The study concludes that "there is no evidence that improvements in plant technology have perceptibly affected the seasonality of employment."

Although the report does not contain information as to the availability of workers in canning areas, it does emphasize the fact that the industry remains essentially a seasonal one because of the necessary reliance on the availability of seasonal raw products. Seasonality of employment in the canning industry is also supported by other data which clearly emphasize the industry's vast demand for large numbers of workers during the canning season.

The following table sets forth data on full-time and seasonal employment in fruit and vegetable canneries in 1961 for the major canning areas of the United States:

Estimates of employment for fruit and vegetable canners in selected areas, 1961¹

Canning area	Year-round workers	Seasonal workers	Total workers
California.....	7,094	64,718	71,812
Ohio.....	1,050	10,139	11,189
Indiana.....	1,318	5,823	7,141
Illinois.....	1,450	14,832	16,282
Michigan.....	1,525	10,771	12,296
Oregon.....	1,904	29,888	31,792
Washington.....			
Idaho.....	2,875	33,828	36,703
Iowa.....			
Minnesota.....			
Wisconsin.....	13,286	30,612	43,898
Eastern States ²			

¹ Source: National Canners Association Study of the Structure and Economic Significance of the Canning Industry.

² The figures for this region do not represent the total employment in the region, but are based on the replies of 95 canning plants scattered throughout the States of Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia.

These figures make clear the seasonal demand of the canning industry for additional in-plant labor. On the average almost seven times as many seasonal employees are hired as work in the plants on a year around basis, and in some States the ratio runs as high as 15 to 1.

Canning plants must, of course, be located relatively close to the fields where the fruits and vegetables are grown, so as to eliminate loss and waste of the perishable raw product. During the harvesting and canning season labor is in extremely short supply in these rural areas and the industry must rely upon every available source of labor. Domestic and foreign migrant labor invariably is brought in to work in the fields, and sometimes in the plants. College and high school students are also employed to a great degree, as are many women who do not work at other times of the year, but who can arrange to supplement their family income by working in canning plants during the peak season. By the same token, during the off season most plants have little or no work, and employ very few full-time employees.

We do not feel it is necessary to present cumulative evidence to the effect that canners must still schedule their operations in accordance with the availability of perishable and seasonal raw products, and must take advantage of all available labor in order to process these products with a minimum of waste and loss of quality. Indeed, there has been no responsible contention that these factors no longer exist. On the contrary, the Department of Labor 1962 study provides irrefutable evidence of the highly seasonal nature of the industry. The Department has not called for the total elimination of the canning exemptions, but has proposed that they be reduced from 28 to 14 weeks. Clearly, the Labor Department continues to recognize the validity of the basic arguments in support of the canning exemptions.

The canning industry's need for 28 exemption weeks

The question raised by the Department of Labor's proposal in H.R. 9824 is whether any legitimate basis exists for reducing from 28 to 14 weeks the canning industry exemptions from the penalty overtime requirement. As we have noted, the purpose of penalty overtime in the Fair Labor Standards Act is to discourage overtime and spread employment, as explicitly recognized by Secretary Wirtz in testifying on H.R. 9802 before this committee on February 17. For this reason, it is difficult to understand the basis for the proposal in H.R. 9824 that section 7(c) be eliminated altogether, and that the canning industry be limited to an overtime exemption of 14 weeks, with a maximum of 56 exempt hours in any week.

All available data clearly establish that canners must take on a great number of additional workers and employ all available labor during the seasonal peaks of their operations. The imposition of a penalty overtime requirement at any time during the canning season would be totally ineffective in spreading employment in an industry that is already offering seasonal jobs to all qualified workers in the area, and to such additional migratory workers that can be found. The canning industry of necessity spreads employment as much as it can during the packing season, when the problem is not one of finding jobs but of finding workers.

In advocating the elimination of the 7(c) exemption, Secretary Wirtz commented that processor employees are not "protected" by the 40-hour work-week standard for a period of nearly 7 months in any year. He did not attempt to reconcile this "protection" theory of the penalty overtime requirement with the very explicit spreading-of-employment theory that he recognized in his testimony on H.R. 9802. He did state that the repeal of section 7(c) was "based on" the results of the Department of Labor Study of the Handling and Processing of Agricultural Products, but he did not attempt to explain how these results were thought to support the drastic curtailment of the processing exemptions.

An examination of the data in the study makes it clear that there is no justification whatever for repealing section 7(c), and that the cutback to 14 weeks of a 56-hour exemption would seriously affect a large segment of the canning industry without accomplishing any recognized statutory purpose. Many canners now operating under the overtime exemptions would be subjected to the penalty overtime requirement for a significant period of time even though they are powerless to spread employment throughout the year or among additional workers during the season.

The data show that about 15 percent of the one-shift canning plants surveyed engaged in canning more than 40 hours during 15 or more weeks. Very few of the plants packing one or two fruits or vegetables found it necessary to run overtime for more than 14 weeks of the year. But about one-third of the plants packing three or more fruits or vegetables were engaged in processing more than 40 hours for more than 14 weeks, and it cannot be doubted that these plants account for greater volume and employ more workers during the season than the one- and two-commodity plants.

Unquestionably the effect of limiting the exemptions to 14 weeks would be to discriminate seriously against those companies whose plants are so located and operated as to process more than one or two commodities. We can conceive of no rational basis for this discrimination, or for imposing a serious penalty on canners that need overtime for more than 14 weeks only because they run through the harvesting and canning season of several commodities.

Congress in 1961 directed the Secretary of Labor to study the agricultural processing exemptions and to develop "recommendations for further legislation

designed to simplify and remove the inequities in the application of such exemptions." Nothing was said about curtailing or repealing the exemptions. The Department has now come out with a recommendation that the section 7(c) exemption be eliminated altogether. Clearly the effect of this proposal would be to create inequities where they did not exist before, and to foster discrimination among canners in different areas.

If the Department recognizes the need and justification for an overtime exemption with respect to a tomato-canning plant, then it should make no difference under the law whether the canner also uses the plant for other perishable commodities earlier in the season. But under H.R. 9824, a multi-product plant for which 14 weeks of exemption had already been taken for asparagus and peaches would be required to pay time and a half for overtime when packing tomatoes, while a single-product competitor would have the full 14 weeks of exemption during the tomato-canning season.

The net result would be to discourage the further development of multiproduct plants, and thereby to accentuate the seasonality of employment in a number of areas. Under present law a canner may decide to experiment with other crops in order to put his plant to more extended use throughout the year. Local labor, of course, benefits accordingly. But with the prospect of paying time and a half when overtime is necessary in packing the new commodity, it is likely that many canners may decide to forgo a potentially costly experiment, particularly since they would have to sell the canned product in competition with single-product canners who operated under the overtime exemption.

We do not see how this proposal to curtail the canning exemptions can be reconciled with the basic theories and policies of the Fair Labor Standards Act. If 14 weeks of exemption are thought to be justified, then enough additional exempt weeks should be available for those canners who find it necessary to operate for more than 40 hours for more than 14 weeks. The perishability and seasonality of the product, the lack of excess labor, and the inequity of requiring penalty overtime continue to exist during the additional weeks. The fact that not all canners require more than 14 weeks of exemption should be irrelevant, if in fact some do because of the area in which their plants are located and the commodities they pack.

The proposal in H.R. 9824 is doubly objectionable in that it would not only cut the number of exempt weeks in half, but it would also restrict the exemption to 56 hours during these weeks. The Labor Department study determined that 28 percent of canning plant employees worked more than 56 hours during a week of maximum employment in 1960. It noted that in the average workweek in 1960 about 20 percent of all manufacturing employees worked over 40 hours, and that most of these were paid time and a half for overtime. On the basis of this information, the study concluded that:

"Therefore, 20 percent may be taken as a rough standard of the percent of employees for which overtime pay may reasonably be required in the industries under consideration."

Comparing this 20-percent figure for all manufacturing with the 28 percent for canning, the study observed that "the proportion of [canning] employees who worked 57 or more hours is not greatly in excess of the proportion for manufacturing."

Apparently on the basis of this questionable analysis, the Labor Department now proposes that the canning industry be cut to 14 weeks of exemption, with a requirement that time and a half be paid for all hours over 56 in any week. Under present law the industry is covered by the 7(b)(3) exemption with a 56-hour limitation, and by the 7(c) exemption with no limitation. If canners find it necessary to operate more than 56 hours in a week—and the study makes it clear that many of them do—the 7(c) exemption is fully applicable to employees who choose to increase their income during these busy weeks.

The bill would thus add significantly to many canners' costs of operation without achieving the stated purpose of penalty overtime. The data in the study make it clear that in weeks of maximum employment almost 30 percent of canning employees would have to be paid time and a half if present practices were continued, despite the fact that Congress and the Labor Department have recognized that penalty overtime should not be imposed on industries that cannot appreciably control working hours or find extra employees when overtime is needed.

It is wholly illogical to acknowledge the justification for the canning exemptions, and then to propose limitations under which the industry would pay over-

time to a higher percentage of employees during seasonal weeks of peak operation—when the perishable crops must be quickly packed with all available labor—then the average of all manufacturing enterprises throughout the year.

Increasing shortage of seasonal labor

The decision by the Labor Department to propose the curtailment of the agricultural processing exemptions is even more difficult to understand in the light of the fact that seasonal labor for harvesting and processing crops will be in extremely short supply in 1965 and thereafter. Last year Congress extended Public Law 78—providing for the temporary importation of Mexican agricultural labor—for just 1 more year, with the explicit understanding that the law would not be further extended past 1964.

Department of Labor officials have publicly stated that this congressional action is interpreted by them as an expression of policy against all temporary foreign farm labor, and that all such programs will be cut back or eliminated in 1965. They admit that seasonal labor will be scarce in 1965 and thereafter, and that there may be some difficulty in finding sufficient domestic labor to harvest and process all crops.

Thus, canners will find in 1965 that their annual seasonal labor problems will be especially aggravated, and that the need for overtime work during the peak seasons will be greatly increased. Canners who in the past have been able to find sufficient workers to put on a second shift at times will almost certainly have to rely on one-shift operations with greater overtime. In the face of these unquestioned facts the Labor Department is now proposing to cut drastically the canning overtime exemptions, and to impose penalty overtime on an industry that is powerless to change its working hours or find extra labor.

Effect on employees, growers, and the public of curtailing the canning exemptions

The curtailment of the canning exemptions and the application of penalty overtime to the canning industry for a part of its season would have seriously adverse effects on workers, growers, and the consuming public.

The income of many rural families is augmented during the brief canning season, when husbands, wives, and teenagers, to the extent permitted by law, find employment in local canneries, and rely upon the availability of extensive hours of work to earn substantial supplemental incomes. With the curtailment of the exemptions, the slender profit margin in the canning industry would make it impossible for many canners to pay time and a half for overtime beyond 40 hours. They would have the choice of cutting total operating hours, importing migratory labor when it could be found, or installing labor-saving equipment.

An increase in labor cost occasioned by curtailment of the exemptions would, of course, result in stronger pressures to substitute capital equipment for labor. It is a well-known rule of economics that business managers attempt to produce a given output at the least possible cost and in order to achieve this goal will substitute one productive factor for another when the price of one increases relative to the other. Therefore, an increase in the cost of labor will tend to decrease the demand for that input and improve the feasibility of substituting certain capital equipment. The canning industry, like many other industries, has not been standing still in the area of technological developments which have enabled the mechanization of many operations which in the past were heavy users of labor. The curtailment of the exemptions would most certainly serve as a stimulus to accelerate this trend.

Many canners, faced with the necessity of paying time and a half for overtime for 10 or 12 weeks might well decide that profitable operations could no longer be carried on. Any additional cost burdens would almost certainly increase the growing number of small canners who find it necessary to close down their plants, thereby reducing the total number of available employment opportunities.

The necessary effect of this bill to increase canners' costs of operation would not only endanger the economic life of many small canners, but it would be directly contrary to two vital administration policies. Early in December of last year the President and the Secretary of Defense by personal letter solicited major businesses "to establish an affirmative program to cost reduction in the performance of Defense contracts." The Secretary emphasized that two basic cost reduction objectives are "buying at the lowest sound price" and "reducing operating costs." He added that "Defense contractors can reduce the overall cost of Government by assuring that their own internal operations are conducted in the most economical manner." Clearly these fundamental objec-

tives of the President cannot possibly be achieved in the canning industry if legislation is enacted that will increase operating costs and thus raise prices for canned foods sold to the Government.

A second administration objective was achieved with the enactment of the tax bill reducing Federal income taxes. Henry Ford II, in a recent speech before the 12th annual management conference sponsored by the University of Chicago pointed out that the beneficial effect of the tax reduction legislation would be wholly lost unless business and the Government make every effort to keep costs at a minimum. It appears highly likely that any benefits that would be enjoyed by the canning industry under the Revenue Act of 1964 will almost certainly be eliminated entirely if legislation curtailing the canning exemptions and thus increasing costs of production is enacted.

The curtailment of the canning exemptions would also seriously injure growers and their employees. Cannerymen finding it necessary to reduce operating hours would, of course, cut down on purchases of the raw product, thereby removing a significant portion of the growers' available market. Some cannerymen might very well cut back their plants to one or two commodities in order to shorten their packing season.

At the present time most vegetable contracts are entered into before the season, and provide that the canneryman will purchase, at an established contract price, the entire crop from specified acreage. The risk is thereby transferred from the grower to the canneryman, who is in the best position to appraise the current market for canned foods. The canneryman is willing to contract ahead of time for an uncertain volume to be delivered at an uncertain date because he is confident that even the most pressing rush of raw product can be handled when necessary by around the clock operations. If it becomes economically impossible to work overtime hours during part of the canning season because penalty overtime must be paid, it is entirely possible that cannerymen would be reluctant to continue to bear the entire risk of marketing the processed commodity.

A third group who would be hurt by the curtailment of the canning exemptions would be consumers. It is, of course, acknowledged that every extension of wage and hour requirements proportionately increases the cost of goods to consumers. This increase is accepted by the proponents of extension as the necessary consequence of such legislation. But if that extension cannot in fact accomplish the desired effects, then there can be no justification for legislation that increases costs and contributes to inflation.

It has already been suggested that cannerymen may find it economically impossible to pay penalty overtime for a part of the season. If the raw product cannot be handled as it comes to the canning plant, much of it will be wasted, and delay in packing can only reduce the quality of the canned product. This waste and reduction in quality, combined with almost certain higher prices necessitated by decreased production or by payment of penalty overtime, would mean that the consumer would receive an inferior product at an inflated price.

CONCLUSION

For the reasons we have outlined above, the National Cannerymen Association, on behalf of the entire canning industry, urges that the canning overtime exemptions be retained. That provision of H.R. 9824 repealing section 7(c) of the Fair Labor Standards Act would serve no recognized statutory purpose and would constitute a clear reversal of over 25 years of congressional policy. It is entirely inconsistent with the stated goal of H.R. 9802 to spread employment, and utterly incomprehensible in the light of other Labor Department policies that will severely restrict the availability of seasonal labor in 1965 and thereafter.

FLORIDA NURSERYMEN & GROWERS ASSOCIATION,
Lakeland, Fla., April 13, 1964.

HON. ELMER J. HOLLAND,
*Chairman, Select Subcommittee on Labor,
Cannon Office Building,
Washington, D.C.*

DEAR MR. HOLLAND: We are concerned about H.R. 9802 which is being heard by your committee, and wish this statement to be made a part of the hearings. The Florida Nurserymen & Growers Association, with 946 members, represents the

majority of the production of horticultural and floricultural nursery crops in the State of Florida.

Our concern with this or any legislation being considered by the Congress is with restrictions by law or regulation that inhibit or limit those which have a long and historic record granted to citizens who are engaged in agriculture. We also seek to preserve the rights of our members who have a lifetime investment of occupation, time, capital, and property in an agricultural field, to free and unhampered conduct of their business.

On page 2, line 9, and on page 4, line 21, are the words "any industry." If the context "any industry" means what it says, then it means any or all industries without exemption. If this is the true nature of coverage of this phrase, we object to its inclusion in this proposed law.

The production of growing crops is at all times subject to the whims of nature and the elements over which any control is variable and limited. Careful and diligent husbandry of growing crops is often to no avail when the caprices of nature take over.

Agriculture needs many in its work force to perform menial and unskilled labor, and for these purposes employs those who have to labor with the lack of skill required for these jobs in other industries. We use in our production those who cannot be used elsewhere, thus we are supplying jobs to persons who would otherwise be unemployed. If and when many of this labor group acquire training and skills they are moved up to more rewarding jobs, but until this state of production ability is reached, these laborers are not producing profitable labor that would justify the payment of double time for any overtime beyond the normal workday or workweek.

Please reply to this statement and furnish any information that will help us understand the purpose of this legislation as it affects our industry.

Most sincerely,

N. CURTIS PETERSON, Jr.,
Chairman, Legal and Legislative Committee.

TRUCK TRAILER MANUFACTURERS ASSOCIATION,
Washington, D.C., March 17, 1964.

HON. ADAM C. POWELL,
Chairman of the House Education and Labor Committee,
House Office Building,
Washington, D.C.

DEAR MR. POWELL: The enclosed copy of a resolution, duly approved at the recent 23d annual meeting of this association, sets forth the opposition of our members to H.R. 9802, a bill to impose at least a double time penalty wage rate on overtime work.

As stated in the resolution, this will not, in our opinion, provide additional employment but will rather increase the cost of production and be a further cause for inflation in the American economy.

The members of our industry report extreme difficulty, even now in hiring people possessing the necessary skills and, moreover, the willingness or aptitude to be gainfully employed.

We trust that you and the members of your committee will seek out all of the facts related to overtime employment before recommending ill-conceived legislation which would not cure the problem but would rather fully retard our economic progress.

Respectfully yours,

JOHN B. HULSE,
Managing Director.

RESOLUTION I. IN OPPOSITION TO PENALTY RATES ON OVERTIME

Whereas the Congress is considering H.R. 9802, a bill that would impose at least a double time penalty rate on overtime;

Whereas the purported purpose of this legislation is to relieve unemployment; and

Whereas, in fact, this legislation will only increase cost of production but will not provide employment for those individuals who have neither the skill nor the aptitude for the jobs to which penalty rates would apply: Now, therefore, be it

Resolved by the Truck Trailer Manufacturers Association in Convention assembled, That this legislation, if enacted, would be detrimental to the economy of this Nation and therefore should be opposed.

Certified true and correct copy:

JOHN B. HULSE, *Secretary.*

MILLERS FALLS Co.,
Greenfield, Mass., March 10, 1964.

HON. SILVIO O. CONTE,
House Office Building,
Washington, D.C.

DEAR MR. CONTE: I am writing to you in regard to the hearings before the House Subcommittee on Labor on H.R. 9802.

When we became aware that hearings were to be held concerning the proposed double time penalty for overtime work, the chairman of our parent company, Mr. Robert H. Johnson, wired Mr. Holland requesting time for our company to testify on this matter. He received an answer from Mr. Holland that it would not be possible to provide time for us to appear.

We feel very strongly that the proposed increased penalty for overtime work if adopted would have a detrimental effect on our operations, without the desired improvement in employment level. As a matter of company policy, we perform all possible work during our regular working hours and use overtime only to meet customer emergencies and to utilize certain skills and equipment during temporary periods of expanded business, where it would not be economically feasible to duplicate these facilities.

Consequently, the effect of the increased penalty for overtime work would mean increased operating costs to us, resulting in more difficulty in maintaining our competitive position which is becoming increasingly tight due to swift growth of oversea competition.

We would appreciate whatever you can do in this matter to aid us and other companies like ours to present our feelings, as well as action on your part to defeat this very undesirable bill.

Very truly yours,

JOHN J. OWEN, *President.*

MILLERS FALLS Co.,
Greenfield, Mass., March 20, 1964.

HON. SILVIO O. CONTE,
House of Representatives,
Washington, D.C.

DEAR MR. CONTE: Thank you for your letters of March 16 and 17 regarding your efforts on our behalf to have our views on H.R. 9802 presented to the Select Subcommittee on Labor. I appreciate very much your efforts with Congressman Holland, the chairman of this subcommittee, in our behalf.

Millers Falls Co. is a wholly-owned subsidiary of Ingersoll-Rand Co. of New York. Ingersoll-Rand has also submitted its views to Congressman James Roosevelt and Congressman Holland on this subject, and have included 25 copies for distribution to each member of the subcommittee. The views of Millers Falls Co. are essentially the same as our parent company except that we are members of a significantly different industry.

Millers Falls Co. manufactures a broad line of hand and power tools as listed at the bottom of this stationery. We are members of the Electric Tool Institute and the Hack & Band Saw Manufacturers Association of America. We are also closely associated with the Service Tools Institute and will probably become members of this organization within the next few months.

Enclosed is a copy of the comments which Mr. D. E. Moore, manager of Industrial Relations of Ingersoll-Rand Co., sent to their representatives on this subject. This could serve as the outline which you requested except as to the type of industry which we represent. Anything that you can do in our behalf will be very much appreciated.

Very truly yours,

JOHN J. OWEN, *President.*

MILK CO. INC.,
 Binghamton, N.Y., February 12, 1964.

Hon. ELMER J. HOLLAND,
 Chairman, House Education Committee,
 Washington, D.C.

DEAR MR. HOLLAND: I am enclosing a copy of a page of the Industrial Relations News which reports the results of a survey by the Commerce & Industry Association of New York, Inc., in connection with the proposed mandatory 35-hour workweek and double time for overtime on the 35-hour workweek.

We in our industry are doing everything in our power to make sure we do not have overtime. We are in an industry that is working on fractions of a cent and any undue burden such as overtime only aggravates our profit picture. It is only in extreme emergencies that overtime is permitted. The additional burden of trying to carry overtime at double time under emergency conditions would only increase the problem of companies such as ours in making a profit.

I am sure you are aware of Samuel Gompers' famous statement "The worst crime against working people is a company which fails to operate at a profit." In our opinion, this is all too true.

It comes to mind that with the competitive conditions existing in our country today, if a double time provision goes into effect for overtime, there is a possibility that, in order to remain competitive and pay the overtime that is necessary, companies will use the moneys from the recently passed tax bill for this purpose. This would have the effect of defeating the primary purpose of the tax bill, i.e. giving the economy a boost and providing more work to reduce the number of unemployed.

I respectfully urge that the committee under your leadership consider any action in this matter very carefully in the light of its effect on industry and the economy.

Most sincerely,

VINCENT C. CROWLEY.

FAIR LABOR STANDARDS ACT PROPOSALS EVALUATED

Making mandatory a workweek of 35 hours without reduction in weekly pay or making double time mandatory for all hours worked in excess of 35 a week may not be the answer to solving the unemployment problem. Of 225 firms responding to a survey by the Commerce & Industry Association of New York, Inc., 85 percent said attempts to penalize overtime would not cut unemployment. Far more effective tools for combating unemployment, according to the responding executives, are: training to upgrade skills; and measures which cut costs, develop greater production efficiency, and stimulate economic growth. Some respondents qualified their answers by stating that while reducing or eliminating overtime might reduce unemployment temporarily, in the long run a shorter workweek would not cut the level of unemployment by any appreciable amount.

Responses to the question "How would you adjust your employment if the Fair Labor Standards Act were amended * * * to make mandatory a workweek of 35 hours without reduction in weekly pay?" show: 60 percent would reduce manpower requirements by various methods; 20 percent would maintain the same schedule and pay overtime; 14 percent would hire more personnel; and 6 percent would eliminate overtime or institute other cost-saving devices. Those queried replied in almost the same percentages as to what they would do if the Fair Labor Standards Act were amended to make double time mandatory for all hours worked in excess of 35 a week. The following are the percentages based on replies received:

Reducing manpower requirements by various methods, such as subcontracting and mechanization, 57 percent.

Maintaining the same schedule and paying the overtime, 24 percent.

Hiring more personnel, 14 percent.

Eliminating overtime or instituting other cost-saving devices, 5 percent.

AMERICAN HARDBOARD ASSOCIATION,
Chicago, Ill., May 6, 1964.

Hon. ELMER J. HOLLAND,
Chairman, Select Subcommittee on H.R. 1680 and H.R. 9802, House Education
and Labor Committee, Washington, D.C.

DEAR MR. HOLLAND: As manager of the American Hardboard Association, I would like to express to you the strong opposition of our members to the proposed "double pay for overtime" legislation (H.R. 1680 and H.R. 9802), which is being considered by your subcommittee.

We concur in the views that have been expressed generally by representatives of business and industry before your subcommittee. We think that the inevitable effect of such legislation will be an increase in production costs, with the resulting higher consumer prices. Further, we do not believe that the proposal would provide any appreciable increase in job opportunities for the mass of unskilled and untrained persons of which the unemployed group is largely comprised. Viewed realistically, we think that these bills, camouflaged as a "make work" remedy, are another effort by organized labor to increase wages by statutory compulsion.

In addition, we would like to emphasize that the proposal would have a particularly damaging effect in the hardboard industry. This is because our industry is seriously threatened by cutthroat competition from foreign countries, where producers are not handicapped by uneconomic wage penalties. There is no question but that the higher production costs which would result from these bills would lessen the ability of our American producers to cope with such foreign competition.

As you know, hardboard is a wood product made from wood fibers, which, under heat and pressure, are bound together by "lignin," the natural cohesive substance in wood. Hardboard is an engineered wood that is superior in many uses, and hardboard producers are an important part of the forest products portion of our economy.

Foreign producers now can and do sell hardboard for less in this country than can domestic producers. Their combined capacity is nearly twice that of the United States, and their comparative cost advantages cannot be met by domestic producers. As a result, hardboard imports have now in effect acquired 15 percent of U.S. markets, and substantial price differentials are being offered at prices as much as 25 to 40 percent below domestic price levels. These price differentials are not the result of superior business skills, resourcefulness, or industriousness; rather, they are possible only because of the lower hourly and unit labor costs¹ prevailing in foreign countries and the transportation cost advantages which foreign producers enjoy.

The foreign competitive cost situation is illustrated by the striking increase in U.S. hardboard imports (i.e., 2,720 percent since 1950), as compared with a reduction of U.S. exports during the period. This is graphically revealed by the attached charts.

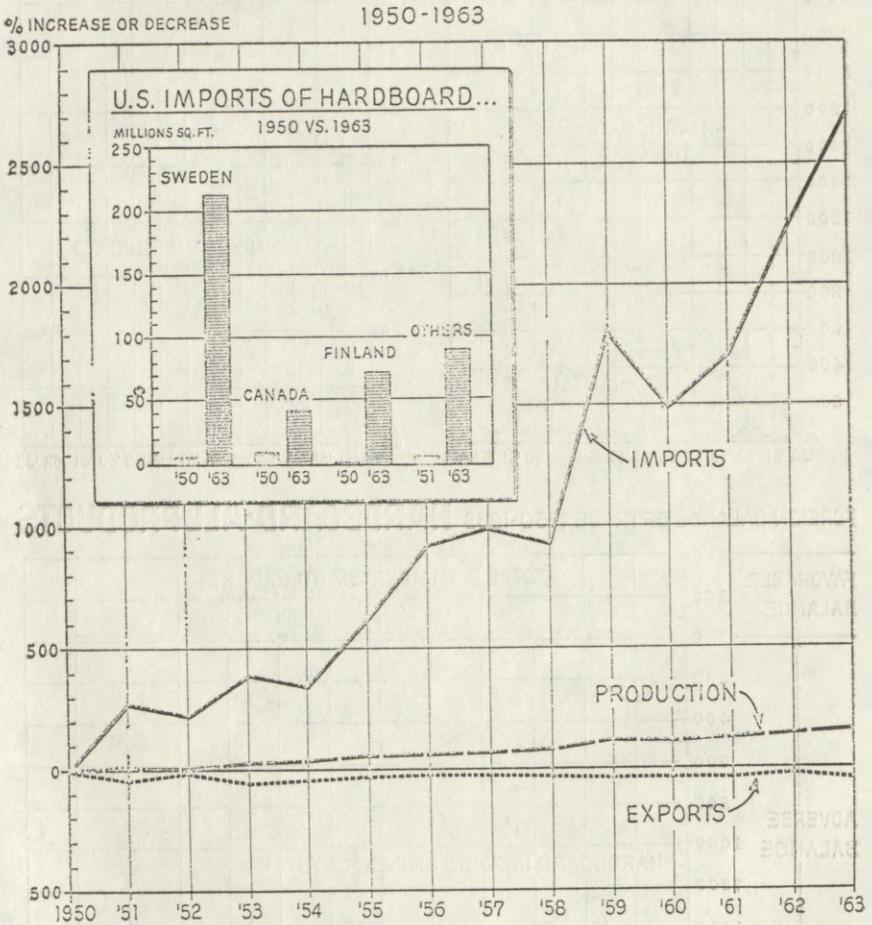
We would greatly appreciate your consideration of the serious problem with which the members of our industry are confronted. There is no question but that the "double pay for overtime" legislation would increase our production costs and aggravate the competitive disadvantage we now have in trying to cope with low-cost foreign producers. We urge that the proposed legislation be rejected.

Very truly yours,

DONALD LINVILLE,
Executive Secretary.

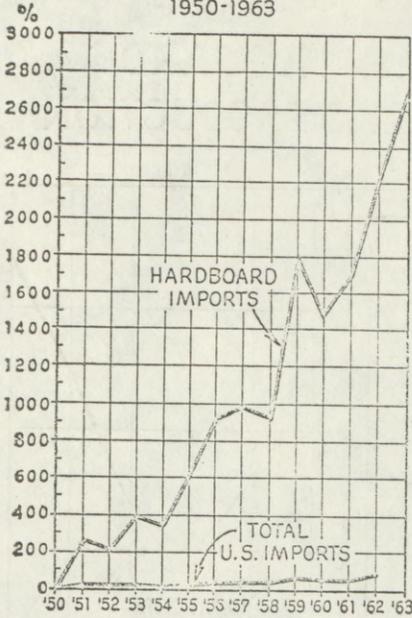
¹ I.e., wage costs of Swedish producers (the principal foreign competitors) are about half our wage costs in this country.

TRENDS IN U.S. HARDBOARD IMPORTS, EXPORTS AND PRODUCTION



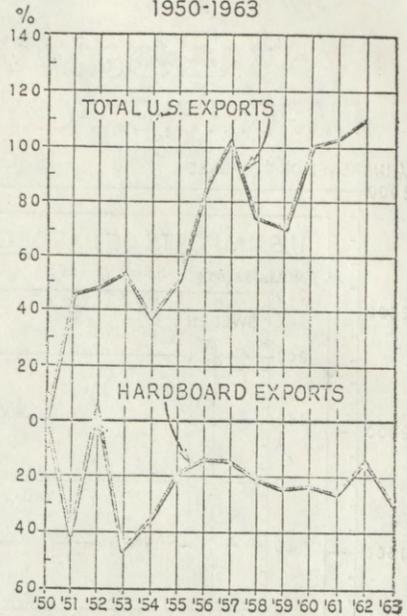
U.S. HARDBOARD AND
TOTAL IMPORTS

1950-1963



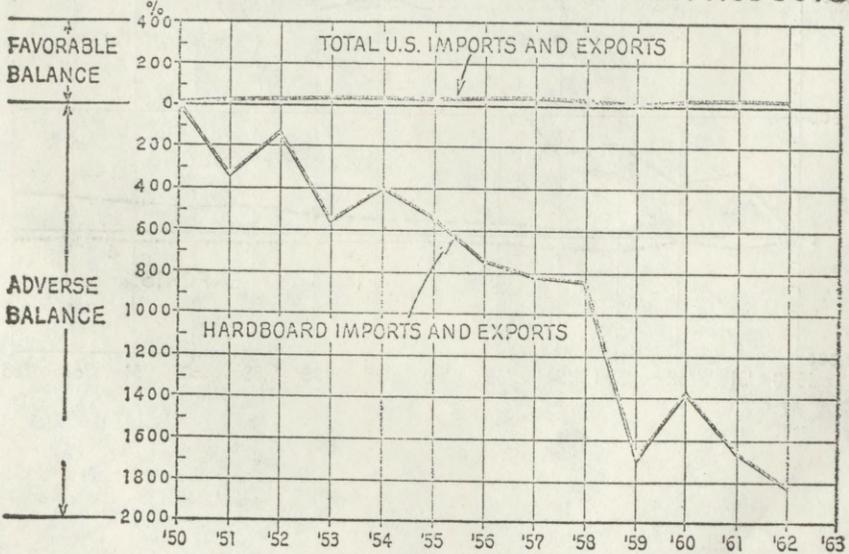
U.S. HARDBOARD AND
TOTAL EXPORTS

1950-1963



FOREIGN BALANCE OF TRADE 1950-1963

HARDBOARD-ALL PRODUCTS



WALLCOVERING WHOLESALERS ASSOCIATION,
Rehoboth Beach, Del., June 5, 1964.

Hon. ADAM C. POWELL,
*Chairman, House Committee on Education and Labor,
 Washington, D.C.*

SIR: Enclosed herewith is a resolution adopted at the 44th Annual Meeting of the Wallcovering Wholesalers Association, a national organization devoted to the distribution of wallpaper and wallcoverings. It clearly expresses disapproval of the proposed double time for overtime bill.

May I request that this resolution be made part of the hearing records of your committee?

Very truly yours,

HENRY H. ALLMAN,
Executive Director.

RESOLUTION

Resolved, That the members of the Wallcovering Wholesalers Association, a national trade association, assembled in their 44th annual convention at the Jung Hotel, New Orleans, La., May 6-8, 1964, respectfully, but firmly register their objections to the imposition by national law of double time pay or higher for overtime above 40 hours. Such a law would not increase employment, but would definitely increase the costs of business operations, which would induce a spiraling and inflationary effect on the prices of wallpapers and wallcoverings. The assembled delegates requested that these sentiments be spread on the minutes of the meeting and that copies of the resolution be sent to the appropriate congressional committees, to the National Association of Wholesalers, and to the Paint & Wallpaper Association of America, a trade association representing thousands of retail dealers throughout the United States.

ILLINOIS STATE EMPLOYMENT SERVICE,
Rockford, Ill., February 17, 1964.

Mr. FRANK ELLIS,
*Legal Aid, Barber Colman Co.,
 Rockford, Ill.*

DEAR MR. ELLIS: We should like to supplement the subjoined labor market information by explanatory remarks on some of the difficulties attendant on recruitment of skilled workers, to alleviate the shortage of such workers in the Rockford area.

The machine tool factories in Rockford, from a population point of view, employ the largest percentage of toolmakers, machinists, and operators of machine tools, of any city in the State of Illinois. The U.S. arsenal, at Rock Island, is the only establishment in the State, that maintains as high a standard of workmen as our machine tool industry.

Recruitment of acceptable workers from other machine tool centers is not feasible, for the reason that the shortage of these workers is nationwide.

Replacement of the attrition of skilled machine tool workers has not kept pace with this industry, for 20 years. This failure to keep a balanced inventory of machine tool workers is due largely, to the increasingly higher standards for apprentices, and the more attractive conditions in our large production plants, where workers can be trained for repetitive jobs requiring only short-time training periods in comparison with the necessarily longer apprenticeships where workers must be trained to the highest types of precision workmanship.

We have had extreme difficulty in getting qualified, unemployed applicants or trainees in Manpower Development and Training Act training classes, where they would be given a short rudimentary training in the operation of machine tools on jobs which could be confined to repetitive operations.

The machine tool plants are now employing all the surplus of precision machine tool operators within a radius of 30 miles from Rockford.

The careful screening of persons referred to the machine tool industry has depleted our local supply of unemployed, to an almost irreducible minimum for this purpose.

In view of the above facts, it is our considered opinion, that it is not feasible for this industry to reduce hours of work, when they are not able to secure qualified workers necessary to maintain present production schedules of their indispensable product.

Yours very truly,

Rockford, Ill.

W. D. SPRINGER, *Manager.*

	County	City
Total population.....	224,450	135,575
Total employment.....	87,775	72,900
Nonagricultural wage and salary workers.....	76,675	65,550
Manufacturing.....	39,825	34,075
Nonmanufacturing.....	36,850	31,475
All other nonagricultural employment.....	8,350	7,850
Agricultural.....	2,250	
Average unemployed.....	3,650	(1)

¹ Information not available.

Industrial segment (Winnebago County)

33 Primary metals.....	1,825
34 Fabricated metals.....	11,225
35 Nonelectric machinery.....	9,900
(354, machine tools).....	(4,600)
36 Electrical machinery.....	650
37 Transportation equipment.....	5,075
38 Professional and scientific instruments.....	4,300
39 Miscellaneous manufacturing.....	700
All other durable goods.....	6,150

NOTE.—Number of industrial unemployable is an estimated 1,650.

STATEMENT OF THE INGERSOLL MILLING MACHINE CO., DOUBLE TIME PAY FOR
HOURS WORKED IN EXCESS OF 40 HOURS A WEEK

THE INGERSOLL MILLING MACHINE CO.

Ours is essentially an engineering business in which we work with manufacturing executives in all of the basic industries, studying the requirements of production process and recommending ways and means to reduce manufacturing costs. In support of this type of engineering study we supply the hardware to implement our recommendations. This hardware consists of machines, cutting tools, fixtures, work handling devices, chip and scrap removal systems, dust collecting apparatus and other pieces of equipment that are involved in a given manufacturing process.

We employ 1,200 people, 165 of which are engineers, about 235 are office, administrative, and sales personnel, and the remaining 800 are shop employees and shop supervisory personnel. The type of equipment that we build can be generally classified as heavy capital equipment, the largest of the units will weigh as much as 1 million pounds, and a single order to supply equipment might run \$3 million. The facilities utilized are heavy job facilities—cranes capable of lifting 35 tons—a main assembly bay about the size of a football field with nearly 40 feet underneath the hook of the crane; single castings or weldments that are components of the machines weigh as much as 20 tons. The machines that we manufacture are completely assembled in our factory and tested before they are disassembled and shipped to customers' plants throughout the world.

The personnel in the shop are skilled machinists and assembly men, working to drawings and on nonrepetitive work. To train an average skilled man in our shop on one job takes about 6 months' time. Since we are unable to employ anywhere near the number of trained machinists or assembly men needed, it has been necessary for us to continuously have people in training on the job. In addition, we graduate about four fully trained apprentices each year. The costs of the training program are approximately \$200,000 a year.

Our business is cyclical, since the last thing our customers want to do, is to tie up their cash in manufacturing facilities. The purchase of new equipment is invariably postponed until the last possible moment. When a decision to buy is reached, the equipment is needed immediately, and the demand is constantly for short delivery. Even in the last 6 years, when we have been operating substantially below capacity, we have been unable to avoid overtime work. From 1958 through 1963, we have spent on overtime premium alone \$1,327,000 so that even when our facilities are operating at less than capacity, we are still required to work unusually long hours in order to meet the demands of our customers and the competitive situation of the market.

Some theoretician might be able to work out on paper a plan to split shifts or schedules of work of less than 40 hours a week that would enable us to employ more people to do the work that is required. The practicality of such a plan is nil. We simply would be unable to hire people on such a basis. We are in competition with producers of heavy industrial equipment for our labor force, and also the service industries, retailing firms, producers of consumer durables as well as people in our own field of machine-tool manufacturing. This has been proven in recent years when it was necessary to lay off qualified skilled people due to lack of business. When the business again picked up, we were unable to attract them back to our company, because they had been comfortably situated in new positions earning comparable pay.

The effects of this legislation, requiring us to pay double time for overtime work would be immediate and costly. Our employment practices would not change. We would continue to work overtime because of the demands of our customers and the shortage of skilled labor that we employ. Our overtime premium costs would double—more than \$200,000 a year—if we average out at the same rate we have experienced for the last 6 years—about \$325,000 a year if we continue last year's experience.

Our training program will continue in the same manner as it has in the past, since the legislation would not create any more skilled people available for work, and to the extent the legislation does spread the work in other industries, it would create additional demand for skilled labor, and our training and recruiting costs would therefore increase.

Already we face a difficult competition in our export business. American machine-tool builders generally have produced better equipment than their counterparts in Europe. Nevertheless, the cost of European-made machine tools laid down in U.S. ports is often as much as a third less expensive because of the low labor cost of the European manufacturers. This competition would be heightened and our ability to compete in the foreign market would be lessened because of our increased costs. In summary, this legislation would not in our opinion increase the number of jobs available in our industry, but would increase our cost and decrease our ability to get orders.

