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HEARING 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 IV

MAY 3, 1966

Printed for the use of the Committee on Rules



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HEARING
COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES
EIGHTY-NINTH CONGRESS

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II

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**H.R. 13712, TO AMEND THE FAIR LABOR STANDARDS
ACT OF 1938 TO EXTEND ITS PROTECTION TO AD-
DITIONAL EMPLOYEES, TO RAISE THE MINIMUM
WAGE, AND FOR OTHER PURPOSES**

TUESDAY, MAY 3, 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 of Virginia (presiding), Madden, Trimble, O'Neill, Sisk, Pepper, Smith of California, Anderson, Martin of Nebraska, Quillen, and Latta.

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 hearings on the minimum wage bill. Mr. Watson, we will be glad to hear from you.

**STATEMENT OF HON. ALBERT WILLIAM WATSON, A MEMBER OF
CONGRESS FROM THE SECOND DISTRICT OF SOUTH CAROLINA**

Mr. WATSON. Thank you very much, Mr. Chairman.

Mr. Chairman and gentleman of the committee, as I come to oppose this particular measure, I am sure that some will cast me as a Simon Legree, the villain in this drama, but I want to assure you, gentlemen, that such is not true. No one is, I think, more familiar with the problems of shortages in incomes than I have been, personally, as we have moved along the path of life.

In South Carolina, although we are one of the lowest per capita income States, percentage-wise our increase in per capita income has probably been far greater in recent years than that of the national average. Our State has been trying to do a creditable job in the elevation of the income of all of our citizens in giving the untrained the proper training so that they might obtain better jobs.

I remember when I was a member of the South Carolina delegation in the General Assembly which inaugurated what we call our technical education centers. That was before the advent of the Federal Government in the technical education business. We have some 10 or 12 fine technical education centers in South Carolina. All of them are integrated. They have been integrated since they were originally opened, and we are proud of the fact that, although we were a poor State, we have been quite fortunate in having a large number of grad-

uates and these people are better prepared to take their place in industry, which is fast moving to South Carolina.

So I believe that this should prove to the unbiased mind that I am concerned about the elevation of the standards of living and the salaries of everyone.

Now, I am not going to get into specifics. I understand my colleague, Mr. Martin, will be testifying this morning, and certainly he is far more knowledgeable than I.

So I will just address myself to two or three general observations that we would like to make and perhaps it might be of some interest to you gentlemen. No doubt most of them have been touched upon in the testimony before.

Frankly, gentlemen, I feel that this bill is going to promote unemployment. We right now have the lowest unemployment rate we possibly could, as the chairman has pointed out. There obviously is no shortage of jobs, but obviously through a lack of desire or a lack of preparation we do not have the people to fill the jobs.

I think it is axiomatic, whether we had a minimum wage of \$1.50 or \$2 or \$3 or \$5, we are going to have some who would prefer to be on welfare or to get the dole, so to speak, than get out and try to earn a livelihood for the family.

I do not think that the passage of any minimum wage or the inclusion of other types of businesses under the minimum wage will eliminate the problem of these people who, habitually, are unemployed. I believe that it is going to result in further unemployment, because the bill has proposed to include agricultural workers. I understand it will only be those farms who have 500 man-days during the course of a calendar quarter, but we are going to find that workers on the farms will be moving away into other employment, primarily into the urban areas.

I was interested the other day as I heard one of the gentlemen testify, relating this particular measure to the antipoverty program that we have today, and he said passage of this bill will perhaps alleviate the bad situation that exists in Watts and some other potentially explosive areas.

Gentlemen, I believe, frankly, that we are engaging in wishful thinking if we believe this bill is going to reduce the possible explosiveness of a Watts, because I heard so many people say that the condition in Watts is a result of so many people moving from the farm, yes, from the Southland, out to Watts and not being prepared to assume their place in the industrial complex out there. So we are going to have more of them moving into Watts. I think, frankly, you are going to be inviting additional trouble as the result of the passage of this.

We all know that so many farmers over the years have been operating at strictly a marginal level. We have had a great migration of farmworkers into the city areas, and the cities have not been able to provide sufficient jobs.

So I believe the passage of this measure is going to promote additional unemployment and will aggravate potentially explosive situations in Watts and other areas.

Additionally, gentlemen, I believe that the passage of this measure will present a serious problem for the small businessman. I note in the bill that there is no dollar volume so far as the coverage for laun-

dries and drycleaners, so we are going to have the small businessman directly affected.

I understand that there is not too much interest in the welfare of the small businessman; everything is getting bigger and bigger, and if big business cannot take care of the American people then big government will take care of them.

But I happen to be a firm believer in the small businessman, and I am interested in trying to protect him and help him to survive in this highly competitive industrial nation that we are today, and I think it is totally unrealistic to assume for a minute—as an example restaurants must have an annual volume of \$500,000, subsequently dropping to a quarter of a million dollars—that this will not affect the little restaurant operator.

Gentlemen, I am sure that we cannot be realistic in that conclusion. The little restaurant operator has to compete with the big restaurant operator. He has to compete in the matter of getting employees and if the big restaurant operator has to pay \$1.40 or \$1.60 an hour for a busboy or a waiter, then we are going to find the little businessman, the little restaurant operator paying the same figure.

I am sure you are not going to expect an employee to work for a little businessman at a lower rate of pay than he can get from the big businessman, and apparently there are plenty of jobs available with the big businessman.

