MINIMUM WAGE

HEARINGS

BEFORE THE

COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 13712

A BILL TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938 TO EXTEND ITS PROTECTION TO ADDITIONAL EMPLOYEES, TO RAISE THE MINIMUM WAGE, AND FOR OTHER PURPOSES

PART II

APRIL 19, 1966

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Eighty-ninth Congress

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MINIMUM WAGE

TUESDAY, APRIL 19, 1966

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, D.C.

The committee met, pursuant to notice, at 10:45 a.m., in room H–313, the Capitol, Hon. Howard W. Smith (chairman) presiding.

Present: Representatives Smith, Madden, Trimble, Bolling, O'Neill, Martin of Nebraska, Quillen, Latta, Pepper, and Young.

Also present: Laurie C. Battle, counsel; Mary Spencer Forrest, assistant counsel; and Robert D. Hynes, Jr., minority counsel.

The CHAIRMAN. The committee will be in order.

We will resume consideration of the bill H.R. 13712, which is the minimum wage law. Sorry we don't have more members here this morning, Mr. Dent. I know they would be entertained by your remarks. But we will proceed with what we have.

STATEMENT OF HON. JOHN H. DENT, A U.S. REPRESENTATIVE FROM THE 21ST DISTRICT OF THE STATE OF PENNSYLVANIA

Mr. DENT. Thank you, Mr. Chairman. And I appreciate those who were able to get here today. I know it is difficult for them. However, I am happy that a quorum is here, because, as you know, we would like to get on with the job ahead of us. Sometimes it is not always a pleasant task. But there are jobs that have to be done, and this is one of them.

As I remember the last meeting, we had almost wound up the question of the restaurant coverage, and how it would affect the restaurant industry. And there was some question as to whether or not there was a meaningful number supporting his legislation amongst the restaurant and hotel people, or whether it was just a few.

At that time I said I had quite a file or correspondence from many States in the Union, and from many cities in the Union, and from many organizations in this particular related industry.

I am happy to say that I have just received, since that time, telegrams from Omaha, Nebr., from the restaurant people, endorsing the legislation. I thought Mr. Martin would be particularly interested in that. And also that the State of Pennsylvania organization has wired its approval of the legislation, and has so notified the national organization.

I believe that the impact on the restaurants will be a healthy one, in that it may tend to give dignity to a type of employment that has not always been dignified by the willingness of people to go into it.

I firmly believe that as more productive jobs go down the drain with the innovation of automation and mechanization and so forth, we have to give consideration to high school and even post high school youngsters coming into the field of employment, and finding areas of employment that have the coverage of the umbrella of the Federal statute. And, therefore, I believe the inclusion of the restaurant people is very important at this point.

I believe it is overdue, and should have been put in years ago.

We think we have written the kind of a law that they cannot only live with, but in the normal course of events they can prosper with it.

If there are any questions on that particular phase, I would be happy to answer them, Mr. Chairman.

The CHAIRMAN. Well, I have a question. It it right difficult to understand—of course intermingled with this somewhere is the matter of tips.

Mr. DENT. That is right, sir.

The CHAIRMAN. The representative of the National Restaurant Association was in to see me, I think just after we had the last hearing. As I gathered, he said that perhaps the larger restaurants in the large cities, where the tips are more generous, could live with it, but that it would just put the little ones out of business in the rural areas—because they do not get the tips.

Now, in what way are the tips taken into consideration in determining what the minimum wage is to be?

Mr. DENT. We start the minimum wage for restaurant employees at a dollar an hour, of which the restaurant owner is allowed to assess toward that dollar up to 35 percent as a tip allowance. When it goes beyond $1.25, the tip allowance will be 40 percent. When it goes beyond $1.50, the tip allowance will be 45 percent.

The CHAIRMAN. By tip allowance you mean that he doesn't have to turn in the amount of the actual tips, but we assume that he got 35 percent?

Mr. DENT. That is right. In other words, it doesn't put the employer in a position of being a watchdog or mingling his own—moving into the business of having a personal report on tips from the employee. He automatically takes up to 35 percent of the minimum wage under the first dollar of minimum and says, for example, that 35 percent is allowable for a tip and 65 percent is what he has to make up the payroll for.

The CHAIRMAN. Does that apply to all restaurants?

Mr. DENT. Yes, sir, all across the board.

The CHAIRMAN. What was this you were saying the other day about in some restaurants, in the hifalutin kind, that the waiters, instead of getting paid, pay the restaurant owner.

Mr. DENT. We have many restaurants in the United States, especially in the honky-tonk belt and so on, where they get paid absolutely nothing from the employer, and depend entirely upon the tips that they receive.

Now, under our new social security laws, they do turn in their tips for their own social security increase, and also under the law they pay income tax on the amount of tip. But it is entirely a matter of personal reporting, and not the reporting on the part of the employer.

Now, under the Roosevelt bill, while they could have gone to a higher percentage of tip allowance towards the minimum wage, it was set up in such a way that the Secretary of Labor became virtually a czar over the setting of wages within an area.

He would come into an area, and at that point he was to take a sampling of the tips received by waitresses and waiters, and then get an average and allow that average, and that would have been an automatic allowance to all restaurants.

Now, it might have been 15 percent, it might have been 5 percent, it might have been 20 percent, it might have been 50 percent.

However, in that particular arrangement, there was no—absolutely no protection for the employee who worked in a place where the tip was lower than the average allowed by the Secretary, nor was it any gain for the employer who had employees that earned a great deal more than an average set by the Secretary. And it was on this ground that we were able to sit down and work out and negotiate a proposal that was accepted in the main by the responsible leaders of the industry—because it is fair in that across the board it compels all employers to pay something toward the employment of their people, and it also gives the employee who happens to work in a place where tips are not considered a part of the customer habit an opportunity to appeal if he doesn't receive the credited percentage.

But, Mr. Chairman, in Pennsylvania we have had this program, only it is based on 35 cents, which is not equitable in my opinion, because a percentage is much more equitable.

However, in Pennsylvania it has worked well. There are no complaints; there are no cases in court. And it happens that it has been more or less the pattern of our agreement.

The CHAIRMAN. Mr. Latta?

Mr. LATTA. Perhaps this question is outdated, because kids don't do this any more, but when I was in college, I worked my way through school. I worked in restaurants and so forth. If there are still some kids who are working their way through school, I wonder how this might apply to those who work in restaurants. Are they covered? Are they going to get $1.40, and then $1.60 an hour?

Mr. DENT. They work under the students' provision of the act and will get 85 percent of the minimum, established statutory minimum.

In other words, they would start at 85 cents, and then 35 percent of that would still be a tip allowance.

Mr. LATTA. How is this going to be determined when you work for your meals?

Mr. DENT. The meal allowance—the meal allowance is absolutely a legitimate deduction by the employer.

Mr. LATTA. How is it determined for a college student who goes in and only works for his meals.

Mr. DENT. Well, how many hours did you work?

Mr. LATTA. Say I eat steaks.

Mr. DENT. Then you were paid your hours. I don't know that a college boy could work for his meal if he only works an hour and get any less than what the minimum wage would be, unless they are serving awfully bad meals.

Mr. LATTA. He could not come against the employer and say he was not paying a minimum wage if he was paying meals?

Mr. DENT. We have never had the problem arise.

Mr. LATTA. We never had them covered before either.

Mr. DENT. We have had them covered in certain States, and the problem has not arisen.

Mr. LATTA. This is not going to cause any problem.

Mr. DENT. I don't anticipate any problem at all on that basis, none at all.

Mr. O'NEILL. I am curious about that. My son worked in a hotel last year, where you paid $60 a month, and that was for your room and board, and you worked—it was strictly on tips. You were paid no salary. He didn't do too badly. He averaged $90 a week at the end of the summer. How does that affect the seasonal operations?

Mr. DENT. The seasonal resorts are exempt on overtime, but they are not exempted on the hourly base.

And, incidentally, in most of those cases, if he was only getting $60 room and board allowance, what happens is—and that is what has happened under our law—they will probably establish a statewide—Mr. Martin, I believe, is asking for an amendment that any allowances of that type for room and board and services rendered by the employer, we would accept the State allowance set up by State, with the approval of the Secretary of Labor.

Now, in your patricular case, there are many of the summer resort hotels that have these programs, where they have the kids come in. But I don't know—what did you say they pay him a month?

Mr. O'NEILL. He had to pay $15 a week. That was for his room and board. Then what he made was his own, in tips. He kept his tips, and at the end of the month he paid $60, or $15 a week. The hotel owned the house that they stayed in.

Mr. DENT. You mean he received no pay at all, and he just worked for tips?

Mr. O'NEILL. That is right.

Mr. DENT. What we are trying to do is get away from that.

Mr. BOLLING. He came out pretty well.

Mr. O'NEILL. He put in a terrifically long day. As a matter of fact, when you figured his workweek, he didn't work for any minimum wage.

Mr. DENT. That is one of the serious things that we have had in the entire area of tipped employees. They end up at the age of 65 with no social security. They become wards of the country, and wards of the rest of the taxpayers.

I don't believe that an employer has the right to assume, in my humble opinion, that a person who comes in to buy the services rendered in that establishment has to pay the help that renders the service. It is not an obligation on the part of the diner to come in and pay the waiter or the waitress for waiting on him, other than is included in the price of the meal.

If it is operated on a nationwide basis, it might result in less tips being paid, yes.

Mr. O'NEILL. Last week I had in my office a group from the ADA, and then a further group from the AFL–CIO with regard to this bill. What have you done for the migrant worker?

Mr. DENT. The migrant worker is covered. He will be covered under the provisions of the law that deal with——

Mr. O'NEILL. Well, they tell me the bill you people have in comparison with the Roosevelt bill, that you forgot the migrant worker. What did you do in the bill?

Mr. DENT. The migrant worker is covered by the agricultural provisions of the act.

Mr. O'NEILL. Is there any change in this bill than what was in the Roosevelt bill?