C. R. GAYLORD.

GREENLEE BROS. & Co.,
Rockford, Ill., February 20, 1964.

HON. JOHN B. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR JOHN: I understand you are gathering data relating to additional costs which will have to be met if the proposed legislation is passed requiring double time penalty payments for all hours worked in excess of 40 per week, in place of the current time-and-one-half penalty. The following is the story at Greenlee Bros. & Co.

A. Overtime penalty payments in 1963 were 7 percent of the total shop payroll, affecting approximately 50 percent of 900 shop employees, and 5.4 percent of engineering and office, production control, time study, etc., employees, numbering about 300; about 65 percent of the 1,200 being on a continuing overtime basis.

B. We are running at capacity now, especially on machine tool operations. The overtime is caused principally by lack of available skilled help. We are hiring now whenever we find competent help and have been since about March 1963. Since January 1, 1963, we have added 83 shopworkers. Many ads in local papers are seeking skilled help. A page out of the local paper is enclosed. Overtime is caused also by customer demands and engineering

changes. The machine tool industry normally runs at overtime in peak times such as at present.

C. Skilled workers in our shop represent about 43 percent of total; semi-skilled 39 percent; only 18 percent unskilled. Long training and high potentiality are needed to prepare men for these skilled jobs. In our entire shop, we have only about 20 women, indicating the skill and the physical requirements.

If this legislation should pass, we would—

D. Attempt to reduce overtime in every possible way, especially by more mechanization and automation, principally in unskilled and semiskilled work. This would reduce even further the number of low-skilled workers we could employ.

E. We would try to upgrade the workers displaced by automation and thus reduce the overtime which is especially prevalent among the skilled workers. We now have such training programs in process.

F. Double overtime would affect costs and profits. The higher costs would hurt us in foreign trade competition, both on our exports of machine tools as well as competition from foreign countries which are competitive in type and quality with the small tools we manufacture. This would be especially true if we have to pass the increased costs on to the customers. (See G.)

G. Overtime penalty payments at double time, if applied to the 1963 overtime hours, would increase our direct wage costs alone by \$473,468.

H. We are unable on such short notice to compute additional costs of fringe benefits which might be affected.

There are other considerations of a general nature:

I. Pressure (by increased overtime penalties) will reduce working time by the skilled workers in a given plant and encourage them to take second jobs as moonlighters in other plants. As long as skills are in demand, persons with such skills will get and take the jobs. A skilled man on part-time basis is more efficient than untrained men on full-time basis.

J. Increased labor costs will frequently speed up automation and mechanization. Since unskilled workers carry the highest "economic unit costs," their jobs will be automated soonest and there will be a further reduction in the number of jobs for unskilled and untrained workers.

K. The highly skilled workers are the creative workers; they are the ones in demand; they are the ones who are assigned the overtime. When their output is reduced, there is less need for unskilled workers.

L. Emergency, repair, and rush jobs usually require the work of skilled employees. It would be foolish to hire additional unskilled men in such situations. Such work cannot be spread over a larger number of workers.

M. In our plant we have three industries: Machine tools and wood-working machinery, two foundries, and small hand and hydraulic tools. If different overtime rules should apply to these different industries, there would be chaos and inequities among workers. The foundries generally do not work overtime, and sometimes they are lowest in demand. The machine tool industry is generally at overtime at normal demand because of limited capacity throughout the country and especially in peak demand.

N. Such additional overtime payments would increase costs of Government work and there is surely some doubt that all the unskilled workers would be employed as an offset.

O. Increased labor costs would tend to reduce profits on which the Government collects taxes, thus reducing the Government's income.

P. Increased costs would tend to increase prices and be a threat to all foreign trade resulting in lower exports of American goods and larger imports of foreign made goods.

In January Rockford was reported to have only 3.3 percent unemployed, about 2 percent below the national average, as you know. Our people have looked at many of the cards of those seeking work and many of them are unskilled. Some national defense training programs here have closed because of unavailable potential trainees.

I am sending a copy of this letter to Senator Douglas and to Senator Dirksen, along with pages of the local newspapers showing the want ads for help wanted.

Sincerely yours,

LESLIE GEDDES.

ELCO TOOL AND SCREW CORP.,
Rockford, Ill., February 18, 1964.

HON. JOHN B. ANDERSON,
*New House Office Building,
Washington, D.C.*

DEAR JOHN : In this letter we are submitting our thoughts in regard to the proposed legislation for payment of double time for overtime and the probable effects of this legislation on our costs, and, of course, ultimately in all costs of products made, since our product is an integral part of all fabricated products.

We have found it necessary to utilize overtime for a number of years in this area. This is a policy observed by most of the manufacturers here in Rockford. This has been due basically to a shortage of skilled help, and right now this is particularly acute. Our classified advertising in the newspaper includes ads by all the major companies for skilled and semiskilled workers, and they simply just are not available in the immediate area, and any movement between companies of skilled help is not a net addition to skilled work force.

Our payment last year (1963) for the half-time premium was \$227,000, or 8.6 percent of our total payroll. While technically this amount of money would pay approximately 38 people at average earnings of \$6,000, it would never work out in quite this way. First, not all operations are capable of operating on three 8-hour shifts, and we simply would not be able to get the additional help to really convert from two shifts, on which we have always operated, to a three-8-hour-shift basis.

If we are to try to continue as we are, the first cost would be doubling the overtime, but there are many other areas in which increases would be affected, such as night premium, vacation pay, and in fact, most of the fringe benefits. We have always tried to keep our employment with the very minimum of layoffs and we believe very firmly this policy is in the best interest of our community and the people employed.

There are peaks and valleys in production in almost every business and we have our share of these in the fastener field. In high periods, if we were to employ people, they would certainly have to be laid off in the low periods, whereas now we can work the present people longer hours and keep up our longstanding record of steady employment. Reduction in hours has usually resulted in more moonlighting, which already exists even with our longer hours.

The legislation proposed includes provision for establishing a tripartite commission to establish these special overtime rates by industry, or possibly by area. Here again industry is faced with some arbitrary rules and regulations that seldom fit every company's circumstances. Our association, the U.S. Wood and Machine Screw Bureau, is communicating with you and other Members of Congress on this subject because most of our industry is faced with the same problem, regardless of location, and we cannot pass along price increases to consumers, which would be contrary to administration policy in any event. It appears to us there is too much haste to get this legislation passed, and a great deal more study should be given to the effect on the whole economy. Perhaps we may suggest a better study of the unemployment picture, which severe as it is, has never been clearly defined as it should be, and the worst areas become the standard for judging unemployment throughout the whole country.

Employing additional people affects all of the fringe benefits, which as you well know, have become a very costly item, varying from 50 to 75 cents an hour. Training new people is expensive and these new rules would increase this cost. A year ago there were some classes for machinists but this program is not in existence this year because there are no funds available.

We urgently ask that a great deal of time be spent on this whole subject. Let's not have further Government regulations or changes of overtime premium of and by itself as an attempted cure for the complex unemployment problem we have in this country.

Yours very truly,

HARRY WEMPLE,
Executive Vice President and General Manager.

ROCKFORD SCREW PRODUCTS CO.,
Rockford, Ill., February 20, 1964.

HON. JOHN B. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: The motives of men registering favorable opinions or objections to legislation usually are based upon potential gains or losses for the individual, the industry, or the group they represent.

In offering our thoughts which relate to H.R. 9802 (payment of double time for overtime) we think it is important that you know, not so much what we personally think of the legislation, but rather, what actual affect this legislation would have upon our 1,500 associates whose income will affect the standard of living of 5,000 men, women, and children in Rockford, Ill.

For many years Rockford Screw Products Co. has operated on a two-9-hour-shift basis, 5 days per week. When business slackens in our industry we change our schedule to two 8-hour shifts, 5 days per week. With this 12 percent work schedule latitude, plus the manipulation of building and reducing finished goods inventories, we have been able to virtually eliminate layoffs. If the law requires paying double time for overtime, we can assure you that we would be forced to operate with the standard 40-hour week schedule. This would mean a 20-percent loss of income for our associates and their families.

The capital investment cost per man in our company is approximately \$12,000. When we realize that there is already a skilled labor shortage in the Rockford area, it would not seem practical for us to invest in the necessary buildings and machinery and add 12 percent more people to our payroll in an attempt to equal our present production.

We, therefore, believe that the H.R. 9802 legislation will only result in lowering the standard of living of the approximate 5,000 people affected by our company and will not provide additional jobs. We think that in all probability, if many of our skilled workers are only working 40 hours per week, they will find part-time jobs which could have an adverse affect upon Rockford's unemployment.

Please consider all aspects of H.R. 9802. It is our opinion that this proposal will not solve the unemployment problems, but will create other hardships. We believe your vote against H.R. 9802 will best serve the American worker.

Cordially,

WARD P. LIDBETTER,
Vice President, Manufacturing Operations.

AMEROCK CORP.,
Rockford, Ill., February 21, 1964.

HON. JOHN B. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: We firmly believe that double time for hours in excess of 40, as proposed in H.R. 9802, is not the solution to the unemployment problem. With overtime premium pay already a problem, it is difficult to pay more and remain competitive.

As you will see in our attached outline, double pay for overtime will not increase employment in our company. It will only reduce our ability to remain competitive. We feel foreign competition would become more intense, and it would create even more unemployment for Americans.

Since it would be impossible to eliminate all overtime, we appeal for your assistance in opposing action on this proposal.

Very truly yours,

NORRIS A. ALDEEN,
Executive Vice President.

- I. Double pay for overtime will not increase employment in our company.
 - A. Women now work 40 hours per week. We do hire more when business demands are greater.
 - B. Skilled workers are so scarce that those that can be found must be worked overtime when orders come in heavily, no matter how many unskilled workers may be available for hiring.

C. Skilled employees such as toolmakers, machinists, and maintenance personnel are required to work overtime only during brief peak business periods and in event of emergency breakdowns.

D. Most of unemployed in our area are unskilled people.

E. Crash schedules are caused by emergency orders from customers which cannot be foreseen. This leaves no time for hiring and training, or it would increase quality problems, create excess costs, and increase customer dissatisfaction.

F. Unexpected absences and vacation schedules are a cause for short-term overtime which cannot be eliminated by hiring.

II. Double pay for overtime will reduce our ability to be competitive.

A. Our payroll costs would be increased by 11 cents per hour (or 4 percent) for overtime pay.

B. Cost of making tools would be increased because of lack of skilled workers. (It is tools that make jobs for unskilled people).

C. Increased cost of overtime will make it more difficult to get tools to provide jobs for the unskilled.

D. Overtime cost increase will make it more difficult to compete with foreign manufacturers.

E. Hiring to avoid overtime payment will cause more layoffs when fewer sales require curtailment of production schedules.

F. Increasing total cost of manufacturing through—

1. Increased unemployment compensation costs.

2. Increased hiring and training costs.

3. Increased social security taxes.

4. Increased all other fringe benefits.

G. Would raise cost by restricting the production flexibility we now have by scheduling overtime.

H. Using untrained people to meet crash production schedules will result in higher excess costs. Rejects and rework would be increased and deliveries actually delayed.

I. Hiring of unqualified people would increase turnover costs.

NATIONAL LOCK,
Rockford, Ill., February 19, 1964.

HON. JOHN B. ANDERSON,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: We are concerned over possible passage of H.R. 9802 because of the effect that it would have on National Lock Co.

The purpose of this legislation would be to hire the unemployed by forcing industry to reduce overtime because of the penalty payments. We believe that the reverse is true; it is almost impossible to employ additional competent help as it is not available in this area. If it were available, we would only increase our employment by a small amount, as the need for such increase would be of a periodic temporary nature.

Passage of this legislation would increase our costs by approximately one-half million dollars per year or an average of 10-plus cents for every hour worked. The total hours worked will not change as the number of hours per employee will decrease and the total number of employees will increase without any increase in productivity for this additional cost. The result will be an increase in selling prices, which is inflationary, or a reduction in our net profit before taxes. Since we participate in highly competitive markets, the result would be a decrease in profits of 1.2 percent or a reduction of profits before taxes from 5 percent of the sales dollar down to 3.8 percent.

We believe that the proposed bill would cause unemployment and would also place an unbearable penalty on National Lock Co.

Sincerely,

JOHN R. SOMMER,
Executive Vice President.

J. L. CLARK MANUFACTURING Co.,
Rockford, Ill., February 20, 1964.

HON. JOHN B. ANDERSON,
House Office Building,
Washington, D.C.

DEAR MR. ANDERSON: According to the administration, H.R. 9802 is designed to relieve current unemployment by requiring a penalty rate of double time for overtime work. There are several aspects of this proposed legislation which would be in our situation either unworkable, far too costly, or undemocratic in their application.

J. L. Clark Manufacturing Co. employs 825 persons and is engaged in the manufacture of lithographed metal containers and specialty products. Our manufacturing operations are of the job shop variety.

The areas of our business which require the largest amount of overtime are those requiring special skills, such as toolmakers, machinists, electricians, millwrights, and the like. These several skills are in very short supply in Rockford as evidenced by the ads which appear daily in the classified section of the local newspapers. Therefore, in our particular situation the infliction of a double-time penalty for overtime would do nothing to relieve the unemployment situation here.

The second aspect of this legislation mentioned above pertains to additional costs. Should such a penalty rate be inaugurated, it would mean an increase over present labor costs of 3.5 percent. This does not include the increased costs of fringe benefits which would be necessitated if it were possible to hire additional people to reduce or eliminate overtime. These costs are almost impossible to figure at this time. Being in a most competitive industry, we would not be able to pass on the added costs to our customers in the way of price increases and still maintain our customers and provide work for our employees.

In this connection also, overtime as it applies to J. L. Clark is necessitated by the lack of skilled help available and by the urgent production needs of our customers who are asking for relatively short delivery on our product. Since we are a job shop operation, it is not possible for us to stock items to take care of these peak periods and, therefore, when requests for product do come, it is often necessary for us to engage in considerable overtime in order to meet the needs of the customer.

We are particularly disturbed by the amount of discretionary power which this legislation places with the Secretary of Labor and his self-appointed tripartite committee. In accordance with H.R. 9802 these men would be making decisions which are normally the responsibility of management. Because of the necessities of the particular business or industry, overtime has been used for sound management reasons. It seems inconceivable that the Secretary of Labor and his committee who would have no responsibility for a business operation should have the power to make such an important decision, and that such decisions could be applied almost in an arbitrary manner and could differ from industry to industry. This difference from industry to industry could cause considerable hardship on industries located within the same community competing for various types of help, if one industry were required to pay double time while another only time and a half.

We are certainly appreciative of your efforts in our behalf and stand willing to do anything which you might deem appropriate in helping to defeat this absurd piece of legislation.

Yours sincerely,

RALPH H. McLEOD,
Director of Employee Relations.

ROCKFORD, CLUTCH DIVISION,
Rockford, Ill., February 19, 1964.

Representative JOHN B. ANDERSON,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: I would like to register a strong objection to H.R. 9802 which would amend section 7(a) of the Fair Labor Standards Act to provide that at least double time shall be paid for hours in excess of 40 hours per week. I will try to explain some of the reasons for this position.

As you know, the Rockford labor market has a shortage of skilled and even semiskilled labor. In our company we have had open requisitions for skilled machinists for many months. These men are just not available unless they can be hired away from another local employer. Because of this shortage of help, we paid \$207,643 in penalty pay during 1963 in our company which employs 750 people. This is over 4 percent of our payroll. This overtime was not spread evenly over all employees but went to the 40 to 50 percent who have skills that are not available in sufficient quantities in our community. We currently have about 20 men working 72 hours per week because of an emergency situation. Fortunately, this is a temporary condition because time and one-half for hours over 40 is not reflected in the selling price of our product and we cannot expect to make a profit on units produced on overtime. I do not know of an employer in our community who pays time and one-half rather than hire additional people where he can do so. We try to hold a 40-hour workweek wherever possible but there are many factors beyond our control such as machine breakdowns, preventive maintenance work which must be done during nonproductive hours, unavailability of trained help, and most important of all, the emergency demands of our customers.

The stated reason for the proposed amendment is to spread the work and decrease unemployment but what has happened to make it more feasible to work overtime instead of hiring? In 1955, the major automotive manufacturers negotiated S.U.B. plans with the United Auto Workers. In 1958, and again in 1961, the benefits were increased to a point where if a worker in these plants is scheduled below 40 hours, he will receive short workweek benefits based on either 50 or 65 percent of his hourly rate. During a normal production year in the auto industry, there are times when most production workers are laid off for short periods for model changeovers, or to level off inventory levels. Under these conditions they would receive S.U.B. benefits. The cost of these programs is obviously quite high when there are layoffs; 1963 was a record production year for the automotive manufacturers and the companies realize that when the consumer buys heavily in 1 year he does not normally buy so heavily the succeeding year or years. Rather than run the risk of overhiring in peak years and then having to lay off in slack years, they have worked their current work force more hours to meet peak production requirements.

This is a relatively new policy for the automotive industry and is a direct result of the S.U.B. programs. Although I have not seen statistics to support this fact, I am confident that the auto manufacturers have concluded that it is cheaper to pay the penalty payment of time and one-half than to pay S.U.B. benefits. The S.U.B. programs were an outgrowth of the UAW's demands for a "guaranteed annual wage." These demands have now produced a result which may be restricting employment opportunities in the automotive industry. Certainly the proposal contained in H.R. 9802 should not be passed as a solution to this problem if the solution can be reached at the automotive bargaining tables.

I am genuinely frightened over the sweeping authority granted to the Secretary of Labor under this bill. He can appoint the members of a tripartite committee for any industry in which he believes substantial overtime employment exists. He can accept or reject their recommendations as he sees fit. If he disapproves of a committee's report, he can appoint a new committee perhaps hoping for results that coincide with his thinking. His decision would be final and binding without judicial review. The authority proposed for the Secretary of Labor could be seriously abused. I can well imagine the costs of administering such authority.

Further, it is my feeling that this proposal is unworkable. For example, many companies are involved in manufacturing several different products at the same location. One product may fall in an "industry" in which it is determined that the penalty pay rate should be doubled whereas the other four or five product lines fall in an industry in which the time and one-half provision applies. It is unthinkable that he could pay part of his employees double time and the rest time and one-half for overtime hours. This is not just a hypothetical example because many companies today are greatly diversified.

Stripped of all the unsound theory espoused in connection with this bill it appears probable that this is merely a method of increasing wages. Regardless of whether the amount of penalty pay is set at time and one-half, double time or triple time we, and thousands of other companies, will have to work people over 40 hours a week because of factors beyond our control. This cost will

ultimately be passed on to the consumer in higher prices and will certainly be inflationary.

There are other important factors to consider in connection with the amendment proposed in H.R. 9802 but the reasons outlined above seem to be of primary importance to us.

Sincerely yours,

JOHN F. MINCEMOYER,
Director of Industrial Relations.

SUNDSTRAND CORP.,
Rockford, Ill., February 19, 1964.

HON. JOHN B. ANDERSON,
*U.S. House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN ANDERSON: As you know, the subcommittee of the House Education and Labor Committee is currently holding hearings on H.R. 9802, a bill to amend section 7 (a) of the Fair Labor Standards Act to require the payment of double time for overtime work. The Sundstrand Corp. respectfully urges you to oppose this legislation. In order for you to fully understand our reasons for requesting your opposition to this legislation, the following information is herewith presented:

Sundstrand Corp. is made up of three major manufacturing divisions; namely, machine tool division, Rockford and Belvidere, Ill.; aviation division, Rockford, Ill., and Denver, Colo.; and the hydraulics division, Rockford, Ill. The products manufactured in each division are:

Sundstrand Aviation produces aircraft constant speed drives, cartridge/pneumatic jet engine starters, precision hydraulic components—pumps, motors, valves, actuators—high-speed gear boxes, electrical controls, accessory power systems, electrical and accessory power units. This division serves aircraft, space, missiles, ordnance, underwater, and industrial fields.

Sundstrand Hydraulics produces oil burner fuel units, hydraulic pumps, motors and valves, truck and bus refrigeration drives and hydraulic control systems. This division serves manufacturers and users of equipment for home heating, construction, mining, materials handling, truck refrigeration, agriculture, fishing, and general industry.

Sundstrand Machine Tool produces all types of milling, drilling, grinding, broaching, centering and transfer-type machines; numerical control machines; hydraulic presses; air sanders; and a variety of accessory equipment, ranging from balancing tools to coolant separators. This division serves all the metal-working industry—automotive, aircraft, transportation, agricultural, and others.

Sundstrand currently employs approximately 4,500 people with an annual payroll in 1963 of \$34,600,000. In this amount is \$1,154,860 for the straight time hours plus \$577,430 for half-time hours, making a total of \$1,732,90 paid out for overtime work during 1963. This overtime could not be eliminated by hiring new employees as substantiated in paragraph (4) below. If the proposed legislation was the law in 1963, Sundstrand would have been required to pay out an additional \$577,430 in overtime, representing a 33 $\frac{1}{3}$ -percent increase in overtime costs.

Therefore, our reasons for requesting your opposition to this legislation are:

1. An increase in the costs of manufacturing our products would necessitate an increase in our selling prices as well as comparable increases in prices of the products of other industries.

2. An increase in prices would reduce the purchasing power of many who may not be covered in industries not affected by the increase in overtime payment.

3. The Secretary of Labor would have the power to set the rate of overtime payment for any industry and in a diversified corporation such as Sundstrand, only one of our divisions may be affected. This, then, would create labor unrest among employees in our corporation.

4. Finally, but by far the most important reason for opposition to H.R. 9802, is the fact that double time for overtime penalty will not create new jobs, in our opinion, because:

- (a) The amount of overtime worked in the various divisions could not be eliminated by hiring new employees due to the sporadic receipt of orders received from our customers. (See charts 1 and 2 showing receipt of orders in dollars for each month of 1963 for the aviation and machine tool divisions.)

(b) Unpredictable delivery schedules cause the overtime work to be spotty and, therefore, not scheduled on a regular basis. Our machine tool and aviation divisions do not manufacture standard items that can be produced into inventory, but rather the products are specially designed and engineered to meet the specific needs of our customers. As a result, our production effort in these two divisions is entirely dependent upon first, the determination, and, secondly, the solution of each of our customer's particular requirements. In other words, Sundstrand is not able to begin manufacturing a product until the order has been physically received. Supporting this fact, 93 percent of the overtime worked in 1963 was worked in the machine tool and aviation divisions. Conversely, the receipt of orders in the hydraulics division tends to be on a more level basis. (See chart 3 showing receipt of orders in dollars for each month of 1963 for the hydraulics division.) Therefore, overtime work in this division is kept to a minimum.

(c) In a highly competitive market, Sundstrand, in order to receive its share of the business, has to grant early delivery which, in turn, creates shorter leadtimes to complete the manufacturing process. Even if skilled help were available, such help would be hesitant to accept employment for the short duration of time that they would be needed. (See chart 4 which is a classified ad section of our local newspaper advertising for skilled help.)

(d) Due to sporadic receipt of orders and unpredictable delivery schedules, the stability of employment would be unfavorable and, as a result, fringe benefits, i.e., supplemental unemployment benefits, unemployment compensation, severance pay, etc., would reflect an additional increase in cost.

In conclusion, we sincerely believe you can fully understand our reasons for opposing this legislation and we trust you will support our position. If we can provide any additional information or be of further service, do not hesitate to contact the writer.

Respectfully submitted.

RAY BJORKLUND,
Corporate Personnel Administrator.

GREATER ROCKFORD TOOL & DIE MANUFACTURERS ASSOCIATION,
Rockford, Ill., February 19, 1964.

Congressman JOHN B. ANDERSON,
House Office Building,
Washington, D.C.

DEAR MR. ANDERSON: The Greater Rockford Tool & Die Manufacturers Association which represents 44 small and medium tool, die, and precision machine shops and is affiliated with the National Tool, Die, and Precision Machining Associates protests H.R. 9802 (double overtime bill).

Tremendous power would be granted to the Secretary of Labor by having him appoint the tripartite commissions and by giving him the right to put into effect recommendations made by the commission. Also, the Secretary's orders would not be subject to any court review.

Our association is opposed to tripartite commissions as industry's experience with such bodies has not been a good one.

The double overtime law would not only be impractical and damaging to the tool and die industry, but it would also mean a serious infringement upon the rights of the owner to manage his shop.

We, therefore, urge you Mr. Congressman to oppose this pending law with all means at your disposal.

Very truly yours,

E. L. COLLIN, *President.*

K. & K. MACHINING SPECIALTIES Co.,
Loves Park, Ill., February 19, 1964.

HON. JOHN B. ANDERSON,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE ANDERSON: We are a small manufacturing business employing approximately 30 people. Our shop consists of two departments: Department 1 requires highly skilled employees; department 2 requires semiskilled employees.

It is the skilled department that produces the work for the unskilled department. This background is necessary so that the following can give you an idea of the effect of this bill on our particular business:

For the year ended July 31, 1963, our overtime premium (this represents only the penalty amount paid for over 40 hours) amounted to \$20,500, or 4½ percent of our sales. Overtime premium represented 15 percent of our total payroll. These percentages are quite high and every effort has been used to reduce this cost by hiring additional employees.

Our shop at present has approximately 25 people working the day shift. We have approximately six people working the night shift. We have been unable to fill out the night shift because skilled labor is lacking in this area. It is because of this lack of skills that we are forced into an overtime working position.

We have our own trainee or apprentice program, whereby, after approximately 1 year in the semiskilled department, a man having proved himself worthy, is transferred to the skilled department. After this transfer it takes another 3 to 4 years of training before he becomes a qualified setup man.

Extending the additional penalty of bill No. H.R. 9802, double time on employers would produce the following problem for us:

It would increase our cost of doing business by another 4½ percent, which would give us a return of sales after taxes of approximately 3 percent.

Under the present situation, it takes 2 full years of our profits to purchase one machine so that we may create one additional job. Conditions being similar, under this new penalty provision it would take us 3 years of earnings to buy one machine to create another job.

We urge you to make every effort to defeat this legislation because in our situation this cannot be looked on as a successful operation in our business.

Sincerely yours,

WALLACE KARDELL, *President.*

W. F. & JOHN BARNES WORKS,
Rockford, Ill., February 19, 1964.

HON. JOHN B. ANDERSON,
House of Representatives, Washington, D.C.

MY DEAR MR. ANDERSON: This letter is being written to express our opposition to the proposed amendment on penalty rate for overtime, H.R. 9802, and to solicit your support in opposing the amendment.

The special machine tool business in particular, but also the entire machine tool industry, has certain peculiarities that should be explained. The first of these is that the business volume varies widely over short periods of time. In our own case, 1964 compares with 1963 in a ratio of 2 to 1. These swings are coped with by hiring to the extent possible, and working overtime to take up the difference.

Hiring is only practical for the long pull, because people of the required skills are simply not available for rapid load swings. The rapidity of the load swings is accounted for by the fact that most of our customers are in mass producing industries, such as the automotive industry. Design changes take place every year, or less, and there is just not time enough to make a proposal, receive an order, and then hire people to produce the special equipment. The only solution is to work varying amounts of overtime.

The amendment would not create more jobs in our industry. It would only serve to increase costs, and in this business this would mean increasing prices. Therefore, not only would the objective of the amendment fail to materialize, but there would be the objectionable side effect of creating an additional inflationary pressure.

We hope that you will argue against this amendment, should it ever come to a vote.

Yours very truly,

E. L. LEE, *Works Manager.*

CAMCAR SCREW & MANUFACTURING Co.,
Rockford, Ill., February 20, 1964.

Representative JOHN B. ANDERSON,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN ANDERSON: This letter is written to inform you of our thinking relative to the proposed legislation for payment of double time for overtime.

1. The fastener industry is cyclical in nature, more or less paralleling the automotive industry. We have always used overtime as a means of coordinating our production with the requirements of our customers and to compensate for machine breakdowns and other emergencies. To pay double time for this would without question require a price increase and jeopardize our competitive position or possibly have inflationary results. To hire people to avoid double time would have a similar effect, as additional training, supervisory, and fringe benefit expenses would be involved.

2. We have long prided ourselves with having once employed a person, giving him steady employment. If we expand and contract our production by hiring and laying off people, it will result in heartache and hardship for these people.

3. While I read in the newspapers of our country's unemployment problem, we find that our advertisements in the newspapers and our inquiries to the State employment office get very little response, if quality of people, even though untrained, is a criterium. We therefore do not believe we could adequately man our operation.

4. With SUB payments required for a shorter workweek and double time payments for a longer workweek, the manufacturer in the United States is certainly being limited when comparing with other countries.

5. Publicity relative to this proposal indicates that the Secretary of Labor could negotiate with individual industries. In this day and age many companies are diversified within their own operation. To have a set of standards for one product or division and a different set of overtime standards in another area would create havoc.

6. This could result in another step toward giving the Secretary of Labor controls not originally intended for that office, inasmuch as he can appoint tripartite committees until he gets a recommendation he chooses.

In the light of the above facts we do not believe this legislation can possibly benefit the employees in our industry or in this area.

Very truly yours,

VERN E. LENTZ,
Vice President for Manufacturing.

From: James H. Kennedy & Co., New York City.
For: Automation Engineering Laboratory, Inc., Stamford, Conn.

BACKGROUND NOTE

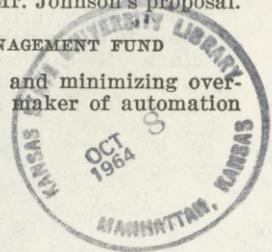
Many Americans, including President Johnson, have been concerned about those in our society who are unemployed despite the wealth of our economy and the high standard of living enjoyed by the great majority of Americans.

Many people, however, have felt that the President's recent proposals to require double pay for overtime (200 percent) instead of the present time and a half (150 percent) would not provide a real deterrent to overtime and would do nothing directly to help the unemployed.

The industrialist who conceived the accompanying new idea believes that a great deal can be accomplished by expanding slightly on Mr. Johnson's proposal.

NEW OVERTIME PLAN ESTABLISHES JOINT LABOR-MANAGEMENT FUND

New York: A unique method of easing unemployment and minimizing overtime was proposed here today by a leading designer and maker of automation equipment.



Under the plan advanced by Richard S. White, president of Automation Engineering Laboratory, Inc., Stamford, Conn., both employees and management would contribute a portion of overtime pay to a fund for the unemployed.

"We must remember," Mr. White says, "that workers often want lucrative overtime pay even more than management. We have only to watch the reaction in any industrial group when some workers are given overtime and others are not to witness the extent to which employees want overtime." Recognizing that there are some situations where, no matter how expensive overtime is, it is the only way to get the work out, Mr. White points out that making some employed workers wealthier at 200 percent pay does nothing to help the poor unemployed worker.

"If we really want to cut down on overtime, wherever possible, we must make it less attractive to both sides," Mr. White states. He also urges that employers and workers alike, enjoying the good times of needing and receiving overtime pay, respectively, be required to help those receiving no pay. (Employers who need overtime work are blessed with more work than they can get done with their work force during regular hours. Employees who receive overtime pay are blessed not only with a job but with the opportunity of extra work and extra pay.)

Mr. White says that his proposal would recognize the human nature involved in the millions of overtime decisions and would directly use required overtime to help the unemployed. He suggests that workers continue to be paid 150 percent of their regular pay for overtime work, but that 25 percent of their regular pay rate be withheld and paid into a fund for the unemployed. Similarly, he urges that employers be required to pay an additional 25 percent of the regular pay rate for overtime—also into the fund. Under Mr. White's proposal, the figures for overtime would come out like this:

Employers pay 150 percent plus 25 percent equals 175 percent of regular pay rate.

Employees receive 150 percent minus 25 percent equals 125 percent of regular pay rate.

Fund for the unemployed receives 50 percent of regular pay rate.

The fund, he says, can be used to alleviate the most acute problems of unemployment and materially aid in the reduction of unemployment. The fund could be administered, he says, by the Federal Government, guided by a joint labor-management committee.

Mr. White suggests three major uses for the funds:

(1) Food and other essential direct aid for at least the children of the unemployed—not as a curative for unemployment but as a stark necessity. "For children to suffer from malnutrition in the United States today," Mr. White states, "is to question the propriety and heart of every American with a square meal on his own table."

(2) A continuing analysis to find "uses" for the unemployed, including establishment of workers cooperative associations in which the unemployed would provide for each other while being trained for regular jobs. "If we can find uses for people," White says, "then jobs themselves will materialize." Most of the chronically unemployed may not be employable at present wage rates in regular jobs, he points out, because there is very little they can do that can't be done less expensively by other resources (equipment or superiorly trained people, for example).

(3) A continuing analysis to provide all people with guidance toward expanding occupations—particularly important for the young but also necessary for mature workers. Mr. White claims that it is urgently necessary to train workers for jobs that are new or expanding; not jobs that will soon be eliminated. He believes that more nonservice jobs and some service posts that have existed for several decades will gradually be eliminated. But losses, he predicts, will be replaced by more jobs than the number eliminated.

In support of this contention he quotes Prof. Yale Brozen, of the University of Chicago, who recently observed that changes in our society "created over 20 million jobs in the 1950's and about 13 million jobs were destroyed by various causes." This left an actual net gain of 7 million jobs from 1950 through 1959 and, Mr. White believes, that this trend will continue. He cautions, however, that the leaders in our society have careful work to do if human tragedy is to be avoided; for example, by training people for the wrong and soon-to-be-eliminated jobs.

Conversely, however, Mr. White states that enlightened leaders from Government, labor, business, and the creative sciences have an unusual opportunity to help our people prepare for the needs that lie ahead and for the highest standard of living that any people have ever attained. In so doing, he says, we must put at the top of the priority list helping those of our people who are the least attuned to life in our affluent society.

STATEMENT BY D. H. WORKMAN, EXECUTIVE VICE PRESIDENT, GRAY IRON FOUNDERS' SOCIETY, INC.; L. D. RYAN, EXECUTIVE VICE PRESIDENT, MALLEABLE FOUNDERS SOCIETY; AND F. K. DONALDSON, EXECUTIVE VICE PRESIDENT, STEEL FOUNDERS SOCIETY OF AMERICA

SUMMARY

The ferrous foundry industry, employing about 250,000 workers, would be seriously handicapped in relation to competitive industries by the proposed legislation. Foundry business is highly cyclical with occasional periods of high demand. Labor cost is about 50 percent of total manufacturing cost which has led to a steady trend toward mechanization. Further increase in labor costs will increase this trend and decrease employment in the industry.

STATEMENT

This statement is submitted on behalf of the ferrous castings segment of the American foundry industry. Ferrous castings producers are those who manufacture gray and ductile iron, steel, and malleable iron castings which are used in the manufacture of automobiles and trucks, railway equipment, agricultural implements, machine tools, construction machinery, and hundreds of other industries. Out of some 5,000 foundries in the United States, approximately 2,300 of these foundries produce ferrous castings. These foundries employ about 250,000 people.

Since the production and shipment of ferrous castings is largely dependent upon the demand for durable goods, the industry is a highly cyclical one. For example, in 1958, the total production of iron and steel castings was approximately 12.1 million tons. This market snapped back in 1963 to a little over 15 million tons and the outlook for 1964 is estimated to be 15¼ million tons. This means that in slack periods many foundries operate 3 or 4 days a week and some find it necessary to close for entire week periods at a time.

These and other factors have had a bearing on the steady decline in the number of foundries in the United States. For example, since 1955, approximately 675 ferrous foundries closed. It is also a well-known fact that the foundry industry is one of the least profitable among the major segments of American industry. Over 95 percent of the units in the industry qualify under the Government's definition of "small business."

Because of cyclical demand and steadily rising labor costs, most companies which have managed to stay in business have found it necessary to mechanize their operations in order to increase their productivity without adding manpower. The foundry industry is one in which labor cost, as a percent of total cost, ranges from 45 to 55 percent. In some competing industries labor costs are only 20 percent of total costs which would compound the foundries' competitive disadvantage.

Foundries, like most other industries, want to avoid overtime. However, there are times when it is unavoidable. This results from the necessity of meeting customer demand, the necessity for routine and weekend maintenance and repair work, and absenteeism. For example, many foundries are obliged to shut down their furnaces at the close of business on Friday, and this means that they must be relined and repaired over the weekend. A large part of this repair work has to be done with overtime labor. It would be impossible to hire a separate crew for this work. The men available would have neither the skill nor the experience for this work and, furthermore, it would be difficult, if not impossible, to hire men for only 8 or 10 hours of work on a Saturday. To hire such men would be impractical, and it is even doubtful that men would be willing to work just on the 1 day by reason of their unemployment compensation status, and also because of conflict with union contracts.

It is our present conclusion that the Overtime Penalty Pay Act of 1964 (H.R. 9802) would have an adverse effect on the foundry industry. We submit that this is true for the following reasons:

1. The nature of the overtime is such that most of it cannot be avoided.
2. The cyclical nature of the industry makes it impractical to juggle personnel often enough and fast enough to cope with the problems of hiring, training, and subsequent layoffs.
3. In a high-labor-cost industry, the effect of adding a penalty to the present one-and-a-half-time rate for overtime has a disproportionate effect on costs and the competitive position of the industry would suffer.
4. If the price of the industry's product cannot be raised to cover the increased labor cost burden, then the profit margin will decline still further; this might easily result in the demise of still more foundries.
5. The foundries would like to be rid of overtime; it is an added expense now to have to pay time and one-half for overtime.
6. There has been a decided trend toward fewer but larger foundries. This means that those that survive must do everything possible to be efficient. One major way of accomplishing this is to replace labor with mechanical or laborsaving devices. A penalty double time (or higher) rate will encourage the trend toward mechanization, and the estimated difference between time and one-half and double time—calculated in dollars—will contribute to the justification for the purchase of such laborsaving devices. Thus, the Government will be encouraging the replacement of men with machines.
7. It will be impossible to make a law of this kind uniformly applicable and equitable. The definitions of exceptions in the act are so hazy as to be impossible of interpretation, for instance, such phrases as "extraordinary emergency" and "unusually compelling need."
8. We suspect that not enough thought has been given to this matter concerning its effect on union contracts. Many clauses in present union contracts deal with overtime and it might be necessary to renegotiate all such contract provisions in the light of the effect of an additional penalty overtime statute.

In view of the very substantial volume of testimony in the number of statements filed in protest over this legislation, this memorandum has been kept short. A very considerable amount of detail can be provided to the Congress on the effect of this legislation on the foundry industry if time can be made available to spokesmen for the industry in congressional hearings. It is our present conclusion, however, that the proposal to levy a substantial penalty on industry in the form of a double time rate for overtime is an unsound and unworkable premise on which to base an attack on the unemployment problem.

SHOE SERVICE INSTITUTE OF AMERICA,
Chicago, Ill., March 23, 1964.

Mr. PAUL COURTNEY,
*Executive Vice President,
National Association of Wholesalers,
Washington, D.C.*

DEAR MR. COURTNEY: Shoe Service Institute of America opposes the double time for overtime proposal prepared by the Department of Labor and incorporated in H.R. 9802 and S. 2486. Reports from our industry members reveal that double time for overtime would work a hardship on them that would result in curtailment of services, increased costs of doing business and, less earnings for those now on their payrolls and would not create any new jobs.

Our industry is suffering from the effects of rising costs and reduced profits due to the inflationary economy in the United States today. Findings wholesalers tell us that if faced with double time for overtime they would have to cut down on the overtime hours their employees are now working or eliminate them entirely. This would lead to a curtailment of services to their customers, the shoe repairmen, which, in turn, would effect the shoe repairman's services to the public.

Generally speaking, the shoe repair business is a small one-man operation. Being craftsmen, their livelihood depends upon the supplies they purchase from their finder wholesalers which they apply to the shoes of their customers. This amounts to from 25 to 35 percent of the total cost of the repair job, the balance

being labor. Styles and colors of shoes vary greatly and although the average shoe repairman carries an adequate stock of replacement heels and soles, he cannot foresee his needs for the many other items needed to properly service his customers' shoes. This requires a considerable amount of special ordering that results in special services (including deliveries) that must be rendered by his finder wholesaler. Most of this service is profitless to the wholesaler and is the reason why he now works his employees overtime.

If the shoe service shop is to stay in business, it must give the public the service it demands and can do so only with the aid of the wholesalers. Finder wholesalers tell us that they cannot pay double time for overtime on the small profits they are now making and to increase the cost of material to the sole repairman would greatly affect his future.