Additionally, we are going to have the problem of minimum wage with the restaurants directly affecting domestic help.

I know up here we have to pay \$60 or \$70 a week for a domestic servant. This bill does not take into account the differing level of the cost of living in America. Down home we do not pay that much for a domestic servant. But if we are going to pay a busboy in a restaurant that much, then we are going to find that the housewife has to compete and as a consequence we are going to have to pay \$50 or \$60 a week for a domestic servant.

One thing I think would be interesting is the matter of restaurants. We say "Well, they will just raise their prices on the meals," and that is the easy way out. I am sure we are all aware of it, whatever we do here the American people ultimately are going to foot the bill; the businessman has to pass it on.

But there is one thing. The restaurant is in a unique position; the restaurant is in competition, not with other business, but with the housewife, with the home, and if we make the prices prohibitive, the worker is going to carry his lunch pail, the worker is going to go back home in order to eat.

I have heard some of the outstanding labor leaders say, "If a business cannot afford to pay such and such an amount, then they ought to go out of business."

That is not the attitude that has built this country and which has given our people so many opportunities for better jobs, more than any country in the world.

I hope you will consider that the restaurant industry is not in competition with other industry, but it is in competition with the home, and if they raise their prices and make it prohibitive then the worker is going to stop eating in the restaurant and start carrying a lunch or go back home.

I think another matter should be considered. The passage of this legislation will aggravate the present financial difficulties of local government. We have found that the Federal Government, as we have assumed more and more responsibilities, has called upon the American taxpayer for more and more taxes. Presently the local governments are really in a difficult strait, and I, as most of you gentlemen have, know the difficulties that exist in trying to raise money for projects or programs which are proper local responsibilities.

With the passage of this measure we are going to further aggravate the tax problems on the part of the local and State governments.

You will ask why. I listened with patience to try to get an answer to the question which was propounded by Mr. Martin to one of the earlier witnesses:

How do you justify requiring a motel or excluding a motel, from paying overtime while at the same time under the provisions of this bill you will require a hospital to pay overtime?

Now, we must, I think, consider this legislation in view of other bills that we have passed, other measures. We know that local hospitals are confronted with the serious problem of providing adequate space for the people who are going to be admitted after the implementation of medicare. That is axiomatic. And I know in talking with my delegation that they have asked themselves: "How are we going to get the money?"

Are we going to say we will raise the prices of the rooms for those who pay?

Well, frankly, the cost is prohibitive now. And those who have to pay the bill are very careful, in fact, oftentimes will not go over to a hospital simply because rooms and services have been priced out of reason.

So, I feel that we are going to aggravate the problems of the local governments. They are the ones that have to build hospitals.

And you can rest assured it will follow as naturally as the night the day, that when we elevate one wage level, it is going to have an effect on all of the job levels. You are not going to be able to pay a busboy \$1.40 an hour and get by with paying the cook \$2 an hour. It will go up to \$3 or \$3.50.

I am sure some of you gentlemen are from areas where even that seems low, but in some areas of the United States it is not low. It is a good salary, and they are able to educate their children and they have not encountered all of the so-called difficulties that so many have pointed out above slave labor.

I think we should consider the passage of this legislation in the light of the effect that it will have on an already taxed local government.

Additionally, I think we must consider this, as I alluded to earlier, the effect it will have on inflation. I cannot quite understand some of those who are so concerned about inflation, and all of us are, who will urge businesses to establish guidelines of 3.2 increases in salaries, and will scream to the steel industry when they raise the price of steel to \$2.50 a ton. The ironic part of it is that there has been no complaint when bacon went up \$500 a ton and pork chops went up \$2,500 a ton, I believe it was, over the past 18 months. Apparently there has been no complaint about that.

I feel that we have to be realistic. You might give the employee \$10 or \$5 or \$7 more per week, but I think it is cruel for us to give him \$5 or \$7 more and then, in turn, take out more than that so far as the inflationary tax is concerned.

I yield to the chairman.

The CHAIRMAN. Well, I would just pass on a little hint, and I think when I think a fellow has made a good statement and if he goes on too much further he might detract from it.

I sort of hold this up a little bit. I do not mean to stop you. Go ahead.

Mr. WATSON. Well, Judge, my father told me before he died: "You borrow some brains from some wiser heads until you grow some." You are much wiser than I, so I have just concluded my testimony.

I will be happy to try to answer any questions you might have.

The CHAIRMAN. Do you have any questions?

Mr. TRIMBLE. No.

The CHAIRMAN. Do you have any questions, Mr. Madden?

Mr. MADDEN. No.

Mr. SISK. No questions, Mr. Chairman.

Mr. MARTIN. No questions.

Mr. QUILLEN. No questions.

Mr. LATTA. I have a question, Mr. Chairman.

The CHAIRMAN. Mr. Latta?

Mr. LATTA. First of all, I would like to make a comment. I have listened to a lot of testimony, and I think the testimony that you have given here is about the best that I have listened to, and I notice that you did not have any prepared statement. I just want to commend you on the statement you have made.

I want to call your attention—have you a copy of the bill there?

Mr. WATSON. I do not. I just have the report.

Mr. LATTA. On page 33, line 19, where we are including people engaged in laundering, cleaning, or repairing clothing or fabrics, I will ask you if you interpret this bill the same way as I do, that regardless of the number of employees a person might have working for them, in repairing clothing, they would be covered by this bill?