Mr. DENT. Oh, yes, there is some change in this bill, because of the fact that we recognized that you have to cover—you cannot cover a farm that is run strictly on the basis of the mom and pop store type of operation, and that you get into a position where there is one employee on the farm, or two who are year-round farmhands—they are working almost in the same capacity as a member of the family. That is the history of our family-type operation, where they have a house, they are provided not alone with their home to live in, but they are provided with their electricity, and their heating, they get a great deal of their food from the farm itself, they have gardens in which they use the seed and the fertilizer, and everything of the farm. And many times they work them on time.

After exhaustive study, we found that the only type farm that could be covered would be the farm that employs a minimum of 500 man-days in a quarter, and this only comprises about one and six-tenths of 1 percent of the farms in the country, but it covers about 39 percent of all farmworkers in the United States. And they are more or less on the basis of an industrial worker. They work hours, and they work days, and they are paid wages, and they don't get the normal farmhand consideration that is given in your State and in mine, where we have more family-type farms than the so-called industrial-type farms.

We cover the migrant worker, because he is counted in the 500 days. And when you bring migrant workers in, you usually bring in enough of them that you eat up 500 man-days in a quarter in 10 or 12 days of operation, and then that farm is covered for the balance of a year.

Mr. LATTA. What has been the history when you pick out an arbitrary figure like 500 or 500,000; is it that the next session of Congress can come along and say, "We have established this, we might as well cut it down"?

Hasn't this been the history?

Mr. DENT. Sometimes what appears to be an historical pattern is not that at all, because if the demands of the economy are such that what is on the statute book today is not in keeping with the economic needs of either the people or the country or the State, you change the law, and that is why every year Congress goes through this same procedure. The legislatures go through the same procedure. And they do it because—you could not have started, for instance, in 1939 with $1 an hour, so you started with a quarter. You could not start in 1939 with a coverage as vast as and as widespread as this is, because the economy at that time was a different type of economy. From year to year the changes are demanded because of the conditions that come up.

Mr. LATTA. Let's bring it back to the 500 man-hours of the farmer.

Mr. DENT. Man-days.

Mr. LATTA. Man-days.

What will prevent your committee from saying the economic situation has changed 2 years hence, and we ought to bring this down to a hundred man-days?

Mr. DENT. If that is justified, it will be justified by study and conditions, and it will still be the question whether Congress believes that is the case.

Mr. LATTA. How did you arrive at the 500 man-days?

Mr. DENT. Because we took into consideration the types of enterprises that would work that many people, and we find that in that type of an operation, you are in reality in large, big business. When it only comprises one and six-tenths of 1 percent of the over two and a half million farms in the country, I think that we have worked out a fairly decent approach to farm coverage—because sooner or later, as you know, the Committee on Ways and Means is now studying the question of unemployment compensation for farmhands—because that, too, is another area of employment that has to be opened up for high school graduates and some college graduates, or college dropouts in the future, because where are people going to work—outside of running for Congress they need some qualifications.

Mr. LATTA. Does the Department of Agriculture take any position on this? Did they testify in support of this legislation as far as the farmer is concerned?

Mr. DENT. The Department of Agriculture supported the legislation even when it was more stringent, under the Roosevelt bill. The farm section was much more stringent under the Roosevelt bill. And they supported it then.

Mr. MARTIN. We didn't have any testimony from the Department of Agriculture.

Mr. DENT. Yes, we did.

Mr. MARTIN. Who testified?

Mr. DENT. Mr. Freeman, Orville Freeman. He testified under the poverty bill, and in testifying under the poverty bill he endorsed the principle—not only the principle, but endorsed the proposal that the time had come when minimum wages should be paid to farmers. I heard both hearings myself.

And—well, let's put it on the other foot. I know of no protest from the Agriculture Department.

You see, the hearings were held under Jim Roosevelt.

I have only held conversations and consultations with the people affected by going through—in fact, I called in as many as I could of the protestants—I didn't bother with those who were for it.

Mr. LATTA. In this case, in the sense of bringing agricultural workers in for the first time, it seems to me you have to assume they are for it, because they didn't protest—we should have had some testimony.

Mr. DENT. When I am working for the passage of legislation I don't go out and bargain for any trouble.

Mr. LATTA. You are bringing in a lot of people.

Mr. DENT. It is the Department of Agriculture's duty to watch legislation. I know they are well aware of this legislation. If they see legislation that they think is bad and don't come forward, I am not going to call them. I usually put legislation in to pass it.

Mr. LATTA. Did Chairman Cooley testify on this bill?

Mr. DENT. No. He was asked to. Every Member of Congress was asked to testify by letter.

Mr. PEPPER. Mr. Chairman?

The CHAIRMAN. Mr. Pepper.

Mr. PEPPER. Just two or three questions.

Mr. Dent, if I understand it, relative to the migratory labor, if an employer in the previous quarter or quarter of a previous year employed labor for as much as 500 man-days, then that employer has to pay the minimum wage required, which would be $1 an hour.

Mr. DENT. That is right, except under the exceptions in the act which say that if the labor is such that historically and customarily it has handpicked perishable vegetables and fruits and so on, and they work no more than 13 weeks in agriculture for that year, and travel back and forth to their homes daily, they are not counted in the 500 man-days—because you understand the homework.

Mr. PEPPER. Assuming they are what we call real migratory workers. And in Florida—if Florida employs labor of that character for as much as 500 days, in a quarter of a previous year, then the bill applies to that labor.

Mr. DENT. That is right.

Mr. PEPPER. That is, he is required to pay whatever this bill requires him to pay.

Mr. DENT. That is right.

Mr. PEPPER. Now, that is $1 an hour.

Mr. DENT. That is right.

Mr. PEPPER. Do they get overtime under the bill?

Mr. DENT. No; there is no overtime provision in agriculture, there is no overtime provision in the restaurant field, because the committee could not at this time, with the reports that we have and with the statistics at our command—could not justify either industry being covered at this time by overtime.

Mr. PEPPER. Now, one other thing. I was approached by some of the hotel employers in my area, in my district, and they have a contract with the union. The hotel employees are now unionized. They tell me they have a contract under which they pay them 57 cents an hour. That is the minimum that they pay any employee—57 cents an hour.

Now, under this bill—they don't object to paying the minimum wage that this bill requires. They do object to the tipping allowance. They say that the tipping—that the people who make the tips, they would like to be eliminated from having to pay that extra 8 cents an hour, where they pay at the present time 57 cents an hour. They emphasize that they had understood that the purpose of the law was to raise the minimum wage of the people who were getting less than that, and not primarily to raise the wage of the people who were making more than the minimum wage.

Now, all I am asking—I haven't heard from the employees about it, and I would want, of course, to take into account their point of view as well.

But what led the committee to the selection of the figures 35 percent of the required minimum wage would be attributable to tips, would be considered to have been received as tips, for the first 2 years, I believe.

Mr. DENT. Yes.

Mr. PEPPER. And then 40 cents during the third and fourth years—I mean 45 percent thereafter. What led the committee to the selection of those figures?

Mr. DENT. Well, you had one of the reasons—when the employer asked you to consider the fact that he would like to have it higher—or the tips counted in toto, if they could, and then on the other side——

Mr. PEPPER. In this case—40 or 45 percent—they would like 40 or 45 percent attributable instead of 35 percent.

Mr. DENT. When they get to that wage level, they will have it.

Now, on the other end you had the employees, who through their representatives wanted absolutely no tip allowance. They felt that the employer ought to be able to pay the minimum wage, and that the tip allowance was something that they earned because of what they had done, and not because of what the employer had done.

This committee took this position. That both were right, and both were wrong.

In other words, the employer had an obligation to pay a reasonable rate of pay to the employee, and the employee, in gathering tips, had to give some consideration to the fact that the employer had provided him with a stand to work in where tips were available.

Now, the logic behind setting a standard all over the country was based upon the fact that because you happen to have, we said to one man, a restaurant that appeals to or caters to the type of persons who are big spenders, big tippers, many of them on expense accounts—as you know, most expense account fellows will all flow to the more expensive restaurant, because we like to show off to our customers, and we also pay a higher tip because it doesn't come out of our pocket.

Well, now, just because that employer is in that position, the competing employer across the street, who even charges less in most instances for his meals, shouldn't be in the position of competing with this fellow for employment on the basis that he doesn't pay any wage whatsoever, but gets a higher tip, and this fellow has to pay a wage out of his pocket.

There is no—absolutely no ground that is ideal to stand on. But we hope that we have got something where that particular restaurant or hotel that has a high-tipping clientele—he doesn't give a meal for any less. And isn't it the price of the meal and the number of people that come in that determine the question of wages and the question of profit and the question of loss in the business, regardless of where it is standing—on one side of Collins Avenue or the other?

Mr. PEPPER. And you selected these figures because you thought they represented the best——

Mr. DENT. I didn't think so—no, no. We met with the restaurant owners, not once, but many times—as many as would come in. And I want to tell you that many of them came, associations and individuals.

Then we met with the union representatives of the various unions that are operating in this area, the various workers, and we met with individual workers. And out of it all we have come out with this kind of a proposal. And I am happy to say that with those we talked to, they bought it.

Now, one of the complaints on this union contract which you have not expressed, which has come to us, is that one of the larger operators of a very, very large hotel institution has a union contract, and under his union contract he pays overtime, time and a half. And he wants us to write into this legislation a provision prohibiting the paying of overtime, whether he has it in his union contract or not.

My answer to him, and I hope it meets with your approval, was that I didn't think the Congress wanted to get into the field of writing the wage scales for all of the fields of endeavor in the States.

Mr. PEPPER. Certainly not. We want to encourage free collective bargaining rather than discourage it.

Now, one more question. In respect to the agricultural section here that might affect the sugarcane industry in Florida, which is one of our largest and important industries. They tell me—and I used to have rather close association with it when I was in the other body, and I am pretty well aware of the nature of their business—they have heretofore had an exemption. That is under the sugar laws of the country, adopted by Congress, the Secretary of Agriculture fixes the minimum wages that the people in the sugar industry have to pay.