There has been a steady decline in shoe repairing partly due to the low cost of new shoes in relationship to the cost of repairing them. Shoe repairmen are skilled craftsmen and are entitled to the same compensation as other craftsmen whether they are repairing a \$5 to \$35 pair of shoes, or a \$1,500 to \$5,000 automobile.

We would appreciate your bringing these facts to the attention of the Joint Subcommittee on Labor of the House Education and Labor Committee and our opposition to the double time for overtime proposal.

With kindest regards, I am,

Sincerely yours,

EVERETT E. DIEZ,
Executive Vice President.

STATEMENT OF J. THOMAS RIMER, JR., DIRECTOR OF LABOR RELATIONS OF GLASS CONTAINER MANUFACTURERS INSTITUTE, INC.

At the outset, we would like to thank you for this opportunity to present this statement in connection with the present bill, H.R. 9802.

Before commenting on this bill, it would seem appropriate to describe briefly Glass Containers Manufacturers Institute, Inc., and outline generally the nature of its activities.

The institute is a nonprofit corporation consisting presently of 59 member companies. Most of the members of the institute manufacture glass containers; the balance of the membership consists of closure manufacturers and suppliers of raw materials, machinery, and equipment. Members of the institute account for approximately 85 percent of the total U.S. output of glass containers, which in 1963 amounted to over 25 billion containers having a value of about \$860 million. In 1963, members of the institute employed approximately 55,000 persons in the manufacture of glass containers.

The broad purposes of the institute are to promote the progress of the glass and related arts and sciences, to improve and expand the manufacture and use of glass containers and closures, and to improve the efficiency of machinery and equipment used in the manufacture, handling, and use of glass containers and closures. Our activities are carried on by standing committees comprised of officers and employees of member companies aided by the institute staff. These activities include such diverse matters as market research, advertising and promotion, development of glass container designs and specifications, testing procedures, cooperation with Federal, State, and local governments, labor relations, transportation, and improvement and testing of shipping boxes for glass containers.

We recognize that you have previously heard and read a great number of statements on the present bill. Among those submitting statements to you, three members of the institute have done so: namely, Armstrong Cork Co.; Hazel-Atlas Glass Division, Continental Can Co., Inc.; Owens-Illinois Glass Co. From what we have been able to read of the numerous statements, a solid showing has been made that, for a variety of reasons, the present bill should not be recommended for passage. In view of this and to avoid encumbering the record by duplication, a detailed statement by us at this time does not seem warranted. Nonetheless, in view of the significance of the present bill, we do wish to register affirmatively our opposition to this bill and to note briefly several of our principal objections to it.

The avowed purpose of the present bill is "to increase employment by providing a *higher penalty rate* for overtime work." [Emphasis added.] Basically, H.R. 9802, at least as initially drafted, would authorize the Secretary of Labor

to establish a tripartite industry committee " * * * for any industry in which it is alleged or he believes that *substantial and persistent overtime* employment exists and that the payment of overtime compensation * * * (not less than two times the nonovertime rate) would increase employment opportunities in the industry *without excessive costs* * * *"; the committee would recommend to the Secretary " * * * the maximum hours standard in a prescribed work period (not less than 40 hours in a workweek) which it determines will have the effect of translating *without excessive costs regular and substantial overtime* in the industry into *increased employment* in such industry * * *"; the Secretary would then carry into effect the recommendations of the committee " * * * if he finds that (i) *regular and substantial overtime* employment exists in the industry and the recommended overtime limitations will increase employment opportunities therein without *unduly increasing costs*, (ii) the recommendations are made in accordance with law and are supported by the evidence adduced at the hearing, and (iii) taking into consideration the same factors (economic and competitive factors, including whether such recommendation minimizes changes in costs and prices and minimizes dislocations in the industry) as are required to be considered by the special industry committee * * *"; the employer would then be required to pay an employee at " * * * *not less than two times* * * * the nonovertime rate * * * except that the overtime rate otherwise applicable may be paid notwithstanding such order if the overtime employment in excess of the hours specified in the order is required only by reason of a period of *extraordinary emergency* or *unusually compelling need* (as such terms are defined and delimited from time to time by regulation of the Secretary). * * *" [Emphasis added.]

In our view, the present bill contains a number of objectionable features which, even at this last date, deserve summary comment. First, the powers granted by H.R. 9802 to the Secretary of Labor, or to those designated by the Secretary, are so broad and discretionary that they could not but adversely affect labor-management relations. Second, the extremely vague standards, if indeed they may be regarded as standards, of H.R. 9802 are virtually unintelligible and could only be troublesome. Third, the extremely vague and chameleonic exceptions of " * * * *extraordinary* or *unusually compelling need* (as such terms are defined and delimited from time to time by regulations of the Secretary) * * *" of H.R. 9802 are virtually meaningless and could be relied upon only in the rarest of situations. We understand that, apparently as a result of the hearings on the present bill, one of the several most controversial features of H.R. 9802, the selective industry-tripartite committee feature—primarily, and not surprisingly, at the insistence of organized labor—is no longer being seriously considered; hence, we shall not comment on it.

As previously noted, the avowed purpose of the present bill is "to increase employment by providing a higher penalty rate for overtime work." The proponents of this bill claim that, if the overtime penalties of the present bill were imposed upon employers, employers would be forced to eliminate much of the overtime presently being performed by their employees, and employers would be forced to hire additional employees. By computing the amount of overtime which is presently being worked on a basis which is far from exact and which is an exaggerated figure, they further claim that approximately a million jobs would be created by eliminating this overtime and that unemployment would be reduced to this extent. The underlying theory of this bill is based on a number of unsupported and unsupportable premises. Three of these deserve special comment.

In the first place, no satisfactory evidence has been produced to support the assumption that those who are presently unemployed have the ability, skill, training, or even the desire, or are geographically located so that they could perform the work now being done on an overtime basis. In fact, the evidence indicates that the unemployment rate is highest among the uneducated, unskilled, and untrained. Moreover, the evidence indicates that unemployment and overtime are not evenly spread throughout the Nation. Remedial legislation directed at educating and training these unemployed rather than legislation which assumes punitive proportions for employers would, to understate, clearly seem preferable.

In the second place, this bill proceeds on the assumption that employers need an incentive to reduce overtime. The existing statutory penalty rate of time and one-half for overtime is such that employers, if they are to survive in today's competitive markets, must always attempt to reduce overtime and, in turn, to

reduce costs. This is especially true with respect to our members because their products compete in the dynamic and highly competitive packaging field. Thus, overtime is already expensive, and no employer—contrary to what this bill might imply—enjoys paying for it.

In this connection, it may also be noted that this bill does not distinguish between employers of organized labor and employers of unorganized labor. Overtime questions have long been subjects of collective bargaining. As a result of collective bargaining, many unions, including those with which we negotiate, have over the years negotiated overtime payments for situations not covered by existing law and in excess of the rates required by existing law which also deter unnecessary overtime. In effect, employers of organized labor now have the double incentive of statutory penalties and of negotiated penalties which cannot be and are not ignored in assigning overtime work. Thus, with respect to employers of organized labor, there is even less reason, if there be any, for such legislation; yet, this significant distinction has been ignored. Moreover, such legislation could not but discriminate against employers of organized labor. Realistically viewed, solvent employers, if such legislation were enacted, would have little, if any, leverage to make their unions agree to reductions in the types of situations in which premium payments are now being received or in the rates now being received; organized labor's insistence on across-the-board penalty legislation makes clear that such legislation's penalties would be in addition to those previously negotiated. Under these circumstances, it is not surprising that organized labor has not protested this invasion of the collective bargaining process; to do so, it would be protesting against an unearned windfall of sizable proportions.

In the third place, this bill proceeds on the assumption that most overtime is avoidable in that employers have a satisfactory alternative to it. Again, the contrary is true; employers do not generally pay overtime rates out of preferences but only because there is no reasonably economical and practicable alternative. Without such alternatives, attempts to equate overtime with additional jobs can only produce erroneous and misleading results. As the following discussion of why our members use overtime demonstrates, the absence of such alternatives have accounted for virtually all of their overtime.

Continuous operations is the single biggest cause of overtime in our members' operations. It has been estimated that this overtime accounts for approximately 50 percent of the overtime by our members' employees in a given year.

In the manufacture of glass products, it is necessary to operate glass furnaces without interruption; as a result, glass plants operate on a 24-hours-per-day, 7-days-per-week schedule. The manufacture of glass products requires stabilized temperatures at extremely high degrees. The fuel costs required in initially establishing and then maintaining such temperatures are tremendous. If the glass furnaces were started and stopped merely to avoid overtime, the losses, not only in fuel costs but also in production and time while waiting for such temperature conditions to become stabilized again, would substantially increase the manufacturing costs of glass products. On the other hand, if such temperature conditions were maintained without production merely to avoid overtime, the manufacturing costs of glass products would also be substantially increased. That continuous operations in the manufacture of glass products is a necessity which cannot be eliminated is also most convincingly evidenced by each of the four multiemployer collective bargaining agreements which the institute has negotiated on behalf of its members. Each of these agreements contains language to the following effect: "Recognizing the need for continuous operations, the union agrees to continuous operations for the term of this contract. * * *"

As a result of the necessity for continuous operations in the manufacture of glass products, most employees engaged in these operations average 42 hours per week. Coupling the present time and one-half statutory rates for overtime work with additional negotiated penalties for overtime work, every manufacturer of glass products has had more than ample incentive to attempt to eliminate its biggest cause of overtime, and every manufacturer of glass products has spent considerable effort and time in attempting to do so. Voluminous studies have been repeatedly conducted by members of the institute and others on this scheduling problem. Nonetheless, no method of scheduling has been devised for the manufacture of glass products which eliminates this overtime. Obviously, if there were an acceptable alternative to overtime on continuous operations in the manufacture of glass products, every manufacturer of glass products would now be using it; this overtime, additional penalties or not, is unavoidable.

Absenteeism is the second biggest cause of overtime in our members' opera-

tions. It has been estimated that this overtime accounts for approximately 35 percent of the overtime by our members' employees in a given year.

Where there are large numbers of employees doing the same work, most of our members maintain some extra employees to cover daily absences. Otherwise, however, our members can neither control nor plan for absenteeism since they do not know from day to day which employees are going to be absent. It is, of course, economically impossible for our members to have extra employees to replace absent employees in each and every job classification on the off-chance that one from each job classification might be absent on a given day. This problem of absenteeism, although not confined to the manufacture of glass products, is accentuated in their manufacture. There are literally hundreds of different job classifications in glass plants. As a partial result, most employees in glass plants possess job experience and skill only for a particular job and cannot perform adequately in another job. Thus, since only specific employees in glass plants can fill particular jobs, only these employees can work overtime when their counterparts are absent; the filling of these jobs by others could only result in enormous built-in inefficiencies.

Equipment and machinery breakdowns is the third biggest cause of overtime in our members' operations. It has been estimated that this overtime accounts for approximately 5 percent of the overtime worked by our members' employees in a given year.

Breakdowns, of course, cause, among other things, idle time for employees, loss of production, and ultimately a decreased margin on which to operate; hence, employers, at least those intending to stay in business, do everything in their power to avoid breakdowns. Nonetheless, breakdowns still occur, and the overtime which results therefrom is unavoidable. To illustrate: If a particular machine breaks down when the employee who would normally tend such a machine is off duty, the employer has no alternative other than to call in that employee to perform the necessary repair work; to suggest that in such a situation an employer, merely to avoid overtime payments, would call in an employee who was not experienced with that particular machine is sheer folly. Consequently, if the present bill were to become law, overtime resulting from breakdowns would still be performed by the same employees who are now performing it—but at rates of double time or more.

A variety of other causes, such as rush orders and fluctuating business conditions, accounts for nearly all of the remainder of the overtime in our members' operations. Here, too, overtime cannot be avoided. These temporary conditions cannot be anticipated or controlled; hence, our members have no reasonable alternative other than to attempt to meet these sporadic scheduling problems through overtime for the short periods of time involved.

To suggest that additional employees be hired on a temporary basis to do work such as that created by rush orders and fluctuating business conditions presumes, among other things, their immediate availability and competency; based on our members' experience, such a presumption cannot be made. Even if the contrary were true and even if unemployment compensation taxes did not already discourage the employment of employees on a temporary basis, the resultant erratic fluctuations in employment and unemployment could hardly be classified as a desirable goal. Indeed, many employers, including our members, and many unions, including those with which we negotiate, have thought that the national labor policy, as expressed in the law which the present bill would amend and in other laws, was to encourage the stabilization of employment, and they have attempted to formulate objectives in accordance therewith.

The above causes are the principal reasons why our members' employees work overtime. In any meaningful or realistic sense, overtime resulting from such causes as the foregoing is unavoidable since there is no satisfactory alternative; hence, such overtime cannot be translated into additional jobs, and it cannot be eliminated by legislation, even by punitive legislation. Accordingly, the present bill, if it were to become law, would not materially change our members' practices in assigning such overtime work; they would simply be forced to pay the penalties involved and then to attempt to recoup these penalty payments by charging higher prices for their products.

In summary, the present bill, if it were to become law, would admittedly not create additional work for the unemployed, but rather it would only attempt to force employers, through penalty payments of double time or more, to spread existing work. The existing overtime rates plus today's competitive conditions already provide sufficient incentive for employers, especially those with organized employees, to keep overtime at a minimum; where overtime is used, there are in most instances no reasonably economical and practicable alter-

natives to it. If there were such alternatives, employers would now be using them. Consequently, if the present bill were to become law, it would not spread work to the unemployed in any significant amount; on the other hand, it would increase labor costs and, in turn, prices. Such higher prices could not but weaken this Nation's ability to compete in the world markets and worsen this Nation's balance-of-payments position. As a national policy, the furthering of inflation, especially without any realistic chance of any countervailing beneficial effects, leaves much to be desired.

We firmly believe that the passage of H.R. 9802 or any similar punitive proposal would be clearly detrimental to this Nation's best interests, and we respectfully submit that neither it nor any similar punitive proposal be recommended for passage.

GLASS CONTAINER MANUFACTURERS INSTITUTE, INC.,
New York, N.Y., May 1, 1964.

HON. ELMER J. HOLLAND,
U.S. Representative,
Washington, D.C.

DEAR REPRESENTATIVE HOLLAND: By letter dated April 21, 1964, my secretary acknowledged for me the receipt of your letter of April 14, 1964. As she stated in her acknowledgment to you, she informed me of the substance of your letter by telephone. I was, of course, gratified to receive your letter and to learn of your special interest in one of the operating problems faced by manufacturers of glass. Since returning to my office, however, this is the first opportunity I have had to express that gratitude.

The voluminous studies referred to in my prior statement include not only studies of scheduling as such but also studies designed to improve equipment, methods, materials, and techniques in attempting to meet the scheduling problems, including scheduled overtime, inherent in continuous operations in the manufacture of glass. Such studies were prepared by members of the institute or by others for members of the institute, solely in connection with their own operations. As a result, none of the studies of which I am aware would be in a form appropriate for inclusion in the record on H.R. 9802.

In addition, most, if not all, of the studies of which I am aware contain confidential information and matters other than those directly relevant to H.R. 9802.

Since you have asked, and quite understandably so, for an early reply to your letter and since I have been out of the city, I have not, of course, had the time to contact all of the institute's members and to request to examine all of their studies or schedules. Despite these time limitations, however, I have been able to reexamine some of such materials and have attempted to meet your request by preparing the enclosed supplemental statement on H.R. 9802. I hope that this supplemental statement is fully responsive to your request. If, as you have suggested, you feel that it is appropriate to do so, I would appreciate your including this supplemental statement in the record on H.R. 9802.

From my prior statement, you are, I am sure, aware of our firm and sincere opposition to H.R. 9802. This is evidenced by your request for additional information from us. We appreciate, and congratulate you upon, this open-mindedness and thoroughness. If you think that I can be of any further assistance, I shall be most willing to attempt to provide it.

Again, I would like to express my thanks for your consideration and for this opportunity to discuss at greater length this problem for you.

Respectfully yours,

J. THOMAS RIMER, JR.,
Director of Labor Relations.

SUPPLEMENTAL STATEMENT OF J. THOMAS RIMER, JR., DIRECTOR OF LABOR RELATIONS OF GLASS CONTAINER MANUFACTURERS INSTITUTE, INC.

I. INTRODUCTION

On behalf of Glass Container Manufacturers Institute, Inc., and its members, I previously submitted a statement regarding H.R. 9802. In this statement, I stated in part at pages 9 and 10:

"As a result of the necessity for continuous operations in the manufacture of glass products, most employees engaged in these operations average 42 hours per week. Coupling the present time and one-half statutory rates for overtime work

with additional negotiated penalties for overtime work, every manufacturer of glass products has had more than ample incentive to attempt to eliminate its biggest cause of overtime, and every manufacturer of glass products has spent considerable effort and time in attempting to do so. Voluminous studies have been repeatedly conducted by members of the institute and others on this scheduling problem. Nonetheless, no method of scheduling has been devised for the manufacture of glass products which eliminates this overtime. Obviously, if there were an acceptable alternative to overtime on continuous operations in the manufacture of glass products, every manufacturer of glass products would now be using it; this overtime, additional penalties or not, is unavoidable."

Following the submission of this statement, Representative Elmer J. Holland, chairman of the Select Subcommittee on Labor, by letter dated April 14, 1964, requested me to expand the discussion relating to the scheduling problems which arise from the necessity for continuous operations in the manufacture of glass products. From this correspondence with Representative Holland, we understand that it might also be helpful if the members of the subcommittee were shown various schedules which manufacturers of glass products have used in attempting to meet the scheduling problems inherent in continuous operations in the manufacture of glass products.¹ In response to these requests, we have prepared this supplemental statement. We have welcomed the opportunity to prepare this supplemental statement on H.R. 9802, and we hope that it will be helpful in the deliberations of the members of the subcommittee on H.R. 9802.

II. THE MANUFACTURE OF GLASS

In our prior statement, we noted that continuous operations were economically necessary in the manufacture of glass. In order to appreciate more fully the scheduling problems which arise therefrom and to place these scheduling problems in proper perspective, it is appropriate at the outset to review—albeit very briefly—how glass is manufactured.

"Shift scheduling calls for an exploration of company needs and requirements and for an examination of the variables involved. Not until then can a realistic choice be made as to the specific schedule. * * *"²

The production process in today's modern glass plants begins with the delivery of the raw materials.³ All glassmaking starts with three basic ingredients: sand (largely silica); soda ash (sodium carbonate); limestone. Cullet, which is crushed glass, is added to hasten melting and to make the batch more workable. Several other materials are used, but quantities are extremely small in relation to the three basic ingredients. Each of these minor ingredients, however, contributes important properties to the finished glass product.

Raw materials are weighed on automatic scales and mixed in giant hoppers. Buckets suspended from overhead rails or on endless belts carry the batch to the continuous automatic batch feeder which introduces it into the furnace.

A glass furnace is an enormous pot or tank. Fire is forced through openings in the walls and burns over the batch. The heat required in the manufacture of glass is over 2,700 degrees Fahrenheit. The temperature is checked frequently, and the heat is controlled, for it must be exactly right at all times.⁴ These white-hot infernos run continuously day and night, week after week without stopping. Although the furnaces are made of special heat-resistant materials, they literally burn themselves out in a few years and must be rebuilt.⁵

From the melting end of the furnace, the molten glass progresses through a submerged throat into the refining chamber where it is purified. After this process, it flows into either one of two types of automatic feeders.

¹ Studies other than those relating solely to scheduling but which bear directly on scheduling for continuous operations, such as technical studies on furnace life, fuel consumption, and others, must also be constantly made by the manufacturers of glass in attempting to operate as economically as possible. We understand that Representative Holland's request does not relate to these related problems in scheduling in continuous operations in the manufacture of glass products.

² Yoder, Heneman, Turnbull, Stone, "Handbook of Personnel Management and Labor Relations," p. 18.11 (1958).

³ For convenience, an oversimplified flow chart has been attached hereto as exhibit A.

⁴ The fuel costs required in initially establishing and then maintaining such temperatures are tremendous. The fuel cost simply to maintain the requisite temperature in one furnace to melt glass is approximately \$498 per day.

⁵ After a furnace is rebuilt, it takes approximately 3 weeks of heating for the temperature conditions to become such that production can be started again.

In one type of operation, the molten glass then flows into a huge, revolving bowl made of heat-resistant materials. From there it is sucked up into the molds of a rapidly rotating forming machine.

In another method, the furnace is mounted on a raised platform above the forming machines where the molten glass flows into mechanical feeders which in turn exude red-hot gobs of a taffy consistency. Cut free, a gob of molten glass drops instantly into a waiting mold which presses or blows it into a rough approximation of the finished product. As this mold releases the embryo (called a parison), a finishing mold closes and captures it. In split seconds, compressed air blows the glass product into final shape. The mold's iron jaws swing open, and out comes a glass product, identical in size and shape with others coming from the same mold.

As in every step of the manufacture of glass, the timing in the feeding stage must be perfect. Thus, if there is not a continuous supply of molten glass ready and waiting for each mold, the entire operation is thrown off balance.

To leave just the right temper in the glass for strength, finished products are then passed through an annealing lehr or cooling oven. In an endless parade on a moving belt, these products pass through these long, tunnel-like ovens. Heat which at first is approximately 1,000 degrees is gradually reduced to room temperature. At the end of the lehr, the finished products are carefully inspected and then packed.

From this brief summary, it will be obvious why continuous operations in the manufacture of glass are a necessity.⁶ Moreover, it should be equally obvious that any interruption in this continuous process causes severe economic consequences. Even with this admittedly sketchy background, it is now more appropriate to examine some of the countless methods which have been examined or actually used in scheduling for continuous operations in the manufacture of glass products.

III. METHODS OF SCHEDULING FOR CONTINUOUS OPERATIONS IN THE MANUFACTURE OF GLASS

As shown herein, glass plants must operate, if they are to do so economically, on a 24 hours per day, 7 days per week schedule. In other words, a workweek in a glass plant consists of 168 hours.

As one text understates:

"Under continuous operations the situation becomes *complex * * **"⁷ [Emphasis added.]

At the outset, then, it must be recognized that the scheduling of 168 hours per week in any type of plant creates innumerable problems.⁸ In a glass plant, these problems are intensified. For example, in some types of nonglass plants where continuous operations are required it is possible to have an employee working on one type of job on one day and another type of job on another day, but, such combination scheduling is simply not economically possible in a glass plant. In a glass plant, most employees possess job experience and skills only for a particular job and cannot perform adequately in another job; stated differently, the use of such combination scheduling in a glass plant would result in enormous, nonsensical, and economically unfeasible built-in inefficiencies.

If all factors were otherwise equal, and they are not, it would be theoretically possible, although not practically so, to eliminate all scheduled overtime necessitated by such continuous operations simply by dividing the 168 hours per week

⁶ That continuous operations in the manufacture of glass products are a necessity which cannot be economically eliminated is also most convincingly evidenced by each of the four multiemployer collective bargaining agreements which the institute has negotiated on behalf of its members. For convenience, the pertinent provisions of these agreements are set forth in exhibit B.

⁷ Yoder, Heneman, Turnbull, Stone, "Handbook of Personnel Management and Labor Relations," p. 18.10 (1958).

⁸ Mathematically, of course, there are several methods by which employees can be scheduled, at least theoretically, to average 40 hours per week in continuous operations under ideal conditions. No such schedule which we have examined, however, has been found practical in the manufacture of glass; to the contrary, all of such schedules which we have examined have been found to be impractical on a number of grounds. See, for example: Exhibit C, which requires among other things, multiple units of five, irregular schedules for certain employees, "versatile" employees, and incalculable administrative burdens.

equally among five shifts, or 33.6 hours per week.⁹ While the avowed purpose of the present bill is "to increase employment by providing a higher penalty rate for overtime work," it is not a purpose of the present bill to foster short workweeks. To the contrary, there is considerable support for the proposition that the short workweek does not provide a valid answer to this Nation's unemployment problems. For example, the late President Kennedy stated:

"* * * If we are to prevail in the long run, we must expand the longrun strength of our economy. We must move along the path to a higher rate of growth and full employment. For this would mean tens of billions of dollars more each year in production, profits, wages, and public revenues. It would mean an end to the persistent slack which has kept our unemployment at an above 5-percent rate for 61 out of the past 62 months—and an end to the growing pressures for such *restrictive measures as the 35-hour week*, which alone could increase hourly labor costs by as much as 14 percent, start a new wage-price spiral of inflation, and undercut our efforts to compete with other nations."¹⁰ [Emphasis added.]

"* * * I think he [Secretary Wirtz] made it clear that we were opposed to a change in the *40-hour week by statute*. I would be very reluctant to see any change by negotiation of the *40-hour week to a 35-hour week* if it was going to substantially increase the cost, labor cost, per units of production, if it was going to make it more difficult for us to compete abroad, if it was going to launch an inflationary spiral of wages and prices in the United States. I would prefer to wait until I have a chance to see Mr. Wirtz' statement in detail. My own position is opposed to the 35-hour week."¹¹ [Emphasis added.]

"* * * It would be a *great mistake* for us to reduce our 40-hour workweek now. It would affect our competitive position abroad, and I think that the needs of American production are such that we ought to stick with our 40-hour week. I see the time coming, as I was saying, at the end of the century, perhaps sooner than that, when there may be a change in that, but not now."¹² [Emphasis added.]

Similarly, President Johnson stated:

"For our goal is not merely to spread the work. Our goal is to create more jobs.

"I believe the enactment of a *35-hour week* would sharply increase costs, would invite inflation, would impair our ability to compete and merely share instead of creating employment. * * *"¹³ [Emphasis added.]

"* * * We should and will solve our present unemployment problem by expanding demand, not by forcing the standard workweek down to 35 hours. This would only redistribute work, not expand it."¹⁴ [Emphasis added.]

Since the present bill is not directed at encouraging short workweeks and since there are a number of reasons why short workweeks are not desirable, discussion of scheduling alternatives which result in short workweeks does not appear either appropriate or warranted here.¹⁵

Instead of scheduling employees for less than 40 hours per week, most manufacturers of glass products have generally used schedules under which employees are scheduled for more than 40 hours per week. In the past, moreover, many manufacturers of glass products used schedules which resulted in employees averaging far more overtime than they presently do.¹⁶ With time and one-half stat-

⁹ In passing, however, it might be noted that schedules of 33.6 hours per week have been unsuccessfully tried in the manufacture of glass. See, for examples: Exhibit D, where employees averaged 33.6 hours per week on a 20-week cycle; exhibit E, where employees averaged 33.6 hours per week on a 30-week cycle.

¹⁰ President Kennedy's third state of Union message, Jan. 14, 1963, 21 Cong. Q. Weekly Report 59, at p. 59 (1963).

¹¹ Press conference with President Kennedy, Feb. 21, 1963, 21 Cong. Q. Weekly Report 278, at p. 280 (1963).

¹² Press conference with President Kennedy, Oct. 9, 1963, 21 Cong. Q. Weekly Report 1777, at p. 1778 (1963).

¹³ State of Union message of President Johnson, Jan. 10, 1964, 22 Cong. Q. Weekly Report 47, at p. 48 (1964).

¹⁴ Economic Report to Congress of President Johnson, Jan. 20, 1964, 22 Cong. Q. Weekly Report 182, at p. 185 (1964).

¹⁵ In addition to the short week schedules of 33.6 hours per week noted above, other short week schedules have been unsuccessfully tried in the manufacture of glass. See, for examples: Exhibit F, where employees averaged 28 hours per week on a 24-week cycle; exhibit G, where employees also averaged 28 hours per week on a 30-week cycle.

¹⁶ See, for examples: Exhibit H, where employees averaged 48 hours per week on a 7-week cycle; exhibit I, where employees averaged 48 hours per week on a 7-week cycle on 2 machines; exhibit J, where employees averaged 48 hours on a 3-week cycle; exhibit K, where employees averaged 48 hours per week on a 3-week cycle on 2 machines.

utory rates for overtime work and with additional negotiated penalties for overtime work, however, all manufacturers of glass, to indulge in an understatement, had more than ample incentive to reduce their employees' scheduled overtime. Indeed, to survive in today's dynamic and highly competitive packaging business, it became an absolute economic necessity for survival that these manufacturers reduce such overtime to the barest minimum.

Following repeated examinations of this scheduling problem, most of these manufacturers have attempted to meet it by dividing the work force into four shifts, three of which work 40 hours and one 48 hours per week. These shifts are then rotated in such a manner that each works a 48-hour week 1 out of 4 weeks.¹⁷ Thus, each employee works an average of 42 hours per week.

As our members' experience shows, there are no ready answers to the scheduling problems created by continuous operations in the manufacture of glass. For example, it would be completely impractical to maintain a fifth shift that would work only 8 hours per week to eliminate this overtime. Similarly, as shown in our brief review of how glass is manufactured, it would also be completely impractical to attempt to eliminate this overtime simply by stopping operations on the weekend. Moreover, as noted in our prior statement at page 9:

"* * * If the glass furnaces were started and stopped merely to avoid overtime, the losses, not only in fuel costs but also in production and time while waiting for such temperature conditions to become stabilized again, would substantially increase the manufacturing costs of glass products * * *."

It would also be extremely costly and unrealistic to attempt to eliminate this overtime by maintaining temperature conditions over a weekend without production. As noted in our prior statement at page 9:

"* * * [I]f such temperature conditions were maintained without production merely to avoid overtime, the manufacturing costs of glass products would also be substantially increased * * *."

It has been estimated that the fuel cost merely to hold such a temperature on the average furnace without production is \$221 per day, or \$442 over a weekend. Over a year, this loss in fuel costs alone for our members' 220 furnaces would amount to approximately \$5,056,480. In addition, if the furnaces were maintained without production, it would still be necessary to have at least one tender on duty at all times at each plant. This 24-hour service, without production, would cost approximately \$72 per day at each plant, or \$144 over a weekend. Over a year, this loss in the unproductive time of the tender alone at our members' 76 plants would amount to approximately \$569,088. In summary, these two items alone would cost our members approximately \$5,625,568 per year. There would, of course, be a number of other losses, including the additional loss of defective ware which inevitably and unavoidably comes with each startup in production. Moreover, the elimination of this weekend work would also result in the elimination of two-sevenths of the production at our members' plants. It has been estimated, and conservatively so, that capital expenditures in excess of \$250 million would be required to restore this loss in production.

One other aspect of such a suggestion to eliminate this weekend work is also noteworthy. It is highly improbable that, if this weekend work were so eliminated, an employer would divide the remaining 120 hour workweek into four shifts of 30 hours each per week. It is more probable that such an employer would divide the remaining 120 hours into three shifts of 40 hours each per week. Stated differently, an employer would probably be forced by the economics involved to lay off one-fourth of the employees presently working in continuous operations.

IV. CONCLUSION

Continuous operations in the manufacture of glass are a fact of life. As the foregoing, including the schedules referred to and attached hereto as exhibits, demonstrates, manufacturers of glass have spent considerable effort and time in attempting to eliminate their biggest cause of overtime. As indicated, moreover, such schedules are only representative schedules. Other schedules involving different shifts, cycles, and number of employees, and combinations thereof, could be cited almost endlessly. To cite such additional schedules, however, would do nothing more than burden the record with other unsatisfactory attempts of manufacturers of glass to eliminate this overtime and further belabor the inescapably obvious conclusion that manufacturers of glass have found no accept-

¹⁷ One type of this schedule is illustrated by exhibit L.

able alternative. The cited representative schedules are sufficient to illustrate both the basic problem in attempting to schedule a workweek of 168 hours in a glass plant and the effort and time which the manufacturers of glass have expended on this basic problem. To repeat:

“* * * [N]o method of scheduling has been devised for the manufacture of glass products which eliminates this overtime. Obviously, if there were an acceptable alternative to overtime on continuous operations in the manufacture of glass products, every manufacturer of glass products would now be using it; this overtime, additional penalties or not, is unavoidable.”

Again, we respectfully submit that neither H.R. 9802 nor any similar punitive proposal be recommended for passage.

EXHIBIT A
A TYPICAL GLASS CONTAINER FLOW CHART

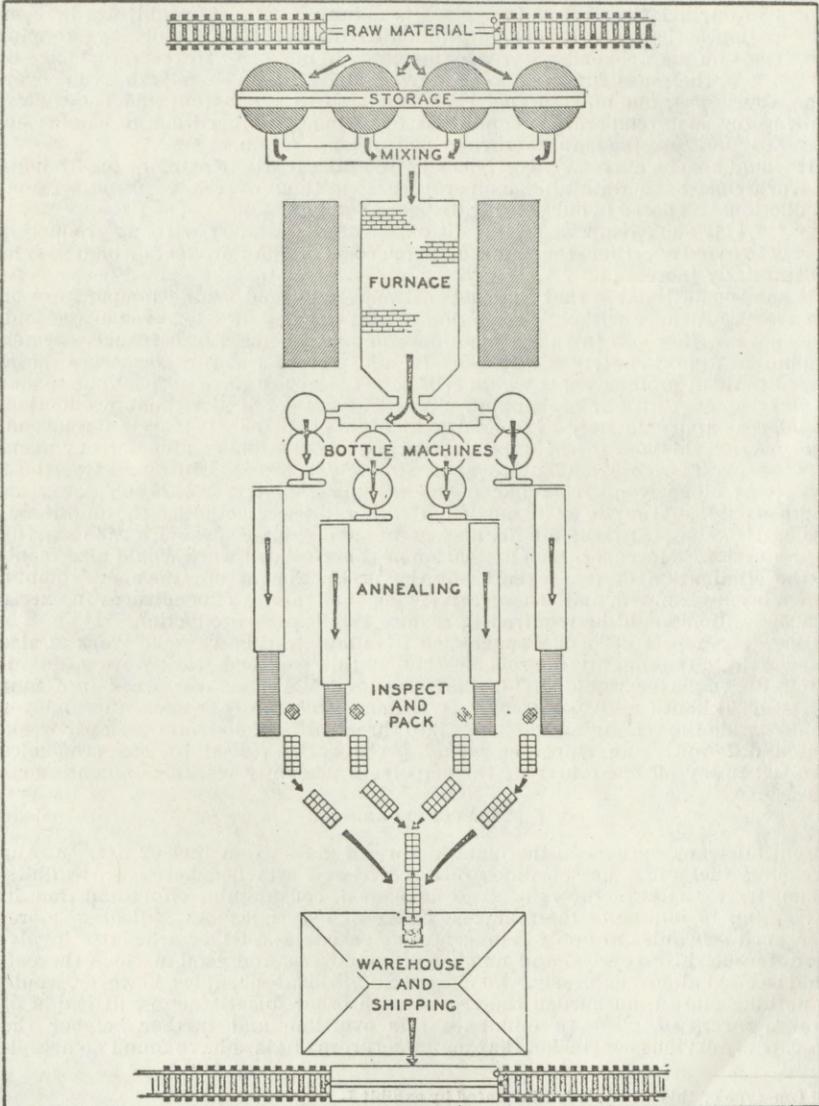


EXHIBIT B

The agreement (the so-called national glass container multiemployer production and maintenance contract) entered into " * * * by and between the Glass Bottle Blowers Association of the United States & Canada (hereinafter referred to as the 'union'), on behalf of itself as the international union and as agent for and on behalf of its local unions hereinafter listed, and the Glass Container Manufacturers Institute (hereinafter referred to as the 'institute'), on behalf of itself and as agent for and on behalf of its member companies (hereinafter referred to as the 'manufacturers'), * * * " provides in pertinent part as follows :

"7. The union recognizes and agrees to *continuous operation* for the term of this contract. Any employee who is opposed to working on Sunday because of his religious beliefs shall not be compelled to work on Sunday under the *continuous operation* plan, nor shall he be discriminated against because of such religious beliefs. Any such employee shall notify the personnel office in writing that he does not wish to be scheduled for work on Sundays. Concerted action taken hereunder shall be considered a violation of this contract" (pp. 11-12). [Emphasis added.]

This agreement covers approximately 37,500 employees.

The agreement (the so-called west coast multiemployer production and maintenance contract) entered into " * * * by and between the Glass Bottle Blowers Association of the United States & Canada (hereinafter referred to as the 'union'), and the Glass Container Manufacturers Institute (hereinafter referred to as the 'institute'), on behalf of its members for those plants listed at the end of this contract (hereinafter referred to as the 'manufacturers'), * * * " provides in pertinent part as follows :

"7. Recognizing the need for *continuous operation*, the union agrees to *continuous operation*, for the term of this contract. Any employee who is opposed to working on Sunday because of his religious beliefs shall not be compelled to work on Sunday under the *continuous operation* plan, nor shall he be discriminated against because of such religious beliefs. Concerted action taken hereunder shall be considered a violation of this contract" (pp. 14-15). [Emphasis added.]

This agreement covers approximately 8,000 employees.

The agreement (the so-called national automatic machine department of the glass container industry contract) entered into " * * * by and between the Glass Bottle Blowers Association of the United States & Canada (hereinafter referred to as the 'union'), and Glass Container Manufacturers Institute (hereinafter referred to as the 'institute') on behalf of its members listed at the end of this contract (hereinafter referred to as the 'manufacturers'), * * * " provides in pertinent part as follows :

"4. Recognizing the need for *continuous operation*, the union agrees to *continuous operation* for the term of this contract. Any apprentice machine operator, journeyman machine operator, or machine upkeep man who is opposed to working on Sunday because of his religious beliefs, shall not be compelled to work on Sunday under the *continuous operation* plan, nor shall he be discriminated against because of such religious beliefs. Concerted action taken hereunder shall be considered a violation of this contract" (p. 11). [Emphasis added.]

This agreement covers approximately 7,000 employees.

The agreement (the so-called moldmaking department contract) entered into " * * * by and between the American Flint Glass Workers' Union of North America (hereinafter referred to as the 'union'), and the Glass Container Manufacturers Institute (hereinafter referred to as the 'institute'), on behalf of its members listed at the end of this contract (hereinafter referred to as the 'manufacturers'), * * * " covers mainly employees who are not normally engaged in continuous operations, such as employees making new molds or repairing old molds which are not presently being used. If it becomes necessary for these employees to work on continuous operations, however, even this agreement recognizes the employer's right to so schedule them. This agreement provides in pertinent part as follows :

"1. Forty hours shall constitute a regular week's work ; 8 hours shall constitute a regular workday. All hours over 8 hours in any one day and all hours worked outside of the regularly scheduled hours per day will be considered as premium time hours and paid at the rate of time and one-half. Present shifts shall be continued for the duration of this contract. Each manufacturer shall have the right to work two shifts. *If conditions of work require it, an additional shift may be scheduled on mold repair work.*" (p. 7). [Emphasis added.]

This agreement covers approximately 2,500 employees.

EXPLANATION OF SCHEDULE No. 1B

1. Four employees per unit plus a shift breaker for every five machines or jobs.
2. Average of 40 hours a week per employee.
3. Each employee, with the exception of the shift breaker, works the regular No. 1 shift schedule. In a week in which the regular No. 1 schedule calls for an employee to work 6 days—48 hours, the shift breaker will, in accordance with the schedule, replace him for 1 day.
4. Shift breakers must be versatile employees, qualified to operate a number of different machines or perform a number of different jobs.
5. Shift breakers will work only on the 7 a.m. to 3 p.m. and 3 p.m. to 11 p.m. shifts and as shown on the schedule. It will be necessary for them to alternate between these two shifts, not on a regular basis, but as shown, in order for them to balance out to 40 hours the workweek of regular employees.
6. Where it is impossible to group machines or jobs in units of five, it will be necessary either to assign extra work to shift breakers or where this is not practical, either the shift breaker or one of the regular employees should be told not to report for work.

EXPLANATION OF SCHEDULE No. 5

1. Five employees per unit.
2. Average of 33.6 hours a week per employee.
3. Each employee works four 8-hour days continuously before changing shifts.
4. Schedule is based on a cycle that is completed in 20 weeks—that is, it takes 20 weeks from the time it is put into operation until the employees are back on the same schedule as in the initial week.
5. Off periods are as follows:
 - After completing 7 a.m. to 3 p.m. shift—72 hours.
 - After completing 3 p.m. to 11 p.m. shift—96 hours.
 - After completing 11 p.m. to 7 a.m. shift—72 hours.
6. Premium time—none.
7. Under this schedule, each employee works 4 Sunday mornings and has 16 Sunday mornings free. Each employee works 4 Sunday afternoons and has 16 free. Each employee works 4 Sunday nights and has 16 free. In other words, there will be eight complete Sundays in the 20-week cycle in which the employee has no work at all, and in the distribution of work on the other Sundays, he is treated on an equal basis with all the other employees. The above will also be true for Saturdays or for any other day of the week.