Mr. WATSON. It is certainly quite obvious they ought to be as the bill is drawn.

Mr. LATTA. I have in mind a case back in my hometown of a lady who because of physical infirmities cannot go out and get a job, and she repairs clothing. Among her customers happens to be my wife. From time to time she gets overwhelmed with work and she has to call in a neighbor lady to help her out. If she calls in this neighbor lady to help her out, is this neighbor lady going to be covered by this bill, as you read it?

Mr. WATSON. As I read it, yes, sir; she will be.

Mr. LATTA. She will have to keep all required records for the Federal Government the same as a big employer would have to keep?

Mr. WATSON. No question about it.

I think that we would all agree that it is not only the economic impact this bill will have on the businessman. I think the paperwork they already are laden down with is heavy, and now they will have to have an extra employee just to handle paperwork for the various governmental entities. I think you are exactly correct; yes, sir.

Mr. LATTA. That is the way I look at this bill, and it seems to me that we ought to take this into consideration a little bit when we write this legislation. The burden we are going to put on an individual is tremendous. Take an employer with several people and a lot of money behind them, they can keep records and pay a higher wage. But in a case like this we do not even have a dollar value on the amount that this woman is going to be making, the amount of business she has. She just hires somebody to help her out, even part time. She is going to be covered by this legislation. It makes no sense.

Mr. WATSON. No question about it, and she will have to maintain the various bookkeeping aspects as required by the Government.

Mr. LATTA. I thank the gentleman.

The CHAIRMAN. Are there any other questions?

Senator, did you want to ask a question?

Mr. PEPPER. No, sir.

Mr. O'NEILL. No questions.

Mr. MARTIN. No questions.

The CHAIRMAN. Thank you, Mr. Watson.

Mr. WATSON. Thank you, very much.

The CHAIRMAN. Thank you for a very fine statement.

Now, Mr. Martin, you are the concluding witness, I believe.

Mr. MARTIN. Yes, sir.

**STATEMENT OF THE HONORABLE DAVE MARTIN, A MEMBER OF
CONGRESS FROM THE THIRD CONGRESSIONAL DISTRICT OF THE
STATE OF NEBRASKA**

Mr. MARTIN. Thank you, Mr. Chairman, for this opportunity to testify in opposition to the legislation which we have before us.

To start in with, you will recall that Chairman Dent of the subcommittee rather gleefully the other day reported that he had received a letter from the Omaha Restaurant Association endorsing this legislation.

I have a copy of a letter written to Mr. Dent on April 19, subsequent to our hearing, and it starts:

We wish to make it absolutely precise that we of the restaurant industry are unequivocally opposed to any type of legislation which will place us under a Federal minimum wage law.

So I would like to correct that statement of the subcommittee chairman.

The CHAIRMAN. Who is the letter from?

Mr. MARTIN. This is from the same gentleman who wrote the previous letter to Mr. Dent, George H. Payne, chairman of the legislative committee of the Omaha Restaurant Association.

Mr. SISK. Was this subsequent?

Mr. MARTIN. This was subsequent. There was a first letter, but the first letter of which I had a copy, Bernie, did not endorse the legislation. I think there was a misinterpretation or a misunderstanding by Mr. Dent in regard to the import of the letter. So he wrote a second letter to make it absolutely clear that they were not endorsing this legislation and they are opposed to it.

I am not going to belabor the committee by going into all the details of the legislation, because I think a great bit of that has been adequately covered in the testimony that we have had over the last few weeks. I would like to refer back to President Johnson's original labor message to the Congress in which he recommends legislation in this area, and I am only going to quote a brief part of it:

I am, accordingly, urging early action to (1) amend the Fair Labor Standards Act to extend its protection to an additional 4½ million workers and restrict excessive overtime work through the payment of double time.

Now, the subcommittee, as you know, rejected the concept of the double time, but the President recommended coverage for 4½ million workers in these amendments, and this bill covers 7.2 million additional workers, so you can see that the subcommittee went very much further than President Johnson recommended to the Congress. And I quote further from the President's message:

It has been urged that the minimum wage level be increased. The present \$1.25 hourly rate results in annual earnings, assuming full-time work throughout the year, of only \$2,500. As average wages rise the minimum wage level should be increased periodically. The question is not whether the minimum wage should be increased but when and by how much. The Congress should consider carefully—

Mark this—

the Congress should consider carefully the effect of higher minimum wage rates on the incomes of those employed and also on costs and prices and on job opportunities likely for the flood of teenagers now entering our labor force.

And I quote one more sentence from the President's message:

I do not think the time for change in the law has come except with respect to excessive overtime.

Now, that is part of President Johnson's message to the Congress in regard to labor legislation.

The CHAIRMAN. When was that?

Mr. MARTIN. That was sent up to us early in the first session last year, in the first 2 or 3 months of the session last year. It might have been March or April.

The CHAIRMAN. And this bill was—

Mr. MARTIN. A result, a direct result of the President's message, and at that time the administration's bill was introduced by Chairman Powell, and then Chairman Roosevelt of the subcommittee, and perhaps one or two others, which had far less coverage than the legislation we have before us this morning. In fact, no agricultural employees were included in the legislation at all.

Let me point out the differences in the bill that was reported out by the subcommittee last year when Mr. Roosevelt was chairman and the bill that we have before us.

There was more coverage, 7.2 million on the present bill, and last year there was about 7.8 million coverage.