Now, would this supersede that authority? Would that authority no longer exist in the Secretary of Agriculture if this bill were in effect?

Mr. DENT. Yes, it would no longer exist.

The story is very simple. There is only one single process that he has taken jurisdiction over. That is the process when it comes from the canefield and is turned into what is called normally plantation grade sugar—that is not a refining process as such, it is a process of reducing the cane to a substance called sugar. But from there on it goes into the refineries to be refined into whatever grade of sugar or type of sugar it goes into.

Now, from the time it leaves the sugar mill—and in this country, for some reason, they call it a sugar refinery, but usually when I read up on it I found out there are two different types of operation—one is a sugar mill that reduces the cane to a plantation grade sugar, which is not consumable——

Mr. O'NEILL. It is a pulp.

Mr. DENT. It comes out as sugar, but it is a rough brownish white grade. Then they take that, and send it to the refineries to be refined.

Now, the Department of Agriculture has taken jurisdiction only upon that one process, and they allow unlimited hours a day, and unlimited overtime at a wage of 90 cents an hour.

Now, we have evidence that for 22 weeks in this particular industry they work 7 days a week, 12 hours a day, plus 8 hours of overtime—up to as far as 8 hours of overtime 2 and 2 extra days a week. They will absolutely not employ any larger group of employees than what—than what it takes to maintain the operation of that plan during the 20 to 22 weeks. And that employment group has to handle all of the operation. If one person is off or two persons are off or three persons are off or four persons are off. This is evidence given to us. And the employers themselves from your State, and from Louisiana, were up in my office. And amongst the five of them that were there, one of them from Florida admitted that he worked 8 hours a day, admitted that they pay time and a half overtime, and admitted that they pay $1.25 an hour as a minimum.

I say how do you do it? He said we have a union contract.

Well, now, I said, you are all getting the same price for sugar. Sugar at guaranteed—the price of sugar.

So I would say that I don't believe that Congress wants to work is this day and age and Agricultural Department set an 80-hour work-

week. And that is exactly what you have in sugar today, 84 hours a week, steady-diet employment, and compelled to work overtime when an employee is off, at 90 cents an hour. He sets the wage, he sets the time of labor.

Mr. MARTIN. Will the gentleman from Florida yield at this point?

We have sugarbeets in the Midwest, and many other areas of the country.

You were specifically talking about your work in the canefields. The Secretary of Labor makes a determination of what he calls a minimum wage that has to be offered to workers in our beetfields—and I assume it is the same in your canefields.

Now, he has no power under present law to enforce the minimum wage he sets. This is in connection with the bracero program.

For instance, in Nebraska last year it was $1.40. In Colorado it happened to be $1.35. I don't know why a nickel difference, but that was the determination; $1.40 in California, as I recall.

He sets that as a minimum wage that a farmer has to offer someone to work in his sugarbeet fields—weed and thin his beets.

If he cannot get sufficient help after he offers the wage the Secretary has set, the sugarbeet growers may appeal to the Secretary of Labor to bring in braceros from Mexico, or in your area from the Caribbean. This is a different program than we are talking about here in the fair-labor standards. The Secretary will determine whether there is such an extreme labor shortage, after the farmer has offered the minimum wage, and he will consider whether to bring in braceros from Mexico to work in the sugarbeet fields, but he has no power to enforce $1.40 an hour. It is simply set to determine whether or not we have a shortage in the area, and whether he should consider bringing in braceros. As you know, that law expired about a year and a half or so ago.

I assume it is the same in your canefields as what we have in our sugarbeet fields.

Mr. DENT. It is not.

Mr. PEPPER. I have never heard before that Agriculture didn't have authority, or didn't actually enforce, and the industry did not observe the rules laid down by the Secretary of Agriculture.

Mr. DENT. May I at least explain the situation as we found it upon investigation?

What the gentleman says is true. But the purpose of that is entirely different than the purpose of this act. The purpose of that was to try to induce local labor to go out and work in the beetfields. And so the Secretary of Labor—the Secretary of Agriculture establishes—rather, Labor establishes, in conjunction with the Secretary of Agriculture—a minimum wage that they are to offer. And you will note it is much higher than the minimum wage we are trying to establish in this act for the agricultural people.

Now, if they have takers for that particular labor, then they are privileged to bring in outside migrant labor, from outside of the country, the braceros.

But, even then, they have to pay them the wage that they have offered to the local people to take the job.

Now, this is what we learned.

No. 2—your process doesn't—what you are talking about has nothing to do with this particular program whatsoever. It has to do with

crushing the sugarcane in a sugarmill, and producing a grade of sugar that then is sent out to the refineries.

The refineries are all covered. There is no question about the refinery coverage. They are covered.

So this other process is the only one not covered. And it is covered by the Secretary of Agriculture who establishes a wage.

Now, he has been going up 5 cents an hour every year for at least 4 years that I know of, except that he skipped a year on account of some hurricane or some bad weather—he felt that the community could not offer it.

Now, I do not want to say that this prevails in your State on the 72 hours as a normal workweek.

The testimony given to me in my office by a group of these cane-growers was that they work 72 hours a week, 12 hours a day—or 84 hours a week.

Mr. PEPPER. If I may ask you another question or two about that area.

As I understand, under the present law now the minimum wage is fixed by the Secretary of Agriculture as you have just said.

Now, in the processing of the cane crop, when it comes to the mill, and it is processed into the brown sugar, or the first type of sugar that is finally refined, under the present law there is an exemption from overtime.

Mr. DENT. That is right.

Mr. PEPPER. Now, under this bill, that exemption from overtime is modified in what respect?

Mr. DENT. It is now established at 28 weeks, under the old law—the present law. It was established at 28 weeks, years and years and years ago, long before we even thought of walking to the moon or anything else, and long before refrigeration and the many processes of gathering fruit and bringing it in and holding it for canning and for processing were developed. And we have had testimony to show that the overtime period of 28 weeks' allowance, extra overtime, without any penalties, is used when there are no crops in the field at all. It is used in processing when the vegetables or the fruits that are being processed are in bulk storage. They bring them out and process them during times when there aren't any perishable fruits at stake.

So we have cut down the 28-week period to 14 weeks' allowance instead of 28 weeks, with overtime without penalty.

Mr. PEPPER. You mean up to 14 weeks there is not any overtime paid, and above that overtime is one and a half?

Mr. DENT. Because they operate all year. They go into all kinds of canning processes. When they are processing up home now—when they make sauerkraut, they go ahead and work overtime, because they have a vegetable coming in. But when they start making their jellies, they get their juices brought in from up in Michigan in drums, and they just go on to regular production of jellies and preserves, and they use up their overtime.

Mr. PEPPER. Of course that would not be true in the sugarcane industry.

Mr. DENT. But it is true in the jelly——

Mr. PEPPER. They process the cane in the fields and bring it into the mill.

Mr. DENT. I am not adamant in that position.

As you note here, when the cigar growers made a case for the question of how to handle the tobacco in Florida and South Carolina and in Georgia, they proved a case—they proved a case that the so-called small farmer who has maybe a half acre, three-quarters of an acre, an acre, 2 acres of tobacco has to have a place to deposit that tobacco, and so when they take it to the sheds, we had covered them. But we uncovered them, because we found that if we did, we cut the income of the farmer and his family who grew that tobacco, because they had a certain procedure that they followed, turning tobacco—something I learned in looking at this thing—that is really part of the agricultural process. And so we extended the exemption to where the tobacco leaves the drying shed, and so forth.

I am not convinced that it is needed—but, very frankly, I would not oppose—if proof is shown that in the canefields that first process is identical to the process of the tobacco people. But I would not be adamant in a position. But I believe up until this moment I haven't been convinced.

Mr. PEPPER. In other words, if we report this bill out with an open rule, you are in a position to give proper consideration, fair consideration——

Mr. DENT. I was hoping I would get a closed rule.

Mr. PEPPER (continuing). To any amendments that might be offered.

Mr. DENT. Yes, sir; I will consider, as an individual I will absolutely, because no one knows, this is very, very important legislation. It sets a standard that we live by, and it touches into the pocketbooks of all of us, both the receiver of the pay and the man that has to meet it. And I certainly would not be doing my duty at least to myself if I didn't listen to the arguments on reasonable recommendations.

Mr. PEPPER. Thank you, Mr. Chairman. Thank you very much for your kindness and consideration.

The CHAIRMAN. Mr. Dent, I have quite a few questions I want to ask you. This is as good a time as any.

Of course the Roosevelt bill was so rough on the industries that you soon concluded that you could not get by with it, and you are supposed to have softened it up.

Now, on the restaurant proposition, I notice that there is a tip allowance that has been changed from the Roosevelt bill, and the Roosevelt bill allowed an employee a 50 percent tip allowance, and your bill only allows him a 35 percent tip allowance. How come?

Mr. DENT. Simply because, Mr. Chairman, under the Roosevelt bill the 50 percent was just put in there, and it absolutely meant nothing whatsoever, because it could be up to 50 percent if the Secretary of Labor found that in an area 50 percent was the normal tip being received. That cannot be found in any area in the United States. And the tip allowance—the restaurant people themselves opposed that bill bitterly, and so did labor, because it just could not be conceived that in any community that all restaurant workers would receive 50 percent as a tip.

Now, what the large operators thought, Mr. Chairman——

The CHAIRMAN. Now, don't you know that you cannot make any uniform thing that is going to fit every area of this country? You

must know that there are variations in modes and methods of doing business. So that you cannot regiment them into one formula.

Mr. DENT. That is what the Roosevelt bill thought it was doing.

The CHAIRMAN. And that is what you are doing a whole lot too much of. You just cannot do that with these bills.

Now, why don't you leave the 50 percent so that you see how it works?

Mr. DENT. They go to 50 percent.

Now, Mr. Chairman, people have not stopped to consider the arithmetic of this situation.