Days worked per week per group

	Group				
	A	B	C	D	E
1st week.....	5	4	4	4	4
2d week.....	4	5	4	4	4
3d week.....	4	4	4	5	4
4th week.....	5	4	4	4	4
5th week.....	4	4	5	4	4
6th week.....	4	4	4	5	4
7th week.....	5	4	4	4	4
8th week.....	4	4	5	4	4
9th week.....	4	4	4	4	5
10th week.....	5	4	4	4	4
11th week.....	4	4	5	4	4
12th week.....	4	4	4	4	5
13th week.....	4	5	4	4	4
14th week.....	4	4	5	4	4
15th week.....	4	4	4	4	5
16th week.....	4	5	4	4	4
17th week.....	4	4	4	5	4
18th week.....	4	4	4	4	5
19th week.....	4	5	4	4	4
20th week.....	4	4	4	5	4
Total days worked by each employee in 20-week cycle.....	84	84	84	84	84

EXHIBIT D

SHIFT SCHEDULE N° 5

8 HOUR SHIFTS • 33.6 HR. AVG. WEEK • 4-32 HR. WKS. • 140 HR. WK.
 20 WEEK CYCLE • 5 EMPLOYEES PER UNIT

SHIFT	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
SHIFT	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
7:00 A.M. - 3:00 P.M.	A	A	A	B	B	B	B	C	C	C	D	D	D	D	E	E	E	E	E	E	E
3:00 P.M. - 11:00 P.M.	D	D	E	E	E	E	A	A	B	B	B	B	C	C	C	D	D	D	D	D	D
11:00 P.M. - 7:00 A.M.	B	C	C	C	D	D	E	E	E	A	A	A	B	B	B	C	C	C	D	D	D
7:00 A.M. - 3:00 P.M.	D	E	E	E	A	A	B	B	B	C	C	C	D	D	D	E	E	E	E	A	A
3:00 P.M. - 11:00 P.M.	C	C	C	D	D	E	E	E	A	A	B	B	B	C	C	C	D	D	D	D	E
11:00 P.M. - 7:00 A.M.	A	A	B	B	B	C	C	C	D	D	D	E	E	E	A	A	B	B	B	C	C
7:00 A.M. - 3:00 P.M.	C	C	D	D	D	E	E	E	A	A	B	B	B	C	C	C	D	D	D	E	E
3:00 P.M. - 11:00 P.M.	B	B	B	C	C	C	D	D	D	E	E	E	A	A	B	B	B	C	C	C	D
11:00 P.M. - 7:00 A.M.	E	E	E	A	A	A	B	B	B	C	C	C	D	D	D	E	E	E	A	A	B
7:00 A.M. - 3:00 P.M.	B	B	C	C	C	D	D	E	E	E	A	A	B	B	B	C	C	C	D	D	E
3:00 P.M. - 11:00 P.M.	E	A	A	A	B	B	B	C	C	C	D	D	D	E	E	E	A	A	A	B	B
11:00 P.M. - 7:00 A.M.	D	D	D	E	E	E	A	A	A	B	B	B	C	C	C	D	D	D	E	E	A

EXPLANATION OF SCHEDULE NO. 4

1. Five employees per unit.
2. Average of 33.6 hours a week per employee.
3. Each employee works six 6-hour days continuously before changing shifts.
4. Schedule is based on a cycle that is completed in 30 weeks—that is, it takes 30 weeks from the time it is put into operation until the employees are back on the same schedule as in the initial week.
5. Off periods are as follows :
 - After completing 6 a.m. to 12 noon shift—48 hours.
 - After completing 12 noon to 6 p.m. shift—72 hours.
 - After completing 6 p.m. to 12 p.m. shift—48 hours.
 - After completing 12 p.m. to 6 a.m. shift—48 hours.
6. Premium time—none.
7. Under this schedule, each employee works 6 Sunday mornings and has 24 Sunday mornings free. Each employee works 6 Sunday afternoons and has 24 free. Each employee works 6 Sunday evenings and has 24 free. Each employee works 6 Sunday nights and has 24 free. In other words, there will be 6 complete Sundays in the 30-week cycle in which the employee has no work at all, and in the distribution of work on the other Sundays, he is treated on an equal basis with all the other employees. The above will also be true for Saturdays or for any other day of the week.

Days worked per week per group

	Group				
	1	2	3	4	5
1st week.....	6	5	6	5	6
2d week.....	6	6	5	6	5
3d week.....	6	5	6	5	6
4th week.....	6	6	5	6	5
5th week.....	5	6	6	5	6
6th week.....	6	6	5	6	5
7th week.....	5	6	6	5	6
8th week.....	6	5	6	6	5
9th week.....	5	6	6	5	6
10th week.....	6	5	6	6	5
11th week.....	5	6	5	6	6
12th week.....	6	5	6	6	5
13th week.....	5	6	5	6	6
14th week.....	6	5	6	5	6
15th week.....	5	6	5	6	6
16th week.....	6	5	6	5	6
17th week.....	6	6	5	6	5
18th week.....	6	5	6	5	6
19th week.....	6	6	5	6	5
20th week.....	5	6	6	5	6
21st week.....	6	6	5	6	5
22d week.....	5	6	6	5	6
23d week.....	6	5	6	6	5
24th week.....	5	6	6	5	6
25th week.....	6	5	6	6	5
26th week.....	5	6	5	6	6
27th week.....	6	5	6	6	5
28th week.....	5	6	5	6	6
29th week.....	6	5	6	5	6
30th week.....	5	6	5	6	6
Total days worked by each employee in 30-week cycle.....	168	168	168	168	168

EXHIBIT F

SHIFT SCHEDULE No 6

8 HOUR SHIFTS • 28 HR. AVG. WK. • 132 HR. WK. • 124 HR. WK.
24 WEEK CYCLE • 6 EMPLOYEES PER UNIT

SHIFT	1	2	3	4	5	6
	SMTWTFS	SMTWTFS	SMTWTFS	SMTWTFS	SMTWTFS	SMTWTFS
7:00 A.M. - 3:00 P.M.	A A A A	B B B B	C C C C	D D D D	E E E E	F F F F
3:00 P.M. - 11:00 P.M.	E E E E	F F F F	A A A A	B B B B	C C C C	D D D D
11:00 P.M. - 7:00 A.M.	C C C C	D D D D	E E E E	F F F F	A A A A	B B B B
7:00 A.M. - 3:00 P.M.	E E F F	F F E E	A A C C	B B D D	C C E E	D D F F
3:00 P.M. - 11:00 P.M.	C C D D	D D E E	E E F F	A A B B	B B C C	C C D D
11:00 P.M. - 7:00 A.M.	A A B B	B B C C	C C D D	E E F F	F F A A	A A B B
7:00 A.M. - 3:00 P.M.	D D D D	E E E E	F F F F	A A A A	B B B B	C C C C
3:00 P.M. - 11:00 P.M.	B B B B	C C C C	D D D D	E E E E	F F F F	A A A A
11:00 P.M. - 7:00 A.M.	F F F F	A A A A	B B B B	C C C C	D D D D	E E E E
7:00 A.M. - 3:00 P.M.	B B C C	C C D D	D D E E	E E F F	F F A A	A A B B
3:00 P.M. - 11:00 P.M.	F F A A	A A B B	B B C C	C C D D	D D E E	E E F F
11:00 P.M. - 7:00 A.M.	D D E E	E E F F	F F A A	A A B B	B B C C	C C D D

EXPLANATION OF SCHEDULE NO. 6

1. Six employees per unit.
2. Average of 28 hours a week per employee.
3. Each employee works four 8-hour days continuously before changing shifts.
4. Schedule is based on a cycle that is completed in 24 weeks—that is, it takes 24 weeks from the time it is put into operation until the employees are back on the same schedule as in the initial week.
5. Off periods are as follows:
 - After completing 7 a.m. to 3 p.m. shift—120 hours.
 - After completing 3 p.m. to 11 p.m. shift—120 hours.
 - After completing 11 p.m. to 7 a.m. shift—96 hours.
6. Premium time—None.
7. Under this schedule, each employee works 4 Sunday mornings and has 20 Sunday mornings free. Each employee works 4 Sunday afternoons and has 20 free. Each employee works 4 Sunday nights and has 20 free. In other words, there will be 12 complete Sundays in the 24-week cycle in which the employee has no work at all, and in the distribution of work on the other Sundays, he is treated on an equal basis with all the other employees. The above will also be true for Saturdays or for any other day of the week.

Days worked per week per group

	Group					
	A	B	C	D	E	F
1st week	4	3	4	3	4	3
2d week	4	3	4	3	4	3
3d week	4	3	4	3	4	3
4th week	4	3	4	3	4	3
5th week	3	4	3	4	3	4
6th week	3	4	3	4	3	4
7th week	3	4	3	4	3	4
8th week	3	4	3	4	3	4
9th week	4	3	4	3	4	3
10th week	4	3	4	3	4	3
11th week	4	3	4	3	4	3
12th week	4	3	4	3	4	3
13th week	3	4	3	4	3	4
14th week	3	4	3	4	3	4
15th week	3	4	3	4	3	4
16th week	3	4	3	4	3	4
17th week	4	3	4	3	4	3
18th week	4	3	4	3	4	3
19th week	4	3	4	3	4	3
20th week	4	3	4	3	4	3
21st week	3	4	3	4	3	4
22d week	3	4	3	4	3	4
23d week	3	4	3	4	3	4
24th week	3	4	3	4	3	4
Total days worked by each employee in 24-week cycle	84	84	84	84	84	84

EXPLANATION OF SCHEDULE NO. 7

1. Six employees per unit.
2. Average of 28 hours a week per employee.
3. Each employee works five 6-hour days continuously before changing shifts.
4. Schedule is based on a cycle that is completed in 30 weeks—that is, it takes 30 weeks from the time it is put into operation until the employees are back on the same schedule as in the initial week.
5. Off periods are as follows :
 - After completing 6 a.m. to 12 noon shift—72 hours.
 - After completing 12 noon to 6 p.m. shift—96 hours.
 - After completing 6 p.m. to 12 p.m. shift—72 hours.
 - After completing 12 p.m. to 6 a.m. shift—72 hours.
6. Premium time—None.
7. Under this schedule, each employee works 5 Sunday mornings and has 25 Sunday mornings free. Each employee works 5 Sunday afternoons and has 25 free. Each employee works 5 Sunday evenings and has 25 free. Each employee works 5 Sunday nights and has 25 free. In other words, there will be 10 complete Sundays in the 30-week cycle in which the employee has no work at all, and in the distribution of work on the other Sundays he is treated on an equal basis with all the other employees. The above will also be true for Saturdays or for any other day of the week.

Days worked per week per group

	Group					
	1	2	3	4	5	6
1st week	5	4	5	5	4	5
2d week	5	5	4	5	5	4
3d week	5	4	5	5	4	5
4th week	5	5	4	5	5	4
5th week	5	4	5	5	4	5
6th week	5	5	4	5	5	4
7th week	4	5	5	4	5	5
8th week	5	5	4	5	5	4
9th week	4	5	5	4	5	5
10th week	5	5	4	5	5	4
11th week	4	5	5	4	5	5
12th week	5	4	5	5	4	5
13th week	4	5	5	4	5	5
14th week	5	4	5	5	4	5
15th week	4	5	5	4	5	5
16th week	5	4	5	5	4	5
17th week	5	5	4	5	5	4
18th week	5	4	5	5	4	5
19th week	5	5	4	5	5	4
20th week	5	4	5	5	4	5
21st week	5	5	4	5	5	4
22d week	4	5	5	4	5	5
23d week	5	5	4	5	5	4
24th week	4	5	5	4	5	5
25th week	5	5	4	5	5	4
26th week	4	5	5	4	5	5
27th week	5	4	5	5	4	5
28th week	4	5	5	4	5	5
29th week	5	4	5	5	4	5
30th week	4	5	5	4	5	5
Total days worked by each employee in 30-week cycle.....	140	140	140	140	140	140

EXHIBIT H

SCHEDULE NO. 9

Packing Department

8 Hour Shifts - 48 Hours Each Week - 7 Week Cycle
Department Divided Into 7 Groups of Employees

Shift	1							2							3							4						
	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
7 am - 3 pm	BP	AN	AR	AD	AD	AD	BP	AN	AR	AD	AD	AD	BP	AN	AR	AD	AD	AD	BP	AN	AR	AD	AD	AD				
3 pm - 11 pm	CE	CE	CF	CF	CF	CF	CE	CE	CF	CF	CF	CF	CE	CE	CF	CF	CF	CF	CE	CE	CF	CF	CF	CF				
11 pm - 7 am	ED	BD	BD	BE	BE	BE	CE	CE	CE	CF	CF	CF	AD	AD	ED	BD	BD	BE										
Group Off	A	F	E	D	R	C	B	E	A	F	E	D	R	C	C	B	A	F	E	D	R	R	C	B	A	F	E	D

Shift	5							6							7							8						
	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
7 am - 3 pm	AR	AN	AD	AD	ED	BD	BP	ED	BE	BE	BE	CE	CE	CF														
3 pm - 11 pm	CF	AR	AN	AD	AD	BD	BP	ED	BD	BE	BE	BE	CE	BE														
11 pm - 7 am	BE	BE	BE	CE	CE	CE	CF	AR	AR	AR	AD																	
Group Off	D	R	C	B	A	F	E	E	D	R	C	B	A	F	F	E	D	R	C	B	A							

EXPLANATION OF SCHEDULE NO. 9—PACKING DEPARTMENT

1. Seven employees per each six job positions.

To determine the total number of selectors needed :

(a) Estimate number required on each shift.

(b) The number required on each shift will represent two groups of employees.

(c) Divide the number of selectors required on each shift by two to determine the number of employees that should be placed in each group.

(d) Multiply number in each group by seven to determine total number of selectors needed.

For example : 50 selectors needed on each shift, 25 selectors needed in each group, 175 total selectors needed (25 times 7).

2. Forty-eight hours per week per employee.

3. Each employee receives 4 premium-time hours each week.

4. Each employee works seven 8-hour days before changing shifts.

5. Seven-week cycle.

6. Each employee has different days off each week, including one full weekend (from Sunday, 7 a.m., to Monday, 7 a.m.) off in each 7-week cycle.

EXHIBIT I

SHIFT SCHEDULE NO. 9

Forming Department

8 Hour Shifts - 48 Hours per Week - 7 Week Cycle
7 Employees Per Each Unit of 2 Machines

Mach. #1	Shift	SMTWTFS 1							SMTWTFS 2							SMTWTFS 3							SMTWTFS 4						
		S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	7 am - 3 pm	R	A	A	A	A	A	A	B	B	B	B	B	B	C	C	C	C	C	C	R	R	R	R	R	A			
	3 pm - 11 pm	C	C	C	C	C	R	R	R	A	A	A	A	A	A	B	B	B	B	B	B	C	C	C	C	C			
	11 pm - 7 am	B	B	B	B	B	B	C	C	C	C	C	C	R	R	R	A	A	A	A	A	A	B	B	B	B			
Mach. #2	7 am - 3 pm	F	R	R	R	D	D	D	D	D	D	E	E	E	E	E	F	F	F	F	F	F	F	R	R	R			
	3 pm - 11 pm	E	E	F	F	F	F	F	F	R	R	D	D	D	D	D	D	E	E	E	E	E	E	F	F	F			
	11 pm - 7 am	D	D	E	E	E	E	E	E	F	F	F	F	F	F	F	R	R	D	D	D	D	D	D	D	D			
Group Off		A	F	E	D	R	C	B	B	A	F	E	D	R	C	B	A	F	E	D	R	R	C	B	A	F	E	D	

Mach. #1	Shift	SMTWTFS 5							SMTWTFS 6							SMTWTFS 7							SMTWTFS 8									
		S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S			
	7 am - 3 pm	A	A	A	A	B	B	B	B	B	B	C	C	C	C	C	R	R	R	R	A	A	A	A	A							
	3 pm - 11 pm	C	C	R	R	A	A	A	A	A	A	B	B	B	B	B	B	C	C	C	C	R	R	A	A	Back to 1st Week						
	11 pm - 7 am	B	B	B	C	C	C	C	C	R	R	A	A	A	A	A	A	B	B	B	B	B	C	C	C							
Mach. #2	7 am - 3 pm	R	D	D	D	D	D	D	E	E	E	E	E	E	F	F	F	F	F	F	F	F	F	F	F							
	3 pm - 11 pm	F	F	F	F	F	R	R	R	D	D	D	D	D	D	E	E	E	E	E	E	E	E	F	F	F						
	11 pm - 7 am	E	E	E	E	E	F	F	F	F	F	F	F	R	R	R	D	D	D	D	D	D	D	D	D	D						
Group Off		D	R	C	B	A	F	E	E	D	R	C	B	A	F	F	E	D	R	C	B	A										

EXPLANATION OF SCHEDULE NO. 9—FORMING DEPARTMENT

1. Seven employees per each unit of two machines.
2. Forty-eight hours per week per employee.
3. Each employee receives 4 premium-time hours each week.
4. Each employee works seven 8-hour days before changing shifts.
5. Seven-week cycle.
6. Each employee has different days off each week including one full weekend (from Sunday, 7 a.m., to Monday, 7 a.m.) off in each 7-week cycle.
7. Regular operators are indicated by letters A through F and the extra man or shift breaker by R. The shift breaker relieves all of the regular operators on No. 1 and No. 2 machines.

EXHIBIT J

SHIFT SCHEDULE NO. 8
Packing Department

8-Hour Shifts - 48 Hours Each Week - 3 Week Cycle
Department Divided into 7 Groups of Employees

Shift	1							2							3						
	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
7 am - 3 pm	AD	AD	AD	AE	AE	AE	BE	BE	BE	BF	BF	BF	CF	CF	CF	CG	CG	CG	DG	DG	DG
3 pm - 11 pm	CF	CG	CG	CG	DG	DG	DG	AD	AD	AD	AE	AE	AE	BE	BE	BE	BF	BF	BF	CF	CF
11 pm - 7 am	BE	BE	BF	BF	BF	CF	CF	CF	CG	CG	CG	DG	DG	DG	AD	AD	AD	AE	AE	AE	BE
Group Off	G	F	E	D	C	B	A	G	F	E	D	C	B	A	G	F	E	D	C	B	A

EXPLANATION OF SCHEDULE NO. 8—PACKING DEPARTMENT

1. Seven employees per each six job positions.
- To determine the total number of selectors needed:
 - (a) Estimate number required on each shift.
 - (b) The number required on each shift will represent two groups of employees.
 - (c) Divide the number required by two to determine the number of employees that should be placed in each group.
 - (d) Multiply number in each group by seven to determine total number of selectors needed.

For example: 50 selectors needed in each shift, 25 selectors needed in each group, 7 groups of selectors needed or a total of 175.
2. Forty-eight hours per week per employee.
3. Each employee receives 4 premium-time hours each week.
4. Each employee works six 8-hour days before changing shifts.
5. Three-week cycle.
6. Off periods are as follows:
 - After completing 7 a.m. to 3 p.m. shift—48 hours.
 - After completing 3 p.m. to 11 p.m. shift—48 hours.
 - After completing 11 p.m. to 7 a.m. shift—24 hours.
7. Each employee has the same day off each week.
8. Changing of shifts possible once each week without additional premium-time payments.

EXHIBIT K

SHIFT SCHEDULE NO. 8
Forming Department

8-Hour Shifts - 48 Hours Each Week - 3 Week Cycle -
7 Employees per Each Unit of 2 Machines

		S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1							2							3						
Mach. #1	Shift																					
	7 am - 3 pm	A	A	A	A	A	A	B	B	B	B	B	B	C	C	C	C	C	G	G	G	G
	3 pm - 11 pm	C	C	C	C	G	G	G	A	A	A	A	A	A	B	B	B	B	B	C	C	C
	11 pm - 7 am	B	B	B	B	B	C	C	C	C	C	G	G	G	A	A	A	A	A	A	B	
Mach. #2	7 am - 3 pm	D	D	D	E	E	E	E	E	E	F	F	F	F	F	F	F	F	F	F	F	F
	3 pm - 11 pm	F	G	G	G	D	D	D	D	D	D	E	E	E	E	E	E	E	E	E	F	F
	11 pm - 7 am	E	E	F	F	F	F	F	F	G	G	G	D	D	D	D	D	D	E	E	E	E
Group Off		G	F	E	D	C	B	A	G	F	E	D	C	B	A	G	F	E	D	C	B	A

EXPLANATION OF SCHEDULE NO. 8—FORMING DEPARTMENT

- Seven employees per each unit of two machines.
- Forty-eight hours per week per employee.
- Each employee receives 4 premium-time hours each week.
- Each employee works six 8-hour days before changing shifts.
- Three week cycle.
- Off periods are as follows:
 After completing 7 a.m. to 3 p.m. shift—48 hours.
 After completing 3 p.m. to 11 p.m. shift—48 hours.
 After completing 11 p.m. to 7 a.m. shift—24 hours.
- Regular operators are indicated by letters A through F and the extra man or shift breaker by G. The shift breaker relieves all of the regular operators working 3 days on machine No. 1, and 3 days on machine No. 2.
- Each employee has the same day off each week.
- Changing of shifts possible once each week without additional premium-time payments.

EXPLANATION OF SCHEDULE NO. 1

- Four employees per unit.
- Average of 42 hours a week per employee.
- Each employee works five 8-hour days continuously before changing shifts.
- Schedule is based on a cycle that is completed in 20 weeks—that is, it takes 20 weeks from the time it is put into operation until the employees are back on the same schedule as in the initial week.
- Off periods are as follows:
 After completing 7 a.m. to 3 p.m. shift—48 hours.
 After completing 3 p.m. to 11 p.m. shift—72 hours.
 After completing 11 p.m. to 7 a.m. shift—48 hours.
- Premium time—upon the completion of the 20-week cycle, each employee will have worked five 48-hour weeks and in accordance with the 40-hour week policy, will have received 20 premium-time hours or an average of 1 premium-time hour per week.
- Under this schedule, each employee works 5 Sunday mornings and has 15 Sunday mornings free. Each employee works 5 Sunday afternoons and has 15 free. Each employee works 5 Sunday nights and has 15 free. In other words, there will be 5 complete Sundays in the 20-week cycle in which the employee has no work at all, and in the distribution of work on the other Sundays, he is treated on an equal basis with all the other employees. The above will also be true for Saturdays or for any other day of the week.

EXHIBIT L

SHIFT SCHEDULE NO. 1

8 HOURS SHIFTS • 42 HOUR AVG. WEEK • 3-40 HR. WKS. • 1.48 HR. WK.
 20 WEEK CYCLE • 4 EMPLOYEES PER UNIT

SHIFT	1	2	3	4	5
7:00 A.M. - 3:00 P.M.	A	D	D	D	D
3:00 P.M. - 11:00 P.M.	B	B	A	A	D
11:00 P.M. - 7:00 A.M.	C	C	C	C	C
7:00 A.M. - 3:00 P.M.	A	A	A	A	A
3:00 P.M. - 11:00 P.M.	B	B	B	B	B
11:00 P.M. - 7:00 A.M.	D	D	D	D	D
7:00 A.M. - 3:00 P.M.	C	B	B	B	B
3:00 P.M. - 11:00 P.M.	D	C	C	C	C
11:00 P.M. - 7:00 A.M.	A	A	A	A	A
7:00 A.M. - 3:00 P.M.	C	C	C	C	C
3:00 P.M. - 11:00 P.M.	D	D	D	D	D
11:00 P.M. - 7:00 A.M.	A	A	A	A	A
7:00 A.M. - 3:00 P.M.	D	C	C	C	C
3:00 P.M. - 11:00 P.M.	A	A	A	A	A
11:00 P.M. - 7:00 A.M.	B	B	B	B	B

Days worked per week per group

	Group			
	A	B	C	D
1st week.....	6	5	5	5
2d week.....	5	5	6	5
3d week.....	5	6	5	5
4th week.....	5	5	5	6
5th week.....	5	5	6	5
6th week.....	5	6	5	5
7th week.....	5	5	5	6
8th week.....	5	5	6	5
9th week.....	6	5	5	5
10th week.....	5	5	5	6
11th week.....	5	5	6	5
12th week.....	6	5	5	5
13th week.....	5	5	5	6
14th week.....	5	6	5	5
15th week.....	6	5	5	5
16th week.....	5	5	5	6
17th week.....	5	6	5	5
18th week.....	6	5	5	5
19th week.....	5	5	6	5
20th week.....	5	6	5	5
Total days worked by each employee in 20-week cycle.....	105	105	105	105

STATEMENT OF THE NATIONAL ASSOCIATION OF WOOL MANUFACTURERS

The National Association of Wool Manufacturers (NAWM), organized in 1864, is the voluntary membership organization, national in scope, which represents companies producing about 70 percent of the textiles manufactured in the United States on the woolen and worsted systems, exclusive of woven felts, carpets, and rugs. The products of the industry are of wool alone, or wool in combination with manmade or other fibers. The industry encompassed within the scope of the association extends from coast to coast and from Maine to Texas.

The members of NAWM, like rightminded employers everywhere, have a selfish interest in seeing unemployment reduced to lowest possible levels. Unemployed persons are not good customers. It is as simple as that.

The members of NAWM, like patriotic employers everywhere, recognize that there is an even more fundamental reason for reducing unemployment to lowest possible levels. Abnormal unemployment can only sap the strength and vigor of the Nation and thus undermine its prosperity and security.

Despite these inherent sympathies with the avowed objective of H.R. 9802, we oppose the penalty overtime proposal because we believe it would fail in its objective insofar as the wool textile industry and its customer industries are concerned. These industries in the United States are intensely competitive in the consumer markets. What is more compelling, they are experiencing displacement, or the clear threat thereof, in both world and home markets by like or similar products made abroad under labor standards far below our legislated minimums. More and more U.S. industries are finding they are in line to be victimized by this unfair competition. Increase in the penalty for overtime could only accelerate this trend with adverse effect upon unemployment through the reduction of export potential and the increase of competitive imports manufactured under lower standards.

In the wool textile industry premium payment for overtime is regarded for what it is: a penalty. It is not regarded, per se, as a way of life to produce goods cheaper per man-hour of employment. It is sometimes a necessary evil to achieve maximum production of available machinery in relation to the labor force available against the alternate of not producing the goods because they could not otherwise be produced on time for the required delivery. At other times it is resorted to as an emergency measure to overcome unforeseen delay contingencies in supply or operations. Whatever the reason, it must be clear that goods produced under penalty rates of pay must be more costly than those produced at the regular rate of pay.

Furthermore, it is a mistake to view penalty overtime as a penalty operating solely against and terminating with the employer. It must be taken into ac-

count generally and be reflected either in the cost of goods to the consumer or in less employment opportunity to the worker, or in loss of product to the employer and taxes to the Government. The cost of this penalty cannot be brushed under a carpet and made to disappear. It is real.

Employers in the wool textile industry would gladly eliminate all overtime operations if they could:

1. Control the styles, fashions, and qualities of cloth and apparel demanded by the public.
2. Require their customers to place orders when they as sellers want them placed, and to schedule deliveries as they as sellers want them scheduled.
3. Lastly, control their competitors.

However, these conditions are not possible within our free competitive enterprise concept.

Meanwhile, through increased multiple-shift operations to assure maximum utilization of productive capacity, through continuing modernization of plant and techniques and other positive measures to maximize production and minimize cost, we strive to maintain our potential to make the American citizen the best dressed and our military forces the best equipped in the world. Thus, imposition of increased penalties for overtime would operate against us, our customers, and our customers' customers, adversely affecting total employment to the detriment of the national interest.

Respectfully submitted.

EDWIN WILKINSON, *President.*

STATEMENT BY RICHARD J. WALTERS, PRESIDENT, DIAMOND NATIONAL CORP.

The Diamond National Corp. is a leading manufacturer of creative packaging and printing, molded pulp prepackaging, paperboard and paperboard manufacturing equipment, automated packaging systems, matches, lumber and other wood products. The company's headquarters are in New York City and it conducts manufacturing operations at 40 plants in the United States. Diamond National also owns and operates 85 retail building supply centers and lumberyards on the east and west coasts.

During 1963 the average number of employees of Diamond National was 13,970, and the hourly payroll totaled \$55,130,000.

First, I want to make it clear that we are sympathetic with the objective of H.R. 9802—that is, to reduce unemployment in the United States. However, we do not believe that H.R. 9802 provides for the correct approach to reducing unemployment. The unemployment problem must be met head on. We believe that unemployment should be reduced by the creation of new job opportunities, not by sharing the existing work opportunities among more people.

We at Diamond National are creating new job opportunities. Our research and engineering center and corporate product development, design and packaging systems department are continually working to develop new products. Production of new products, and development of new markets for our existing products provides new job opportunities.

H.R. 9802 provides that not less than double time must be paid for overtime worked in an industry if recommended by a tripartite committee appointed and convened by the Secretary of Labor. For the reasons outlined below, we are opposed to the paying of double time for overtime as a means to spread existing work opportunities. We are also opposed to the creation of tripartite committees by the Government to establish employment policy that can better be determined by collective bargaining.

There has been a substantial decline in the proportion of workers working more than 40 hours per week since the end of World War II. Most of the overtime now being worked is unavoidable for various reasons. In some cases overtime is necessary due to the fact that there are not persons with needed skills in the geographical areas where overtime is being used. In other cases, a workweek of more than 40 hours is necessary because of continuous manufacturing processes. An example of this is in the production of paperboard, where equipment is operated 24 hours a day, 7 days a week, or a total of 168 hours per week. This, divided into four shifts, means each shift will work at least 42 hours per week. If double time were required for all hours over 40 hours, it would increase production costs without a corresponding increase in productivity. The end result would not be additional employment but an increase in the cost of paperboard.

In many other cases overtime is necessary to complete orders or jobs by a given deadline. In these cases an increase in the overtime penalty rate would only

increase production costs. New employees would not be hired unless there were reasonably good prospects that the employment would be for a length of time. An increase in the double time rate would not overcome the bookkeeping problems and training requirements involved with new employees.

Thus we conclude that an increase in the penalty rate for overtime work could have an unfavorable reaction on U.S. economy by increasing costs of goods and lead to more inflation. Higher prices would make it more difficult to sell the products of American industry in world markets and this would aggravate the U.S. balance-of-payments problem.

We believe that overtime premium rates can best be determined by the employer and the employees or their representatives. This is a problem that is bipartite in nature and belongs on the collective bargaining table. On that basis it will be solved by persons having intimate information not only on the industry but the plant, the employees involved, and the skills available in the area. Also those responsible for agreeing on overtime premium rates will be more responsive to changes in the day-to-day employment and working arrangements and the needs of the plant and workers.

We do not believe the Government has a role in these determinations of wage policy unless it can be clearly shown that it is in the public interest. Government intervention and the use of tripartite committees as proposed in H.R. 9802 would only complicate negotiations between management and labor. The use of these committees could ultimately lead to Government control of both wages and prices.

As stated above, we agree with the objectives of H.R. 9802 but we also believe that the inherent dangers to the U.S. economy and management-labor relations outweigh any possible solution H.R. 9802 offers to the unemployment problem in the United States. We recommend and urge that the General Subcommittee on Labor and the Select Subcommittee on Labor report to the Committee on Education and Labor of the House of Representatives that H.R. 9802 not be enacted.

INTENT AND IMPACT OF THE OVERTIME PROVISIONS OF THE FAIR LABOR STANDARDS ACT

(By James R. Wason, Analyst in Labor Economics, Economics Division, February 25, 1964)

1. What the overtime provisions of the Fair Labor Standards Act were intended to do

At this distance in time from the situation and state of mind of the 1930's, it is difficult to recapture the intent and meaning of some of the acts of the new deal. The Fair Labor Standards Act is a good example. And the difficulty is compounded in this case by the fact that this law is still very much with us, but changed in meaning in new circumstances. Before we can discover what the act meant in 1938, we must realize that it meant then something quite different from what it means today.

In particular, the meaning of its overtime provisions has substantially altered. As enacted, the purpose of these provisions was to reduce the length of the workweek and to spread work. Today in industries whose employees are generally subject to its overtime provisions, we find increasing overtime coupled with declines in employment. Premium pay today appears to encourage the working of overtime, or, at best, to do little to discourage it.

The original intent has been obscured by the practice, which developed during World War II, of using a long workweek with consequent overtime payments as an incentive to attract or retain labor and, in some cases, as a substitute for an increase in basic hourly or piece rates. This practice prevails today in many plants and industries.

The documentary evidence of initial intent is quite plain. The first significant document is the "Wages and Hours" message of President Franklin D. Roosevelt, transmitted to the Congress on May 27, 1937 (H. Doc. 255, 75th Cong., 1st sess.). This is the famous message which contained the sentence, "One-third of our population, the overwhelming majority of which is in agriculture or industry, is ill nourished, ill clad, and ill housed."

The purpose of the overtime provisions is several times referred to in the message. Early it mentions "a fair day's pay for a fair day's work" and states there is "no economic reason for chiseling workers' wages or stretching workers' hours"

(p. 2). Further on (p. 3) it says, "Allowing for a few exceptional trades and permitting longer hours on the payment of time and a half for overtime, it should not be difficult to define a general maximum working week."

Finally the following three paragraphs from near the end of the message sum up the message, with its work-spreading objective specifically stated in the context of the proposal as a whole:

"As we move resolutely to extend the frontiers of social progress, we must be guided by practical reason and not by barren formulas. We must ever bear in mind that our objective is to improve and not to impair the standard of living of those who are now undernourished, poorly clad, and ill housed.

"We know that overwork and underpay do not increase the national income when a large portion of our workers remain unemployed. Reasonable and flexible use of the long-established right of Government to set and to change working hours can, I hope, decrease unemployment in those groups in which unemployment today principally exists.

"Our problem is to work out in practice those labor standards which will permit the maximum but prudent employment of our human resources to bring within the reach of the average man and woman a maximum of goods and of services conducive to the fulfillment of the promise of American life."

Hearings on the Fair Labor Standards Act of 1937 were conducted jointly by the Senate and House committees in June of 1937 and completed within a month of the submission of the President's message. However, it was not until a year later, on June 25, 1938, that the bill was signed into law. In the interim a very sharp and protracted legislative struggle had taken place and the sharp and protracted depression of 1938 had also had its onset.

That the purpose of the overtime provisions had not altered over the interim despite the various modifications made in the original bill in its journey through the Congress is shown by the following quotes from two congressional committee reports, nearly a year apart. In the Senate Committee on Education and Labor report (S. Rept. No. 884, 75th Cong. 1st sess.) which reported a bill creating a Labor Standards Board with power to fix standards within specified limits, it states (p. 7) "* * * it is the objective of the act to attain a maximum workweek of not more than 40 hours as rapidly as practicable without curtailing earning power or reducing production, and the attainment of a shorter workweek by collective bargaining or otherwise is to be encouraged."

Earlier in the report (p. 4) the rationale of the bill's overtime provisions was stated as follows: "* * * millions of American workers are now working hours far in excess of 40 hours. Although the committee is desirous that the maximum working hours of the American worker be reduced to not more than 40 hours, the committee recognizes that it may not be economically feasible to prescribe at once a 40-hour maximum week for all workers without reducing, instead of raising, their aggregate earning and purchasing power."

The following April, the House Committee on Labor, in reporting the bill in which the overtime provisions were even closer to the form in which they were passed, referred primarily to the wage cuts which has accompanied the depression of 1938, spoke of "a ceiling for hours" and "gradual automatic decreases in hours in order not to cause severe economic dislocation." Its analysis of the overtime section of the bill read as follows:

"MAXIMUM HOURS

"Section 5 of the committee amendment provides that no employer engaged in commerce in an industry affecting commerce shall employ any of his employees for a workday longer than 8 hours, or during the first year (computed from the effective date of the order issued under sec. 6 with respect to the industry) shall employ any of his employees for a workweek longer than 44 hours. In each succeeding year the employer is required to reduce the weekly hours by 2 hours until a 40-hour workweek is reached. Hence the 40-hour workweek in a particular industry will be reached at the end of 2 years from the effective date of the order under section 6 with respect to the industry. No employee is to be deemed to be employed in violation of this section if he receives additional compensation for his overtime employment at the rate of 1½ times the regular hourly rate at which he is employed, or times the rate applicable under or pursuant to the act, whichever is higher."

(House of Representatives, Rept. No. 2182, 75th Cong., 3d sess., p. 6; p. 9.) In addition to the documentary evidence, there is support for the "spread-the-work" thesis in the statistical data. Unemployment, which reached its maximum

in early 1933, had been falling since then under the effects of the "spread-the-work" measures of the NRA codes and the President's Reemployment Agreement (tables 1). The device of the legally shortened workweek had become well established by 1937. Indeed, the Fair Labor Standards Act was an effort to provide a substitute for the labor standards provisions of the codes of the invalidated National Recovery Act, which had aimed substantially at shortening hours and spreading work.

A study by the Bureau of Labor Statistics in 1937 (cited in the Fair Labor Standards Act hearings, p. 310-1) of 16 industries showed that hours of work increased substantially in all 16 in the 12 months after the *Schechter* decision, invalidating the NRA codes. It should be noted, however, that some of these increases were, in part at least, cyclical phenomena, as were some of the declines in hours works noted above.

As a substitute for the invalidated NRA codes the hours provisions of the Fair Labor Standards Act aimed at reducing hours of work in excess of 40 hours. The overtime provisions of the section on maximum hours were inserted in the law to provide flexibility. The whole thrust of the law was to attain a 40-hour workweek.

3. *What the overtime provisions of the Fair Labor Standards Act accomplished in 1939 and 1940*

It was against this backdrop that the Presidential message of 1937 is to be read. Between the time it was delivered and the date of enactment of the Fair Labor Standards Act, unemployment rose, due to the 1938 recession, by over 2½ million workers. In 1939, following enactment of the act, it fell 900,000. In 1940 it fell by an additional 1.3 million (table 1). By then, of course, the decrease in unemployment must be attributed in substantial part to the defense program begun after the onset of World War II in September of 1939 and sharply increased after the fall of France in 1940. Even the 1939 increase in employment represents a degree of cyclical recovery. However, the data shown in tables 1 and 2 reflect a shortening of average weekly hours in 1939 and 1940 which must be attributed in part to the effects of the Fair Labor Standards Act. This is particularly the case where the previous pattern reflects a cut under the influence of the NRA in 1933 or 1934, followed by a rise after its invalidation in 1935.

At first glance, the statistical data in table 2 show no consistent pattern of reduced hours of work. However, a careful examination shows the act did cut hours. In an expanding economy hours usually rise but employment rises also. This is to be expected. Economic expansion's first needs are met by full production with existing facilities and employees. Such increases in average hours are a reflection of a return to full production by ending part-time work. However, the analysis of table 3 shows hours were generally lower immediately after the act was passed than before. The index of industrial production, which reached a post-1929 high of 40 in 1937 (1957-59=100), fell to 31 in 1938, rose to 38 in 1939 and reached 44 by 1940. Despite this, average weekly hours were lower on the average in the 2 years 1939 and 1940 than in the 2 years 1936 and 1937 in 22 out of the 26 industries shown. The four exceptions, machine tools, shipbuilding, petroleum refining and tires and inner tubes, are easily identifiable as industries particularly affected by rapidly rising demand in the early stages of the war.

The year-to-year increases are also of interest. The industrial production index rose seven points from 1938 to 1939 and six points from 1939 to 1940. In 1939, average hours rose in 20 of the 26 industries. Clearly the impact of a cut from 44 to 42 hours was slight in industries where part-time work was, in many, extensive. But in 1940 hours fell in 14 of the 26 industries and remained unchanged in 2. In nondurable goods, less affected than durable by defense demands, hours rose in none of the industries analyzed.

The analysis is crude, but the overwhelming indication is that the impact effect of the overtime provisions in 1939 and 1940 was to cut hours of work.

3. *What happened to hours of work during World War II*

During 1942 to 1945 the requirements of law were added to the demands of war to increase weekly hours worked. The 48-hour week was mandatory in labor shortage areas and industries. The expectation of 52 hours' pay from 48 hours' work became general. In a labor shortage situation the overtime penalty was converted into a premium to encourage longer hours and to discourage absenteeism.