The main difference was in agricultural employees. Because of a change in the formula in agriculture there was a decrease of 815,000 employees between the Roosevelt and the Dent bill on coverages. But the total net difference is only 686,000.

So, you see we have actually more coverage under the Dent bill in other areas than we had under the Roosevelt bill last year, and when you are told, and there has been press releases and statements made,

that we have less coverage under the Dent bill than we had under the Roosevelt bill, that does not jibe with actual facts, and I could go into how the agricultural statistics were gathered, but I will not do so at this time.

Mr. SISK. Mr. Chairman, could I ask you to explain a little? I did not follow your figures there, Dave. I am not questioning them, but I did not follow.

You say the present bill covers more people than the Roosevelt bill did?

Mr. MARTIN. Except for agricultural workers.

Mr. SISK. Oh. In other words, eliminating agricultural workers in both bills then the total—

Mr. MARTIN. There is more coverage.

Mr. SISK. The Dent bill would be greater, that is, the nonagricultural?

Mr. MARTIN. That is correct.

Mr. SISK. Thank you, Mr. Chairman.

Mr. MARTIN. You see there was a decrease, Bernie, in agricultural coverage of 815,000; yet there is a net difference of only 686,000, so you have a difference there of approximately 129,000 more coverage outside of agricultural.

Mr. PEPPER. Will the gentleman yield while on that point?

What were the categories where the difference occurred? In what respect, what categories other than agriculture does the Dent bill provide more coverage?

Mr. MARTIN. According to these tables in retail trade there was a reduction of 510,000, in restaurants 100,000, in hospitals a plus of 118,000, in miscellaneous services minus 50,000, laundries are the same, agriculture a decrease of 815,000, transit workers an increase of 55,000, taxicabs an increase of 84,000, logging a decrease of 50,000, and in the Federal Government 665,000 increase.

Mr. PEPPER. Thank you.

Mr. MARTIN. That is the differential.

Now, we have had statements made that legislation in this area has not affected job opportunities and that we have no proof that with the addition of the amendments to the Fair Labor Standards Act jobs have been lost.

I have here an article from the Wall Street Journal of September 7, 1965, and it is entitled, "Last Section of 1961 Minimum Wage Law Takes Effect—Brunt Is Felt in Southeast."

September 3, 1965, was the last increase under the 1961 amendment in the minimum wage law. It went from \$1.15 to \$1.25. This article is datelined Atlanta. I quote:

The last section of the minimum wage law Congress passed in 1961 went into effect with little fanfare Friday, but its impact was quickly felt in the Southeast. The 18 packing plants that make up the fresh crabmeat industry in North Carolina closed rather than raise the pay of 1,800 pickers, nearly all women, to the \$1.25 minimum. "It's been tough for a long time—this was the straw that broke our backs" a packing plant owner says.

And so on, it is quite an extensive article.

I refer to this, you undoubtedly noticed, in my minority views. I understand from Mr. Lundquist, the administrator of this program, that the problem was worked out and many of these plants are back in operation.

But here under this proposal we are going to have another 15-cent increase in this minimum wage law effective February 1, 1967. If these people down in North Carolina had difficulty operating at \$1.25 an hour what is going to happen when the minimum wage goes to \$1.40 an hour next February and a year later, February 1, 1968, when the minimum wage goes to \$1.60?

It is very liable to close up all these plants and throw 1,800 women in North Carolina out of work.

Mr. Bell referred to this legislation and he completely endorsed it. In fact, I understand he is a coauthor of this legislation along with Mr. Dent.

Let me quote from Mr. Bell's minority statement in the report that was written last fall:

In addition, we feel the impact of increased minimum wages on our economy and on the cost of individual employers is underestimated by the administration. Very few employers can increase wages paid to the lowest level without comparable increases at various grade levels above. This means that an employer increasing his lowest paid employees from \$1.25 to \$1.35 an hour, for example, must increase employees he is now paying \$1.35 to \$1.45 and so on up the pay scale.

And then I quote further from Mr. Bell's minority report:

H.R. 10518, which was the Roosevelt bill, provides coverage under the act for tipped employees. We are in full agreement with the principle of this extension; however, the requirement that employers must pay wages at least equal to 50 percent of the minimum wage regardless of how much the employee receives in tips seems to us unnecessary and inequitable. And yet we have a bill before us that only allows 35 percent consideration to be given for the amount received in tips, and then it works on up to 45 percent.

And a third concern—

Mr. Bell states—

we would point out involves provision for student rates at 85 percent of the minimum wage, which is in the current debt bill. But with the painful awareness of widespread unemployment among our Nation's youth, it is our belief that employers would be discouraged from hiring young people under the bill's present minimum wage rate increase.

And let me go into that for a moment. If you take a look at the Department of Labor's last employment figures issued early in April, in which our total unemployment rate was about 3.8 percent, you will find that among the teenagers unemployment amounted to approximately 12 percent, an extremely high rate. What is this bill going to do to make jobs for those young teenagers that do not have any jobs? It is not going to do a darn thing. In fact, it is liable to compound the problem and make for fewer jobs for our young people.

And we did not have a single witness, and I attended practically all the hearings, as you gentlemen know, that made the statement or proved the point that this legislation was going to increase the number of jobs in the United States.

We did have witness after witness, however, who stated that it was liable to make for fewer jobs in this country rather than more.