The CHAIRMAN. A lot of people have been considering this with a great deal of distress.

Mr. DENT. When it goes to 50 percent, they will have reached $1.75 an hour at some future date, and at that time, when they are making $1.75 an hour, they will make 88 cents an hour paid out of the pocket of the employer—from 65 cents. From 65 cents—which they are starting at now, they will go in 6 years, if the program is carried beyond the fifth year—in 6 years they would go up 23 cents, or about 4 cents a year.

Now, that I don't believe is an unreasonable rate of increase.

The CHAIRMAN. Would you resist an amendment to restore the 50 percent?

Mr. DENT. I would resist it because the very people who are supporting this bill, namely, the restaurant owners, and especially the small restaurant owners in the United States, would be against it a hundred percent. Now, we have worked out something that has almost universal approval. And I don't see that we are going to do—all we are doing with the 50 percent thing is giving them a pig in a poke which they will never be able to see, because there will be no districts qualified for 50 percent.

The CHAIRMAN. I will ask you another question.

On the restaurants—how are you going to work these fringe benefits, such as room and board, as Mr. O'Neill spoke of?

Mr. DENT. Room and board. They are very well spelled out, sir. They are very well spelled out.

Wages paid to an employee includes the reasonable cost as determined by the Secretary of Labor—to which I understand Mr. Martin will offer an amendment, which I will be glad to accept—to the employer of furnishing such employee with board, lodging, or other facilities if such board, lodging or other facilities are customarily furnished by such employer.

In other words, meals—the reasonable rate for that meal will be established, as it is now established in States that have the minimum wage law. I believe in Pennsylvania for hotels it is $3 a day that they allow the employee. And when you take $3 a day out of a possible $8 a day, on top of a 35 percent tip allowance, the employer is paying approximately $3.50 for the whole day's work.

They are allowed the tips, they are allowed their board, they are allowed their rooms, they are allowed services such as aprons and things like that, or rather uniforms if they have to buy them themselves.

The CHAIRMAN. All that is taken into consideration?

Mr. DENT. All allowed, sir.

The CHAIRMAN. Well, I am particularly interested in this innovation of putting farm labor under the wage and hour law. That is something that hasn't been attempted before, and it is going to create a great deal of havoc.

First let me ask you this—you say it doesn't apply unless it is 500 days—man-days.

Mr. DENT. A quarter—that is right.

The CHAIRMAN. Now, what is a man-day?

Mr. DENT. Just a 24-hour period on a farm during which an employee may work. Since there is no overtime coverage, it is a 24-hour period on a farm. A man could go out and work in the morning, and a rain come up, and then be kept away from the field 4 or 5 hours, and go back out and work 8 or 9 hours if he got the weather to do it.

The CHAIRMAN. I suppose if it rains all day, and he can't work at all, that is a man-day, too?

Mr. DENT. No. He must work for it to be considered a man-day of labor.

The CHAIRMAN. Now, let's see. I am talking about something that I know about now, and I am getting to the dairy farm.

I figure that means that any farm that employs over five men regularly would come under the law.

Mr. DENT. Well, it would——

The CHAIRMAN. You know, a lot of these farmers haven't had as much scholarly education as you have.

Mr. DENT. I pity them if they have not, sir. I only went to the eighth grade in school.

The CHAIRMAN. Well, you have done some studying about some of these things since. What they have been doing is trying to grub a living out of the ground. And they haven't had much time for books. But it is a very complicated system that you are putting them under.

Now, I happen to know something about dairy farming. And from my observation and experience—you say you are not intending to kill the family farm—that means that a dairy farmer milking a hundred cows a day—and it is not very good economy to try and operate a dairy farm without that minimum—now, he would come under that law, wouldn't he?

Mr. DENT. That isn't the record in my State on a dairy farm with a hundred cows.

The CHAIRMAN. You are trying to fit them all into a straitjacket. And what I am trying to get across to you is that farming operations and methods and means differ from State to State, area to area.

Now, if you are going to put these family farmers under this straitjacket that you are devising here, you are going to create a lot of havoc.

Now, the dairy business, as everybody knows, is pretty well fading out. Milk is a right important part of your food. You can take in my district, which is largely a dairy district, I would say that at least a third of them have gone out of business in the last 10 years, because they could not operate and get along, because they would go broke.

Now, you are going to put this extra burden on them, and that is going to run some more out pretty rapidly.

I want to call your attention to this.

Now, the President's wage formula is no increase of over 3 percent. Of course, this is an increase over the prevailing 3 percent by a good round percentage.

Now, this dairy farmer, you know everything he buys has gone up with this inflation that we have.

I got to thinking when you were talking the other day and wondering, knowing roughly how the price of milk to the farmer was—I asked some people in that business to give me the figures on how much increase the price that the farmer got for his milk.

Now, you folks that pay for it in the bottle—your price has gone up a whole lot in the last 15 years.

Would you think that the dairy farmer, who has to come under this law that you are fixing up for him, is getting less per quart for his milk today than he did in 1950?

I want to put these figures in the record, because you people who don't have to get out on these farms and make a living out of them just don't know the facts about them. And I want to put this in the record.

In 1950 the price of milk to the farmer per hundredweight was $6.23.

In 1955 it went up—it was $6.53. An increase of 30 cents.

In 1960 it dropped to $5.80.

And in 1965, the year just passed, it dropped to $5.58.

And now you are going to slap this unknown burden on them. And you are going to put these people out of business. They are going out of business now. They cannot get the help, even with the prices that you propose to put on them.

But you are regimenting them into a situation where they just cannot operate.

Now, I have been in that business myself, in a way, because I rent my farm. But I know what goes on, and I just know that with the prices that have increased—they have to buy tractors, they have to buy farm machinery. Those prices have gone up every year, and in big strides—everything they buy. And yet you are going to put them under this.

Now, how can you justify that?

Mr. DENT. Mr. Chairman, the question of milk prices—as I know the milk industry from my experience——

The CHAIRMAN. I couldn't hear you.

Mr. DENT. From my own experience and knowledge of the milk industry, I can join you in the criticism of the fact that the farmer's price for milk has not kept pace with the cost to the consumer.

The CHAIRMAN. Let me interrupt you right there.

And yet the government regulates them. It is in a way—the Government treats milk as a public utility. It fixes a maximum price; they are under the jurisdiction of the local authorities where they sell that milk, they are under the health department, they are under the Agriculture Department. And now you are putting them under the regimentation of the Congress.

Mr. DENT. Mr. Chairman, I said that I appreciate the position, because for some 20 years we had a quarrel withour own State, Pennsylvania, which has probably the only remaining State milk control commission in the entire country. And we are now in the middle of a

big hassle with them, because without increasing the price to the farmer. they are increasing the price to the consumer another cent a quart.

Now, the question that we are trying to resolve here is not aimed at the type of farm that normally is in the dairy business, but it is aimed at that type of farm that is driving the little farmer out of business and going into the corporate type farming—with hundreds of cows, completely mechanized, where—if I say this, probably you as an experienced farmer, would say that I am crazy, but I am not crazy, and I am telling you a factual truth—they are now developing their milking programs to where they bring the cows in in shifts one after another. They have certain cows that feed certain hours and milk certain hours, on a large dairy farm.

The CHAIRMAN. And do you know that the Government operation of the milk industry has been such that it has driven it to corporate farming, and you are driving the little fellow out of business every day, and increasing the profits of the corporate farmer? And that is the only way you are going to be able to produce milk in this present economy that you have got—you have to do it on a large scale. The little fellow that owns his farm and has his cows, and get good production, and all that—and it is a family thing—you are going to run him out of business.

Mr. DENT. Maybe some future date—I don't know——

The CHAIRMAN. You are running them out of business now.

Mr. DENT. Not in this particular bill, sir. It is inconceivable to me——

The CHAIRMAN. This is just one added load on them.

Mr. DENT. 1.6 percent of the farms out of two and a half million would be covered by this legislation.

It will not, in my opinion, hit any of the family type operations in the entire country. It will hit that corporate type farmer who has the ability to buy all the innovations, all the machinery, all the latest equipment, and operate as a production unit. They have no family farm connection. Many of them are owned by corporate entities miles away from the farm that never come near it.

The CHAIRMAN. I am talking of the farmer that operates his own farm, or that operates as a tenant, and milks over a hundred cows.

Mr. DENT. He will not be covered or hurt by this legislation in any way, shape, or form, because——

The CHAIRMAN. You say that but——

Mr. DENT. I can only go by the records.

The CHAIRMAN. I have seen my people operate them. And when you get up to a hundred cows, you cannot operate with five men.

Mr. DENT. Well, actually, you get about eight men under this allowance, because there is no hourly limitation, and so they work a full day if they want. And most of them do with the slight shift proposition, or slight hours.

The CHAIRMAN. You hire hands regular by the month or by the year, and you pay them every day, whether it rains or doesn't rain. You have to have them on the job to raise your crops, to feed your cows, and you have to have them there to milk the cows.

Mr. DENT. And they usually have a Sunday to go to church on.

The CHAIRMAN. And you folks who are experimenting with the agricultural economy of this country, and have been experimenting—you just don't know enough about it.

Mr. DENT. Mr. Chairman, I appreciate your concern, and would like to sometimes discuss it on the basis of its problem—the milk industry. Its greatest problem is the division of the milk, the cream separator, as it were. When they pay a farmer so much for grade A milk, so much for powdered milk and surplus milk,and it is all milk out of the same cows; that is where the deterioration of your price comes from, because there is no price control except on consumer milk.

The CHAIRMAN. The figures I gave you were the figures for grade A milk that is consumed at the table.

Mr. DENT. That is right.

The CHAIRMAN. I can give you the figures, also——

Mr. DENT. That is the disastrous part of the story, sir.

The CHAIRMAN. I can give you the figures, and I would like to put them in the record—of the blend price of milk. That is known as the surplus milk.