There was, in addition, a change in the climate of opinion. Earlier during the depression the idea that a limited amount of work had to be shared among available workers had led many unions to discourage or prohibit overtime work. Contractual agreements providing for the payment of overtime premiums for Saturday and Sunday work as such were now required to be modified in some instances to time and one-half for work on the sixth day in a workweek and double time for the seventh. Longer hours, not shorter, were the objective while the war lasted. Overtime earnings became an accepted part of the weekly paycheck.

4. What has happened to hours of work since World War II

In the years since World War II a trend to increased hours worked rather than employment appears in the statistical record, not only in periods of economic contraction but generally. Employment rather than hours fall in recessions, hours rather than employment expand with recovery.

This tendency may be seen even in the very general data in table 1. After the war employment in manufacturing fell 1.1 million—15.5 to 14.4 million between 1948 and 1949 and hours dropped from 40 to 39.1, indicating average overtime hours fell from perhaps 2.5 to 2. In 1950, employment rose 800,000, but hours went up to 40.5. But in 1951, employment rose nearly 1.2 million while hours rose only 0.1. Much the same thing happened in 1954 and 1955. The postwar employment peak in manufacturing was reached in 1953, 17.5 million.

In 1958, however, employment in manufacturing fell 1.2 million from the 1957 total of 17.2 million while hours fell only 0.6, from 39.8 to 39.2. Employment regained 700,000 by 1959, but hours rose to 40.3. Since then hours have been above the 1957 level in all years but 1960 when they were 39.7, but employment in manufacturing has never gone above 17 million in any year.

In evaluating the reasons for increasing hours rather than employment, it is not sufficient to point to the fact that it must be cheaper for employers to increase the hours of the employees on the payroll than it is to add additional workers. Seen from this demand side the overtime premium does appear to be less costly to pay than the additional costs of pensions, severance pay, unemployment taxes, training of new employees, and plant overhead.

Actually it is not at all certain that even if the additional costs of hiring more workers did not exist that many employers would not prefer to continue to pay the overtime premium. The cost of overtime was and is an impact cost; if foreseen it can be substantially discounted. In 1939 and 1940, as the number of hours after which overtime had to be paid fell from 44 to 42 and then from 42 to 40, employers reduced hours as has been noted. During the war under the pressure of defense and, later, war production, hours were increased and the overtime premiums paid. The use of the overtime premium as a device for tying higher wages to longer hours and discouraging absenteeism already noted as effective on the supply side was balanced on the demand side by making such payments allowed costs of production on Government contracts.

After the war previous wage-hour relationships were largely eliminated by price and wage adjustments as controls were removed and the mandatory 48-hour workweek eliminated. On the demand side ample opportunity was offered in setting base rates to take into consideration the fact that overtime was to be worked and paid for at premium rates. On the supply side, employees had widely come to expect overtime as a fringe benefit. The impact effect of the overtime premium which had disappeared during the war did not return.

Instead the overtime premium became a mechanism for preventing the spread of employment. This is especially to be seen from the supply side. A worker regularly working 48 hours a week regularly receives 52 hours' pay. A reduction of his hours to 40 results in his losing 3 hours' pay for every 2 hours his time is reduced. That workers will resist such a reduction in hours is only to be expected. The newly hired workers' gain is not at all in proportion to the loss in earnings of those already on the payroll. To the work force as a whole, or in an organized plant to the local labor union as a whole, the shift from a 48- to a 40-hour week would represent a reduction in earnings of nearly 8 percent.

When the likelihood of a demand for a corresponding advance in base rates is coupled with the additional expense of adding new employees to the payroll, it is not difficult to see why the existence of the requirement to pay time and one-half for hours after 40 in the Fair Labor Standards Act does not today seem to cause employers to reduce the workweek. Its presence does probably keep

some, but a limited amount of overtime from being worked. However, this effect is largely in areas where overtime is sporadic and not the usual practice.

Where regular hours do not include any hours after 40, overtime is of the emergency variety. It is certainly as likely that emergencies will be met by working the existing labor force longer hours as it is that additional workers will be hired. On the other hand, where overtime is the usual thing, it tends to become built into the wage and cost structure and the premium required does not deter it. Between these extremes there is probably a middle ground where overtime can be planned when required and the premium requirement does have an effect. But the area cannot be large.

Data do not exist adequately to document this thesis. However, it is interesting to compare the trends in hours since the war with those before the war. It is only reasonable to expect higher levels of employment in the postwar period. A glance at tables 2 and 4, however, shows a tendency for previous patterns to disappear. This is particularly noticeable if one compares the trend in hours after the 1958 recession with earlier patterns. As noted, in 1939-40 hours averaged lower than in 1936-37 in all but 4 of the 26 industries studied (table 3). In 1959-60, of the 27 industries studied hours fell in 11, remained unchanged in 7, and actually rose in 9 (table 5). Clearly the factors at work on the hours' patterns were diverse and acting in differing direction. Some industries were responding to the needs of recovery by lengthening hours, some were not. While hardly proof of the above noted variation in attitude toward overtime among plants and industries, it is certainly not inconsistent with such a diverse practice. In any case the contrast with 1939-40 is striking.

The final piece of statistical data is in table 6. Here industries reported by the Bureau of Labor Statistics as having declining totals of employment between 1953 and 1962 are matched with the reported trend in hours worked over this period. As employment was reduced did hours rise or fall?

The results are quite conclusive that increased hours of work are being substituted for increased employment. However, as noted earlier, there is considerable variation between industries. Mining had a drop in employment of over 25 percent, but hours increased on the average by 5 percent. Manufacturing had a loss in employment of 4.5 percent but hours fell by only two-tenths of 1 percent. In seven major divisions of manufacturing, ordnance, lumber, transportation equipment, tobacco, textiles, apparel, and petroleum, employment fell while average weekly hours rose.

It is even more significant that in several divisions hours increased into what was clearly a fairly general practice of working overtime or that such an overtime situation was further expanded. Although no general pattern exists, average weekly hours of 38.5 or more usually indicate that substantial amounts of overtime after 40 hours are being worked. In mining hours increased from 38.8 to 41 on the average. In manufacturing they dropped only from 40.5 to 40.4. The fall for durable goods alone was more substantial, but still only from 41.2 to 40.9 hours. In nondurable goods, where hours have generally been more stable and somewhat shorter than in durable goods production, average hours were unchanged between 1953 and 1962.

Of the 13 branches of industry with declining employment totals all but 3 wound up the decade with hours averaging over 39.5 per week. Eight branches averaged over 40 hours, indicating weeks of 48 hours or more were common. It is impossible to conclude other than that in many industries subject to the Fair Labor Standards Act employment is declining and hours over 40 are either increasing or have remained unchanged. In these industries there is an overtime premium, but there is no overtime penalty.

TABLE 1.—*Employment and average weekly hours, manufacturing and the trend in the index of industrial production, 1932-62*

[Employment and unemployment figures in thousands]

MANUFACTURING

Year	Total employment	Total average weekly hours	Durable goods employment	Durable goods average weekly hours	Nondurable goods employment	Nondurable goods average weekly hours	Total industrial production index (1957-59=100)	Unemployment
1932.....	6,931	38.3	(¹)	32.5	(¹)	41.9	21	12,060
1933.....	7,397	38.1	(¹)	34.7	(¹)	40.0	24	12,830
1934.....	8,501	34.6	(¹)	33.8	(¹)	35.1	27	11,340
1935.....	9,069	36.6	(¹)	37.2	(¹)	36.1	31	10,610
1936.....	9,827	39.2	(¹)	40.9	(¹)	37.7	36	9,030
1937.....	10,794	38.6	(¹)	39.9	(¹)	37.4	40	7,700
1938.....	9,440	35.6	(¹)	34.9	(¹)	36.1	31	10,390
1939.....	10,278	37.7	4,715	37.9	5,564	37.4	38	9,480
1940.....	10,985	38.1	5,363	39.2	5,622	37.0	44	8,120
1941.....	13,192	40.6	6,968	42.0	6,225	38.9	56	5,560
1942.....	15,280	43.1	8,823	45.0	6,458	40.3	69	2,660
1943.....	17,602	45.0	11,084	46.5	6,518	42.5	83	1,070
1944.....	17,328	45.2	10,856	46.5	6,472	43.1	82	670
1945.....	15,524	43.5	9,074	44.0	6,450	42.3	71	1,040
1946.....	14,703	40.3	7,742	40.4	6,962	40.5	60	2,270
1947.....	15,545	40.4	8,385	40.5	7,159	40.2	66	2,356
1948.....	15,582	40.0	8,326	40.4	7,256	39.6	68	2,325
1949.....	14,441	39.1	7,489	39.4	6,953	38.9	65	3,682
1950.....	15,241	40.5	8,094	41.1	7,147	39.7	75	3,351
1951.....	16,393	40.6	9,089	41.5	7,304	39.5	81	2,099
1952.....	16,632	40.7	9,349	41.5	7,284	39.7	84	1,932
1953.....	17,549	40.5	10,110	41.2	7,438	39.6	91	1,870
1954.....	16,314	39.6	9,129	40.1	7,185	39.0	86	3,578
1955.....	16,882	40.7	9,541	41.3	7,340	39.9	97	2,904
1956.....	17,243	40.4	9,834	41.0	7,409	39.6	100	2,822
1957.....	17,174	39.8	9,856	40.3	7,319	39.2	101	2,936
1958.....	15,945	39.2	8,830	39.5	7,116	38.8	94	4,681
1959.....	16,675	40.3	9,373	40.7	7,303	39.7	106	3,813
1960.....	16,796	39.7	9,459	40.1	7,336	39.2	109	3,931
1961.....	16,327	39.8	9,072	40.3	7,255	39.3	110	4,806
1962.....	16,859	40.4	9,493	40.9	7,367	39.6	118	4,007

¹ Not available.

Source: Economic Report of the President, January, 1964; Bureau of the Budget, 1962 Supplement to Economic Indicators.

TABLE 2.—Average weekly hours, selected industries, 1932-42

Industry	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942
Mining:											
Bituminous coal.....	27.0	29.3	26.8	26.2	28.5	27.7	23.3	26.8	27.8	30.7	32.4
Crude petroleum and natural gas fields.....	(1)	(1)	(1)	35.9	38.0	39.5	39.5	38.1	37.6	37.7	38.8
Quarrying and nonmetallic mining.....	(1)	36.1	33.1	34.7	41.2	41.4	38.4	39.0	39.1	41.6	41.4
Manufacturing:	38.3	38.1	34.6	36.6	39.2	38.6	35.6	37.7	38.1	40.6	43.1
Durable goods.....	32.5	34.7	33.8	37.2	40.9	39.9	34.9	37.9	39.2	42.0	45.0
Hydraulic cement.....	(1)	33.8	32.8	34.2	39.2	39.6	37.0	38.4	38.9	40.4	41.1
Structural clay products.....	32.6	32.1	31.4	35.2	41.6	40.2	36.0	37.8	37.4	38.7	38.6
Pottery and related products.....	(1)	(1)	35.4	37.7	41.4	41.9	36.4	39.0	39.0	39.6	39.8
Blast furnace and basic steel products.....	26.9	32.7	31.1	35.7	41.4	38.6	28.8	35.5	37.1	39.7	41.1
Machine tools, metal cutting types.....	29.5	31.8	36.1	40.9	44.4	44.8	36.0	42.5	48.0	51.6	53.5
Motor vehicles and equipment.....	(1)	(1)	34.7	37.9	39.8	37.2	33.5	36.7	39.2	41.2	46.2
Ship and boat building and repairing.....	(1)	(1)	30.8	32.5	35.2	36.4	35.9	37.1	39.0	43.7	47.3
Watches and clocks.....	(1)	(1)	38.6	39.5	41.2	40.5	33.2	37.6	39.0	41.2	44.2
Nondurable goods:	41.9	40.0	35.1	36.1	37.7	37.4	36.1	37.4	37.0	38.9	40.3
Meat packing.....	44.0	41.5	39.1	39.3	41.2	40.3	40.3	39.8	39.4	39.0	39.0
Canned and preserved food, except meats.....	(1)	(1)	(1)	36.9	37.6	39.5	37.2	36.9	35.9	37.3	38.8
Bakery products.....	(1)	(1)	38.7	39.2	41.0	41.2	40.4	40.1	40.0	40.4	41.5
Candy and other confectionery products.....	(1)	(1)	36.7	36.6	38.2	38.7	37.2	37.8	37.8	38.3	39.4
Knit underwear.....	(1)	(1)	33.2	34.1	37.0	34.5	32.1	35.8	34.8	37.3	38.7
Finishing textiles, except wooly knit.....	44.8	44.2	35.5	36.7	40.0	38.5	38.2	39.3	37.9	40.6	42.7
Fertilizers, complete and mixing only.....	(1)	(1)	(1)	33.9	38.5	40.6	37.6	36.6	36.2	37.4	39.4
Petroleum refining.....	(1)	36.6	33.5	34.3	35.2	35.4	35.3	35.4	35.3	36.1	38.1
Tires and inner tubes.....	33.5	32.1	31.2	32.7	36.0	32.4	30.2	35.7	35.5	37.9	41.3
Leather tanning and finishing.....	42.8	41.4	37.0	38.2	39.1	39.1	37.5	39.0	37.8	40.3	41.2
Footwear, except rubber.....	(1)	(1)	(1)	36.2	35.8	35.7	34.3	35.4	38.4	37.3	37.9
Wholesale trade.....	(1)	(1)	(1)	41.6	42.9	43.1	42.3	41.8	41.3	41.1	41.4

¹ Not available.

Source: Bureau of Labor Statistics, Employment and Earnings Statistics for the United States, 1909-60 (Bull. No. 1312, 1961).

TABLE 3

Industry	Average weekly hours, 1936 and 1937	Average weekly hours, 1939 and 1940	Change: 1936-37 and 1939-40	Change in average weekly hours, 1938 to 1939	Change in average weekly hours, 1939 to 1940
Mining:					
Bituminous coal.....	28.1	27.3	-0.8	+3.5	+1.0
Crude petroleum and natural gas fields.....	38.8	37.9	-0.9	-1.4	-0.5
Quarrying and nonmetallic mining.....	41.3	39.1	-2.2	+0.6	+1.1
Manufacturing:	38.9	37.9	-1.0	+2.1	+0.4
Durable goods.....	40.4	38.6	-1.8	+3.0	+1.3
Hydraulic cement.....	39.4	38.7	-0.7	+1.4	+0.5
Structural clay products.....	40.9	37.6	-3.3	+1.8	-0.4
Pottery and related products.....	41.7	39.0	-2.7	+2.6	0
Blast furnace and basic steel products.....	40.0	36.3	-3.7	+6.7	+1.6
Machine tools, metal cutting types.....	44.6	45.3	+0.7	+6.5	+5.5
Motor vehicles and equipment.....	38.5	38.0	-0.5	+3.2	+2.5
Ship- and boatbuilding and repairing.....	35.8	38.1	+2.3	+1.2	+1.9
Watches and clocks.....	40.9	38.4	-2.5	+4.4	+1.4
Nondurable goods:	37.6	37.2	-0.4	+1.3	-0.4
Meatpacking.....	40.8	39.6	-1.2	-0.5	-0.4
Canned and preserved food, except meats.....	38.6	36.4	-2.2	-0.3	-1.0
Bakery products.....	41.1	40.1	-1.0	-0.3	-0.1
Candy and other confectionery products.....	38.5	37.8	-0.7	+0.6	0
Knit underwear.....	35.8	35.3	-0.5	+3.7	-1.0
Finishing textiles, except wooly knit.....	39.3	38.6	-0.7	+1.1	-1.4
Fertilizers, complete and mixing only.....	39.6	36.4	-3.2	-1.0	-0.4
Petroleum refining.....	35.3	35.4	+0.1	+1.1	-0.1
Tires and inner tubes.....	34.2	35.6	+1.4	+5.5	-0.2
Leather tanning and finishing.....	38.7	35.9	-2.8	+1.5	-1.2
Footwear, except rubber.....	35.8	34.4	-1.4	+1.1	-2.0
Wholesale trade.....	43.0	41.6	-1.4	-0.5	-0.5

Source: Table 1.

TABLE 4.—Average weekly hours, selected industries, 1943-62

Industry	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962
Mining	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Brunniform coal	36.3	43.0	42.0	41.3	40.3	39.4	36.3	37.0	38.4	38.6	38.9	38.6	40.7	40.8	40.1	38.9	40.5	40.4	40.5	41.0
Crude petroleum and natural gas fields	42.4	43.2	45.0	40.3	40.3	37.7	32.3	34.4	34.7	33.8	34.1	32.3	37.3	37.5	36.3	33.3	33.8	35.5	36.7	36.7
Quarrying and nonmetallic mining	44.8	45.2	46.1	43.2	44.8	44.3	43.1	43.5	44.8	44.5	44.7	43.8	44.3	44.4	43.7	43.7	40.8	40.7	40.7	40.8
Manufacturing	43.0	43.2	43.5	40.3	40.5	40.4	39.1	40.0	40.0	40.7	40.2	39.0	40.7	40.7	39.5	39.2	40.2	39.7	38.8	40.6
Durables	42.7	44.4	46.0	42.3	41.6	41.6	41.6	41.6	41.7	41.5	41.0	41.5	41.3	41.9	40.2	39.5	40.7	40.1	40.5	40.6
Hydraulic cement	42.7	44.4	46.0	42.3	41.6	41.6	41.6	41.6	41.7	41.5	41.0	41.5	41.3	41.9	40.2	39.5	40.7	40.1	40.5	40.6
Structural clay products	41.5	42.3	41.5	39.0	40.0	39.0	39.0	37.8	38.4	38.0	37.9	35.8	37.8	38.1	37.0	35.3	40.9	40.3	38.2	39.3
Beef, animal and products	45.2	47.6	47.0	37.8	42.3	42.1	38.2	37.9	37.9	47.0	46.2	37.2	43.6	43.0	39.1	37.2	38.5	38.5	38.6	39.2
Machinery and basic steel products	50.5	47.3	48.7	38.7	38.7	38.2	39.1	43.1	47.3	41.3	42.7	42.2	43.8	43.0	42.0	38.7	40.1	42.2	41.4	42.8
Machine tools and cutting types	47.5	47.3	48.7	38.7	38.7	38.2	39.1	43.1	47.3	41.3	42.7	42.2	43.8	43.0	42.0	38.7	40.1	42.2	41.4	42.8
Motor vehicles and equipment	46.7	48.8	48.0	37.0	39.2	38.3	37.0	42.0	40.5	38.5	38.7	38.3	39.0	39.2	39.3	39.4	39.4	39.3	39.5	39.7
Ship and boat building and repairing	45.0	48.2	44.1	41.0	39.0	40.1	37.0	39.8	40.8	41.6	41.6	39.0	39.2	39.2	39.2	38.8	39.7	39.2	39.3	39.6
Watches and clocks	42.5	43.1	42.3	40.5	40.2	39.6	38.9	39.7	39.5	39.7	39.6	39.0	39.9	39.6	39.2	39.2	39.2	39.2	39.3	39.6
Nondurable goods	42.5	43.1	42.3	40.5	40.2	39.6	38.9	39.7	39.5	39.7	39.6	39.0	39.9	39.6	39.2	39.2	39.2	39.2	39.3	39.6
Meatpacking	45.7	48.7	46.9	42.0	44.6	43.4	41.5	41.6	41.9	41.7	41.3	41.3	41.9	42.4	41.2	40.9	42.0	42.0	41.9	41.9
Canned and preserved food, except meat and products	40.0	41.0	40.8	40.8	39.4	37.9	38.5	38.9	39.7	39.0	38.8	38.4	38.4	39.2	38.7	39.1	38.5	38.6	38.2	38.7
Bakery products	43.4	44.2	44.6	43.9	42.6	42.6	41.9	41.7	41.7	41.7	41.5	41.0	41.0	40.7	40.4	40.2	40.2	40.0	40.2	40.4
Candy and other confectionary products	40.9	41.5	40.1	38.8	39.1	39.0	39.2	39.3	39.7	39.3	38.6	38.6	39.1	39.2	39.0	39.0	39.1	39.0	39.6	39.7
Knit underwear	40.7	40.4	39.4	38.3	38.7	37.5	38.0	37.3	37.0	38.4	37.4	36.3	39.1	37.5	36.8	37.4	39.3	37.1	37.6	38.4
Finishing textiles, except wool and knit	44.9	45.4	44.7	43.0	42.5	41.5	40.8	41.4	40.2	42.5	41.6	41.3	42.8	41.7	41.1	40.8	41.7	40.3	41.5	42.2
Fertilizers, complete and mixing only	44.3	45.8	46.1	43.0	42.5	41.6	41.7	41.4	42.5	42.6	42.5	42.5	42.6	42.3	42.6	42.4	43.3	43.8	42.6	42.7
Petroleum refining	43.7	45.9	45.2	39.1	39.7	39.8	39.7	39.9	40.2	40.3	40.3	40.1	40.3	40.4	40.4	40.5	40.8	40.8	40.9	41.2
Tires and inner tubes	45.7	46.5	44.4	39.0	38.8	37.5	36.7	40.1	39.9	40.7	39.0	39.0	41.9	40.5	40.7	38.6	41.9	39.3	38.7	40.1
Leather tanning and finishing	45.1	45.1	45.2	40.9	40.8	39.6	38.9	39.7	39.1	39.8	39.9	39.3	40.0	39.7	39.4	39.0	39.3	39.3	39.6	40.1
Footwear, except rubber	36.0	40.2	38.5	38.3	38.3	36.6	35.9	36.0	36.0	38.0	37.2	36.2	37.3	37.2	37.0	36.0	37.0	36.5	36.9	37.3
Wholesale trade	42.3	43.0	42.8	41.6	41.1	41.0	40.8	40.7	40.8	40.7	40.5	40.5	40.7	40.5	40.3	40.2	40.6	40.5	40.6	40.6

1 Not available.

United States, 1909-60* (Bulletin No. 1312, 1961), "Employment and Earnings, Annual Supplement Issue," September 1963.

Source: Bureau of Labor Statistics, "Employment and Earnings Statistics for the

TABLE 5.—Change in average weekly hours, selected industries, 1956-60

Industry	Average weekly hours, 1956 and 1957	Average weekly hours, 1959 and 1960	Change, 1956-57 and 1959-60	Change in average weekly hours, 1959-59	Change in average weekly hours, 1959-60
Mining.....	40.5	40.5	0	+1.6	-0.1
Bituminous coal.....	36.9	35.8	-1.1	+2.5	0
Crude petroleum and natural gas fields.....	40.8	40.7	-1	+1	-3
Quarrying and nonmetallic mining.....	44.1	44.1	0	+1.1	-7
Manufacturing.....	40.1	40.0	-1	+1.1	-6
Durable goods.....	40.7	40.4	-3	+1.2	-6
Hydraulic cement.....	40.9	40.7	-2	+6	-4
Structural clay products.....	40.6	40.6	0	+1.3	-5
Pottery and related products.....	37.9	38.3	+4	+2.1	-1
Blast furnace and basic steel products.....	39.8	39.4	-4	+2.6	-1.9
Machine tools, metal cutting types.....	43.9	42.2	-1.7	+4.1	+1
Motor vehicles and equipment.....	41.1	41.1	0	+1.4	0
Ship and boat building and repairing.....	39.3	39.4	+1	+3	-1
Watches and clocks.....	39.2	39.3	+1	+5	-5
Nondurable goods.....	39.4	39.5	+1	+9	-5
Meatpacking.....	41.6	42.3	+7	+1.7	-6
Canned and preserved food, except meats.....	39.0	38.5	-5	-7	+2
Bakery products.....	40.6	40.1	-5	0	-2
Candy and other confectionery products.....	39.1	39.1	0	+1.1	0
Knit underwear.....	37.3	38.2	+9	+1.9	-2.2
Finishing textiles, except wooly knit.....	41.4	41.0	-4	+9	-1.4
Fertilizers, complete and mixing only.....	42.5	43.2	+7	+9	-3
Petroleum refining.....	40.4	40.8	+4	+3	0
Tires and inner tubes.....	40.5	40.5	0	+3.0	-2.2
Leather tanning and finishing.....	39.6	39.3	-3	+3	0
Footwear, except rubber.....	37.1	37.1	0	+1.6	-1.1
Wholesale trade.....	40.4	40.6	+2	+4	-1

Source: Table 4.

TABLE 6.—Average weekly hours in industries with declining employment, 1953-62

Industry	Employment (thousands)		Average weekly hours					
	1953	1962	Net decline, 1953-62	Percent decline, 1953-62	1953	1962	Net change, 1953-62	Percent change, 1953-62
Mining.....	866.0	647.0	-219.0	-25.3	38.8	41.0	+2.2	+5.1
Manufacturing.....	17,549.0	16,752.0	-797.0	-4.5	40.5	40.4	-1	-2
Durable goods.....	10,110.0	9,441.0	-669.0	-6.6	41.2	40.9	-3	-7
Ordnance.....	234.3	215.0	-19.3	-8.2	40.7	41.1	+4	+1.0
Lumber.....	770.7	606.6	-164.1	-21.3	39.2	39.8	+6	+1.5
Primary metals.....	1,383.1	1,165.5	-217.6	-15.7	41.0	40.2	-8	-2.0
Fabricated metals.....	1,156.4	1,117.5	-38.9	-3.4	41.3	41.1	-7	-1.7
Machinery, excluding electrical.....	1,554.4	1,459.2	-95.2	-6.1	42.4	41.7	-7	-1.7
Transportation equipment.....	1,969.1	1,645.6	-323.5	-16.4	41.6	42.0	+4	+1.0
Miscellaneous manufacturing.....	420.9	392.5	-28.4	-6.7	40.5	39.7	-8	-2.0
Nondurable goods.....	7,438.0	7,310.0	-128.0	-1.7	39.6	39.6	0	0
Food.....	1,838.9	1,773.1	-65.8	-3.6	41.5	40.9	-6	-1.5
Tobacco.....	103.6	90.4	-13.2	-12.7	38.1	38.6	+5	+1.3
Textiles.....	1,154.8	880.6	-274.2	-23.7	39.1	40.6	+1.5	+3.8
Apparel.....	1,248.0	1,235.7	-12.3	-1.0	36.1	36.2	+1	+3
Petroleum.....	241.4	195.9	-45.5	-18.8	40.7	41.6	+9	+2.2
Leather.....	389.2	361.1	-28.1	-7.2	37.7	37.6	-1	-3

Source: Hearings, Select Subcommittee on Labor, Committee on Education and Labor, 88th Cong., 1st sess., "Hours of Work," pt. 1, p. 14, Bureau of Labor Statistics, "Employment and Earnings," 1961, 1963.

BRIEF OF NATIONAL SHOE MANUFACTURERS ASSOCIATION BY MERRILL A. WATSON,
EXECUTIVE VICE PRESIDENT

The National Shoe Manufacturers Association is a trade association, which has as its members shoe manufacturers located throughout the United States, producing more than 85 percent of the footwear manufactured in the United States and employing approximately 85 percent of the workers in the shoe manufacturing industry.

Before addressing ourselves to the specific proposal of a tripartite committee, whose recommendations as to increasing the statutory minimum rate for overtime work in a particular industry will be given to the Secretary of Labor to either carry out or decline, on behalf of the shoe manufacturing industry, we wish to point out certain facts peculiar to the shoe manufacturing industry which militate against the proposed legislation.

The shoe manufacturing industry is commonly referred to as a "peak and valley" industry, resulting from the buying habits of the public.

Shoe workers do not live by the hour or by the week. They rely upon an annual income which is bolstered substantially during the peak periods when overtime is worked. If the shoe worker is to be denied his overtime work because of penalty overtime payments, the income of the regular shoe worker will be reduced to such a degree that he would not be able to meet his annual obligations.

Such workers would be compelled to leave the shoe manufacturing industry and seek work elsewhere. Thus, the very evil—unemployment—which the proposed legislation is supposed to correct, would be created.

In order to maintain and retain a work force of experienced shoe workers, a shoe manufacturer would then be compelled to pay the penalty overtime premium. This result also would defeat the purpose of the legislation.

A manufacturer, be he a shoe manufacturer or otherwise, who considers hiring additional workers because of penalty overtime payments would, in addition to the foregoing reasons assigned, conclude that such a practice would increase his employment costs to such a degree, particularly in the area of fringe benefits, that he would have to retain his regular work force and pay the extra overtime premium. Here, again, the legislation would not accomplish its purpose.

The shoe manufacturing industry is not only one of the lowest profit industries, so that increased employment costs would be almost a deciding factor in itself against employing additional workers, but as the executive and the legislative branches of this Government already know, the relatively high employment costs of domestic shoe manufacturers already adversely affect their competitive position because of foreign imports.

If H.R. 9802 were enacted into law, it could well have the effect of sounding the death knell for much of the shoe manufacturing industry. Again, the legislation would create the very condition it is supposed to correct.

We in the shoe manufacturing industry, of course, agree that continuous unemployment at a rate in excess of 5 percent is a danger sign for the economy and the efforts of this committee to seek a solution is commendable. However, we seriously question whether the proposed imposition of an increased overtime penalty rate would be the solution.

There is another aspect to this problem which cannot be ignored. For a shoe manufacturer to hire more employees in nonovertime hours would mean additional costs in machinery, plant space, training programs, and other items. It would seem that it might be less expensive for a shoe manufacturer to pay double time than to lay out the capital that would be required for the creation of more jobs.

We recognize that under H.R. 9802, the Secretary of Labor could order double time, triple time, or whatever it takes to force an industry out of the overtime hours. This may be the result in an industry which works 52 weeks a year, but in the "peak and valley" industry, the work force would be dissipated and the industry destroyed.

We believe it is generally accepted that the hard core of the chronically unemployed are the unskilled and semiskilled personnel. In a penny-profit industry, which cannot schedule production during regular hours because of erratic consumer demands and where competition from low-wage-cost countries (like Japan) is becoming an increasing threat, the manufacturer has only one choice if he wants to stay in business. That choice is—automation. The unfortunate thing about automation, however, is that the workers mostly affected are the unskilled and semiskilled.

A high penalty overtime premium, such as proposed by H.R. 9802, would then merely increase the army of unemployed.

Another very serious adverse consequence which would be felt by the shoe industry as a result of penalty overtime, results from the fact that the shoe industry is decentralized—scattered over many labor areas. Shoe manufacturers in surplus labor areas would produce at normal wages, while their competitors in tight labor market areas, unable to hire the required skilled help would have to pay double or triple time. This not only would fail to reduce unemployment, but would create an imbalance among domestic producers.

The administrative procedure which H.R. 9802 would set up would vest the Secretary of Labor with "absolute power" over industry with respect to overtime. "Absolute power" is something which our Founding Fathers condemned and tried to prevent by the Constitution.

One can find little comfort in the tripartite industry committee which the Secretary of Labor shall appoint. These so-called impartial committees have invariably failed in their purpose.

H.R. 9802 would require the Secretary of Labor to conduct a preliminary survey and submit his finding to the tripartite industry committee which he appointed. The committee would have subpoena powers for books, records, and witnesses, and yet the committee's recommendations are not binding on the Secretary.

Any Secretary of Labor who wants to reach a particular result need only refuse to accept the recommendations of a committee and keep appointing new committees until he gets what he wants—until his philosophy is imposed on the business community.

For Congress to give such awesome and absolute power to one person who happens, by appointment, to be in charge of an administrative agency, would be substituting administrative fiat for the policymaking power which is now vested and must remain with Congress.

Assuming, however, that a Secretary of Labor would follow the recommendations of an "impartial" industry committee, the result would be no less improper.

We do not believe that Congress has the right to give to an industry committee the power to determine:

1. The overtime penalty rate which would increase employment "without excessive costs."
2. What constitutes "due consideration" with respect to economic and competitive factors.
3. What is an "extraordinary emergency?"
4. What is an "unusually compelling need?"

H.R. 9802 permits no consideration of the problems peculiar to an industry like the shoe manufacturing industry. Where overtime is worked because of seasons or unique consumer requirements, is that "substantial and persistent overtime?"

We have, in the shoe manufacturing industry many small producers whose plant places physical limitations on production. Where such a manufacturer just does not have any more space available to hire additional people, is he to be penalized because he works regular overtime due to the space factor?

CONCLUSION

While excessive unemployment is a problem which should be corrected, the H.R. 9802 approach is not the answer. Most industries, including the shoe manufacturing industry, need skilled, trained workers. The plant cannot operate without them. It is no answer to prevent their overtime employment by an overtime penalty. The only result would be that these skilled, trained employees deprived of customary overtime opportunities with their own employers, would seek secondary jobs with their employers' competitors. Encouraging job switching in this manner would not give those most in need of work an opportunity to find it.

We suggest that subjecting the American businessman to the evil of punitive legislation will not correct the evil of unemployment.

STATEMENT OF POSITION BY NATIONAL INDEPENDENT BUSINESS ASSOCIATION,
RAYMOND C. KELLY, PRESIDENT

The board of directors of the National Independent Business Association has studied the pending bill on penalty overtime, H.R. 9802, and has voted unanimously to urge that it not be enacted.

NIBA, which is made up almost entirely of small businesses, believes that smaller companies will be particularly hard hit if this bill is enacted. Instead of eliminating unemployment, it will tend to increase it by raising the cost of doing business, and thereby making expansion—with the resultant new jobs—more difficult. Larger companies, when faced with the dilemma of this bill (to pay more for overtime or hire more people) can more easily adjust because of the greater flexibility they usually have in arranging their workload, and the availability of more elaborate facilities for training new workers. But for many small companies, these requirements are unduly harsh.

The basic premise of H.R. 9802 seems to be that there exists some great pool of unemployed workers who have precisely the skills which a company needs to assist it in meeting peakload requirements, and that these supposedly trained and efficient workers are willing and able to work for short periods of time. A further premise is the supposition that a company can absorb the additional fringe benefits and employment costs with no adverse effects.

None of these premises is true.

There are few companies, indeed, which use overtime as a permanent policy—that is, who fail to hire permanent employees for permanent increases in workload. The main use of overtime is still to handle temporary peaks in production. And in such cases, the training of temporary personnel is unthinkable, especially for a small company.

Under H.R. 9802, a "tripartite" board would be given the power to decide what constitutes a normal workweek in an industry, and what the pay should be for time in excess of that standard. The overtime rate under the bill would be "not less than two times" the nonovertime rate.

The placing of such limitless power in the hands of a governmental board is not only unnecessary but dangerous. It is interesting to note that there are no effective controls placed upon this new bureaucracy. Particularly significant is the fact that there is no provision in the bill for judicial review of decisions of these tripartite boards. Indeed, one might inquire whether this does not conflict with the concept of due process of law. Under section 10 of the present act, provision is made that any person who is dissatisfied with an order issued under section 8 may obtain a review of the order in the U.S. Court of Appeals. But this bill has no such provision.

The tripartite boards would be given powers to subpoena witnesses, to require the production of books and records, and to do anything else necessary to conduct their investigation or "survey." Forcing a company to divulge information under this law would place this information in the hands of those who might be tempted to use it for selfish ends, and certainly there would be many opportunities for this. Legislation should not encourage such conflicts of interest.

Another serious problem in connection with the proposal is that the bill provides authority for constant review and possible changes once an order has been issued. After a committee has made a finding, the Secretary of Labor may, on his own motion or on the filing of a petition, appoint a new tripartite industry committee to reconsider a penalty-pay order. Thus, it is quite possible that industries subject to the act would face constant turmoil and uncertainty, with continual proceedings—or the threat of proceedings—to determine their overtime policies.

The tripartite committee arrangement has been tried before, and frankly it has not worked very well. Such tripartite agencies as the War Labor Board and the Wage Stabilization Board have often found themselves subjected to strong criticism on grounds that they were not actually impartial. Furthermore, these committees have no real responsibility to anyone.

NIBA views this proposed legislation as an ineffective and dangerous approach to the problem of unemployment. In a time when rising costs and inflation are serious economic problems, it does little good to enact legislation which is going to further increase costs. For those who are unemployed, an increase in the cost of living is certainly no solution to the problem. And for companies which are endeavoring to grow in order to provide more employment, an increase in the cost of doing business is going to bring fewer jobs, not more.

For the foregoing reasons, we urge that this bill, H.R. 9802, not be enacted.

WESTINGHOUSE AIR BRAKE DIVISION,
Wilmerding, Pa., March 5, 1964.

HON. ELMER J. HOLLAND,
U.S. House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HOLLAND: I know that you are now considering a law that would require double pay for overtime work. Much will undoubtedly be said about this by both labor and management and I wish that it would be possible for me to state one way or the other that this is a good bill or a bad bill. However, in all good conscience, I cannot do this for while I feel that there may be some good points to the bill, I also am aware that in our case it would add additional costs to our products which would make us less competitive in the world today.

While I am in full sympathy with employing more people rather than working overtime, I find it hard to put this into practice. For example, we continually have the need for some maintenance work in the plant and if a maintenance man has already worked 40 hours, and a breakdown occurs, he must come in on an overtime basis. It would be prohibitive in cost to staff to provide this service for 24 hours a day, 7 days a week.

We also find that we cannot possibly provide sufficient equipment to meet all production peaks which cannot be forecast. Thus, at times, we must work overtime in order to utilize our equipment to meet the customers' demands.

I am sure that you are aware of the fact too that much unemployment today occurs with the unskilled worker whereas the skilled worker finds it easy to obtain employment. We are still attempting to hire skilled workers in our plant and daily must turn away people who do not have the skills that we need in our business. Thus, to penalize us by overtime will increase our production costs when we are striving daily to decrease these costs and ship more goods abroad. For your information, almost 17 percent of our total production here at Wilmerding actually leaves the country. Further increases in the cost of our products, I am sure, will enable foreign competition to take much of our market away from us and actually decrease the job opportunities we now have.

On the other hand, I have read the recent article in Life magazine for February 14 on the subject of "Leisure" and realize that shorter workweeks and even shorter work years will come about with the increased use of automatic machines in industry. I would hope that business, rather than take the negative stand that it has in the past, would lead the way wherever possible toward shorter workweeks in order to distribute the amount of work available.

I did note, however, in a recent newspaper that there are more women working today, not counting divorcees or single girls, than ever before. Thus, the unemployment figures as published are probably misleading in that a larger proportion of our adult population is working today than in the past. However, because of moonlighting, two or more members of the same family working, etc., there are many people who do not have the opportunity to find employment. Perhaps the solution to some of our current problems could be found in not employing people for a second job or in not employing married women who already have a wageearner in the family and who should be home raising their children properly.

I hope that you will agree that the proposed bill providing for double pay for overtime work will have many disadvantages that may actually decrease employment in certain areas. Thus, I suggest that legislation is not the answer and that perhaps the proper approach is through an intelligent attitude by industry and collective bargaining between industries and the unions.

Yours very truly,

W. P. CARTUN,

Vice President and General Manager.

AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.,
Detroit, Mich., April 30, 1964.

HON. JAMES ROOSEVELT,
House of Representatives,
Washington, D.C.

DEAR SIR: I am transmitting herewith for the joint committee's record additional information as was discussed on February 28, 1964, during the Automobile Manufacturers Association's testimony on the Overtime Pay Penalty Act of 1964.

This information relates to gross investment per hourly employee and comparative data on a new hire versus overtime.

Gross investment per hourly employee follows:

Year	Investment per employee
1954.....	\$9,721
1963.....	18,792

The above data are based upon information supplied by American Motors Corp., Chrysler Corp., Ford Motor Co., and General Motors Corp., and covers U.S. operations only. Investment data are as of the last day of the fiscal year—December 31 for Chrysler, Ford, and General Motors; and September 30 for American Motors—and covers gross plant and equipment, including unamortized portion of special tools.

It is our understanding that the committee is interested in determining the extent to which the growth in fringe benefit costs has offset the effect of the 50-percent penalty premium imposed in 1940 on hours in excess of 40 per week by the Fair Labor Standards Act.

Our data suggest that if a new employee—without seniority or unemployment compensation credits—is hired for 1 month and then laid off, the total fringe benefit costs per hour worked would amount to only 12 cents as compared with the overtime premium cost of \$1.44 per hour. The two benefits accounting for the 12-cent-per-hour fringe benefit costs were also in effect in 1940 so that the growth in such benefit costs was less than the 12-cent-per-hour figure.