We have an entirely different situation in our manpower area today than we had a year ago. The draft calls for Vietnam and the increased productivity and the high rate at which business is operating have all made for labor shortages, particularly among the skilled employees in this country. Yet there were no hearings held this year on the new Dent bill, which we have had before us this morning.

I feel it is very important that additional hearings be held.

Mr. Watson referred to the fact that hospital employees are going to be subject to overtime as well as come under the provisions of the minimum wage law. Yet hotels, motels, and restaurants are exempt from the overtime provisions.

I questioned both Mr. Dent and Mr. Bell in this regard when they testified.

Let me quote from the testimony the other day when Mr. Bell was in here:

Mr. MARTIN. Under this legislation, hotels, motels, and restaurants are exempt from overtime. But hospitals are not exempt from overtime. Can you give me the reason why you set it up in this manner?

Mr. BELL. The reason behind that is based on the fact that hospitals are more of a regulated type of business. As you know, when you go out to dinner somewhere, sometimes you do not always eat at the exact time and you delay the situation and whereas hospitals and so forth, they are more of a regulated type of operation than restaurants and hotels.

Now, I ask you, is that any kind of an answer to justify the committee placing overtime restrictions on hospitals and exempted hotels, motels, and restaurants? I do not think it is.

How could a hospital regulate their patient load? If there is an automobile accident on the highway this morning and five people are injured, they are taken to the hospital immediately. If it happens at 2 o'clock in the morning or midnight, they are taken to the hospital immediately, and the hospital cannot regulate when the patients are going to arrive. They are at the mercy of these things that happen, these accidents and illnesses that occur, attacks, physical attacks on people, and so forth, much more so than is a restaurant and a hotel. Yet we have, according to Mr. Bell's answer, and Mr. Dent's answer was practically the same thing, no justification for this added burden on the hospitals.

Let me give you some statistics that I got from Wilbur Mills, chairman of the Ways and Means Committee, as to what this effect is going to be on the hospitals of the United States in this country. Listen to this very closely. This is based on an increase in the minimum wage to \$1.25 and not to the escalation that is proposed in this legislation and does not consider any overtime.

The average increase in the cost per bed in the United States based on \$1.25 an hour, no overtime, will be \$5.87 per day. In the South, Judge, this increase in the per bed cost in hospitals is going to amount to \$9.31 a day.

What is that going to do to some other programs that the Congress has enacted, for instance medicare? They have projected this thing for several years in the future as to what hospitalization is going to cost. Here you have the Government coming up with new legislation that is going to cause a substantial increase in hospitalization in this country, something that was not foreseen by the committee, and you are going to throw their projections into a cocked hat, and you are going to upset the cost of hospitalization and the cost of medicare on the people.

Mr. ANDERSON. Would the gentleman yield at that point?

Mr. MARTIN. Be glad to.

Mr. ANDERSON. You mentioned \$1.25 minimum wage but that would not be the wage, would it? Would they not be covered at \$1 an hour?

Mr. MARTIN. But the hospital association, John, made this study based on \$1.25 an hour, the current minimum wage.

Mr. ANDERSON. My point is, they have never been covered before, is that not right?

Mr. MARTIN. That is correct.

Mr. ANDERSON. So they would be covered initially at \$1 an hour and go up in annual increments of 15 cents an hour?

Mr. MARTIN. \$1.30 an hour, and so on, right.

Mr. ANDERSON. Until it reached what, \$1.60 by 1969?

Mr. MARTIN. By 1971, at 15 cents a year.

Mr. ANDERSON. Thank you.

Mr. MARTIN. But this is based on the current minimum wage which is \$1.25. These studies were made last year.

Mr. ANDERSON. I see. I understand. Thank you.

Mr. MARTIN. Without any overtime provisions, which would add some more to it.

So we cannot say this \$5.87 figure would be the exact cost of the increase in the 50 States of the Union when and if this legislation becomes law.

Another inequity in this bill, and this has been pointed out in questioning and again by the witness who preceded me this morning, sir, is the fact that laundries, drycleaners and those in the construction business do not have any exemption from total sales.

The cutoff point, as you know, on retailers, is currently \$1 million a year; the exemption will be reduced to \$500,000 for an enterprise effective February 1, 1967, 2 years later, February 1, 1969, that goes down to \$250,000.

Those in the laundries, drycleaners, and as you pointed out, Del, repair of cloth and fabrics, because they are included in the bill, and those in the construction industry, will not have any exemption and they will automatically come under the provisions of the minimum wage law.

What is this going to do to us in our small towns in the country and our small businesses? That is where the impact is going to be the most disastrous.

Mr. LATTA. Will you yield at that point?

Mr. MARTIN. Glad to.

Mr. LATTA. You know in a lot of these small towns there is still a lot of widowed mothers who take in washing.

Supposing they get ill or a person gets ill on a weekend and they cannot take care of their regular customers and they hire somebody to come in, would they be covered?

Mr. MARTIN. As I read the bill, they would be, yes, sir.

Mr. LATTA. They would have to keep all these records?

Mr. MARTIN. Yes.

Mr. LATTA. Did the committee give any thought to these possibilities when they wrote this legislation?

Mr. MARTIN. Well, this new bill, the Dent bill, was not written, I must admit, really, by the subcommittee itself. We considered it after it was drawn up, but the subcommittee chairman after consultation

with people in various industries and trade associations that are affected wrote up this legislation himself and then the subcommittee was called into session and the bill was presented to us. The amendments were offered in committee and suggestions made, and there were some amendments adopted.