In 1950, that brought $5.05 a hundred. In 1955, it brought $5.07—went up 2 cents, on a hundred pounds. In 1960, it dropped down to $4.89. And in 1965, it went to $4.93—and it did that because the Government was paying out a lot of money to subsidize the price of the surplus milk, and they are still doing it.

Mr. DENT. That is right, sir. If the farmer was paid on the basis of all milk delivered at the grade A price, which is exactly what the milk is, it is all out of the same cattle, it is all out of the same cans, and it goes out, but then he is paid a different price depending upon the number of quarts sold in the consumer industry. And if one farmer happens to be selling to a dairy that concentrates mostly on manufactured milk products, he gets a lot less for his total milk than the fellow who happens to be in an area where they have a great number of residential consumers.

That is one of the parts that I could never understand about the bill and never will understand.

But that has nothing to do with this legislation. I think it is an area that needs quite a bit of looking into. We in Pennsylvania have a milk commission and we are not satisfied——

The CHAIRMAN. Don't look into it any more, because you have pretty near ruined us now.

Mr. DENT. I am sorry—I didn't have too much to do with that.

But I do believe the time has come for the necessity of having some kind of coverage under Federal law for the type of agricultural pursuit that was practically unknown a little more than a decade ago. We are now in the midst of a new type of agricultural operation that needs this kind of legislation, because of the fact that while we talk about him leaving the farm, if this country is to survive, many will have to return to the farm. And they won't return so long as they go out and work in a corporate type entity, which you admit will be the only type entity one of these days—I don't approve of it, but there is nothing I can do about it—and if we don't have some protection for them going out there, they will be working the same as what they get paid on your farm or my farm, but they won't have the fringe benefits they get on my farm or your farm. They will only get the same little pittance of

pay, but they won't get the fringe benefits—the free foods, the garden patch, their housing, electric lights, or anything else. That is the problem.

The CHAIRMAN. You figure to bring us into an awful shape, don't you?

Mr. DENT. I hope not. I am hoping that we are going to try to equalize the opportunity for a small farm to compete with a large farm.

The CHAIRMAN. This bill won't do it.

Now, just one more thing—and I am sorry to have taken up so much time. But this thing is of vital importance to the farmers, the kind of farmers that we need to keep on the farm.

Mr. DENT. I take it very seriously, sir.

The CHAIRMAN. You can do anything you want to the corporate farmers. But I want to ask you about the fringe benefits on the farm. Tell me about that.

Mr. DENT. They are allowed the same exactly—any fringe benefits normally and customarily given is part of the wage under this law. And if the farmer gives a half a beef——

The CHAIRMAN. How many farmers do you reckon know what is customarily given in California or somewhere else?

Mr. DENT. That is their own State, and that will be set up by the Secretary. It will not be nationwide. They won't take a Virginia farmhand and say—"Now, you are allowed a ham at Eastertime, or you are allowed a half a beef or a whole hog when we butcher," and say in California we are going to give them the same allowance, because they have a different type of job maintenance and fringe benefits. They have different kinds of conditions.

The CHAIRMAN. Suppose some bureaucrat here in Washington determines how many hogs you are going to give them, how much milk, flour, meat——

Mr. DENT. We are hoping that Mr. Martin's amendment might get some support from you gentlemen.

The CHAIRMAN. Do you favor his amendment?

Mr. DENT. Well, whether I favor it or not, I am going to support it.

The CHAIRMAN. What does that mean?

Mr. DENT. If you think long enough, you will know. I think that it has merit to it, if that is the condition.

The CHAIRMAN. Let's take the ordinary fringe benefits that will pertain on a farm, say, in Loudoun County, Va. A man gets his house. He gets his fuel. He gets his water supply; he gets his electricity for whatever he wants to do with it. He gets a liberal supply of milk daily. All of those things, if he was doing that here in Washington, would pretty well consume his wages.

Now, how is he going to figure out how much each one of those is?

Now, remember, he may not have gone to college.

Mr. DENT. He doesn't have to figure.

The CHAIRMAN. And he may not—some of the best tenants I have had on my farm could not read or write.

Now, how is he going to figure all that out?

Mr. DENT. He doesn't have to figure that out, sir, because it is established under this law by the Secretary of Labor.

The CHAIRMAN. The Secretary of Labor is going to decide it.

Mr. DENT. If the amendment goes through, it will be established by probably the State department of agriculture or their secretary of

labor as approved by the national Secretary of Labor. It has to be done somewhere.

For instance, Mr. Smith, while you give the milk and they give them their housing and they give them their tendency on the farm, there are other areas that do it in completely different fashion.

The CHAIRMAN. I will give you a specific example.

How do you reckon they would figure out what the fringe benefit is worth? He is given a piece of ground, say an acre, or half an acre, and he is given the time to plow that ground up and plant every kind of vegetable that he wants to plant, and raise his vegetables, many of them he can can and put in a deep freeze. And he is furnished the fertilizer to fertilize that garden. And then from time to time he is furnished the time to work that garden, plant it, plow it, weed it, work it, harvest it.

Now, let's figure that up now. What do you reckon that would be worth?

Mr. DENT. Well, in the case you are talking about——

The CHAIRMAN. Now——

Mr. DENT (continuing). He is not covered by the law.

The CHAIRMAN. You tell me you have milked a cow.

Mr. DENT. Yes, I have.

The CHAIRMAN. I don't question that.

Mr. MADDEN. I am going to question that.

The CHAIRMAN. You say you milked a cow once.

Mr. MADDEN. I have. But he lived in the age of milking machines.

Mr. DENT. Is that right? You compliment me very much, sir. You probably don't even know my age.

Mr. MADDEN. When I milked cows, we didn't have milking machines.

Mr. DENT. I tell you that threescore years ago they didn't have it either, and I was around.

The CHAIRMAN. See if I have this right. Take this garden, and the time he gets, and the seed he is given in many instances. I know that the bill came through from my tenants the other day for $35 for seed potatoes. That was one item.

Now, add all that up and tell me how much can the farmer say he will get allowed on this wage business for just the garden?

Mr. DENT. Do you have any farms in the State of Virginia where seven or eight tenant farmers are on the same farm, getting the benefits you are talking about?

The CHAIRMAN. No.

Mr. DENT. That is exactly what the bill does. It doesn't cover that farmer you are talking about. We took that into consideration on the basis of——

The CHAIRMAN. That is not the kind of farmer I am talking about. I am talking about the tenant farmer who milks a hundred cows, and raises the feed to feed them.

Mr. DENT. All right. But he doesn't get 500 man-days in a quarter. He cannot possibly, or he would have to have all these men—they don't all live on the farm. If he has four that don't live on the farm, and five that do, and he gets 500 man-days, he pays them the same consideration that he pays the ones that don't live on the farm, deducting those items that he gives them.

The CHAIRMAN. Well, I figure that if he employs day in and day out five men, and just remember—what are you going to do about Sunday? He has to go to town on Sunday. That is 6 days a week. And as I figure it—and I have not seen any figures that contradicted that—if a man has a hundred cows, it is going to take him at least five men, and in some seasons he has to have extra help.

I want to know how much he is going to get allowed for that garden and the time and the fertilizer and the seed and all the rest of it—when he goes to figure out what wages he has to pay.

Mr. DENT. I would assume that the Secretary of Labor——

The CHAIRMAN. He is going to have to have another man now, a man to do the bookkeeping.

Mr. DENT. I don't think so. But the Secretary of Labor, we presume, is an intelligent person, and he has already set these kind of standards in many, many diversified industries. Allowances of all kinds are given, and they all have to be based upon facts.

Now, what does he do? He comes into your area and finds out what the normal rent is, he finds out the normal meal cost, he finds out what the cost of living is. And he knows that from statistics he has now. And if this man works on your farm and he is getting his housing and his power, there is an absolute figure that can be determined as to what that is, and how much it is worth.

The CHAIRMAN. You are assuming, though, that that is going to be taken away in your bill from the Secretary of Labor.

Mr. DENT. I am not assuming any such thing.

The CHAIRMAN. And given to the local authorities.

Mr. DENT. I am not assuming; I am working on the basis that the Secretary of Labor is doing it, and if there is an amendment to this where he still has to approve it, I would approve that. But I don't say that even a secretary of labor in a State won't have the ability to figure out the cost of fringes. We figure them every day.

The CHAIRMAN. These people that created so much havoc in Washington——

Mr. DENT. Well, if your State secretary, either of labor or agriculture, but I imagine Mr. Martin has in mind the secretary of labor—if he establishes an allowance for fringe benefits, as we call them, certainly that would be in keeping with the cost of the food and the cost of the fringes as they are given to the employee. And even the Secretary of labor would have to go in and discuss it with local people, and find out what it is.

I know of no other way to handle it. I don't know of any other way that you can give the farmer credit, the same as we give a restaurant or a hotel owner credit for the services and the meals and things that he gives to his employees.

The CHAIRMAN. How much additional will the farmer have to have for these snoopers who go around?

Mr. DENT. We cut that Department a great deal by taking the Secretary of Labor out of the province of establishing the tip allowance, which you appeared not to agree with—we took him out of that, removed him from that authority, and allowed it to become a national base.

The CHAIRMAN. It is mighty hard for me to find anything that I agree with that regiments the American people further.

Anybody else have any questions?

Mr. MARTIN. You said you had a telegram from the restaurant association in Omaha. Who signed that telegram?

Mr. DENT. A telegram from Pennsylvania—a letter from your State. It is here. We got letters in support. There are a few people for the bill.

While we are waiting for that, you might be interested in this from the State of Louisiana. They were up, and they came up absolutely opposed to the legislation. Now, they not only approve it, but sent us a letter of thank you for the way we treated them, in explaining it to them, and taking the time to do it, and they went away from here satisfied that the legislation was fair.

It is here all right—it is either here or in our files, because it was read to me over the phone while I was in the hospital.

Mr. MARTIN. You don't have it?

Mr. DENT. We will get it. It is here—we have it somewhere.

Mr. MARTIN. You will give me that information?

Mr. DENT. Yes.