If the duration of the new hire's employment is 2 months, fringe benefit costs would amount to 24 cents per hour worked, and, if the duration was 3 months, the benefit costs would be 27 cents per hour. During the fourth month, the newly hired employee would become eligible for Michigan State unemployment benefits, and, assuming he is laid off at the end of the fourth month and draws all of the benefits to which he is entitled, the total fringe benefit costs would increase to \$1.20 per hour worked. Again, however it is important to note that the \$1.20 does not measure the growth in fringe benefit costs since all of the benefits, with the exception of medical insurance, making up this cost were also in effect in 1940.

Our example overstates to a considerable degree the fringe benefit costs of new employees if such employees are not—as we have assumed—laid off at the end of the indicated month but, instead, become permanent additions to the employer's regular work force. In that event, the very large benefit costs which we have attributed in our example to State unemployment compensation benefits and SUB would be reduced to the employer's State unemployment compensation tax rate and his SUB contribution rate.

Adding new employees, of course, would involve inefficiencies and training costs, but this was also true in 1940 and, to our knowledge, no one has suggested that such costs have increased relative to wages. These costs—which are, at best, an estimate which varies with each situation—have, therefore, not been included in measuring the extent to which the growth in fringe benefit costs has reduced the effectiveness of the overtime premium penalty.

As indicated by our testimony, the problems associated with the possibility or desirability of using added employees rather than overtime in many situations involve factors that either stem from considerations other than costs or do not lend themselves to precise translation into dollar costs.

Very truly yours,

HARRY A. WILLIAMS, *Managing Director.*

WAGES AND COST OF RELATED FRINGE BENEFITS OF NEW HIRE VERSUS WORKING OVERTIME

Attached is a schedule showing wages and cost of related fringe benefits of a new hire in comparison with the straight time wage rate and overtime premium penalty of 50 percent for present employees working an equivalent number of hours on overtime.

The data and the number of hours worked on this schedule are calculated on a cumulative basis. For example, if the new hire were laid off at the end of the first month (March) he would have worked 173 hours and the wages and benefits to which he was entitled would amount to \$502 for the 173 hours worked. Therefore, the amount per hour worked would be \$2.90 which compares with \$4.32 on an overtime basis.

Similarly, if the new hire were laid off at the end of 6 months (August), the average wages and cost of related fringe benefits of the new hire (\$4,204 for 1,024 hours worked) is calculated at \$4.11 per hour versus \$4.32 per hour on an overtime basis.

In order to make the calculations, many assumptions must be made. Some of the major assumptions are as follows:

1. The employee would be hired the 1st of March as an automobile assembler on the first shift in a Michigan plant.
2. The new hire works 40 hours per week for $4\frac{1}{8}$ weeks per month.
3. The new hire would be a new entry into the labor market.
4. The new hire would be on continuous layoff at the end of any selected month and would draw the full benefits to which he would be entitled. The cost of these benefits, such as State unemployment insurance, supplemental unemployment benefits and vacation pay, have been shown in the month the liability would be established, which is not the month in which they would be paid.
5. The data represent the wages and the cost of related fringe benefits of a new hire in comparison with the straight time wage rate and overtime premium penalty of 50 percent for present employees working an equivalent number of hours on overtime. The data do not represent the total cost of a new hire because they do not include training costs or inefficiencies for the new hire which occur over a period of time and which are contingent upon such circumstances as the number of new hires, the job assignments, the type of plants, etc.

There are also attached the basic data used in the calculations. These data set forth the waiting periods before eligibility, such as 14 weeks for Michigan unemployment insurance, 30 days for group life insurance and medical insurance, 90 days for holiday pay and 1-year seniority for supplemental unemployment benefits and vacation pay allowance.

Wages and cost of related fringe benefits of new hire versus working overtime automobile assembler in a Michigan plant

	March	April	May	June	July	August	September	October	November	December	January	February
Hours available.....	173	347	520	693	867	1,040	1,213	1,387	1,560	1,733	1,907	2,080
Less holidays.....			8	8	16	16	24	24	32	48	56	56
Hours worked.....	173	347	512	685	851	1,024	1,189	1,363	1,528	1,685	1,851	2,024
Wages, including cost-of-living allowance.....	\$481	\$973	\$1,440	\$1,938	\$2,416	\$2,915	\$3,390	\$3,891	\$4,366	\$4,818	\$5,296	\$5,795
Cost of related fringe benefits:												
State unemployment insurance.....				621	810	945	1,080	1,269	1,404	1,404	1,404	1,404
Federal unemployment insurance.....	4	8	12	16	21	25	26	26	26	26	26	34
Federal Insurance Contributions Act.....	17	35	52	70	88	107	125	143	161	174	192	210
Group life insurance.....		10	19	29	39	49	58	68	78	87	97	107
Medical insurance.....		28	56	84	112	140	168	196	224	252	280	308
Holiday pay.....					23	23	46	46	69	115	138	138
SUBP.....								79	97	115	115	570
Vacation pay allowance.....								4	4	5	5	5
Applicable taxes on vacation pay.....												
Subtotal, cost of related fringe benefits.....	21	81	139	820	1,093	1,289	1,503	1,831	2,063	2,178	2,787	2,891
Total, wages and cost of related fringe benefits.....	502	1,054	1,579	2,758	3,509	4,204	4,893	5,722	6,429	6,996	8,083	8,686
Average amount per hour worked:												
New hire:												
Wages.....	2.78	2.80	2.81	2.83	2.84	2.85	2.85	2.85	2.86	2.86	2.86	2.86
Fringes.....	.12	.24	.27	1.20	1.28	1.26	1.27	1.35	1.35	1.29	1.51	1.43
Total.....	2.90	3.04	3.08	4.03	4.12	4.11	4.12	4.20	4.21	4.15	4.37	4.29
Working overtime:												
Wages, straight time.....	2.88	2.88	2.88	2.88	2.88	2.88	2.88	2.88	2.88	2.88	2.88	2.88
Wages, overtime.....	1.44	1.44	1.44	1.44	1.44	1.44	1.44	1.44	1.44	1.44	1.44	1.44
Total.....	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32
Excess, working overtime over new hire.....	1.42	1.28	1.24	.29	.20	.21	.20	.12	.11	.17	(.05)	.03

NOTE.—The above data represent the wages and the cost of related fringe benefits of a new hire in comparison with the straight time wage rate and overtime premium penalty of 50 percent for present employees working an equivalent number of hours on overtime. The data do not represent the total cost of a new hire because they do not include training costs or inefficiencies for the new hire which occur over a period of time and which are contingent upon such circumstances as the number of new hires, the job assignments, the type of plants, etc.

BASIC ASSUMPTIONS FOR DETERMINING WAGES AND COST OF RELATED FRINGE BENEFITS OF NEW HIRE VERSUS WORKING OVERTIME

General data

It is assumed that the employee would be hired March 1. The data are based on the assumption that the employee will work 520 hours each quarter except that the hours have been reduced during those months in which a holiday occurs.

The employee is married and has two children. It is assumed that the employee will be hired in a Michigan plant and that the employee has had no prior earnings nor was he formerly an employee who is being recalled.

The data are shown on a cumulative basis.

Specific data

Hours compensated: Based on the employee receiving 520 hours pay each quarter.

Holidays: Based on seven holidays in the year.

Wages: Based on a beginning assemblers rate of \$2.65 per hour plus \$0.13 cost-of-living allowance for a total of \$2.78 per hour for the first 30 days. This rate is increased by \$0.05 per hour to \$2.83 per hour for the next 60 days and finally to \$2.88 per hour after the first 90 days.

State unemployment insurance: The employee becomes qualified to receive State unemployment insurance after working 14 weeks and will receive \$54 per week for each week of eligibility. The basis of eligibility is two-thirds of a week in benefits for each week worked (rounded to the next highest half week). Maximum benefits are 26 weeks.

Federal unemployment insurance: Based on the current rate of 0.85 percent of the first \$3,000 of earnings in each year.

F.I.C.A.: Based on 3.625 percent of the first \$4,800 of earnings in each year.

Group life insurance: Based on the average cost of \$9.71 per month for each month employee is on the roll after the first 30-day waiting period.

Medical insurance: Based on the average cost of \$28 per month for each month employee is on the roll after the first 30-day waiting period.

Holiday pay: Employee becomes eligible for holiday pay after working 90 days during a period of 6 continuous months. Therefore, this employee, assumed to be hired March 1, is not eligible for holiday pay on Memorial Day (May 30) but is assumed to be eligible for holiday pay on all succeeding holidays.

SUBP: Employee is not eligible for supplemental unemployment benefits until he has attained 1 year seniority and is in active service, or was in such active service within 30 days prior to his 1-year anniversary date. Therefore, the employee becomes eligible for SUB payments on March 1 if laid off at the end of January or thereafter.

The employee receives 62 percent of his weekly pay plus \$1.50 per dependent less the State benefit to which he is entitled until credit units are exhausted. The employee earns 0.5 credit units for each week worked. The calculation for the benefit after 11 months worked is as follows:

Hourly rate (including cost-of-living) -----	\$2.88
Hours per week -----	× 40
Weekly wage -----	\$115.20
Benefit percentage -----	× 62
Amount of gross benefit -----	\$71.42
Plus dependent allowance (3 dependents at \$1.50) -----	\$4.50
Subtotal -----	\$75.92
Less State benefit -----	-\$54.00
SUBenefit -----	\$21.92
Number of credit units (48 weeks worked at 0.5 per week) -----	× 24
Amount of SUBenefit -----	\$526.08

Vacation pay: employee becomes eligible for vacation pay allowance when he has at least 1 year's seniority as of his eligibility date and has worked during at least 13 pay periods during his vacation pay allowance eligibility year. This employee's eligibility date is June 30 (employees hired between January 1 and June

30 have eligibility date of June 30). The employee's seniority would not be broken until such time as he has been on layoff for a period of time equal to the period of time worked. Therefore, if the employee works until the end of October (8 months), he will have worked sufficient time to continue to accrue seniority until the subsequent June 30 eligibility date (8 months) at which time he would have more than 1 year's seniority. In addition, he will have worked in 18 pay periods in the eligibility year which would qualify him for 69 percent of a full 40-hour allowance (\$2.88 per hour \times 40 hours = \$115.20 \times 69 percent or \$79.49). By the end of December, he will have worked in 26 pay periods and qualified for a full 40-hour allowance.

Applicable taxes on vacation pay: Applicable taxes (Federal unemployment insurance at 0.85 percent of the first \$3,000 of earnings in each calendar year and F.I.C.A. at 3.625 percent of the first \$4,800 of earnings each calendar year) have been included at the full rates in these calculations since the employee will not have attained the wage maximums in the year the vacation pay allowance is assumed to be paid.

Average amount per hour worked

New hire: Rate calculated by dividing total wages and cost of related fringes by hours worked.

Overtime: Based on an assemblers rate of \$2.75 per hour plus \$0.13 cost-of-living allowance for a total of \$2.88 per hour. The overtime premium penalty of 50 percent has been added to the straight time wage rate of \$2.88 per hour for a total overtime rate of \$4.32 per hour.

BETHLEHEM STEEL Co.,
Bethlehem, Pa., April 9, 1964.

Hon. ELMER J. HOLLAND,
House of Representatives,
Washington, D.C.

DEAR MR. HOLLAND: At the hearing on overtime bills H.R. 1680 and H.R. 9802 which took place March 23, 1964, Mr. O'Hara requested additional information on overtime work at steel producing plants. In particular, he asked for information on the number of hours worked per year by employees and on the extent of overtime work at various times throughout the year. In view of the very substantial work involved in putting together information of that kind, he suggested that one steel plant be used as a sample in making the necessary studies.

We have found that the basic data needed for such a study are available for the year 1963 at the Sparrows Point Plant of Bethlehem Steel Co. Since that is a large plant producing a wide variety of steel products, we believe that it can properly serve as the sample for this purpose.

Attached hereto are 10 copies of the study based on those data. We believe that it is responsive to Mr. O'Hara's request. If, however, there are further questions about the information, we shall be glad to attempt to answer them either in person or by mail.

Very truly yours,

L. FENNINGER, Jr.

BETHLEHEM STEEL Co., SPARROWS POINT PLANT

STUDY OF OVERTIME WORK DURING 1963

The Sparrows Point Plant, located near Baltimore, Md., produces plates, pipe, wire and wire products, concrete reinforcing bars, hot- and cold-rolled sheets, galvanized sheets, and tin plate. During 1963, the plant produced 6,592,000 tons of steel ingots and shipped 3,903,000 tons of products for sale to trade. There were about 21,700 hourly paid production and maintenance employees who worked at some time during the year and who were employed or had re-employment rights at both the beginning and end of the year. The data used in this study apply only to hourly paid production and maintenance employees.

The year 1963 was characterized by a steady increase in steel orders and production through June, followed by a decline to a level well below the peak but somewhat above that at the beginning of the year. The timing and magnitude of the rise and fall varied from department to department. Thus, peak activity in iron production occurred late in May, in crude steel production at the end of April, in hot-rolled sheet production at the end of May, and in tin plate

production during June. Peaks were reached in the production of pipe, wire, and reinforcing bars during May but in both cases a high level of product demand continued for most of the balance of the year. Within those general product categories, there were variations of comparable magnitude. As an example, some hot-rolled sheets are sold directly to the trade but more are used as raw material by the mills producing cold-rolled sheets and those producing tin plate and galvanized sheets. The major consumers of cold-rolled sheets are the automobile and appliance industries. The container industry uses tin plate, largely for food and beverage packaging. Galvanized sheets are used principally in construction. The timing of increases and decreases in demand varies among those industries.

Under the labor agreement between Bethlehem and United Steelworkers of America which applies to hourly paid employees at the Sparrows Point plant, overtime penalties are paid for hours worked:

- (1) In excess of 8 per day;
- (2) In excess of 40 per week;
- (3) On any sixth or seventh day in a payroll week if work has been performed on the preceding 5 days or, if under certain circumstances an employee was laid off, on one of those days which would otherwise have been a day of work;
- (4) On the sixth and seventh days in a payroll week if the employee was paid for an unworked holiday or worked on the holiday earlier in the week; and
- (5) On a designated holiday.

There are also other conditions requiring the payment of overtime penalties but those involve a small number of hours and have been ignored in this study. Except in the case of holidays, overtime payments are not duplicated. Thus, if as a result of working more than 8 hours on 1 or more days an employee also works more than 40 hours in a week, he is not paid overtime on both bases.

Of the conditions requiring overtime payments, only work in excess of 40 hours per week and on sixth and seventh days (items 2 and 3 above) and work in excess of 8 hours per day have been examined in this study. Overtime work associated with holidays is not of interest in an inquiry relating to increasing job opportunities. It should be noted, however, that overtime data published by the Bureau of Labor Statistics include overtime associated with holidays to the extent that the weeks for which those data are collected include holidays. For purposes of simplicity, hours worked in excess of 8 per day are referred to as "daily overtime" and hours worked in excess of 40 per week or on sixth or seventh days are referred to as "weekly overtime."

Table 1 attached hereto shows for each week ended in 1963, total hours, daily overtime hours and weekly overtime hours worked by hourly paid employees at the plant. Hours paid at overtime rates because a holiday occurred in the week and hours worked on holidays are not shown on the table. However, such hours were 36 percent of all hours paid at overtime rates. Chart A shows by weeks total hours worked and weekly and daily overtime hours. As was pointed out by representatives of the steel companies at the hearings on H.R. 1680 and H.R. 9802, annual averages of overtime data conceal more than they show. That is illustrated by table 1. Daily overtime hours averaged 9,278 per week but the range (excluding holiday weeks) was from a low of 2,483 to a high of 18,372. Related to total hours worked, the average was 1.2 percent; the low was 0.4 percent; and the high was 2.2 percent. The variation was even greater in the case of weekly overtime. There, the average was 11,148 (1.5 percent); the low was 1,093 (0.2 percent); and the high was 26,634 (3.1 percent).

Just as annual averages obscure changes in the incidence of overtime occurring during the year, so industrywide and plantwide totals and averages obscure differences among plants and individual operations. To illustrate those differences, overtime experience in three major departments has been analyzed.

The blast furnace department manufactures pig iron for use in the steelmaking departments. Its operations are conducted on a round-the-clock basis. Table 2A shows by weeks total hours worked and daily and weekly overtime hours in that department during 1963. As might be expected in a department operating 168 hours per week, there is practically no weekly overtime. Daily overtime occurs because of absenteeism and tardiness of employees and emergencies requiring a larger than normal crew for a comparatively small number of additional hours. Consequently, although the production of pig iron varied during the year, as is partially indicated by variations in the total number of hours

worked, that variation is not reflected in overtime hours. Additional production is achieved by increasing the output of active furnaces without any increase in force or working hours or by putting additional furnaces into operation with, of course, additional crews to man them on a continuous basis.

A different situation is found in the intermediate operating units which we have illustrated with the hot sheet mills. Those mills, of which there are two at Sparrows Point, convert cold slabs of steel into coils of sheet by reheating and rolling. Most product is also cleaned by pickling and much of it is annealed before leaving the department. About 75 percent of their product is processed further by other mills before shipment as cold rolled sheets, galvanized sheets, and tinplate. The balance is sold directly after some further processing in the department.

Since the hot sheet mills work with material which is cold when received, their operation is not round the clock. Production is increased generally by increasing the number of 8-hour turns of operation, although inactive finishing units may be activated as well. Maximum operations mean 20 operating turns per week involving 4 crews at 40 hours per week each. The 21st turn is reserved for maintenance and repair and does not normally involve the mill crews. Increases in orders do not occur in amounts which are equivalent to multiples of 5 turns per crew. Consequently, there is normally an increase in weekly overtime when production is rising, as, for example, when an increase in orders requires an increase from 5 operating turns to 6 or from 15 operating turns to 18. Organizing additional crews involves recalling men who have been working elsewhere in the plant or have been on layoff and reconstituting the existing crews so that the seniority requirements relating to promotions are met. This process takes time and results in temporary losses of efficiency, both of which lead to overtime work. Of course, when additional crews are organized and assigned to the mills, overtime work declines. This can be seen in table 2B. A comparison of the data in that table with those relating to the plant as a whole (table 1) shows that increases and decreases in overtime work in the hot sheet mills are relatively much greater and that the overtime peaks and valleys do not coincide with those in total plant overtime.

An even more extreme example of increases and decreases in overtime and variations in its timing is found in the case of the rod and wire mills (table 2C). That department consists of two continuous rod mills which produce rods for conversion into wire and concrete reinforcing bars for sale. It also includes wire drawing equipment and equipment for the manufacture of wire products, including nails and staples, barbed wire, wire fencing, and wire strand. Wire for direct sale consists of a wide variety of sizes, shapes, and physical characteristics and may be coated with a number of different materials. The mills, therefore, include many operating units for the processing of wire. Wire customers are found in a bewildering number of different industries and the sizes of orders vary considerably. Because of the variety of products and operations of the department, increases in production may involve the addition of crews, the activation of idle units, an increase in the number of hours worked by the existing force or a combination of those methods.

As table 2C shows, there were seven peaks in weekly overtime during 1963 in the rod and wire mills. They occurred in February, March, April, May, June, September, and December. In some cases, the peak coincided with a substantial increase in total hours which were maintained at the higher level for several weeks after the overtime peak. The decline in overtime hours after the new "plateau" in total hours was reached is noticeable in March, April, and May. The overtime peaks in June and September occurred when hours were generally declining and resulted in part from the consequent readjustment of forces. The December peak resulted from causes lasting only 1 week.

Chart B shows weekly overtime as a percentage of total hours worked in the plant as a whole and in the hot sheet mills and the rod and wire mills. Since there was an almost total absence of weekly overtime in the blast furnace department, the record of that department has not been plotted. That chart illustrates clearly the irregularity of overtime work as to both timing and incidence.

Overtime data of the type examined above do not show how much overtime was worked by individuals. We do not have in a convenient form any information directly on that point. However, we have data showing the total number of hours worked in 1963 by hourly paid employees who were employed or had employment rights at both the beginning and end of the year. (Employees who were newly hired or whose employment was terminated permanently during the year are not included because their records would distort the picture.) Table 3 summarizes that information. In examining that table, one should keep in mind

that most hourly paid employees receive a 2- or 3- week paid vacation and 7 paid holidays (of which, on the average, 3 or 4 are worked) during the year. The table does not include any unworked vacation or holiday hours. Thus, of 2,080 possible straight time working hours in a year, approximately 1,950 are available to the average employee. Moreover, because some employees at the plant were not actively at work because of illness or layoff during the entire year, an employee who worked less than 1,950 hours in the year may, nevertheless, have worked some overtime. About 75 percent of the employees covered by table 3 worked or were paid throughout the year and, of the remainder, three-fifths worked in or were paid for 39 weeks or more.

Table 3 shows that of the 4,762 employees who worked 2,000 hours or more, 3,776 worked less than 2,100 hours. When it is recalled that overtime work was very unevenly distributed during the year (table 1) and among departments (tables 2A, 2B, and 2C), it is apparent that little, if any, of that work could have been converted into additional jobs of any duration.

TABLE 1.—Total and overtime hours worked by hourly paid employees, 1963

Week ending—	Total hours worked	Overtime hours worked ¹			
		Daily overtime		Weekly overtime	
		Hours	Percent total hours	Hours	Percent total hours
Jan. 5 ²	581,018	4,869	0.8	176	0.2
Jan. 12	630,677	2,483	.4	1,093	.4
Jan. 19	657,038	4,259	.6	2,371	.4
Jan. 26	666,757	5,887	.9	2,754	.4
Feb. 2	677,853	8,037	1.2	5,988	.9
Feb. 9	695,417	8,346	1.2	7,140	1.0
Feb. 16	713,676	10,582	1.5	9,399	1.3
Feb. 23	723,488	9,411	1.3	10,955	1.5
Mar. 2	729,521	9,688	1.3	7,242	1.0
Mar. 9	748,232	9,518	1.3	12,968	1.7
Mar. 16	761,729	8,248	1.1	14,780	1.9
Mar. 23	787,724	9,041	1.1	16,977	2.2
Mar. 30	810,339	11,238	1.4	19,448	2.4
Apr. 6	827,987	15,626	1.9	19,316	2.3
Apr. 13 ²	813,182	10,252	1.3	13,010	1.6
Apr. 20	830,171	16,848	2.0	19,555	2.4
Apr. 27	849,504	15,141	1.8	21,327	2.5
May 4	852,133	18,372	2.2	20,226	2.4
May 11	858,992	14,520	1.7	17,958	2.1
May 18	858,726	15,799	1.8	24,696	2.9
May 25	864,912	15,109	1.7	26,634	3.1
June 1 ²	807,043	13,071	1.6	17,231	2.1
June 8	855,043	15,151	1.8	24,189	2.8
June 15	853,030	13,087	1.6	23,850	2.8
June 22	843,117	14,264	1.7	22,391	2.7
June 29	836,523	13,575	1.6	22,065	2.6
July 6 ²	695,508	9,692	1.4	1,672	.2
July 13	788,244	8,619	1.1	10,450	1.3
July 20	763,933	8,099	1.1	7,232	.9
July 27	748,925	9,315	1.2	7,430	1.0
Aug. 3	731,963	7,201	1.0	8,518	1.2
Aug. 10	726,017	6,219	.9	9,179	1.3
Aug. 17	735,786	8,661	1.2	9,427	1.3
Aug. 24	748,525	10,338	1.4	11,753	1.6
Aug. 31	755,901	13,090	1.7	13,209	1.7
Sept. 7 ²	690,113	6,522	.9	5,553	.8
Sept. 14	763,609	7,443	1.0	14,364	1.9
Sept. 21	769,418	6,929	.9	15,024	2.0
Sept. 28	758,907	5,664	.7	13,881	1.8
Oct. 5	755,217	7,274	1.0	10,735	1.4
Oct. 12	750,836	6,757	.9	6,848	.9
Oct. 19	750,748	6,978	.9	5,380	.7
Oct. 26	762,069	6,405	.8	7,204	.9
Nov. 2	767,453	8,870	1.2	5,256	.7
Nov. 9	762,194	5,459	.7	5,721	.8
Nov. 16	762,303	6,010	.8	5,975	.8
Nov. 23	739,736	5,227	.7	3,364	.5
Nov. 30 ²	650,723	3,875	.6	1,608	.2
Dec. 7	728,935	4,246	.6	4,551	.6
Dec. 14	732,346	5,398	.7	5,777	.8
Dec. 21	724,940	6,141	.8	5,078	.7
Dec. 28 ²	605,630	8,859	1.5	764	.1
Averages	755,846	9,278	1.2	11,148	1.5

¹ Excluding overtime attributable to holidays.

² Holiday week.

TABLE 2A.—Total and overtime hours worked by hourly paid employees, 1963
(blast furnace department)

Week ending—	Total hours worked	Overtime hours worked ¹			
		Daily overtime		Weekly overtime	
		Hours	Percent total hours	Hours	Percent total hours
Jan. 5 ²	39,559	897	2.3		
Jan. 12	37,676				
Jan. 19	35,744	61	.2		
Jan. 26	35,613	401	1.1	16	
Feb. 2	36,806	982	2.7		
Feb. 9	36,947	576	1.6		
Feb. 16	36,428	216	.6		
Feb. 23	36,575	368	1.0		
Mar. 2	36,510	461	1.3	8	
Mar. 9	36,248	41	.1		
Mar. 16	37,298	145	.4		
Mar. 23	38,651	5		64	0.2
Mar. 30	39,155	16			
Apr. 6	39,120				
Apr. 13 ²	40,351	14		64	.2
Apr. 20	39,707	20			
Apr. 27	40,298	16		56	.1
May 4	40,177	378	.9	80	.2
May 11	40,162	84	.2	96	.2
May 18	39,833	16		64	.2
May 25	40,623	2		8	
June 1 ²	40,521	8			
June 8	40,102	16		8	
June 15	40,082	16		64	.2
June 22	38,964	22		8	
June 29	38,894			112	.3
July 6 ²	38,443	26	.1		
July 13	38,296	24		104	.3
July 20	36,041	233	.6	48	.1
July 27	36,112	104	.3	16	
Aug. 3	36,104	8			
Aug. 10	35,470	32	.1		
Aug. 17	35,544	22		8	
Aug. 24	36,136	112	.3	8	
Aug. 31	33,246	40	.1	8	
Sept. 7 ²	36,650	50	.1		
Sept. 14	37,072	15		8	
Sept. 21	36,625	72	.2	8	
Sept. 28	36,881	48	.1	8	
Oct. 5	36,774	26		8	
Oct. 12	37,338	52	.1	16	
Oct. 19	37,308	11		24	
Oct. 26	37,129	58	.2		
Nov. 2	37,971	188	.5		
Nov. 9	37,783	46	.1		
Nov. 16	37,460				
Nov. 23	37,355	8		8	
Nov. 30 ²	37,189	8			
Dec. 7	37,497	16			
Dec. 14	37,283				
Dec. 21	36,600	118	.3		
Dec. 28 ²	36,593	132	.4		
Averages	37,672	119	.3	18	

¹ Excluding overtime attributable to holidays.² Holiday week.

TABLE 2B.—Total and overtime hours worked by hourly paid employees, 1963
(hot sheet mills)

Week ending—	Total hours worked	Overtime hours worked ¹			
		Daily overtime		Weekly overtime	
		Hours	Percent total hours	Hours	Percent total hours
Jan. 5 ²	29,620	365	1.2		
Jan. 12	36,708	368	1.0	288	0.8
Jan. 19	38,830	572	1.5	736	1.9
Jan. 26	40,175	508	1.3	776	1.9
Feb. 2	41,641	922	2.2	832	2.0
Feb. 9	42,324	457	1.1	1,312	3.1
Feb. 16	42,102	646	1.5	856	2.0
Feb. 23	46,114	632	1.4	3,416	7.4
Mar. 2	44,724	735	1.6	1,767	4.0
Mar. 9	44,479	453	1.0	1,304	2.9
Mar. 16	46,765	656	1.4	3,176	6.8
Mar. 23	50,061	466	.9	3,648	7.3
Mar. 30	50,868	533	1.0	1,504	3.0
Apr. 6	50,358	650	1.3	632	1.3
Apr. 13 ²	49,848	636	1.3	1,048	2.1
Apr. 20	49,355	908	1.8	752	1.5
Apr. 27	52,208	1,064	2.0	2,848	5.5
May 4	51,077	1,392	2.7	1,550	3.0
May 11	55,071	1,065	1.9	4,008	7.3
May 18	56,412	1,040	1.8	4,936	8.7
May 25	58,299	1,632	2.8	5,672	9.7
June 1 ²	55,263	1,167	2.1	3,291	5.9
June 8	55,273	1,221	2.2	3,984	7.2
June 15	53,559	948	1.8	2,856	5.3
June 22	51,605	1,018	2.0	1,568	3.0
June 29	49,853	1,082	2.2	1,688	1.4
July 6 ²	38,010	886	2.3		
July 13	42,821	572	1.3	24	
July 20	38,261	530	1.4	192	.5
July 27	34,849	440	1.3	8	
Aug. 3	33,184	614	1.9	128	.4
Aug. 10	31,690	156	.5		
Aug. 17	31,532	145	.5	16	
Aug. 24	33,935	420	1.2	32	.1
Aug. 31	32,350	377	1.2	616	1.9
Sept. 7 ²	31,737	480	1.5	208	.7
Sept. 14	36,079	601	1.7	296	.8
Sept. 21	37,643	592	1.6	920	2.4
Sept. 28	37,204	584	1.6	360	1.0
Oct. 5	36,873	822	2.2	336	.9
Oct. 12	36,524	563	1.5	136	.4
Oct. 19	37,301	494	1.3	104	.3
Oct. 26	38,110	722	1.9	32	.1
Nov. 2	38,739	1,410	3.6	296	.8
Nov. 9	39,074	1,120	2.9	692	1.8
Nov. 16	38,743	748	1.9	156	.4
Nov. 23	39,320	502	1.3	48	.1
Nov. 30 ²	35,022	514	1.5	16	
Dec. 7	38,406	656	1.7	296	.8
Dec. 14	39,748	812	2.0	432	1.1
Dec. 21	39,245	748	1.9	344	.9
Dec. 28 ²	29,234	478	1.6		
Averages	42,081	714	1.7	1,135	2.7

¹ Excluding overtime attributable to holidays.² Holiday week.

TABLE 2C.—Total and overtime hours worked by hourly paid employees, 1963
(rod and wire mills)

Week ending—	Total hours worked	Overtime hours worked ¹			
		Daily overtime		Weekly overtime	
		Hours	Percent total hours	Hours	Percent total hours
Jan. 5 ²	26,260	123	0.5		
Jan. 12	29,304	112	.4	80	0.3
Jan. 19	35,509	161	.5	88	.2
Jan. 26	34,714	304	.9	16	
Feb. 2	36,796	410	1.1	1,624	4.4
Feb. 9	38,565	103	.3	2,024	5.2
Feb. 16	37,646	417	1.1	1,272	3.4
Feb. 23	40,291	295	.7	1,274	3.2
Mar. 2	41,521	62	.1	960	2.3
Mar. 9	43,995	140	.3	2,661	6.0
Mar. 16	44,633	393	.9	1,881	4.2
Mar. 23	44,271	192	.4	104	.2
Mar. 30	43,986	114	.3	48	.1
Apr. 6	44,783	156	.3	1,048	2.3
Apr. 13 ²	45,163	172	.4	1,487	3.3
Apr. 20	44,436	317	.7	399	.9
Apr. 27	44,822	232	.5	208	.5
May 4	46,170	346	.7	1,600	3.5
May 11	46,276	272	.6	909	2.0
May 18	45,317	257	.6	96	.2
May 25	45,069	389	.9	136	.3
June 1 ²	20,019	232	1.0	484	2.4
June 8	44,749	276	.6	768	1.7
June 15	44,697	254	.6	568	1.3
June 22	47,754	355	.7	1,925	4.0
June 29	44,616	318	.7	856	1.9
July 6 ²	30,961	158	.5		
July 13	41,903	154	.4	480	1.1
July 20	43,793	695	1.6	552	1.3
July 27	43,740	1,282	5.2	552	1.3
Aug. 3	44,277	158	.4	360	.8
Aug. 10	42,896	173	.4	288	.7
Aug. 17	43,220	263	.6	256	.6
Aug. 24	42,756	200	.5	556	1.3
Aug. 31	43,030	320	.7	240	.6
Sept. 7 ²	37,136	80	.2	140	.4
Sept. 14	43,801	282	.6	744	1.7
Sept. 21	42,469	245	.6	1,222	2.9
Sept. 28	39,170	71	.2	92	.2
Oct. 5	41,061	206	.5	480	1.2
Oct. 12	41,083	192	.5	312	.8
Oct. 19	41,305	53	.1	288	.7
Oct. 26	42,231	157	.4	280	.7
Nov. 2	42,366	195	.5	376	.9
Nov. 9	42,444	209	.5	128	.3
Nov. 16	42,353	172	.4	328	.8
Nov. 23	40,590	237	.6	168	.4
Nov. 30 ²	26,924	88	.3		
Dec. 7	39,682	274	.7	384	1.0
Dec. 14	40,303	182	.5	1,358	3.4
Dec. 21	39,471	41	.1	360	.9
Dec. 28 ²	28,007	221	.8		
Average	40,602	264	.7	624	1.5

¹ Excluding overtime attributable to holidays.² Holiday week.

TABLE 3.—Hourly paid employees by number of hours worked, 1963

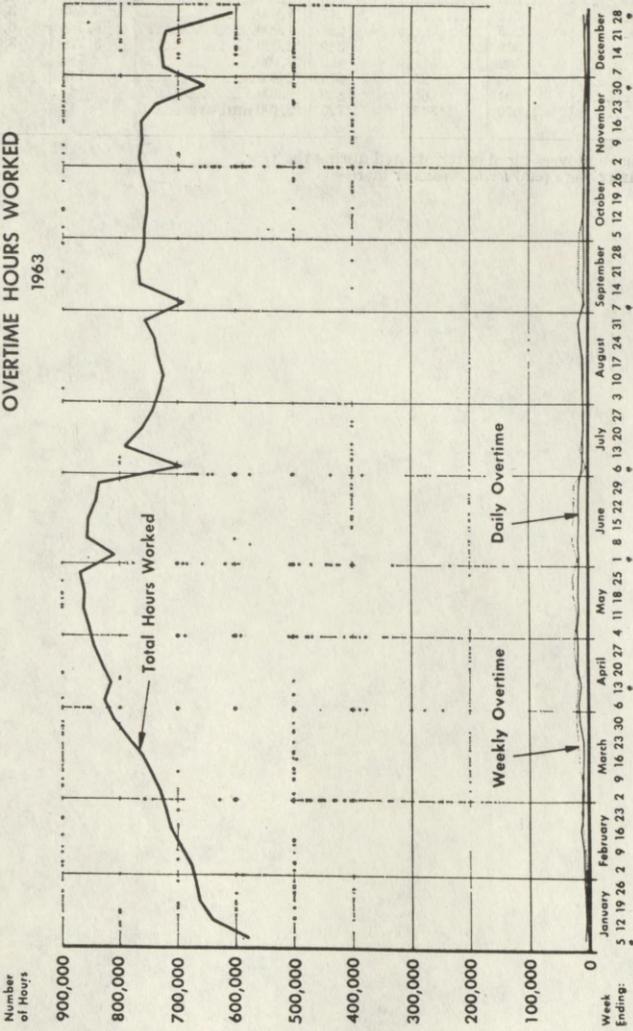
Range of hours worked	Number of employees ¹			Range of hours worked	Number of employees ¹		
	Total	Worked full year ²	Worked less than full year		Total	Worked full year ²	Worked less than full year
999 and under.....	1,003		1,003	1,700.....	1,977	1,370	607
1,000 to 1,099.....	217		217	1,800.....	3,591	3,199	392
1,100 to 1,199.....	265		265	1,900.....	6,388	6,252	136
1,200.....	349		349	2,000.....	3,776	3,761	5
1,300.....	462		462	2,100.....	784	773	11
1,400.....	699	25	674	2,200.....	144	142	2
1,500.....	894	65	829	2,300.....	41	41	
1,600.....	1,070	345	725	2,400 and over.....	17	17	

¹ Excluding employees hired or terminated during the year.

² Worked in or were paid for 51 weeks or more.

BETHLEHEM STEEL COMPANY
 SPARROWS POINT PLANT
TOTAL, DAILY OVERTIME AND WEEKLY
OVERTIME HOURS WORKED
 1963

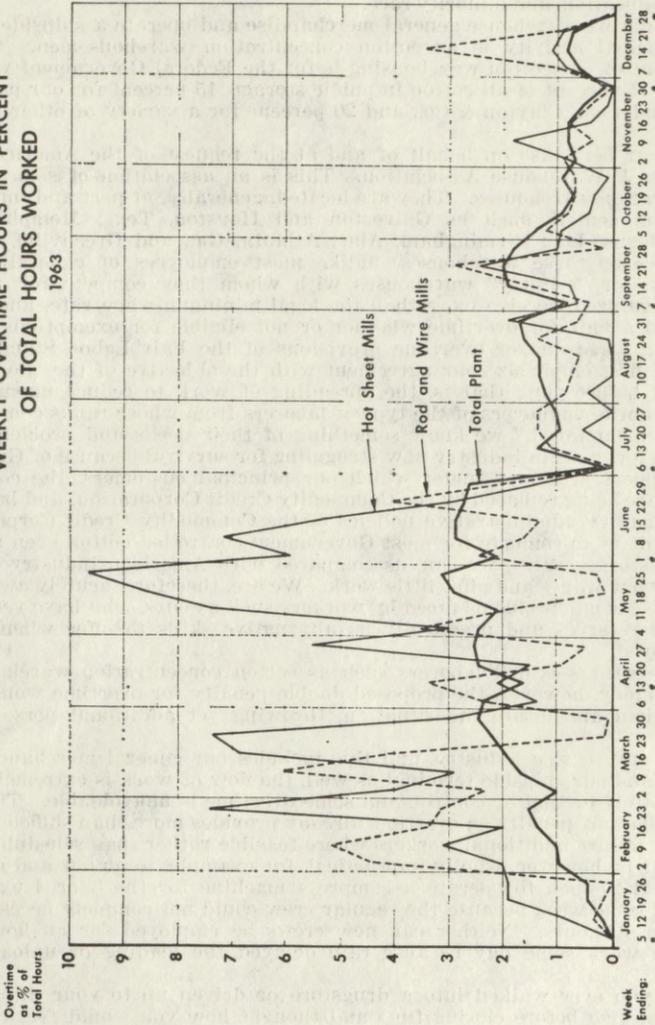
CHART A



* Denotes holiday week

BETHLEHEM STEEL COMPANY
SPARROWS POINT PLANT
WEEKLY OVERTIME HOURS IN PERCENT
OF TOTAL HOURS WORKED

CHART B



* Denotes holiday week

STATEMENT OF BURKE BAKER, JR., PRESIDENT, GULF ATLANTIC WAREHOUSE Co., HOUSTON, TEX.

Gentlemen, I am Burke Baker, Jr., president of Gulf Atlantic Warehouse Co., of Houston, Tex., which owns and operates public warehouses and also a public shipside terminal. This company employs up to 2,000 workers in cities scattered from Charlotte, N.C., to Brownsville, Tex. Most of these employees are of the type with which you are most concerned because they have some of the same characteristics frequently found among the unemployed; namely, limited skill, limited education, and minority race.

Although we warehouse general merchandise and operate a shipside terminal, our principal activity is as cotton concentration warehousemen. Currently, 65 percent of our cotton warehousing is for the Federal Government which now controls 75 percent of all cotton in public storage, 15 percent for our parent company, Anderson, Clayton & Co., and 20 percent for a variety of other owners of cotton.

I appear here also on behalf of and at the request of the American Cotton Compress & Warehouse Association. This is an association of some 30 cotton concentration warehouses. They are located, generally, at port and interior concentration centers such as Galveston and Houston, Tex.; Memphis, Tenn.; New Orleans, La.; Birmingham, Ala.; Atlanta, Ga., and Greenville, S.C. The employees of these warehouses, unlike most employees of generally smaller "interior" or "country" warehouses with whom they compete for work, are union organized, receive more than the legal minimum wage rate, and are paid time and a half for overtime whether or not eligible for exemptions from the minimum wage and/or overtime provisions of the Fair Labor Standards Act.