Mr. LATTI. Do you think the committee really intended to report all legislation that would take in a case like I just gave you?

Mr. MARTIN. I do not think so. If that is their intent I think it is a mistake.

Mr. LATTI. I know it is the way it is written.

Mr. MARTIN. Of course, I think the entire bill is a mistake; this legislation is going to get down to the small businessman. We have 29 million-plus people already covered under fair labor standards. This is going to add another 7 million; it is going to get down to the small businessman and it is going to have very, very severe results on their operation. It is going to be damaging to them, this 12-percent increase, in the first year for presently covered employees and 14 percent in the second year, and the 60 percent for newly covered employees over four and a half years. It is going to be just as disastrous for them and just as serious for them as if General Motors or United States Steel or any of the other big companies had to sign a new wage agreement amounting to 12 percent and 14 percent, and so on. It would affect a particular business just as much as it would General Motors or United States Steel or any other company.

Mr. LATTI. Will the gentleman yield for one more question?

Mr. MARTIN. Glad to.

Mr. LATTI. Before you pass on from that section dealing with the laundries, on page 33, line 22. The bill takes in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for the mentally handicapped or gifted children, or an institution of higher education, et cetera, but you leave out public schools.

Why did the committee include a school for mentally handicapped or gifted children and leave out public schools?

The reason I am asking the question is because the other day I received a letter from a constituent of mine who works for the public school and is barely getting enough money to live on, and she wanted to know why was that not included in the bill.

Mr. MARTIN. Del, I could not answer the question.

Mr. LATTI. Why do they put the mentally retarded, the gifted schools, and institutions of higher education in there and not the public schools? This person was a person who works in a kitchen.

Mr. MARTIN. I could not answer your question on that. You have to ask Mr. Dent when the debate takes place on the floor. He put that section in.

We have another section of the bill which was added to this legislation that was not in the original legislation, section 305 in regard to Government contracts. This has been referred to by witnesses and there is a little bit of confusion as to whether businesses which have contracts with the Federal Government will come under the newly covered wage rate which starts at \$1 or those presently covered. It has been interpreted the way the bill is written at the present time

that they would come under the \$1.40 and the \$1.60, the presently covered employee schedule.

The hospitals are going to have Government contracts when medicare comes in, many in the laundry industry supply towels, and so forth, under contracts to Government installations, and many other areas. You are going to have a situation where employees who are working under Government contract are going to have to be paid \$1.40 an hour, but yet the minimum wage for the other employees in the establishment is only \$1 an hour for the first year, and then going on up in 15-cent increments. It just does not make sense. I understand an amendment will be offered and accepted by the chairman to correct this situation.

I intend to offer an amendment to increase the minimum wage on presently covered employees to \$1.35 and then \$1.50.

I find myself in the peculiar situation here of defending the thinking of the White House and the President, Bernie, on this particular amendment because I have been told, I believe in a roundabout manner, but on quite reliable authority, that the White House itself actually favors an increase to not over \$1.50 an hour, but because of certain circumstances agreements have been made; \$1.60 has been the figure that has been settled, but the White House would be much happier, actually, with \$1.50 an hour rather than \$1.60, so I find myself here defending the administration.

Mr. SISK. You do a good job, Dave.

Mr. MARTIN. There are one or two other points in regard to agriculture. We have in Nebraska, and this is true in many other areas of the Midwest, where we grow hybrid seed corn, teenagers who are on summer vacation go out in the summertime and detassel corn. They pull the tassles out of the female growth. They work for a period not over 6 weeks.

In my little town of about 15,000 there is a corn seed company there that hires in the neighborhood of 500 of these young people. They make from \$150 to \$180 during the summer time working, which is confined to 6 weeks or less. This provides these young people with the experience of going out and working for a dollar and learning the value of a dollar.

In the second place, those who need to earn a little money to buy their clothing and other necessities of life while they are attending school are able to earn this money during the summer months through these jobs.

What is going to happen, if this legislation passes, as it is currently written, and we bring agricultural workers under? These young people are going to be covered at 85 percent of the minimum wage, 85 percent of \$1 an hour and then \$1.15 and then \$1.30, and so forth.

I have talked to the officials of this seed company. Do you know what they are going to do? They are going to go to what they call sterile corn that does not have tassles and this sterile corn will not require the hiring of any young people to go out and beat tassles of corn, and so we are going to lose in the neighborhood of 500 summer jobs right in my county because of this legislation.

An this same thing is going to be multiplied many, many times overall over the country.

What are we doing with this type of legislation? We are trying to legislate from Washington, controlling the price of labor. We are going to decrease the number of jobs available and we are going to hurt the young people who need these jobs so desperately, particularly in order to help earn their way through school.

I intend to offer an amendment to delete the first part of the section on agricultural coverage, and I am very happy to say that we have a bipartisan support for this amendment, I hope we are successful in eliminating the coverage of agricultural workers.

The figures issued by the Department of Agriculture within the last 2½ weeks showed that the average wage paid on the farm in the United States today is \$1.28 an hour—\$1.28. And it further stated that there are 200,000 less jobs on the farm today than there were in their survey a year ago. You can see what has happened to agriculture in the number of people engaged in agriculture, and yet we are going to accelerate this trend with this legislation.

Mr. LATTI. Dave, did any of the farm organizations appear before the committee in support of this section?