Mr. MARTIN. I would like to ask you a question further in regard to agricultural workers.

We have this situation—and I am sure it is true in other areas in the Midwest. The seed corn is raised under written contract between the seed company and the farmer. The seed is provided by the seed company.

All of the corn harvested belongs to the seed company, under the contract. The farmer does the planting, the cultivating, the irrigating, and so forth.

The seed company employees go out to the fields in July, when the tassels come and detassel the corn. It is planted in male and female rows.

These teenagers, ages 16 to 18, are working for and are paid by the seed company, not the farmer. They are working on the farm.

Are these people going to be counted under the 500 man-days per quarter?

Mr. DENT. They are local help?

Mr. MARTIN. Yes. It is not piecework, however. They are paid by the hour. They are local teenagers. Are they covered by the bill you have brought here today?

Mr. DENT. Yes. They will be counted.

Mr. MARTIN. I am asking specifically about this case, to clearly show the committee's intent. I want to know where in the bill or the act they would be exempt.

Mr. DENT. They are covered as so-called harvest workers. They are harvesting. What are they harvesting? They are harvesting a tassel. What else would you call it?

Mr. MARTIN. Where are the provisions in this bill that cover harvest workers?

Mr. DENT. It is covered right under the agricultural provision. Agricultural employees, page 34, where we say an individual is employed by an employer, engaged in agriculture—such individual is employed as hand harvest laborer, and is paid on a piece rate base on an operation which has been and is customarily and generally recognized as having been paid on a piecework basis, or commutes

daily from his permanent residence to the farm on which he is employed, or has been employed in agriculture less than 13 weeks during the preceding calendar year.

Mr. MARTIN. These people don't qualify under those provisions. They are paid on an hourly basis.

Mr. DENT. That is correct.

Mr. MARTIN. You have an "and" in there. They have to meet all three tests, or they don't come under these provisions.

Mr. DENT. You and I discussed this very thoroughly in committee. You offered an amendment to put the word "or" in, and I accepted the amendment, but the committee would not go along. I believe that your position was sound then, and I believe it now. And I would take the same position on the floor, as I have told you before. But I cannot give the committee here—I am just, as Mr. Smith—just a chairman. He can propose, and he can state his position on a bill, but it takes the vote of the committee to write the bill. I don't think that you and I need to belabor the point, because we are in agreement on it.

Mr. MARTIN. Well, we are in agreement, if the bill is enacted as now written—we are not going to have an exemption. How did the Department of Labor arrive at the coverage figure of 480,000 in agriculture?

Mr. DENT. They did it on the basis of a survey.

Mr. MARTIN. When was the survey made?

Mr. DENT. It was made in May of 1965.

Mr. MARTIN. Based on 1965 labor statistics on the farm?

Mr. DENT. Based upon the result of that, plus the continuing reports as related to the month of May on the ups and downs for the other 11 months.

Mr. MARTIN. May is not a peak month in agricultural employment.

Mr. DENT. That is why they took May. They calculated that, too. That is the first thing that I questioned. I said, why would you pick the month of May. They said—well, it was picked, that is all we know, and we have carried it on into the peak periods as well as the low periods. They know how many people are working on the farm today, if you call them.

Mr. MARTIN. How did they make the survey?

Mr. DENT. I would not know. I am not over there. I have enough trouble tracing my own staff, let alone watching theirs. I can't tell you how they make their surveys.

Mr. MARTIN. I don't think you have told us how much time you requested on this bill.

Mr. DENT. Well, personally I would say that the bill could—it is pretty well known, its contents have been given publicity, the members themselves, many, many of them have talked to committee members, to myself, are pretty well acquainted with it.

I would like to ask for a limit of 4 hours on the debate.

Mr. MARTIN. And an open rule.

Mr. DENT. I would not request an open rule. I can imagine I am going to get it.

The CHAIRMAN. I didn't understand that.

Mr. DENT. Four hours.

The CHAIRMAN. What did you say about an open rule?

Mr. DENT. I said I would not request an open rule. I imagine the committee——

The CHAIRMAN. What do you request?

Mr. DENT. Well,——

The CHAIRMAN. What would you like to have? There isn't any secret about it, is there?

Mr. DENT. No, I would like to have some kind of a limited rule. But I don't expect to get that. I am a man that likes to get legislation passed, Mr. Smith, and if I can get a closed rule, I would ask for it. I know I cannot get it. But whatever rule this committee feels would be best for the legislation in your opinion, that is what I will take.

The CHAIRMAN. I am not thinking about what is best for it.

Mr. DENT. That is one point you and I disagree on. I am.

Mr. MARTIN. Let me ask you another question——

Mr. DENT. I would like to ask for 4 hours, sir, if it is all right.

Mr. MARTIN. Let me ask another question. We have a great many farmers in this country, tenants, sharecroppers, who work on a percentage of the crop. They don't get paid on an hourly base. They get paid on a percentage of the crop produced, on what is sold at the market.

Mr. DENT. We have not changed that at all. Here is what it says,——

Mr. MARTIN. Let me finish.

Say you have a farm with a group of sharecroppers under one ownership, one base operation, and the total number of man-days exceeds the 500 limit. These people are sharecroppers, operating on a percentage of the crop; they don't keep track of the number of hours they work, or the number of days they work, and they don't get their money until the end of the year when the crop is sold.

How are you going to make a determination in regard to the minimum wage in that case? You have got some real complex problems there.

Mr. DENT. Well, the law is very clear that we are dealing with the employer, and if you will read the report as it is now you will find when they talk about the question of certain sharecroppers and tenant farmers they say:

> The test of coverage for these persons will be the same test that is applied to determine whether any other person is an employee or not. Employer, employee, and employ, are all defined terms in the act. Coverage is intended in the case of certain so-called sharecroppers or tenants whose work activities are closely guided by the landowner or his agent. These individuals, called sharecroppers and tenants, are employees by another name. Their work is closely directed; discretion is nonexistent. True independent-contractor sharecroppers or tenant farmers will not be covered; they are not employees.

Where they do their own selection of work—they are truly in contractual agreement with an employer, and they are not employees of that farmer.

Mr. MARTIN. The owner of the farm has control as to when the crop is planted and harvested. It is traditional in this country that many of these people work on a percentage of the crop itself.

Mr. DENT. Where they work on a contract, I believe the law is now clear—and there have never been any problems on it to date.

Mr. MARTIN. Yes. But you haven't gone into agricultural coverage under fair labor standards before. I think you are opening up a very serious problem. It is going to be difficult to determine.

Mr. DENT. Well, I am hoping it doesn't create the trouble.

Mr. MARTIN. That is all.

Mr. QUILLEN. I have a situation in my district, and I am sure it is common over the United States, where area crop canneries are located—a similar situation that Mr. Pepper has in his cane processing areas.

One of my counties is one of the largest bean producers in the United States.

The CHAIRMAN. Beans, did you say?

Mr. QUILLEN. Yes, sir; green beans. We have some fine canneries. Under the law now, there are two 14-week exemptions. I would like to see something worked out on perishable commodities, so that when these beans are ready for harvesting the canneries can take care of them, or when corn is ripe, the corn can be processed.

I am talking entirely about perishable commodities.

Would you accept an amendment to reinstate the same provisions now on perishable commodities alone?

Mr. DENT. The history of the situation doesn't merit a 28-week exemption, because there are no harvesting seasons extending over that period.

You are talking about harvesting season extending 6 months out of the year in any given area of this country. It just is not so. There isn't any fruit or vegetable that carries on the tree or on the vine for a period of longer than 5 or 6 weeks at any time, or any instance of it, except sugarcane. You have no bean crop that comes in harvest and extends over 14 weeks.

Mr. QUILLEN. No. But you plant beans at different times.

Mr. DENT. That is right. And it covers a 3-month period at the most of harvesting beans. That is all the ripening season you have.

Mr. QUILLEN. Not according to my canneries.

Mr. DENT. These are the facts we got through the Department.

Mr. QUILLEN. That is wrong, I would say, because it was not presented that way to me by my growers. Now the bean farmers are getting concerned because they are down in the hills—they don't have the transportation that you have in Pennsylvania.

Mr. DENT. I understand that very thoroughly. And I asked that question.

Mr. QUILLEN. It is beginning to be a critical thing. And I don't know why—let's get together and see if we can work it out.

Mr. DENT. Absolutely. The fight was always led by the large canners who do canning all year round on vegetables brought in by the truckload from far distances, by railroad car and everything else. But the actual amendment was offered in the first instance for the perishable fruits and vegetables. But it has been bastardized from that time by the regular canneries.

Mr. QUILLEN. That is true. Under the present law, they are allowed 56 hours a week.

Mr. DENT. We are cutting it down to 48, altogether.

Mr. QUILLEN. If we could work out an amendment that would apply only to perishable commodities it would be a big help. You don't want to do violence to any area of the country.

Mr. DENT. I shall be happy to discuss it with you at your convenience.

Mr. QUILLEN. That is fair enough.

The CHAIRMAN. Now, is that all?

Unless something turns up to prevent it, we will be back tomorrow. I think everybody has asked as much as they can think of, Mr. Dent.

Mr. DENT. Mr. Chairman, are you asking me to come back again tomorrow?

The CHAIRMAN. No. I say I think they have asked you all they have.

Mr. DENT. If I am not needed, Mr. Chairman, I am having a series of treatments on a little ailment I have, and I was going to go back home. But if I am wanted tomorrow, I will be here.

The CHAIRMAN. No, I don't think so. That is up to you.

Let me ask you something else. Are there any other witnesses for the bill?

Mr. DENT. No one has asked to be heard, sir.

Mr. BOLLING. How many witnesses do we have against the bill?

Mr. DENT. If I remember rightly, Mr. Goodell voted for the bill in committee.

The CHAIRMAN. Mr. Goodell is going to be a witness for the bill?

Mr. DENT. I only know how he voted in committee. He voted for the bill.

And Mr. Bell was a cosponsor of the bill.