May I first emphasize our agreement with the objective of the "double time" proposal before you; that is, the spreading of work to reduce unemployment. As substantial employers of the type of laborers from whose ranks come so many of the "unemployed," we know something of their needs and problems. Since ours is a low-margin industry now struggling for survival because of Government price-support programs under which our principal customers, the cotton merchants, are being replaced by the Commodity Credit Corporation, and because the discriminatory administrative policies of the Commodity Credit Corporation do not permit us to compete for most Government-controlled cotton even at greatly reduced storage rates, we can, as compared with American industry generally, pay only low wages and offer little work. We are, therefore, acutely aware of the serious economic problems faced by workers such as ours, who have very limited financial reserves and practically no alternative skills to offer when they are unemployed.

For these less-skilled laborers such as cotton concentration warehouses normally employ, however, the proposed double penalty for overtime would worsen rather than ameliorate the situation, throwing yet additional persons out of work.

As in any service industry, and this includes our general merchandise warehousing and our shipside terminal as well, the flow of work is extremely difficult to accurately predict or control, and some overtime is unavoidable. The present time-and-a-half penalty on overtime already provides more than sufficient encouragement to hire additional workers where feasible rather than schedule overtime work. It is, however, wholly impractical, for example, to go out and employ an additional 24 men to operate a compress machine for the 3 or 4 extra hours required some week because the regular crew could not complete necessary shipments in 40 hours. Neither can new crews be employed for an hour or two of extra work some day because rain delayed the loading or unloading of a ship.

Have you ever walked into a drugstore or driven up to your drycleaners a minute or two before closing time and thought how you would feel if they refused to serve you? That is just the way our customers would feel if, after they had backed up to our truck dock at 5 minutes of 5, we rolled the door down on them with another half an hour or so of loading uncompleted. I have not seen that happen since the Blue Eagle days of NRA. The law required it then, but now about all one can do is force a smile and pay the overtime, because he cannot hire extra men for a half hour or so to take care of inconsiderate customers, and there is usually a competitor down the street who would be delighted to see him refuse to serve these customers after 5 p.m.

In many of our operations, as in service industries generally, current overtime work cannot be replaced by substituting additional workers, for the reasons indicated. Double time would, at best, become just an added cost—one we would have to pass on in a distribution system already recognized as too expensive—at the worst, it would eliminate the service—and the related employment—by making the service prohibitively expensive.

In cotton concentration warehousing, for example, the result of double pay for overtime would definitely be a reduction in total employment. Concentration warehouses are built primarily to serve the second owner of the cotton—normally merchants who purchase cotton from the farmers who have stored it in scattered interior warehouses. These owners concentrate their cotton into large, strategically placed warehouses in order to accumulate lots of cotton of the same grade and staple, sufficient in size to make up economical shipments. They do it also to have the cotton available for immediate export sale and for other advantages of concentration.

Because concentration warehouses are usually located in cities, especially port cities, and frequently operate under union labor contracts, their labor rates, as well as their taxes and other costs, are generally higher than those of the originally storing warehouses who compete with them for continued storage and then shipment of the bales direct to domestic or foreign mills. The great majority of interior warehouses pay most of their employees only the legal minimum wage or even less (under "area of production" exemptions).

Furthermore, practically all concentration warehouses pay time and a half these higher labor rates for overtime work—work which is largely unavoidable. We make such payments either under union contracts, under requirements of the wage-hour law, or, in those few situations where "area of production" or other exemptions apply and no unions are involved—simply because we think a reasonable premium for overtime work is, in most instances, just and proper.

Such time-and-a-half overtime premiums, however, like the higher rates, put us at a serious disadvantage in competing with interior warehousemen who not only pay lower rates but take advantage of exemptions from the overtime requirements of the act—exemptions available under one or more of three different possibilities ((1) seasonal partial exemption from overtime for cotton storing, sec. 7(b)(3); (2) complete exemption for compressing, sec. 7(c); and (3) area of production complete exemption from both minimum wage and overtime for cotton storing and compressing, sec. 13(a)(10), all as set forth in Bulletin No. 1292, Aug. 12, 1963, of the National Cotton Compress & Cotton Warehouse Association, submitted herewith).

Furthermore, a number of these interior warehouses have grown extremely large under certain discriminatory advantages they enjoy under the price support programs and the way they are administered—primarily, longtime storage at relatively high rates free from competition. Thus, they are becoming better able to offer some of the advantages of concentration warehouses, and to do this at lower costs because of their rate and overtime advantages.

Consequently, to require concentration warehouses to pay double their higher rates, for their unavoidable overtime work, would seriously add to their costs while having little, if any, effect on the costs of their interior competitors. The result would be a greater need to increase tariff charges at concentration warehouses, since profit margins are practically nonexistent under current conditions. The higher charges would tend to discourage merchants, the Government and other owners of cotton from concentrating, by tending to make the advantages of such concentration prohibitively expensive. A minor part of work thus lost to concentration warehouses would be performed at the originally storing interior warehouses—but not by additional employees newly hired to avoid double time overtime—rather by the same employees, at low straight time rates under overtime exemptions.

Most of the work would just not be performed at all because a complete handling operation into and out of the concentration warehouse, plus certain extra transportation and other operations involved, would just be eliminated. The substantial economic advantages of concentrating cotton, which have formed the basis for construction and operation of concentration warehouses over the years, might thus be completely eliminated by making the labor rate and overtime cost disadvantage under which these warehouses now operate so great as to be prohibitive.

Obviously, the resultant decrease in employment from work so eliminated, especially since it is work performed largely by relatively low-skilled laborers, would be just the opposite to the objective for which this double time provision has been proposed.

To illustrate the serious need of employees of concentration warehouses, for your consideration of how proposed changes would affect them, I have brought along copies of charts recently presented by various union representatives of these employees.

Chart No. 1 was presented by a representative of the United Packinghouse Food & Allied Workers of America, showing the decline in number of cotton warehouse employees in New Orleans over recent years.

Chart No. 2 was presented by a representative of the Retail, Wholesale & Department Store Union, showing how total man-hours, average number of men employed, and average hours per man per week had declined in his Atlanta local over the last 5 years.

Chart No. 3 shows the decline in man-hours worked at typical southeastern concentration warehouses during the same period.

Chart No. 4, prepared last spring, shows a more comprehensive picture. It shows a comparison of "Number of Employees in Cotton Warehousing at Typical Concentration Plants, Week Ended Nearest December 15, Current Year (1962) With 5-Year Average, 1956-60." (Some temporary improvement has occurred since December 1962 because of the exceptionally large current cotton stocks, but, because concentration warehouses are not allowed to compete for the storage of the great majority of Government-controlled cotton, such improvement has been relatively small and will be relatively temporary unless Government policies are changed.)

Thank you for giving me the opportunity to explain this matter to you and urge your consideration of the adverse effect on cotton concentration warehouse employment in your evaluation of this double time proposal.

NATIONAL COTTON COMPRESS & COTTON WAREHOUSE ASSOCIATION,
Memphis, Tenn., August 12, 1963.

Bulletin No. 1292

To all members:

WAGE-HOUR REFERENCE BULLETIN

(Keep handy for future reference)

INDEX

- Belo employment contracts (sec. 7(e)) (memorandum 5).
- Recordkeeping requirements (sec. 11(c)) (memorandum 6).
- Seasonal partial exemption from overtime for cotton storing and ginning (sec. 7(b)(3)) (memorandum 1).
- Complete exemption from overtime for compressing or ginning, or cottonseed processing (sec. 7(c)) (memorandum 2).
- "Area of production" complete exemption from both minimum wage and overtime for cotton storing and compressing (sec. 13(a)(10)) (memorandum 3).
- Complete exemption from minimum wage and overtime for "executive," "administrative," "professional" employees, and "outside salesmen" (Sec. 13(a)(1)) (memorandum 4).
- Complete exemption for ginning (sec. 13(a)(18)) (memorandum 7).

GENTLEMEN: We last gave you a comprehensive review of wage-hour coverage, exemptions, recordkeeping requirements, Belo contract provisions, etc., in Bulletin 1222, dated August 25, 1961. This bulletin replaces No. 1222, and should be kept for future reference on wage-hour questions. All changes effective since August 25, 1961, are clearly identified.

In the absence of an exemption the law requires that you pay each employee not less than the minimum wage¹ for each of the first 40 hours worked in any workweek and for each hour worked in excess of 40 in any workweek, at least 1½ times that "regular rate of pay." For employees or groups of employees who regularly work a fixed workday and workweek, full technical compliance with the law may be achieved by payment of a weekly, or biweekly sum which covers at least the minimum wage per hour for the first 40 hours in each week and at least 1½ times the basic rate for each hour worked

¹ Prior to Sept. 3, 1961: \$1 per hour; Sept. 3, 1961, through Sept. 2, 1963: \$1.15 per hour; and on and after Sept. 3, 1963: \$1.25 per hour.

in excess of 40 hours in any week. This basis of pay should be clearly understood and recorded. Otherwise additional overtime liability may be incurred. For example, if a member of an "uptown" office staff to whom no exemption applies works a regular workweek of 45 hours, you can pay him the minimum wage for each of the first 40 hours and 1½ times the minimum wage for each of the last 5 hours, and you will be fully complying with the law. However, if there is no understanding, or agreement on this hourly basis (or perhaps if you fail to make a record of it), and you simply pay him a lump sum, that lump sum would be considered "straight time pay," and you could be required to pay an additional overtime premium even if such a premium was included in the lump sum.

If your cotton-handling operations are exempt—it does not follow that the construction, alteration, or major repair of a building or compress machine (as distinguished from routine day-to-day maintenance) is also exempt. If in any week an employee works all or part-time at such a task, or if he handles yarn, textiles, mill waste, or any manufactured articles which you may be storing, the cotton-handling exemption is lost for that employee for that week. In storing and handling manufactured articles, and in major construction or repair work—if you rely on a cotton-handling exemption, it is wise to use a separate crew, keep separate records, and comply with wage and overtime requirements in connection with such operations.

When an employer loses a lawsuit for the collection of unpaid minimum wages or unpaid overtime, or both, his liability is not limited to the unpaid minimum wages and/or unpaid overtime. Within its discretion, the court can award an equal additional amount as "liquidated damages," plus a substantial attorney's fee. It, therefore, behooves you to clearly understand your rights, to know whether and when you may be on thin ice, and (if the ice is thin) to know the extent of your potential liability. For example, the minimum wage and overtime requirements are not confined to day laborers or to employees who perform physical work. In the absence of an applicable exemption, they apply with equal force to clerks, stenographers, bookkeepers, office workers, supervisory personnel, and any others whose work is "closely related and directly essential" to interstate commerce or to work performed on any commodity which moves in interstate commerce.

The requirements of the act (unfortunately) are inflexible in many ways. The interpretations of the act which guide the U.S. Department of Labor in its administration are still more rigid, and sometimes unrealistic. For instance (under the \$1.25 minimum) it is entirely possible that a certain employee doing certain work may be paid \$59.38 per week for a 45-hour week (see third paragraph above) and his employer would be in full technical compliance with the act; whereas the same or a different employer might pay a lump sum of \$200 per week for a 45-hour week to the same or another employee for doing precisely the same number of hours of the same work and be in violation of the act.

Employers often run an entirely needless risk by not taking advantage of the absolute protection afforded by a "time and time and one-half contract" for a fixed workweek, or by a "Belo" contract for a fluctuating workweek, in the employment of stenographers, clerks, bookkeepers, office workers, solicitors, and minor supervisory personnel. Each of these relatively highly paid occupations presents a greater source of potential liability than any day laborer. In our industry, the length of workweeks of such employees often varies because of natural conditions beyond the control of either employees or their employer (such as the irregular harvesting, ginning, and movement of cotton into the warehouse, compress-warehouse or gin, and the irregularity of receipt of shipping orders, instructing the servicing and shipment of cotton). In such instances, the Belo employment contract offers simple and complete protection. The use of a Belo contract disregards (and waives the benefit of) any exemption or partial exemption which otherwise might be applicable in the circumstances.

While the courts have never sustained such a view, the administrative officials of the U.S. Labor Department have consistently argued that this, that, or the other exemption does not apply to a particular employee because he or she is not directly and physically engaged in compressing cotton, ginning cotton or in bale-handling operations, etc. It is often possible, without significantly increasing the existing compensation of such an employee, to place him or her under a Belo contract which will afford complete protection and may avoid long, drawnout, arguments with wage-hour inspectors, supervisors, etc., and even

(possibly) the expense and inconvenience of an unjustified and unnecessary lawsuit.

Attached are seven memorandums similar to those inclosed with our Bulletin No. 1222. These may be readily located by use of the index at the beginning of this letter. The text of each memorandum has been amended wherever necessary to make it accurate and valid as of today.

Whenever there is any question concerning these matters please do not hesitate to write, wire, or call.

Sincerely yours,

JOHN H. TODD.

MEMORANDUM 1

THE PARTIAL SEASONAL EXEMPTION FROM OVERTIME FOR EMPLOYEES OF COTTON GINS, WAREHOUSES, AND COMPRESS-WAREHOUSE PLANTS (SEC. 7(b) (3))

Section 7 (b) (3) of the act provides as follows :

"No employer shall be deemed to have violated subsection (a) (the overtime requirement) by employing any employee for a workweek in excess of that (40 hours) specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—for a period or periods of not more than 14 workweeks in the aggregate in any calendar year in any industry found by the Administrator to be of a seasonal nature, and if such employee receives compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

The Administrator has found ginning of cotton and storing of cotton, in either warehouses or compress-warehouse plants, to be industries "of a seasonal nature."

This exemption is not in any way restricted to persons doing the physical work of ginning, compressing, or storing. It applies to anyone employed in the ginning industry, the cotton warehousing industry, or the compress-warehouse industry, regardless of what his duties are or where they are performed. Thus it is equally applicable to the person who sweeps the floor, operates hand- or lift-trucks, clerks in the office, drives a truck outside the plant, solicits, or is the president of the company.

This is not a complete exemption from overtime. It provides exemption only up to 12 hours per day, only up to 56 hours per week. By its terms, it requires that any work in excess of 12 hours per day or 56 hours per week be compensated by 1½ times the regular rate of pay.

It is not a year-round exemption. It cannot be claimed for more than 14 workweeks in the aggregate in any calendar year. The employer, however, can pick and choose any 14 weeks in the calendar year which he pleases in connection with which to claim this exemption.

The Administrator claims the right and power to require the employer on payday (of every week for which he claims this exemption) to place a poster at or near the place where wages are paid, advising employees that this exemption is being claimed for that particular workweek. The Administrator has no power or authority to require the posting of such notice, or to require that the employer specify in advance or currently, the workweek or workweeks in connection with which he will claim the exemption. The courts on a number of occasions have permitted employers to designate such workweeks retroactively. (In one case the employer was allowed to specify different workweeks for different employees.)

In the case of any cotton warehouse which for valid reasons cannot claim the benefit of any other exemption, this partial exemption from overtime would naturally be applied in each calendar year to those 14 workweeks in which the greatest amount of overtime hours were worked.

For a cotton ginner or a compress-warehouse operator (who is entitled to the sec. 7(c) complete overtime exemption (see memorandum 2)) the virtue of this exemption is its use as a "stop-gap" to avoid overtime liability when overtime is necessary during workweeks in which the ginning machinery or compress machinery is not operated.

The Administrator has always claimed, and in May 1955, the U.S. Supreme Court confirmed, that the section 7(c) complete overtime exemption (covered by memorandum 2) does not apply to permanent repairs, overhaul, and recondition-

ing activities during the annual "dead season" or "off season." (*Maneja v Waialua Agri. Co., Ltd.*, 349 U.S. 254, 75 S. Ct. 719.)

Under that Supreme Court decision, there is no doubt that the cotton ginner is deprived of the benefit of section 7(c) overtime exemption during his annually recurring "dead season." However, when he is getting his gin ready for the operating season, before cotton actually begins movement through the gin, and when he is cleaning up and repairing his machinery at the end of the active season, after the flow of cotton has stopped, he is entitled to the benefit of this (sec. 7(b)(3)) exemption from overtime up to 12 hours per day and 56 hours per week. He, of course, could also claim it in connection with other work connected with ginning which is necessary during the "off season."

Few compress-warehouse plants have either a prolonged or regularly recurring season when no cotton is compressed (unless as the result of compression-on-arrival, which obviates need for compression at time of shipment). While no court has ever sustained the Administrator in this, he continues to insist that the section 7(c) complete overtime exemption does not apply in any workweek when for any reason the compress machine is not operated. We believe it is unlikely that any court would refuse to apply the section 7(c) complete overtime exemption simply because (for lack of compression orders, because of breakdown, freeze, or similar reasons) no cotton is compressed during a particular workweek. Nevertheless, as a precautionary measure, it is wise to avoid the bother and expense of altercation with the wage-hour inspection forces (as well as remotely possible liability) to claim the section 7(b)(3) partial exemption from overtime for any weeks in a calendar year (up to a maximum of 14) in which overtime is worked, but in which no cotton is compressed.

An important point to remember in connection with this partial exemption from overtime is: You should make a notation on your employment records, particularly your primary records, of hours worked each day and each week, indicating that the exemption is claimed. A simple pencil notation at the beginning or end of the record for a workweek, reading: "Section 7(b)(3) exemption claimed" or "partial wage-hour overtime exemption claimed," or "seasonal exemption claimed," or words of similar import is sufficient. It is important that such notation be made on the weekly time record as soon as it is determined that you wish to claim the section 7(b)(3) partial overtime exemption for that week. It does not have to be done at the time, or within any specified time limit. You will, however, avoid unnecessary arguments with wage-hour inspectors if the notations are made before the inspectors call at your plant and examine your records.

It is doubtful that a court would withhold application of this exemption because of failure to make this notation. Nevertheless it is worthwhile to be careful to make it, if only to avoid unnecessary discussion or argument.

MEMORANDUM 2

COMPLETE EXEMPTION FROM OVERTIME FOR COTTON GINS, COMPRESS-WAREHOUSE PLANTS AND COTTONSEED PROCESSORS (SEC. 7(c))

Section 7(c) of the act, in the same sentence, contains a number of different and independent exemptions. The one with which we are concerned is contained in the following words:

"In the case of an employer engaged * * * in the ginning and compressing of cotton, or in the processing of cottonseed, * * * the provisions of subsection (a) (overtime requirement) shall not apply to his employees in any place of employment where he is so engaged;"

In his interpretive bulletins and other releases, the Administrator has conceded that this complete overtime exemption applies to all persons who are directly and physically engaged in the operations of compressing or ginning cotton or processing cottonseed, and to persons performing other work which is so closely related as substantially to be a part of such physical operations. He specifically concedes that the exemption applies to truck drivers hauling the commodity from the plant after the operation has been performed.

The Administrator has consistently contended, however, that this exemption does not apply to officeworkers and others not actually employed in the gin building, compress compartment, or cottonseed processing compartment (except that he agrees that it applies to truckdrivers on the outside). While this is not certain, it is considered extremely doubtful that any court would refuse to apply this exemption to anyone employed on gin, compress-warehouse or cottonseed processing premises, so long as his employment is reasonably necessary to the

general business operation. This has been the finding in court decisions which have discussed the point.

The latest decision applying directly to this point is that of the U.S. District Court for the District of Arizona (Dec. 31, 1962) in *Goldberg, Secretary of Labor v. Federal Compress & Warehouse Co. and Goldberg, Secretary of Labor v. Western Compress Co.* (46 CCH Labor Cases 31378). (We sent you a copy with Bulletin 1261, Feb. 5, 1963.) In these cases, the trial court held that the exemption is based on the nature of the employer's business (not the employee's duties); and that the exemption applies to all employees on the plant premises. (This decision is being appealed by the Secretary of Labor to the U.S. Court of Appeals for the Ninth Circuit.)

The exemption definitely does not apply to employees in an "uptown" or "general" office at a distance from the plant operations.

Under the Supreme Court's decision in *Maneja v. Waialua Agri. Co.*, decided May 23, 1955, 349 U.S. 254, 75 S. Ct. 719, this exemption is not applicable to employees of a cotton gin or oil mill during the annual "dead season" although it would apply during and throughout every week of the active ginning or seed-crushing season, including weeks (if there should be any) when no cotton is ginned or no seed processed because of the necessity for emergency repairs. (The exemption is not applicable to the processing of soybeans, sesame seed, or other oil seeds. It is restricted specifically to the processing of cottonseed.)

In a compress-warehouse plant, the exemption certainly applies during and throughout every week in which any substantial volume of cotton is compressed.

If a compress operator presses all cotton on arrival, and during the remainder of the year experiences lengthy periods of several weeks each when no cotton is compressed (and particularly if such periods should extend over several months), it is an open question as to whether the courts would hold this exemption from overtime applies. The argument has been made (and sustained by several trial courts) that the exemption requirements are satisfied by the compressing business being essentially a year-round, and not a seasonal, business. In such cases the exemption has been applied to employees engaged in a compress plant during periods when failure to compress was simply due to lack of orders for compression and shipment of cotton.

It is considered unlikely that any court would refuse to apply the exemption simply because, for 1 or 2 weeks at a time, no orders are received for the compression and shipment of cotton. It is conceivable, though not certain, that where all cotton is compressed on arrival, and long periods (2 or 3 months or more) go by without the compression of any cotton, the courts would consider such periods of noncompression as a "dead season" comparable to that regularly experienced by cotton ginner, and cottonseed crushers, and refuse to apply the exemption. A definite decision on this point can be obtained only through actual litigation involving such circumstances.

However, if there is no compression of cotton for an extended period, there would seem to be little or no necessity for working employees longer than 40 hours per week—except for instances where it is difficult to work out a mutually satisfactory time scheduled for watchmen without permitting them to work longer than 40 hours and thus earn more than 40 hours' pay.

If these periods during which no cotton is ginned at the gin, or no cotton is compressed in the compress-warehouse plant, are not too extensive, protection is available by use of the section 7(b)(3) partial exemption from overtime discussed in memorandum 1. Thus a ginner, while he is readying his equipment for the oncoming season, and also while he is cleaning and repairing equipment after the end of the active ginning season, can claim the section 7(b)(3) exemption from overtime for hours worked up to 12 hours per day and up to 56 hours per week; but he cannot claim that partial exemption for more than a total of 14 workweeks in any calendar year.

Thus where work in excess of 40 hours per week is required in a gin during any week or weeks in which the gin is not operated, or in a compress-warehouse plant in a week or weeks when compress machinery is not operated, it is advisable to note on employment records for each of such weeks (not to exceed 14 weeks in any calendar year) that the section 7(b)(3) exemption is claimed.

Some of you will have noted that the section 7(c) complete overtime exemption quoted at the beginning of this memorandum refers to the "ginning and compressing of cotton." Since ginning and compressing are performed by different types of establishments, the exemption obviously should read "ginning or compressing of cotton." The Administrator concedes that this is true, and has

issued written interpretations which are binding upon him in court under the law, to the effect that the Department of Labor construes this exemption as applying separately to establishments engaged in the ginning of cotton and establishments engaged in the compressing of cotton. This was further confirmed by the U.S. Court of Appeals for the Fifth Circuit in *Peacock et al. v. Lubbock Compress Co.* (Mar. 4, 1958), 34 Labor Cases 71325, 252 F. (2d) 892.

MEMORANDUM 3

"AREA OF PRODUCTION" EXEMPTION FOR COMPRESSING AND STORING COTTON
(SEC. 13(a)(10))

Section 13(a)(10) of the act provides that:

"The provisions of sections 6 and 7 (the minimum wage and overtime provisions) shall not apply with respect to any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese, butter or other dairy products";

The Administrator has published his definition of the area of production of all agricultural commodities in title 29, part 536.2 of the Code of Federal Regulations. He has defined the area of production with respect to cotton so as to provide in substance that (to be considered within the area of production of cotton) a compress-warehouse plant or warehouse plant must:

(a) Not be located in or within 1 airline mile of any place with a population of 2,500 up to but not including 50,000; and not within 3 airline miles of any place having a population of 50,000 to but not including 500,000, and not within 5 airline miles of any place with a population of 500,000 or more according to the latest U.S. census.

(b) During the last preceding calendar month in which cotton was received, the plant must not have received more than 5 percent of total monthly cotton receipts from points more than 20 airline miles from the noncompress warehouse, or 50 airline miles from the compress-warehouse plant (and/or from points having a population of 2,500 or more, unless it can be determined that such cotton was actually grown within 20 airline miles of the noncompress-warehouse, or 50 airline miles of the compress-warehouse plant).

If your plant meets the requirements of the above definitions, then all of your employees who are engaged in storing or compressing cotton are completely exempt from the minimum wage and overtime requirements.

If your establishment fails to meet either the population test or the distance test on cotton receipts, then you cannot rely on his exemption.

The U.S. Supreme Court has upheld as valid every feature of the Administrator's definition of the "area of production."

(The following exhibits were referred to in Mr. Zagri's statement in part 2:)

EXHIBIT 1

Overtime hours as percent of average weekly hours in manufacturing, 1963

	Average weekly overtime hours	Estimate of actual weekly overtime hours ¹
Total manufacturing	2.8	9.3
Durable goods industries	2.9	9.6
Electrical equipment ²	2.0	6.6
Miscellaneous manufacturing	2.2	7.3
Instruments and related products	2.4	8.0
Ordnance and accessories	2.4	8.0
Primary metal products ²	2.7	9.0
Furniture and fixtures	3.0	10.0
Fabricated metal products	3.0	10.0
Machinery	3.2	10.6
Lumber and wood product ²	3.4	11.3
Transportation equipment ²	3.6	12.0
Stone, clay, and glass products	3.6	12.0
Nondurable goods industries	2.7	9.0
Tobacco manufactures	1.1	3.6
Apparel and related products	1.3	4.3
Leather and leather products	1.4	4.6
Petroleum and related products ²	2.3	7.6
Chemicals and allied products ²	2.5	8.3
Printing and publishing	2.7	9.0
Rubber and plastic products	3.0	10.0
Textile-mill products	3.2	10.6
Food and kindred products	3.4	11.3
Paper and allied products ²	4.5	15.0

¹ Only 30 percent of workers actually work overtime.

² Highly automated industries.

EXHIBIT 2

Changes in employment for production workers in manufacturing, by major industry group, 1956-62

Industry	Employment		
	1956 annual average (thousands)	1962 annual average (thousands)	Percent change, 1956-62
All manufacturing	13,436	12,417	-8
Durable goods	7,669	6,930	-10
Ordnance and accessories	85	99	16
Lumber and wood products	662	544	-18
Furniture and fixtures	316	316	0
Stone, clay, and glass	507	460	-9
Primary metal industries	1,132	938	-17
Fabricated metal products	901	856	-5
Machinery	1,159	1,016	-12
Electrical equipment	975	1,035	6
Transportation equipment	1,364	1,122	-18
Instruments and related products	236	228	-3
Miscellaneous manufacturing	333	317	-5
Nondurable goods	5,767	5,487	-5
Food and kindred products	1,302	1,178	-10
Tobacco manufacturers	90	78	-13
Textile mill products	944	793	-16
Apparel and related products	1,088	1,098	1
Paper and allied products	465	477	3
Printing and publishing	560	597	7
Chemicals and allied products	526	519	-1
Petroleum refining	161	126	-22
Rubber and miscellaneous plastic products	291	301	3
Leather and leather products	341	319	-6

EXHIBIT 3

The chamber of commerce research department has published a study of fringe benefits in 1961 based upon the practices of some 1,120 companies. The study reveals, inter alia, the following facts:

1. Fringe payments vary widely among the 1,120 reporting companies, ranging from less than 8 percent to over 70 percent of payroll.
2. The average payment in 1961 was 24.9 percent of payroll, 61.6 cents per payroll hour, or \$1,254 per year per employee.
3. Industry payments ranged from 19.3 percent for textile products and apparel to 33.5 percent for banks, finance, and trust companies.
4. Highest payments were made in the Northeast, followed by the Western, the East North Central, and Southeast regions.
5. Larger firms tended to pay higher fringe benefits than smaller firms.
6. Payments for pensions were reported by 86 percent of the companies, with pension payments in these companies averaging 4.9 percent of payroll.
7. Ninety-eight percent of the companies reported payments for employee insurance programs, with payments averaging 2.8 percent of payroll.

Five levels of fringe payments, 1961

Item	As percent of payroll	Costs per payroll hour (cents)	Dollars per year per employee
10 percent of firms paid more than.....	34.0	89.9	\$1,854
25 percent of firms paid more than.....	28.8	74.8	1,548
50 percent of firms paid more than.....	23.9	59.9	1,237
75 percent of firms paid more than.....	19.6	46.1	967
90 percent of firms paid more than.....	16.8	33.8	697
Mean or average payment.....	24.9	61.6	1,254

EXHIBIT 4

1963 CENSUS OF MANUFACTURES

SUBJECT REPORTS

(Preliminary)

November 21, 1963

Series: MC63(P)-1

HORSEPOWER OF POWER EQUIPMENT AVAILABLE IN
MANUFACTURING INDUSTRIES
DECEMBER 31, 1962

TABLE 1.—Horsepower of power equipment in manufacturing industries: 1962 and earlier years

Census year	Aggregate horsepower (prime movers and electric motors driven by purchased energy) (1,000 hp.)	Prime movers (1,000 hp.)			Electric motors (1,000 hp.)			Aggregate horsepower per 100 production workers
		Total	Driving generators	Not driving generators	Total	Driven by purchased energy	Driven by energy generated at establishment	
1962.....	154,019	45,832	24,121	21,711	129,009	108,187	20,822	1,269
1954 ¹	108,100	35,763	21,036	14,727	91,505	72,337	19,168	958
1939 ²	49,893	21,077	13,849	7,228	44,827	28,816	16,011	652
1929.....	41,122	19,328	(3)	(3)	33,844	21,794	12,050	491
1927.....	37,126	18,902	(3)	(3)	29,153	18,224	10,929	473
1925.....	34,359	19,243	(3)	(3)	25,092	15,116	9,976	437
1919.....	28,397	19,432	(3)	(3)	15,612	8,965	6,647	333
1914.....	21,565	17,858	(3)	(3)	8,392	3,707	4,684	326
1909.....	18,062	16,393	(3)	(3)	4,582	1,669	2,913	288
1904.....	13,033	12,605	(3)	(3)	1,517	428	1,089	252
1899.....	9,811	9,633	(3)	(3)	475	178	297	218
1899 ⁴	10,988	10,805	(3)	(3)	494	183	311	207
1889.....	(3)	5,939	(3)	(3)	15	(3)	(3)	140
1879.....	(3)	3,410	(3)	(3)	(3)	(3)	(3)	125
1869.....	(3)	2,346	(3)	(3)	(3)	(3)	(3)	114

¹ The 1954 figures have been revised to include data for Alaska and Hawaii as well as revised figures for Industry 3851, "Ophthalmic goods."

² The data for 1939 include revisions due primarily to differences in scope of the 1939 and 1954 Censuses of Manufactures.

³ Not available.

⁴ Includes data for hand trades and neighborhood industries.

TABLE 2.—Horsepower of power equipment in manufacturing industries by major industry group: 1962 and 1964

Code	Industry	Year	Aggregate horsepower (prime movers and electric motors driven by purchased energy) (1,000 hp)		Prime movers (1,000 hp)			Electric motors (1,000 hp)			Aggregate horsepower per 100 production workers
			Total	Not driving generators	Driving generators	Total	Driven by purchased energy	Driven by energy generated at establishment			
	All industries, total.....	1962.....	154,019	24,121	21,711	129,009	108,187	20,822	1,269		
		1: 1954.....	35,763	21,036	14,727	31,065	27,237	19,168	3,958		
20	Food and kindred products.....	1962.....	2,381	1,320	1,061	10,652	9,597	1,055	1,070		
		1954.....	1,814	1,090	754	7,436	6,497	939	1,712		
21	Tobacco products.....	1962.....	81	68	13	279	214	65	439		
		1954.....	256	75	15	193	166	27	295		
22	Textile mill products.....	1962.....	662	507	155	4,728	4,149	279	652		
		1954.....	855	763	93	4,042	3,608	434	481		
23	Apparel and related products.....	1962.....	28	16	12	225	221	5	22		
		2 1954.....	(4)	(4)	(4)	(5)	(4)	(4)	(4)		
24	Lumber and wood products.....	1962.....	3,241	934	2,307	5,099	4,598	501	1,584		
		1954.....	2,453	991	1,462	3,240	2,698	542	885		
25	Furniture and fixtures.....	1962.....	1,139	63	77	1,139	1,109	29	408		
		1954.....	99	79	20	924	850	74	331		
26	Paper and allied products.....	1962.....	6,208	5,192	1,016	12,650	6,193	6,457	2,673		
		1954.....	4,239	3,529	710	7,859	4,017	3,842	1,805		
27	Printing and publishing.....	1962.....	44	25	20	1,097	1,090	3	307		
		2 1954.....	45	34	11	1,930	1,930		211		
28	Chemicals and allied products.....	1962.....	8,689	5,048	3,641	14,880	11,821	3,065	4,354		
		1954.....	6,565	3,625	2,940	9,624	6,956	2,668	2,808		

29	Petroleum and coal products.....	1962.....	9,843	6,101	1,060	5,041	5,006	3,742	1,264	8,946
		1954.....	6,506	4,494	1,143	3,351	3,258	2,012	1,246	4,786
30	Rubber and plastics products, nec.....	1962.....	3,660	400	271	128	3,495	3,269	1,235	1,167
		1954.....	2,211	342	272	71	2,177	1,869	308	813
31	Leather and leather products.....	1962.....	667	86	67	19	615	581	34	217
		1954.....	505	87	77	10	463	45	45	157
32	Stone, clay and glass products.....	1962.....	8,886	2,195	823	1,372	7,330	6,691	689	1,413
		1954.....	4,811	1,199	792	417	4,357	3,612	745	1,168
33	Primary metal industries.....	1962.....	34,038	11,073	7,070	4,001	29,041	27,965	6,076	3,693
		1954.....	25,545	10,255	6,544	3,711	22,176	21,521	6,885	2,607
34	Fabricated metal products.....	1962.....	7,627	746	213	533	6,963	6,881	82	914
		1954.....	5,127	373	185	138	4,891	4,804	87	692
35	Machinery, except electrical.....	1962.....	9,237	1,065	469	596	8,545	8,172	373	890
		1954.....	9,497	965	705	260	8,965	8,552	530	514
36	Electrical machinery.....	1962.....	4,876	809	338	471	4,228	4,067	161	477
		1954.....	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
37	Transportation equipment.....	1962.....	10,784	1,373	300	1,073	9,633	9,411	222	960
		1954.....	9,041	1,347	796	551	8,130	7,694	436	681
38	Instruments and related products.....	1962.....	884	223	146	77	815	761	154	387
		1954.....	3,667	167	109	58	3,493	3,200	341	341
39	Miscellaneous manufacturing including ordinance.....	1962.....	2,148	288	190	98	1,893	1,860	123	512
19		1954.....	2,036	230	120	110	1,892	1,806	86	309

¹ Figures for 1964 have been revised to reflect the principal revisions in industry classifications stemming from the 1957 Standard Industrial Classification and revised totals for Industry 3851, "Ophthalmic goods." The 1954 "All industries" totals but not for Major Industry Groups, include data for Alaska and Hawaii. The aggregate horsepower for these 2 States amounted to 232,000, of which 190,000 was reported by establishments classified in Major Group 20.

² In the Apparel Industries, Major Group 23, horsepower data were collected only for Industries 2381, Fabric and Combination Dress Gloves, and 2382, Fabric and Combination Work Gloves. Consequently totals for the 2-digit group are not available. The industries which were not canvassed would have a negligible effect on the United States

totals. In the Printing and Publishing Industries, Major Group 27, horsepower data were not collected for group 279, Printing Trades Service Industries, in 1954. Since these industries would have a negligible effect on the totals for Major Group 27, the Major Group totals are shown.

³ Revised.

⁴ Not available.

⁵ Data for Major Groups 35 and 36 combined. Aggregate horsepower per 100 production workers for Major Groups 35 and 36 combined is 691 for 1962.

Note: Detailed figures may not add to totals because of independent rounding.

TABLE 3.—Horsepower of power equipment in manufacturing industries by selected industry group and industry: 1962

Code	Industry	Aggregate horsepower (prime movers and electric motors driven by purchased energy) (1,000 hp)		Prime movers (1,000 hp)		Electric motors (1,000 hp)			Aggregate horsepower per 100 production workers
		Total	Not driving generators	Driving generators	Not driving generators	Total	Driven by purchased energy	Driven by energy generated at establishment	
20	Food and kindred products.....	11,978	1,061	1,920	1,061	10,652	9,597	1,055	1,070
201	Meat products.....	1,411	119	66	119	1,286	1,226	60	286
2011	Meat packing plants.....	1,007	55	10	55	992	842	60	408
202	Dairy products.....	1,882	14	132	14	1,678	1,616	62	1,931
2026	Fluid milk.....	1,662	32	102	32	1,587	1,528	9	2,304
203	Canned and frozen foods.....	1,567	270	70	270	1,267	1,217	37	2,475
204	Grain mill products.....	2,020	380	284	380	1,660	1,610	265	2,475
205	Bakery products.....	814	31	13	31	771	741	441	3,363
206	Sugar.....	84	409	13	409	376	338	38	651
207	Candy and related products.....	158	78	1	78	1,001	888	113	1,040
208	Beverages.....	1,188	270	153	117	1,001	888	113	1,040
2082	Malt-liquors.....	495	163	102	163	397	332	65	7,655
2083	Malt.....	127	21	20	21	118	106	12	667
2086	Bottled and canned soft drinks.....	275	33	7	33	243	242	1	2,120
209	Other food preparations.....	2,048	190	62	128	1,897	1,858	39	1,718
2096	Shortening and cooking oils.....	162	30	18	12	146	132	14	5,115
2097	Manufactured ice.....	374	38	5	33	337	336	1	7,033
2099	Food preparations, nec.....	368	49	19	30	327	319	8	439
21	Tobacco products.....	295	81	13	81	270	214	65	447
211	Cigarettes.....	142	68	63	5	136	74	62	652
22	Textile mill products.....	5,111	682	507	155	4,728	4,440	279	828
2211	Weaving mills cotton.....	1,720	230	184	46	1,583	1,490	93	664
2221	Weaving mills synthetics.....	494	92	86	6	424	402	22	656
2231	Weaving, finishing mills, wool.....	290	37	25	12	270	253	26	385
2241	Narrow fabric mills.....	87	3	2	1	84	84	2	1,035
225	Knitting mills.....	380	11	6	5	371	369	2	873
226	Textile finishing, except wool.....	519	121	108	13	468	398	70	617
227	Floor covering mills.....	177	74	25	49	115	103	12	647
2271	Woven carpets and rugs.....	75	28	22	6	57	47	10	931
228	Yarn and thread mills.....	892	50	42	8	885	842	43	1,035
2281	Yarn mills, except wool.....	569	19	18	1	591	580	11	1,465
229	Miscellaneous textile goods.....	552	44	29	15	519	508	11	1,465
2296	Coated fabric, not rubberized.....	128	15	12	3	123	113	10	22
2296	Tire cord and fabric.....	133	3	3	3	130	130	5	22
23	Apparel and related products.....	249	3	16	12	225	221	4	18
2311	Men's and boys' suits and coats.....	25	3	2	1	46	46	1	13
232	Men's and boys' furnishings.....	49	3	2	2	46	46	1	13
233	Women's and misses' outerwear.....	42	1	1	1	41	41	1	13

OVERTIME PENALTY PAY ACT OF 1964

1283

234	Women's undergarments.....	20	4	(1)	5	19	16	3	21
235	Millinery, hats, and caps.....	16	8			8	8		51
236	Children's outerwear.....	11	14			11	11		16
238	Miscellaneous apparel.....	15	15			14	13		25
239	Fabricated textiles, n.e.c.....	71	2			64	64		57
24	Lumber and wood products.....	7,584	3,241		5	5,099	4,598	(1)	1,584
2411	Logging camps and contractors.....	1,024	840		2,307	2,12	212	501	1,598
242	Saw mills and planing mills.....	4,217	1,965		1,230	2,669	2,252	417	1,872
243	Millwork and related products.....	1,551	735		160	1,354	1,317	37	1,274
244	Wooden containers.....	457	39		29	426	418	8	1,448
249	Miscellaneous wood products.....	590	163		126	438	427	11	1,138
25	Furniture and fixtures.....	1,278	139		77	1,139	1,109	29	408
251	Household furniture.....	889	106		60	811	783	28	393
252	Wood furniture up upholstered.....	720	84		30	663	636	27	602
254	Office furniture.....	95	8		7	89	87	1	465
255	Partitions and fixtures.....	129	18		17	111	111		406
26	Paper and allied products.....	12,401	6,208		1,016	12,500	6,193	6,457	2,673
2611	Pulp mills, except building.....	1,082	499		69	1,131	583	548	10,139
2621	Papermills, except building.....	5,829	3,160		2,628	6,222	2,669	3,553	5,360
2631	Paperboard mills.....	2,947	1,739		248	3,014	2,960	2,054	6,256
2661	Building paper and board mills.....	2,723	1,169		29	3,675	525	2	4,742
264	Paper and paperboard products.....	917	159		43	861	758	103	7,735
265	Paperboard containers and boxes.....	903	205		95	747	698	49	587
27	Printing and publishing.....	1,739	44		20	1,697	1,694	3	307
2711	Newspapers.....	616	15		7	601	600	1	378
2721	Periodicals.....	86	4		1	82	82		709
273	Books.....	98	2		2	96	96		264
275	Commercial printing.....	677	18		7	660	659		172
278	Bookbinding and related work.....	69	2		1	68	67	1	281
28	Chemicals and allied products.....	20,510	8,689		3,641	14,886	11,821	3,065	4,354
281	Basic chemicals.....	14,481	6,896		2,875	9,724	7,585	2,139	9,224
2812	Alkalies and chlorine.....	1,331	881		193	878	350	238	9,874
2813	Industrial gases.....	908	210		148	788	788	68	17,809
2818	Organic chemicals, n.e.c.....	4,444	3,001		1,435	2,271	1,443	831	17,014
2819	Inorganic chemicals, n.e.c.....	6,810	2,343		908	5,307	4,458	840	12,445
282	Fibers, plastics, rubbers.....	2,570	1,059		311	2,085	1,490	645	2,595
2821	Plastics materials.....	1,011	166		78	950	845	105	2,590
2822	Synthetic rubber.....	370	70		69	309	309		4,806
283	Drugs.....	670	98		60	624	581	43	4,195
284	Cleaning and toilet goods.....	513	114		53	450	390	51	1,070
285	Paints and varnishes.....	440	33		17	409	405	4	3,362
2861	Gum and wood chemicals.....	40	45		18	83	54	29	2,008
287	Agricultural chemicals.....	869	192		149	689	673	25	2,496
289	Other chemical products.....	953	250		148	812	707	109	2,496
29	Petroleum and coal products.....	9,843	6,101		5,061	5,006	3,742	1,264	8,644
2911	Paving and roofing materials.....	9,313	5,899		4,975	3,316	3,316	1,233	10,695
295	Rubber and plastics products, n.e.c.....	448	89		47	370	339	31	2,835
3011	Tires and inner tubes.....	3,660	500		138	3,990	3,990	280	1,707
3021	Rubber footwear.....	1,170	236		43	1,123	934	189	1,707
3031	Reclaimed rubber.....	126	18		3	178	108	(1)	7,437

See footnotes at end of table p. 1286.