Mr. MARTIN. Yes, sir; they did. The Farmers Union, I remember, Del, testified. The Farm Bureau opposed it. The Farm Union testified in favor of all sections of the bill. They went further—they wanted \$2 an hour, and they wanted doubletime for overtime, and so forth. They had many other suggestions for the legislation itself, except for one section. On the section which eliminated the exemption for country elevators, and as you know the farmers operate country elevators, they wanted the exemption left in the present act.

Mr. LATTI. They wanted to protect themselves.

Mr. MARTIN. Yes, sir, but outside of that, the only thing that directly affected them in their operation, they were in favor of the legislation.

Let me close my statement with a few quotes from Dr. Godfrey Habeler, who is an economics professor at Harvard University. This is from the New York World Telegram & Sun of Monday, March 28:

Raising the minimum wage would be an irresponsible antisocial measure, reducing job opportunities of the poor, promoting inflation, and retarding growth.

And I go on:

Who suffers most when the minimum wage is raised? The very people whom the higher wage is intended to help, Negroes, Puerto Ricans, unskilled workers, teenagers.

After each minimum wage increase during the past two decades, unemployment by these groups has shot up precipitously. The record proves this.

A recent news dispatch emphasizes this point. It says:

The Puerto Rico Secretary of Labor expressed a concern that 27,000 jobs in the island would be endangered by the minimum wage bill reportedly agreed on by the administration and congressional Democrats.

And in regard to Puerto Rico, let me say that three representatives of Puerto Rico were called into executive session after this bill was pretty well written up and finalized, to give some testimony off the record—it was not even taken down by a reporter—in regard to the Puerto Rican situation. We had no testimony, as I recall, in the hearings last year from Puerto Rico.

I have talked to many of their people and their government down there, and this is going to have, according to their version, a very adverse effect on their economy because they are competing with other islands in the Caribbean and the wage rate, the average wage rate in Puerto Rico, is at least double that of any adjoining island in the Caribbean area.

I know this bill is undoubtedly going to be reported out of the Rules Committee. I hope that we can make a better record, Judge, when it comes to the floor of the House.

That concludes my testimony. If you have any questions I will be glad to try to answer them.

Mr. SMITH of California. I would like to commend the gentleman on his very fine statement, Mr. Chairman. He certainly has devoted a large amount of time and he is extremely knowledgeable on it, and I commend you, Mr. Martin, on your efforts in this regard.

Mr. MARTIN. Thank you.

The CHAIRMAN. Mr. Sisk?

Mr. SISK. Mr. Chairman, I want to express appreciation to my good friend, I do not agree with a number of things he had to say, but I do find him a very agreeable person, and he can always disagree agreeably.

On this farm question, I put a bill in I think the first week of January, to cover all farm labor in the Nation under the national minimum wage because I believe very firmly in this. Maybe it is a little bit selfish on my part. I introduced a bill before. But let me ask you:

You stated, as I understand, Dave, that the national average for farm labor paid in the United States during this last year was \$1.28 per hour.

Mr. MARTIN. This was according to the report put out by the Department of Agriculture within the last 21½ weeks.

Mr. SISK. I am inclined to agree with you on that. That is an average, national average?

Mr. MARTIN. Yes, sir.

Mr. SISK. In other words, are you familiar or did your committee go into any discussion as to rates paid in any parts of the country and as to how that average came up to \$1.28?

Mr. MARTIN. No, sir. I do not recall that we had any discussion or any testimony in that area.

Mr. SISK. I do not believe in legislating on a sectional basis necessarily but, for example, in my own State of California, as I recall, the 1965 wage paid to farm labor was about, I believe, better than \$1.60 an hour.

I know, for example, that the State of Connecticut has a similar figure.

The point is that apparently there must be some areas of the country, based on some of these averages, that are pretty badly below that, is that not right?

Mr. MARTIN. I believe that is correct; yes, sir.

Mr. SISK. Well, the product of their production, the goods they are putting into the arteries of commerce in this country are all flowing pretty much in the same competitive markets, are they not?

Mr. MARTIN. You mean from the various agricultural sections of the country?

Mr. SISK. That is right. In other words, peaches grown in California are moving pretty much in the same channels as peaches grown in the Carolinas and Georgia, are they not?

Mr. MARTIN. That is correct.

You want to remember this point. To secure labor in agriculture, agriculture has to compete with the labor demands of industry or retailers or others in their particular area, and if agriculture is not offering a high enough wage to attract labor they are not going to get labor, and there is a great shortage of agriculture labor throughout the United States today in all sections of the country, and, as a consequence, wage rates are automatically going up under the law of supply and demand without Federal legislation in this field.

Mr. SISK. Well, of course, this, to me, is further justification. If we have areas or pockets in which we have substandard wages, because of oversupply of labor, those people should be entitled to a wage floor as a standpoint of their right to achieve some kind of a semblance of a decent standard of living. Would you not agree with me on that?

Mr. MARTIN. Well, I would not agree with one part of your premise that these people are not receiving a decent standard of living because most farmhands in addition to the cash that they receive are also furnished housing and a certain amount of food to feed themselves or their families. I talked to a farmer in my district when I was out home at Easter recess. He has advertised to get a family to work on a farm. He has a tenant house in which to live, \$300 a month, with all food furnished and housing. He has not been able to find anyone yet.

Mr. SISK. Well, I know—

Mr. MARTIN. That is quite a bit above what you might call a minimum wage or a decent wage on which to live.