The CHAIRMAN. Will you get word to them to be here tomorrow, please?

Mr. DENT. Yes, sir, I will, sir.

Is there anybody else you want me to contact?

Thank you, Mr. Chairman, very kindly.

(Whereupon, at 12:15 p.m., the committee recessed, to reconvene at 10:30 a.m., Wednesday, April 20, 1966.)

(The following material was subsequently submitted.)

STATEMENT BY REPRESENTATIVE ROBERT T. ASHMORE ON THE SUBJECT OF H.R. 13712 (MINIMUM WAGE-HOUR AMENDMENTS TO THE FAIR LABOR STANDARDS ACT)

Mr. Chairman, I appreciate the opportunity to present my views on H.R. 13712 in particular, and in general on the effects of a minimum wage and hour increase. From the beginning, I hope that it is clear to the committee that passage of this legislation is highly inadvisable. I say this not because I have any desire to impede the financial progress of any working group, but because the economic detriment to one particular area of the country will be so great that it will cause the wholesale destruction of some businesses and will have deleterious effects on the general economy in that area.

The area which will be most adversely affected is the South. I have been told by some who favor the legislation that this is exactly the reason for an attempt to include categories of persons under the minimum wage and hour standards who have formerly not been covered. If this is true, and the proponents of the bill have introduced it in good faith believing it will be efficacious, I would like to point out that this is erroneous judgment. The effect is going to be just the opposite. If on the other hand, some who are pressuring for the bill's passage are doing so in an attempt to wreck the economy of the South and destroy competition for selfish economic reasons, then I can assure you they will achieve that goal with passage of the bill. This is not to say that once laundries, hotels, restaurants, and other similar activities have closed their doors and gone out of business, there will not be others to take their places. However, I am thinking of the interim period when unemployment figures skyrocket due to the shutdown of these establishments and management begins to look around for other sources of income. I have heard much in the past few years about legislation designed to eradicate prejudice, but I can think of no better example of prejudice than this current proposal which is before you for consideration. It is as prejudicial as any I have known to the interests and the economy of this particular area of the country.

I know personally that certain employers in my State, South Carolina, have been looking for ways to offset the tremendous burden which the increase would cause. They have had research done to see whether shorter employee hours coupled with passing the costs on to customers would allow them to stay in business. But cuts in hours and increases in prices would have the immediate effect of driving customers away. So this is not a very tenable solution. And this is what is going to happen to the types of businesses covered by the bill.

May I remind you of another factor at this point. The bill provides for a minimum wage for those already covered under the present law of $1.40 an hour beginning February 1, 1967, and increases this to $1.60 an hour beginning February 1, 1968. The new categories to be covered begin with a minimum of $1 an hour gradually rising at the rate of 15 cents an hour each year from February 1, 1967, until it reaches the $1.60 an hour level in February 1, 1971. Not included in this increase is a burden to employers that is not much discussed by proponents of the bill. This is the question of where to obtain the funds to pay social security and unemployment compensation increases. You know, I am sure, that the employer is taxed for payment of social security and unemployment compensation according to the amount he pays in salary. If the salary increases, so do his costs increase in order to meet the requirements of the law to pay social security and unemployment compensation. Taking the example of an employee who received tips in addition to salary, the social security withholding is currently 4.2 percent (and this will rise higher) ; the unemployment compensation withholding is based upon gross salary; and all tipped employees must report exact tip earnings under the new medicare provisions of the recently passed social security amendments. So you see, the simplicity of a minimum wage is not so simple after all.

Now I would like to give you some pertinent statistics on one industry as an illustration of what will happen if this bill passes. The restaurant industry has recently run a nationwide survey and has collected some salient facts. I believe this industry is particularly representative of what will result from passage of the bill. Within the industry are tipped employees, nonsupervisory personnel, and semiskilled and nonskilled workers who will be affected by the legislation.

The study, conducted by a reputable private research firm, shows that the greatest impact of the minimum wage amendments will be felt by the South. Let us remember that the major reason for the disparity is that in many areas the local costs and standards of living are much higher already.

In 1967, the bill, H.R. 13712, would require wage increases for only about 1,000 nonsupervisory restaurant employees in the West. In the same employee category in the South, 53,042 employees would be affected. In 1967, 120 waiters and waitresses in the Northeast would get increases. Waiters and waitresses in the West would not affected at all. Yet the South would have 21,220 employees falling under the provisions of the bill. In the north-central region, only 2,112 such employees would get raises.

Next, considering 1967 with a $1 minimum, and considering the nonsupervisory employees requiring increases as 100 percent, only 3.8 percent of those affected are in the Northeast; 81.8 percent are in the South. This is more than four of every five employees affected.

Considered in terms of dollars required to meet the new minimum requirements, the blow again falls most heavily on the South. All affected employers together in the Northeast face a total wage increase in 1967 of $302,000. In the West, a cost increase of $184,000 is expected. The bill to the South in 1967 will be $13,494,000.

Mr. Chairman, as only one Member from the South, I do not expect to have a great deal of influence on the final results of passage or defeat of this bill. It should not receive a rule until the entire bleak picture of the ensuing economic effects upon the South are reevaluated. I hope that these factors will be taken into consideration, even though I am certain some have already determined to carry this legislation through to that result regardless of the consequences. I can only say that conscience must be the guide, and I could not vote for such a bill and expect to rest peacefully at night.

Again, I thank you for the opportunity to present these facts to the committee.

STATEMENT OF SANTIAGO POLANCO-ABREU BEFORE THE GENERAL SUBCOMMITTEE ON LABOR WITH REFERENCE TO AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Mr. Chairman, I thank the subcommittee for providing me with the opportunity to appear here this morning to express views concerning amendments to the Fair Labor Standards Act. I wish also to commend the subcommittee for its dedicated efforts in behalf of labor.

The matter before you is intimately related to Puerto Rico's economic development. The two cannot be separated. Let me first say the Commonwealth of Puerto Rico is in complete agreement with the underlying purposes of the proposed amendments to the Fair Labor Standard Act. We favor raising wages on the U.S. mainland and in Puerto Rico, as fast as economic conditions willl permit. The Commonwealth's wage policy is clearly and succinctly expressed in the following language from its own Minimum Wage Act: "As rapidly as possible eliminate substandard working conditions in industries; promote living, health, and safety standards for workers; step up the development of agriculture, industry, and business in Puerto Rico, eliminate unfair competition and achieve the highest possible wage compatible with such development without substantially curtailing employment or impairing the opportunities to obtain the highest wages." The act further states that it is the steadfast policy of the Commonwealth "to maintain the necessary flexibility in the fixing of minimum wages so as to insure for the workers the highest wage that the economic conditions of the industry will permit * * *."

The economic gains by Puerto Rico, whether measured over the past 5, 10, 15 or 25 years, have been spectacular by any standards. Ever since 1941, the people of Puerto Rico have been energetically engaged in a massive effort to foster economic growth. In these efforts, we have been generally successful, much to our pride and that of the United States as a whole. The people of the world are interested in what we have been doing and accomplishing. Thousands have come to the Commonwealth under the exchange programs to examine, at first hand, this dramatic example of sustained progress within the framework of the democratic institutions that we mutually champion. The realization of this progress could not have been possible without the enlightened understanding of the U.S. Congress and of the several U.S. administrations.

Today, however, the Puerto Rican people are becoming increasingly conscious of certain harsh realities:

That their per-capita income, at $960, is still but three-fifths that of Mississippi, the lowest per-capita income State;

That two out of every five Puerto Rican families are still below the threshold income of $2,000 established by the Government of Puerto Rico in 1952—a level which is a thousand dollars below the minimum family income level established under the Federal anti-poverty program;

That 11 percent of our labor force is unemployed, nearly three times the national average, and an additional 24 percent is underemployed with less than 35 hours of work per week; and

That the Commonwealth's industralization program, which has been the essential dynamo behind the economic growth during the past 15 years, is currently facing a number of challenges which pose threats not only to the island's future potential development, but also to the achievements registered to date.

One of the most serious threats to our industrialization effort—the main object of which has been the creation of sufficient jobs for our people—is the legislation currently under your consideration, which would remove the historical, flexible approach to setting minimum wage rates in Puerto Rico.

We have found through experience that inflexible extension of the Federal minimum wage statute to Puerto Rico simply does not work, and we bear in mind that the law is intended to help the working man, not hurt him. Congress has long recognized that Puerto Rico's development would be stunted by imposing upon it the identical minimum wages of the U.S. economy, the most highly industralized in the world. Conversely, our workers would be harmed by holding minimum wages at the level of the least-developed industries. Rather, it is essential to set minimum wages to meet the realities of the situation, individually for each industry, based on economic studies, at the level which each industry is individually capable of paying. Such has been the policy of both the Congress and the Commonwealth.

Since 1940, minimum wages in Puerto Rico have been set through a flexible system of industrial committees, named by the U.S. Secretary of Labor, in which

labor, management and the public have been represented. These committees, after careful economic study and full, public hearings, recommend the highest minimum wage which each industry is capable of absorbing. This is the policy which the bill now before you would revoke.

It must be obvious to anyone, who may take more than a superficial glance, that the proposed legislation would cause a serious disruption to Puerto Rico's economic development. It would force upon an economy still in the process of development a wage policy prevalent in and appropriate to a fully-developed economy. It would reverse the sensible, practicable policy of a flexible, workable system adopted by Congress and the Commonwealth. Those who would be most seriously affected by this change would be the workers of Puerto Rico, themselves. A wage increase which destroys jobs is no increase at all. It would amount to an assault against the very foundation of the workers welfare: against their jobs. And it would be felt at the dinner table.

Former Governor Muñoz-Marin stated several years ago, "unemployment has a lower salary than the lowest of salaries." He further observed at that time in stating our Government's philosophy with regard to wages in Puerto Rico, "the goal of this Government is not to include cheap labor as an incentive. This Government does not believe that paradoxically richness should be based on hunger. Richness, which is derived from hunger, is enjoyed only by those who acquire it. Hunger salaries should not be held out as an incentive to Puerto Rico's industrialization. It should also be noted that fixing salaries in an industry on a higher scale than its production works unwittingly in actually cutting all salaries in that industry."