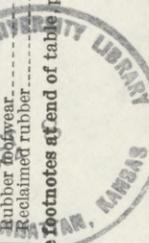


TABLE 3.—Horsepower of power equipment in manufacturing industries by selected industry group and industry: 1962—Continued

Code	Industry	Aggregate horsepower (prime movers and electric motors driven by purchased energy) (1,000 hp)			Prime movers (1,000 hp)			Electric motors (1,000 hp)			Aggregate horsepower per 100 production workers
		Driving generators	Not driving generators	Total	Driving generators	Not driving generators	Total	Driven by purchased energy	Driven by energy generated at establishment		
3069	Fabricated rubber products, n.e.c.	1,104	44	1,058	45	44	1,015	1,015	43	1,139	
3079	Plastics products, nec.	1,179	37	1,142	15	37	1,127	1,127	1	1,026	
31	Leather and leather products	667	19	648	67	19	581	581	34	217	
3111	Leather tanning and finishing	279	15	264	57	15	207	207	31	1,022	
3131	Footwear cut stock	31	(1)	30	2	(1)	29	29	3	203	
314	Footwear, except rubber	8,386	823	7,563	2,105	1,372	3,477	2,666	8	1,932	
32	Stone, clay and glass products	340	15	325	84	15	69	69	630	1,913	
3211	Flat glass	438	11	427	60	11	416	416	32	1,773	
322	Pressed and blown glassware	212	11	201	16	11	185	185	4	750	
3221	Glass containers	438	11	427	60	11	416	416	4	821	
3229	Pressed and blown glass, n.e.c.	132	19	113	5	19	108	108	7	575	
3221	Products of purchased glass	2,847	23	2,824	526	23	2,799	2,799	522	9,576	
3241	Cement, hydraulic	847	147	699	757	125	703	703	8	1,398	
325	Structural clay products	523	90	433	14	85	425	425	1	1,816	
3251	Brick and structural tile	146	18	128	7	18	121	121	6	407	
326	Pottery and related products	1,440	364	1,076	77	11	134	134	6	1,994	
329	Nonmetallic minerals, n.e.c.	34,037	11,073	22,964	7,070	4,001	1,222	1,085	37	1,994	
33	Primary metal industries	23,198	3,985	19,213	4,680	3,323	29,041	22,965	6,076	3,693	
331	Steel rolling and finishing	20,780	7,000	13,780	3,780	3,218	29,041	15,214	5,586	5,010	
3312	Blast furnaces and steel mills	1,040	889	1,929	851	38	19,156	13,739	5,417	5,100	
3313	Electrometallurgical products	238	29	209	5	24	212	212	144	12,463	
3315	Steel wire drawing	659	20	639	20	8	619	619	6	1,536	
3317	Steel finishing tubes	517	43	474	43	31	440	440	3	7,053	
3317	Steel pipe foundries	2,022	176	1,846	127	127	1,870	1,846	16	2,645	
3317	Iron and steel foundries	3,498	2,358	1,140	2,156	172	1,496	1,140	356	8,952	
3318	Primary copper	63	11	52	2,304	85	319	234	85	4,205	
3318	Primary lead	458	194	264	3	8	54	52	2	3,063	
3329	Primary zinc	2,339	194	305	174	20	305	264	41	6,645	
3333	Primary aluminum	1,839	182	723	1,787	56	723	496	227	17,102	
3334	Secondary nonferrous metals	3,902	402	134	1,44	34	138	138	103	2,890	
335	Copper rolling and drawing	918	124	890	89	35	3,890	3,500	96	2,833	
3352	Aluminum rolling and drawing	2,091	209	1,882	12	197	1,870	1,882	5	4,886	
336	Nonferrous foibles	435	41	394	10	31	385	394	1	718	
339	Primary metal industries, n.e.c.	800	67	733	21	46	733	733	6	1,666	

OVERTIME PENALTY PAY ACT OF 1964

34	Fabricated metal products.....	7, 627	746	213	533	6, 963	6, 831	82	914
3411	Metal cans.....	363	85	5	80	281	278	3	789
342	Cutlery, handtools, hardware.....	685	58	26	41	649	627	22	680
343	Plumbing and nonelectric heating.....	421	56	15	41	379	365	14	845
344	Structural metal products.....	2, 134	244	51	193	1, 869	1, 890	9	905
345	Screw machine products and bolts.....	706	60	32	28	662	646	16	968
3461	Metal stampings.....	1, 488	82	33	49	1, 419	1, 406	13	1, 372
347	Metal services, n.e.c.....	491	60	24	36	432	431	1	848
348	Fabricated wire products, n.e.c.....	256	25	20	20	235	234	1	533
349	Fabricated metal products, n.e.c.....	1, 083	79	25	54	1, 007	1, 004	3	1, 024
35	Machinery, except electrical.....	9, 237	1, 065	469	596	8, 545	8, 172	373	890
351	Engines and turbines.....	728	281	163	68	653	497	136	1, 710
3511	Steam engines and turbines.....	361	164	127	37	264	197	69	894
3519	Internal combustion engines.....	366	66	35	31	359	290	69	894
3522	Farm machinery and equipment.....	666	185	103	82	605	481	125	863
353	Construction and like equipment.....	1, 778	188	89	149	1, 607	1, 590	17	1, 300
354	Metalworking machinery.....	1, 501	77	44	33	1, 439	1, 424	15	1, 733
355	Special industry machinery.....	873	77	42	35	828	796	32	697
356	General industrial machinery.....	1, 412	125	27	98	1, 300	1, 287	13	906
3562	Ball and roller bearings.....	415	5	(¹)	5	410	410	(¹)	977
3567	Power transmission equipment.....	281	9	2	7	272	272	(¹)	896
357	Office machines, n.e.c.....	520	49	29	20	301	271	30	355
3571	Service computing and related machines.....	215	34	28	6	211	181	30	361
3578	Service industry machines.....	1, 095	40	9	81	1, 009	1, 005	4	1, 511
3590	Machinery.....	4, 876	809	13	30	4, 228	4, 067	161	1, 755
36	Electric machinery.....	842	109	89	10	645	633	12	477
361	Electric distribution products.....	524	74	34	10	427	417	10	582
362	Electric industrial apparatus.....	524	46	22	22	478	478	39	809
3621	Motors and generators.....	475	66	21	51	407	407	1	694
363	Household appliances.....	115	8	48	18	637	630	7	623
364	Lighting and wiring devices.....	115	28	1	17	107	107	(¹)	738
3644	Noncurrent carrying devices.....	155	141	17	5	103	193	219	219
365	Radio, TV, receiving equipment.....	1, 141	40	100	300	839	736	88	538
366	Communication equipment.....	487	48	24	24	449	430	19	236
367	Electrical components.....	324	34	23	23	302	300	18	465
369	Electrical products, n.e.c.....	1, 664	15	11	10	156	149	17	490
3694	Engine electrical equipment.....	10, 784	1, 373	123	1, 073	9, 633	9, 411	222	1, 960
37	Motor vehicles and equipment.....	6, 194	732	133	599	5, 583	5, 472	91	1, 315
371	Motor vehicles and bus bodies.....	82	6	4	4	76	76	1	415
3713	Truck and bus bodies.....	5, 993	691	111	580	5, 303	5, 302	91	1, 169
3717	Motor vehicles and parts.....	2, 951	327	67	260	2, 644	2, 624	20	736
372	Aircraft and parts.....	30, 963	130	43	87	849	833	16	534
3721	Aircraft.....	71	71	5	66	737	736	1	716
3729	Aircraft equipment, n.e.c.....	1, 058	211	60	151	856	847	9	937
373	Ships and boats.....	1, 498	103	46	57	497	395	102	1, 577
3734	Motorcycles, bicycles, and parts.....	24	24	3	3	21	21	1	328
3751	Transportation equipment, n.e.c.....	59	7	4	3	52	52	290	290
379	Motorcycles, bicycles, and parts.....	884	223	146	77	815	661	154	387
38	Transportation equipment, n.e.c.....	135	11	8	3	124	124	(¹)	241
3811	Scientific instruments.....	234	14	4	10	222	220	2	385
382	Mechanical measuring devices.....								

See footnotes at end of table, p. 1286.

TABLE 3.—Horsepower of power equipment in manufacturing industries by selected industry group and industry: 1962—Continued

Code	Industry	Aggregate horsepower (prime movers and electric motors driven by purchased energy) (1,000 hp)		Prime movers (1,000 hp)			Electric motors (1,000 hp)			Aggregate horsepower per 100 production workers
		Total	Not driving generators	Driving generators	Not driving generators	Total	Driven by purchased energy	Driven by energy generated at establishment	Total	
3831	Optical instruments and lenses.....	12		(1)	1		11		11	204
384	Medical instruments and supplies.....	92		5	5		87		87	285
3851	Ophthalmic goods.....	45		15	15		34		30	253
3861	Photographic equipment.....	321		169	(1)	112	299		152	903
387	Watches and clocks.....	45		8		6	38		37	224
39	Miscellaneous manufacturing.....	2 148		288		190	1,983		1,860	512
391	Jewelry and silverware.....	112		12		5	299		297	332
394	Toys and sporting goods.....	313		16		5	93		93	348
395	Office supplies.....	98		5		2	120		120	453
396	Costume jewelry and notions.....	123		3		2	370		360	275
398	Miscellaneous manufactures.....	398		38		27	10		10	404
399										

1 Less than 500 horsepower.

Note: Detailed figures may not add to totals because of independent rounding.

EXHIBIT 5
 TABLE 1.—*Industry and class of worker of employed persons with two jobs or more, 1956-63*
 [Percent distribution]

Survey date	Persons with two jobs or more										
	Total			Industry				Class of worker			
	Number of (thou- sands)	Percent of all em- ployed persons	Percent	Primary job		Secondary job		Primary job		Secondary job	
				Agricul- ture	Nonagri- cultural industries	Agricul- ture	Nonagri- cultural industries	Wage and salary	Self-em- ployed ¹	Wage and salary	Self-em- ployed
May 1963.....	3,921	5.7	100.0	9.8	90.2	21.0	79.0	89.4	10.6	68.1	31.9
May 1962.....	3,342	4.9	100.0	10.9	89.1	19.3	80.7	85.8	14.2	70.4	29.6
December 1960.....	3,012	4.6	100.0	11.0	89.0	19.5	80.5	85.9	14.1	71.7	28.3
December 1959.....	2,966	4.5	100.0	10.8	89.2	21.9	78.1	86.1	13.9	68.7	31.3
July 1958.....	3,099	4.8	100.0	20.3	79.7	27.4	72.6	81.3	18.7	73.2	26.8
July 1957.....	3,570	5.3	100.0	24.0	76.0	29.0	71.0	76.5	23.5	75.4	24.6
July 1956.....	3,653	5.5	100.0	23.7	76.3	30.4	69.6	73.4	21.6	73.6	26.4

¹ Includes a small number of unpaid family workers.

Table 2 from the same special report shows who the moonlighters are.

TABLE 2.—*Industry group and class of worker of persons with 2 jobs or more, 1957-63*

Industry and class of worker	Persons with 2 jobs or more									
	Percent distribution, May 1963		As percent of all employed persons in industry of primary job							
	Primary job	Secondary job	May 1963	May 1962	December 1960 ¹	December 1959	July 1958	July 1957		
All industries.....	100.0	100.0	5.7	4.9	4.6	4.5	4.8	5.3		
Agriculture.....	9.8	21.0	7.5	6.7	6.7	6.7	9.3	11.0		
Wage and salary workers.....	3.7	4.3	8.8	6.2	6.7	7.7	13.2	12.1		
Self-employed workers.....	5.0	16.2	7.5	7.5	7.6	7.5	8.1	10.7		
Unpaid family workers.....	1.1	(²)	4.8	3.7	3.0	2.3	6.0	10.0		
Nonagricultural industries.....	90.2	79.0	3.5	4.7	4.3	4.3	4.7	4.6		
Wage and salary workers.....	58.7	63.3	2.9	4.0	4.0	4.6	4.4	4.7		
Self-employed workers.....	1.2	3.3	7.8	7.0	5.6	7.7	5.4	6.9		
Unpaid family workers.....	6.2	5.1	6.8	6.7	5.7	5.7	6.6	5.9		
Construction.....	24.7	7.2	2.8	4.6	4.0	4.3	3.9	4.3		
Manufacturing.....	14.9	2.9	2.0	4.5	4.0	5.0	4.1	4.2		
Durable goods.....	9.8	4.3	6.8	4.6	3.6	3.4	3.7	4.3		
Nondurable goods.....	5.4	4.3	6.8	5.2	4.8	4.4	4.2	4.2		
Transportation and public utilities.....	12.0	4.5	4.8	3.7	3.9	3.2	3.9	3.9		
Wholesale and retail trade.....	12.1	10.7	5.0	3.7	4.9	4.9	4.5	4.1		
Wholesale.....	3.1	4.1	4.5	3.4	3.6	3.0	3.7	3.8		
Retail.....	9.0	14.6	5.7	3.4	3.6	3.0	3.0	3.2		
Eating and drinking places.....	3.6	1.6	4.5	3.4	4.6	1.6	3.9	3.2		
Service and finance.....	7.2	10.9	4.2	3.5	4.6	3.3	3.9	4.0		
Other retail trade.....	24.1	24.7	5.6	4.7	4.8	4.6	4.6	4.6		
Finance, insurance, and real estate.....	3.8	3.1	5.5	4.2	4.2	3.8	3.3	4.5		
Business and repair services.....	2.4	3.0	6.9	4.2	4.2	4.2	5.3	4.7		
Private households.....	1.1	3.2	1.7	1.9	1.6	2.1	1.4	2.3		
Personal services, except private households.....	1.0	3.2	5.1	2.4	2.1	2.6	2.4	4.0		
Entertainment and recreation.....	3.1	3.5	8.6	7.3	8.8	7.5	10.5	9.7		
Educational services.....	9.0	3.1	5.1	8.9	8.2	7.0	5.9	6.1		
Professional services, except education.....	5.1	6.6	5.1	3.6	4.7	5.2	3.9	4.7		
Public administration.....	9.3	4.6	10.2	9.7	10.8	8.6	8.5	8.4		
Postal services.....	2.3	4.5	15.3	13.7	10.8	12.6	7.6	9.6		
Other public administration.....	7.0	4.1	9.2	8.9	7.0	7.6	6.8	8.2		
Self-employed workers.....	4.3	15.7	2.9	3.0	2.8	2.8	3.1	3.7		
Unpaid family workers.....	.1	(²)	.9	2.9	1.1	2.0	2.2	3.9		

¹ Data for Alaska and Hawaii included beginning 1960.² Persons whose only extra job was as an unpaid family worker were not counted as dual jobholders.

NOTE.—Estimating procedure made use of 1960 census data for 1962-63 and 1950 census data for 1957-60. Because of rounding, sums of individual items may not equal totals.

Table 7 shows the availability of many unemployed persons for jobs being done by "moonlighters."

TABLE 7.—Major occupation group of secondary job for persons with two jobs or more and of last full-time job for unemployed persons, May 1963

[Thousands of persons]

Major occupation group	Secondary job of persons with two jobs or more			Last full-time job of unemployed persons ¹
	Total	Self-employed on secondary job	Wage and salary on secondary job	
All occupations	3,921	1,252	2,669	3,267
Professional and technical, and managerial workers, except farm.....	931	361	570	260
Professional, technical, and kindred workers.....	539	148	391	159
Managers, officials, and proprietors, except farm.....	392	213	179	101
Farmers and farm managers.....	630	618	12	6
All other occupations.....	2,360	273	2,087	3,003
Clerical and kindred workers.....	288	16	272	390
Sales workers.....	315	67	248	171
Craftsmen, foremen, and kindred workers.....	386	104	282	372
Operatives and kindred workers.....	478	45	433	1,008
Service workers, including private household.....	529	25	504	524
Farm laborers and foremen.....	156	-----	156	90
Laborers, except farm and mine.....	208	16	192	448

¹ Data relate only to unemployed persons who at some time held a full-time civilian job for a period of at least 2 weeks.

EXHIBIT 6

TABLE 2.—Persons working 41 hours or more at 1 job by hours of work, and pay status, May 1963

Hours worked	Number (in thousands)	Percent distribution by pay status			
		Total	Received premium pay	Did not receive premium pay	Pay status not available
Total.....	15,244	100.0	29.4	66.6	4.0
Worked 41 to 47 hours.....	4,507	100.0	34.2	60.6	5.2
Usually worked 41 hours or more.....	2,893	100.0	27.4	72.0	.6
Did not usually work 41 hours or more.....	1,390	100.0	53.5	46.0	.5
Usual hours not available.....	224	100.0	.9	5.4	93.7
Worked 48 hours.....	3,337	100.0	41.3	54.8	3.8
Usually worked 41 hours or more.....	2,191	100.0	31.9	67.6	.5
Did not usually work 41 hours or more.....	1,034	100.0	65.7	33.6	.8
Usual hours not available.....	112	100.0	1.8	1.8	96.4
Worked 49 to 59 hours.....	4,405	100.0	26.4	69.9	3.7
Usually worked 41 hours or more.....	3,545	100.0	22.4	77.2	.5
Did not usually work 41 hours or more.....	700	100.0	52.0	47.0	1.0
Usual hours not available.....	160	100.0	4.4	8.1	87.5
Worked 60 hours and over.....	2,995	100.0	13.2	83.8	3.1
Usually worked 41 hours or more.....	2,607	100.0	12.2	87.7	.1
Did not usually work 41 hours or more.....	298	100.0	25.5	72.8	1.7
Usual hours not available.....	90	100.0	-----	5.6	94.4

EXHIBIT 7

Percent of value of shipments accounted for by largest 4 companies, selected industries,
1958

Passenger cars.....	99
Synthetic organic fibers, noncellulosic.....	(1)
Telephone switching equipment.....	(1)
Sheet (window) glass.....	95
Locomotives and parts.....	92
Electric lamps (bulbs).....	90
Primary aluminum.....	82
Cigarettes.....	80
Metal cans.....	80
Power and distributing transformers.....	80
Computing machines.....	77
Wheel tractors and parts.....	72
Tires and tubes.....	71
Sheet ingots and semifinished shapes.....	71

¹ Withheld by Bureau of the Census to avoid disclosure. Concentration ratio very high.

Source: Report of the Senate Antitrust Subcommittee, "Concentration Ratios in Manufacturing Industry, 1958," 87th Cong., 2d sess. (1962).

"What we have here then is an enumeration of our most basic industrial sectors—each dominated by a very few firms (and keep in mind that this listing excludes the regulated utilities).

"Within these obligopolistic arenas only a very restricted type of competition prevails. As studies of various sorts have well demonstrated, price competition is uncommon, becoming more rare as the degree of concentration increases. What rivalry that does exist is confined to nonprice matters, like advertising, product design, the creation of a favorable corporate image, and so forth. Prices remain largely uniform among the rival sellers, with changes being effected from time to time in a coordinated fashion. For example, in 1956 the Ford Motor Co. initially announced an average price increase on its 1957 models of 2.9 percent. Two weeks later General Motors increased its prices upward to match almost dollar for dollar Ford Motor Co. prices."

STATEMENT OF PROF. R. J. BARBER, AUGUST 7, 1962, TO JOINT ECONOMIC
COMMITTEE OF THE CONGRESS

Here is the share taken by the top four in some leading industries, all with sales over \$1 billion, a later report notes.

	Percent
Motor vehicles and parts ¹	75
Steelworks and rolling mills ¹	53
Aircraft.....	59
Aircraft engines.....	56
Organic chemicals ¹	55
Tires and inner tubes.....	74
Cigarettes.....	79
Tin cans and other tinware.....	80
Synthetic fibers.....	78
Tractors ¹	69

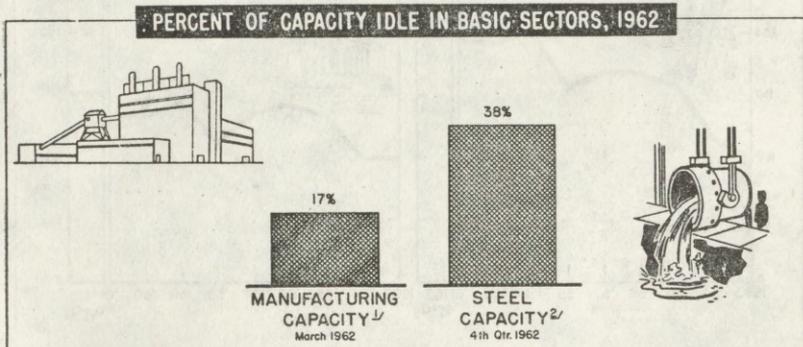
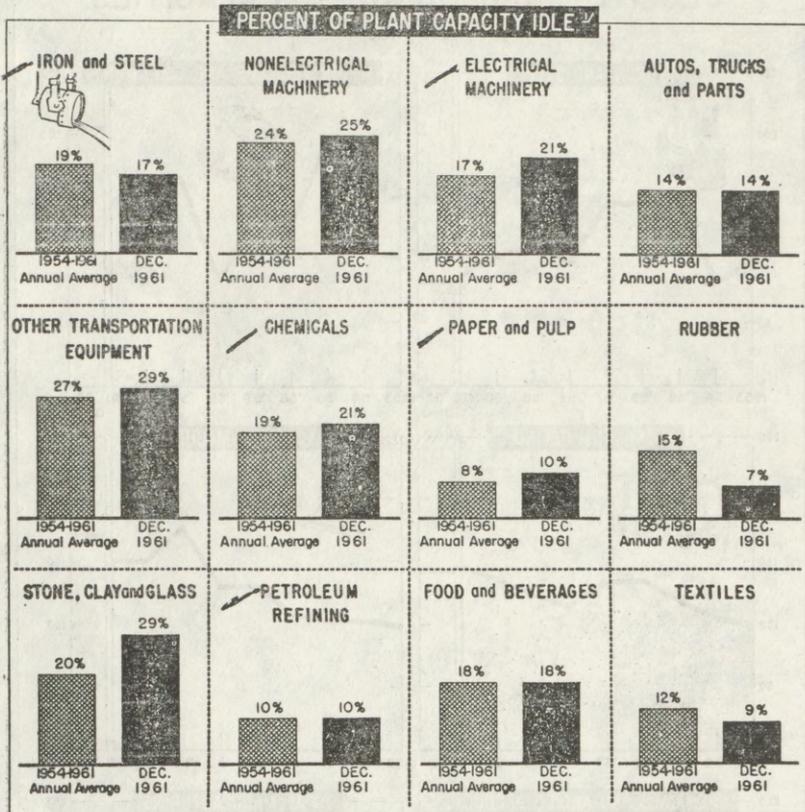
¹ Top 4.

Profits in the highly concentrated industries are high.

Price leader	Yearly average of actual earnings after taxes as a percentage of investment	Range, percent
General Motors.....	26	19.9-37.0
Du Pont.....	25.9	19.6-34.1
General Electric.....	21.4	18.4-26.6
Union Carbide.....	19.2	13.5-24.3
Standard Oil (New Jersey).....	16.0	12.0-18.9
Johns-Manville.....	14.9	10.7-19.6
Alcoa.....	13.8	7.8-18.7
International Harvester.....	8.9	4.9-11.9
United States Steel.....	10.3	7.6-14.8

EXHIBIT 8-A

THE HIGH VOLUME OF IDLE PLANT AND MACHINES: 1954 - 1962

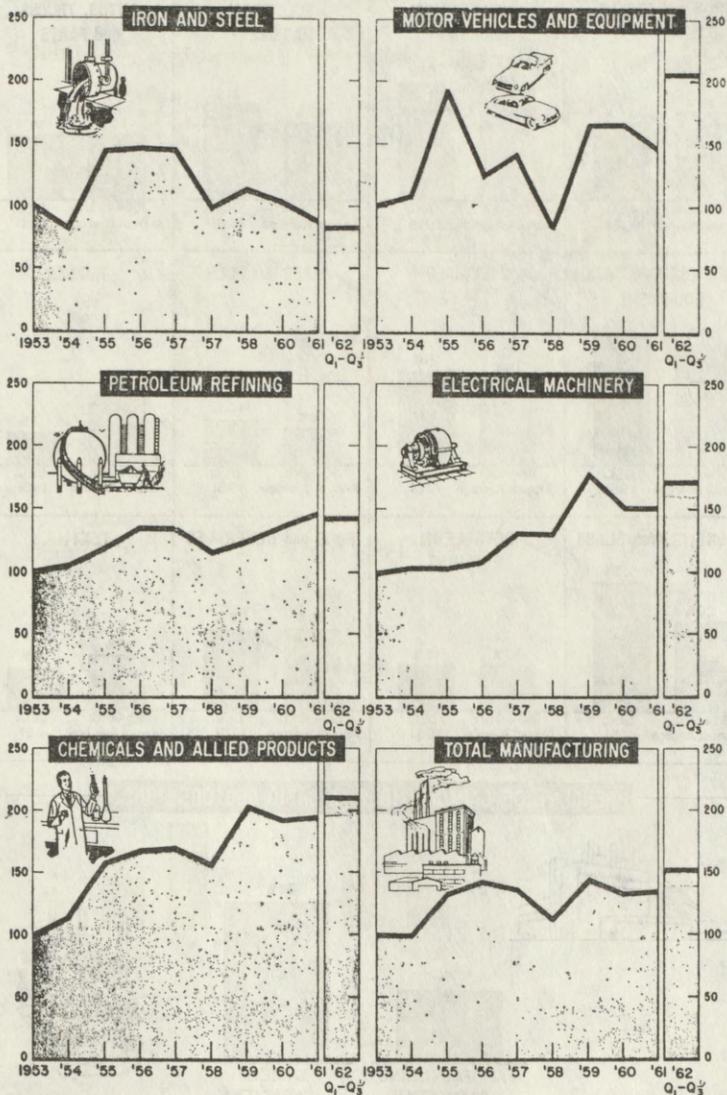


✓ McGraw-Hill Annual Surveys, which provide end of period estimates.
 ✗ Est. based on Am. Iron and Steel Inst. data.

EXHIBIT 8-B

KEY PROFITS AFTER TAXES ARE HIGH
DESPITE LARGE UNUSED CAPACITIES

1953=100



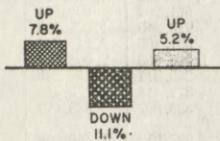
∩ First three quarters of 1962 shown at annual rate, not seasonally adjusted.
Data: Federal Trade Commission-Securities and Exchange Commission.

EXHIBIT 8-C

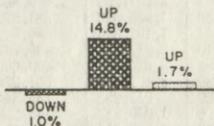
**PROFITS AND INVESTMENT
DURING CURRENT ECONOMIC UPTURN
OUTRUN WAGES-BASIC TO CONSUMPTION**

1st Quarter 1961- 3rd Quarter 1962

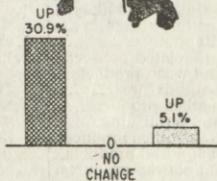
Profits after Taxes ^{1/} Investment in Plant and Equipment ^{2/} Wage Rates ^{3/}



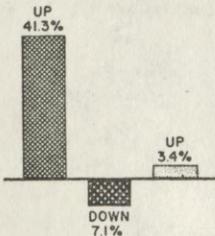
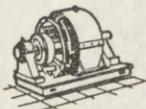
IRON and STEEL



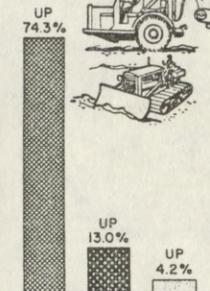
**PETROLEUM
and COAL PRODUCTS**



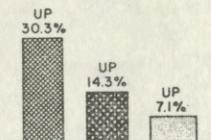
**CHEMICALS
and ALLIED PRODUCTS**



**ELECTRICAL
MACHINERY**



**NON-ELECTRICAL
MACHINERY**



**MOTOR VEHICLES
and EQUIPMENT**

^{1/} Data: Federal Trade Commission-Securities and Exchange Commission.

^{2/} Data: U.S. Dept. of Commerce and Securities and Exchange Commission; seasonally adjusted.

^{3/} Average hourly earnings of production workers. Data: U.S. Dept. of Labor.

EXHIBIT 9

U.S. BUREAU OF THE CENSUS—ANNUAL SURVEY OF MANUFACTURERS

TABLE 1.—General statistics for industry, 1954

[Dollars in thousands]

Industry and industry group	1954, all employees		1954, production workers			Value added by manufacturer adjusted
	Number	Payroll	Number	Man-hours (thousands)	Wages	
	A	B	C	D	E	
All manufacturing establishments including administrative and auxiliary units, total.....	16, 125, 550	\$65, 967, 667	12, 373, 030	24, 341, 239	\$44, 595, 457	\$117, 097, 041
Operating manufacturing establishments.....	15, 651, 294	62, 993, 321	12, 373, 030	24, 341, 239	44, 595, 454	117, 097, 041
Food and kindred products.....	1, 647, 204	6, 201, 500	1, 138, 239	2, 316, 661	3, 759, 071	13, 769, 432
Tobacco manufacturers.....	92, 863	259, 689	87, 073	162, 988	219, 736	1, 004, 056
Textile mill products.....	1, 037, 440	3, 032, 490	947, 502	1, 821, 075	2, 526, 564	4, 709, 250
Apparel and related products.....	1, 190, 064	3, 201, 795	1, 069, 867	1, 898, 999	2, 521, 135	5, 165, 547
Lumber and wood products.....	645, 936	1, 933, 523	581, 920	1, 106, 955	1, 604, 859	3, 241, 606
Furniture and fixtures.....	340, 694	1, 197, 376	286, 649	571, 294	892, 891	1, 997, 506
Paper and allied products.....	530, 210	2, 217, 420	435, 727	919, 940	1, 656, 720	4, 630, 153
Printing and publishing.....	804, 386	3, 625, 133	499, 666	961, 465	2, 115, 344	6, 412, 150
Chemicals and allied products.....	739, 389	3, 407, 199	501, 272	1, 016, 053	2, 005, 627	9, 611, 180
Petroleum and coal products.....	183, 339	953, 235	135, 844	269, 311	659, 243	2, 240, 876
Rubber and plastics products.....	246, 526	1, 059, 337	196, 238	377, 414	775, 499	1, 954, 401
Leather and leather products.....	356, 578	1, 027, 314	321, 161	586, 857	833, 694	1, 640, 804
Stone, clay, and glass products.....	491, 814	1, 938, 085	412, 051	827, 012	1, 496, 029	3, 866, 229
Primary metal industries.....	1, 149, 562	5, 246, 045	966, 478	1, 865, 662	4, 104, 712	9, 771, 558
Fabricated metal products.....	1, 019, 406	4, 397, 337	821, 172	1, 652, 366	3, 174, 186	7, 653, 391
Machinery, except electrical.....	1, 541, 685	7, 190, 563	1, 171, 323	2, 369, 610	4, 979, 972	12, 182, 591
Electrical machinery.....	959, 126	3, 950, 994	722, 443	1, 422, 339	2, 045, 588	7, 299, 607
Transportation equipment.....	1, 704, 572	8, 295, 773	1, 327, 078	2, 714, 603	6, 003, 250	13, 422, 441
Instruments and related products.....	272, 586	1, 200, 322	195, 597	391, 403	759, 459	2, 131, 613
Miscellaneous manufacturing.....	695, 917	2, 658, 182	555, 746	1, 089, 229	1, 861, 873	4, 392, 623
Administrative and auxiliary.....	474, 256	2, 983, 346	-----	-----	-----	-----

U.S. BUREAU OF THE CENSUS—ANNUAL SURVEY OF MANUFACTURERS—CON.

TABLE 1.—General statistics for industry, 1961

[Dollars in thousands]

Industry and industry group	1961, all employees		1961, production workers			Value added by manufacturer adjusted F
	Number	Payroll	Number	Man-hours (thousands)	Wages	
	A	B	C	D	E	
All manufacturing establishments including administrative and auxiliary units, total.....	16,341,022	\$88,141,489	11,790,056	23,310,848	\$54,792,236	\$164,292,449
Operating manufacturing establishments.....	15,738,088	83,670,105	11,790,056	23,310,848	54,792,236	164,292,449
Food and kindred products.....	1,703,535	8,368,113	1,138,168	2,319,318	4,932,813	20,194,869
Tobacco manufacturers.....	78,709	323,357	68,950	135,040	257,845	1,595,608
Textile mill products.....	871,453	3,171,234	778,711	1,546,110	2,566,078	5,613,161
Apparel and related products.....	1,211,610	3,864,828	1,064,474	1,890,286	2,994,216	6,697,239
Lumber and wood products.....	553,306	2,066,522	491,841	952,576	1,688,022	3,395,331
Furniture and fixtures.....	349,599	1,492,432	291,129	587,162	1,089,752	2,543,215
Paper and allied products.....	573,246	3,192,435	457,389	959,623	2,315,662	6,647,182
Printing and publishing.....	923,234	5,226,726	565,014	1,091,986	3,009,786	9,491,960
Chemicals and allied products.....	714,657	4,528,008	460,782	921,652	2,515,555	14,767,606
Petroleum and coal products.....	163,198	1,142,479	117,876	235,759	764,564	3,438,052
Rubber and plastics products.....	372,983	2,025,698	290,130	580,622	1,409,066	3,929,023
Leather and leather products.....	350,351	1,225,305	311,154	569,456	968,100	2,041,979
Stone, clay, and glass products.....	569,924	2,947,956	460,593	930,483	2,151,368	6,335,635
Primary metal industries.....	1,105,346	7,089,730	895,872	1,732,902	5,296,460	12,834,211
Fabricated metal products.....	1,050,517	5,810,282	802,652	1,628,730	3,952,406	10,282,655
Machinery, except electrical.....	1,374,469	8,367,424	972,968	1,947,673	5,225,767	14,147,685
Electrical machinery.....	1,364,450	7,689,294	940,892	1,885,981	4,492,682	13,758,559
Transportation equipment.....	1,505,956	10,130,443	1,056,703	2,152,521	6,328,071	17,584,567
Instruments and related products.....	342,642	2,099,100	219,614	439,106	1,110,012	3,911,107
Miscellaneous manufacturing.....	577,903	2,903,586	404,436	792,331	1,713,943	5,061,516
Administrative and auxiliary.....	602,934	4,471,384				

EXHIBIT 10

TABLE 2.—Number of production workers, average weekly overtime hours, and aggregate weekly overtime hours in major manufacturing industry groupings, United States, 1956 and 1963, annual averages

Industry	1963 ¹			1956		
	Number of production workers (thousands)	Average weekly overtime hours	Aggregate weekly overtime hours (thousands)	Number of production workers (thousands)	Average weekly overtime hours	Aggregate weekly overtime hours (thousands)
Manufacturing.....	12,586.0	2.8	35,240.8	13,436.0	2.8	37,620.8
Durable goods.....	7,059.0	2.9	20,471.1	7,669.0	3.0	2,300.7
Ordnance and accessories.....	119.1	2.4	285.9	84.9	2.5	212.3
Lumber and wood products, except furniture.....	524.0	3.4	1,781.6	661.8	2.6	1,720.7
Furniture and fixtures.....	324.4	3.0	973.2	315.5	2.3	725.7
Stone, clay, and glass products.....	489.5	3.6	1,762.2	507.0	3.3	1,673.1
Primary metal industries.....	942.2	2.7	2,543.9	1,131.6	2.8	3,168.5
Fabricated metal products.....	884.0	3.0	2,652.0	900.7	3.1	2,792.2
Machinery.....	1,053.0	3.2	3,369.6	1,158.5	3.9	4,518.2
Electrical equipment and supplies.....	1,057.0	2.0	2,114.0	975.4	2.6	2,536.0
Transportation equipment.....	1,113.2	3.6	4,007.5	1,364.3	3.1	4,229.3
Instruments and related products.....	236.9	2.4	568.6	236.1	2.5	590.3
Miscellaneous manufacturing industries.....	316.1	2.2	695.4	333.1	2.8	932.7
Nondurable goods.....	5,526.0	2.7	14,920.2	5,767.0	2.4	13,840.8
Food and kindred products.....	1,155.0	3.4	3,927.0	1,302.1	3.1	4,036.5
Tobacco manufactures.....	77.1	1.1	84.8	90.1	1.3	117.1
Textile mill products.....	797.2	3.2	2,551.0	944.3	2.6	2,455.2
Apparel and related products.....	1,150.9	1.3	1,496.2	1,088.1	1.0	1,088.1
Paper and allied products.....	488.0	4.5	2,196.0	464.5	4.5	2,090.3
Printing, publishing, and allied industries.....	590.2	2.7	1,593.5	559.6	3.1	1,734.8
Chemicals and allied products.....	524.2	2.5	1,310.5	525.7	2.1	1,104.0
Petroleum refining and related industries.....	119.5	2.3	274.9	161.2	2.2	354.6
Rubber and miscellaneous plastic products.....	315.1	3.0	945.3	290.7	2.1	610.5
Leather and leather products.....	309.0	1.4	432.6	340.9	1.4	477.3

¹ Preliminary unweighted averages.

Source: U.S. Bureau of Labor Statistics.