This statement is significant in light of the often misunderstood or misinterpreted efforts of Puerto Rico to advance its economic well-being through attracting industrial investment from beyond its shores, principally from the U.S. mainland. In industrializing, Puerto Rico's policy is to create brandnew industrial activity and to build on that base. Throughout the years, Puerto Rico's spokesmen have made it clear that Puerto Rico neither seeks nor will shelter runaway industries from any State. We seek only a modest share of the annual expansion of U.S. industrial capital.

But in this effort we will not deprive our workers of their labor's just rewards, nor could we ever trade on the misery of our people in order to gain a position of competitive leverage.

Testimony reflected in the record of the recent San Juan hearings of the Senate Subcommittee on Labor, demonstrated that automatic three-stage, nonreviewable, 40-percent escalation of wage rates in Puerto Rico would reduce the industrial base in Puerto Rico, from which future expansion must essentially stem, to one-half the present number of firms, 55 percent of the present number of emlpoyees, and three-fifths the present number of different kinds of industry. Some 35,000 of 78,000 hard-won jobs currently provided by Operation Bootstrap manufacturing plants would, at best, hang precariously in the balance and, at worst, totally disappear. The testimony also demonstrated that the effect upon the sugar industry—the island's historical pillar of economic activity—would be similarly disastrous.

It was also shown that the 1961 amendments actually resulted in curtailment of employment in Puerto Rico, even in those industries which successfully filed appeals, as provided for in those amendments, a provision which the bill currently before you would delete. This loss of jobs, it was noted, was far from marginal, in the Puerto Rican context, and represented a loss which, at this stage of our development, we could ill afford, and which the workers could not afford at all. In sum, the entire "automatic" procedure, even though accompanied, as in 1961, by an appeals procedure, must be energetically rejected as inadequate protection for the delicately balanced wage situation which we continue to face in Puerto Rico, and as bad medicine for the Puerto Rican economy.

The question logically arises as to whether the proposed treatment is desirable in order to assure equitable treatment vis-a-vis the mainland industrial community. Puerto Rico wage levels have risen rapidly during the past decade, as a result of the aggressive wage policy experienced by the island's economy. During this period, manufacturing wages in Puerto Rico rose at an annual rate of 7.4 percent, vis-a-vis a national average of 3 percent over the same period. Since October 1956, manufacturing wages in Puerto Rico have risen by 60 cents, or 91 percent, vis-a-vis a 62-cent rise during the same period in U.S. wage levels. (Comparisons with an earlier base period are not valid in light of the fact that in 1950, and even more so in 1939, when the fair labor standards statute was first enacted, Puerto Rico was not even a developing economy, but was rather an

unstirred, unawakened economy, with its economic base largely in a fairly rudimentary agriculture and in handicrafts.)

In October 1960, average hourly earnings in Puerto Rican manufacturing workers were 42.2 percent of those in the United States—already a considerable advance from the 1956 ratio of 32.7 percent. By October 1965, the Puerto Rican level had further increased to 47.7 percent of the United States. Considering the radically different capital structures of United States and Puerto Rican manufacturing industry, this represents a remarkably rapid approach toward the mainland level. It means, in effect, that over the past decade, Puerto Rican manufacturing wages have risen three times as fast as those in the United States, in the process of a "catching up" which can never completely occur because of inherent differences in the two economies and their resources. During this same period, however, the Puerto Rican labor force—swelled as a result of a sharply reduced migration to the mainland and an influx of non-Puerto Ricans—rose by 20 percent, from 643,000 to 769,000. Total employment opportunities also rose rather impressively, from 558,000 to 680,000, but not enough to absorb all of the increase in the labor force, much less make a dent in the island's chronically high unemployment rate. In the past 4 years, the average number of unemployed has risen by 19 percent.

There are currently some 180,000 workers in Puerto Rico covered by the Fair Labor Standards Act. Some 57 percent of them are at the statutory minimum of $1.25; all but 12 percent are at or above $1. But there are some 22,000 workers whose wage rates are currently pegged at less than $1; some 4,200 at less than 80 cents. However, it should be emphasized that all of these rates have been reviewed at least twice, and in most cases, as many as four times, since the 1961 amendments by tripartite industry committees, which have exhaustively examined the conditions of each separate classification within the several industries. Thus, it may be safely concluded that these industries are currently paying the highest wage that they are in an economic position to pay without curtailing their operations or closing their doors. Any measure that would overlook this fact, would perpetrate a severe injustice on the Puerto Rican working classes even as it pursued a highly commendable goal of seeking to raise their working levels.

The bill under your consideration also provides for the extension of coverage by the Fair Labor Standards Act to certain employees not now covered by the statute. For those employees that would be brought within the coverage of the act for the first time, the proposed amendments provide that minimum wage rates are to be set by special industry committees. These provisions would extend coverage in Puerto Rico to around 154,000 additional workers, or 62.4 percent of the total number of workers in local industries now effectively covered by the Commonwealth Act.

The Commonwealth Government has had a well-organized and effective minimum wage program for many years. Puerto Rico enacted its first minimum wage legislation in April 1941 and substantially revised it in 1956 by the Minimum Wage Act which now prevails.

Under this act, coverage has been extended to its fullest: Only Government employees, domestic workers, professional, executive and administrative employees remain outside the reach of the act. All wage and salaried employees are covered, including agriculture, retail and wholesale trades, services and manufacturing. Even workers employed by labor unions, and religious and charitable institutions fall under the protection of the minimum wage provisions of the act. Thus, the act permits the setting of minimum wage rates for all economic activities in the Island. Coverage of the local law is so extensive that approximately 380,000 workers—three-fourths of all wage and salaried employees on the Island—are currently covered by minimum wage orders established under the act. Minimum rates apply to all workers covered by the act, including those workers which the bill currently under your consideration would now bring under the umbrella of the Fair Labor Standards Act.

In addition, 22 wage decrees, issued under the authority granted to the Minimum Wage Board of Puerto Rico by the 1941 act (no longer in existence), provide important marginal benefits such as vacations, sick leave, and guaranteed weekly earnings to more than 84,000 workers in various activities including retail and wholesale trade and services.

Our local laws further provide that in intrastate activities workers are entitled to double-time compensation for hours in excess of 8 per day and 48 per week; while workers in interstate activities are entitled on the other hand, to receive time and a half for all hours in excess of 48 per week.

The rates of all industries with a minimum below $1.25 an hour are reviewed at least once every 2 years by specially appointed tripartite committees representing labor, industry and the public, and the highest rates are set in accordance with the economic condition, or capacity to pay, of each individual industry. As a result, during the past decade each industry's wages have been reviewed at least four times. From July 1956 to January 1966 a total of 112 minimum wage orders have been issued by the Commonwealth minimum wage board covering approximately 380,000 workers which have had the effect of increasing by $56 million the annual wages of covered workers.

As a result of local revisions, wages in Puerto Rico have steadily increased. As of November 1965 an hourly minimum wage of $1.25 had been set up in 98 industry classifications employing around 24,000 workers, and minimum wages per hour ranging from $1 to $1.24 had been set in 174 classifications employing around 39,000 workers. There were only 17 industry classifications with a minimum wage below 50 cents. These were mostly in agriculture.

Thus, it is clear that in Puerto Rico—unlike many of the States which either do not have or do not actively enforce local minimum wage legislation—the workers who would be brought under the Fair Labor Standards Act by the extended coverage proposed in the bill under your immediate consideration, have been and are now adequately protected by the Minimum Wage Act of Puerto Rico. In addition, most of the enterprises which would be brought within the coverage of the Federal Act by the proposed amendments—enterprises with annual gross sales between $250,000 and $1 million, as well as certain service enterprises previously exempted from the act, are small, locally owned, and essentially local in operation. Neither the employees nor the employers have the financial resources or, in many instances, the skills required to represent adequately their interests before the Federal quasi-judicial wage proceedings, requiring formal prehearing statements, fluency in English, and judicial review only in the District Court of the United States for the District of Columbia. As a matter of practical availability, the wage review forum under the Minimum Wage Act of Puerto Rico is more adequate for equitable resolution of minimum wage controversies in the industries which would be covered by the bill under your consideration.

In summary, the Commonwealth of Puerto Rico specifically requests that the coverage of the Fair Labor Standards Act, as amended up to and including 1961, be maintained as regards Puerto Rico; i.e., that there be no further extension of the act's coverage to enterprises operating on the Island; that no across-the-board wage increases be imposed on industries in Puerto Rico; and that the system of minimum wage determination through special industry committees be maintained as the only appropriate means of adjusting minimum wage levels in Puerto Rico.

The motivation of the framers and supporters of this legislation is to combat poverty and suffering. Let me assure my good friends on this subcommittee, that Puerto Ricans are not strangers to these ills. We have been to grips with poverty for a full generation, and we shall continue the fight to overcome it, to expand social justice and to preserve democracy for all of our citizens.

But we must sympathetically understand one another's problems, for the misunderstanding of one will be the responsibility of all.

We have been building in our island a society which stands out as an oasis of democracy in a troubled and restless Caribbean. Within it, our workingman will continue to share in the just rewards of production, so that he may have, together with his family, ever-increasing betterment in the standards of living, and ever-higher wages and security. We will accomplish this, and with your help, understanding and cooperation, we will eventually wipe out unemployment, underemployment and poverty.

Mr. Chairman, in concluding my formal remarks, I ask permission to submit for the record a statement of the Secretary of Labor of the Commonwealth of Puerto Rico, Mr. Alfredo Nazario and the statements by Mr. Amadeo I. D. Francis, Economic Adviser to the Administrator of our Economic Development Administration, presented to the Senate Subcommittee on Labor at the hearings held in San Juan, P.R., on January 3, 1966.