Mr. SISK. Well, in the compensation that the worker received, if he received housing, if he receives subsistence in the form of food or if he gives his meals, this certainly can be counted as a part of his pay.

Mr. MARTIN. That is correct. So the value of it would be determined and deducted from the amount of cash paid to the farmer.

Mr. SISK. In other words, if a man is getting \$1 an hour and was receiving housing which would equate, let us say, \$1.30 an hour, to that extent the employer would be in compliance, right?

Mr. MARTIN. That is right.

Mr. SISK. Now, Mr. Chairman, I do not want to take up a lot of time. Do we have something else we plan on bringing up?

The CHAIRMAN. Not today.

Mr. SISK. I just wanted to inquire about—the gentleman kind of tickled my fancy a little bit ago about this female corn business. I guess I am getting into a subject too deep for me here, but I just was curious about that.

Do you mean you go through and pull the tassles off the stocks?

Mr. MARTIN. Female.

Mr. SISK. The female stocks?

Mr. MARTIN. That is right. You see they plant it in male rows and female rows.

Mr. SISK. I did not know.

Mr. MARTIN. Feed corn, the hybrid seed corn.

Mr. SISK. Maybe I better back off, Mr. Chairman. I am in deep water here because I cannot tell female seed corn from male seed corn; maybe some people can.

The CHAIRMAN. I think the question served a very useful purpose. It just illustrates how many people, who do not know what they are doing are trying to tell people who do know what they are doing how to run their farms.

Mr. SISK. Mr. Chairman, I agree with that, and with that I will shut up.

The CHAIRMAN. I am one of them. I am one of them.

Mr. ANDERSON. Mr. Chairman.

The CHAIRMAN. But I do claim I know something about it.

Mr. ANDERSON. Mr. Chairman?

The CHAIRMAN. Yes.

Mr. ANDERSON. I did have three quick questions, if the Chair will entertain them.

The CHAIRMAN. Oh, yes. Yes.

Mr. ANDERSON. I did not realize Mr. Martin was going to be the last witness apparently on this legislation. I should have raised these questions earlier.

But, one of the new industries that will be covered, as I understand it, will be the restaurant industry, and I take it some question will arise as to what the scope of coverage is going to be. As I read the language of the bill, as it pertains to that industry, I am not sure of what is included in working time. For example a good time each day may be spent by an employee in washing up and changing his uniform or maintaining certain standards of sanitation that may be prescribed by local health codes and so on.

Is that time that is employed or used in washing up or changing uniforms to be included in the 8 hours that he works each day?

Mr. MARTIN. John, that could be determined by two criteria. First of all, if you happen to have a union contract in the area the provisions of the contract itself would cover this point as to whether the situation—

Mr. ANDERSON. Assume the situation where they are not organized,

Mr. MARTIN. Second, this could be covered by directives issued by Mr. Lundquist, the Administrator of this program. As you know, under this legislation he has vast powers to issue the rules and the regulations under which the bill is implemented.

Mr. ANDERSON. With all due respect to Mr. Lundquist, who is a very fine gentleman, you mean there is nothing in this bill that defines working time?

Mr. MARTIN. There is nothing in the bill. That point could be developed in the debate on the floor as to what the intent of the Congress is.

Mr. ANDERSON. It is not unreasonable, I believe, to assume that as much as a half hour a day might be consumed in those activities that I described. If we include that as working time we end up with an increase not of 12 percent, or whatever the percentage was you gave us, but we would have a greater increase.

Mr. MARTIN. That is correct.

In most restaurants, employees receive their meals, and they are paid for that time. It is not time off. The time they take to eat their lunch or dinner or breakfast is part of their working hours.

Mr. ANDERSON. You raise another question, then, by that statement: What about meals? Are they duly credited on the minimum wage?

Mr. MARTIN. Yes, sir.

Determination will be made as to the value of the meals and if it is, say, 10 cents an hour, then the minimum wage we start with in cash would be 90 cents instead of \$1.

Mr. ANDERSON. Who makes the determination as to the value of the meal?

Mr. MARTIN. As the bill is written now, the Secretary of Labor.

I have an amendment proposed, which Mr. Dent stated he would accept, that determination would be made at the State level subject to the approval of the Secretary of Labor here in Washington. But the original determination would be made at the State level.

Mr. ANDERSON. But, again it is made by the administrators of the legislation. The administrators of the act made the determination as to how much money shall be credited against the minimum wage for the meals consumed on the premises.

Mr. MARTIN. They have the final say, and would have under the amendment, which the chairman said he would accept.

Originally, John, it will be mad in the field of restaurants and hotels probably by the secretary of labor in Illinois, Nebraska, or California, whatever State it is; if it is in the area of agriculture, probably by the secretary of the department of agriculture within the State. He would make the determination as to value within a State. Then these figures would have to be ratified and approved by the Secretary of Labor. That is what my amendment does.

Mr. ANDERSON. I think it would make a lot of difference whether you were being credited with a meal if you were working at Sloppy Joe's where they only served hamburgers or dining at Antoine's. Who is going to work it out?

Mr. MARTIN. The value of the food? The Administrator.

Mr. ANDERSON. The Administrator will decide all of that?

Just one final question then: How did you ever determine this 35-percent credit for tips? Somebody told me there is a survey of the Department of Labor, Bureau of Labor Statistics, that better than 90 percent of all the tipped restaurant employees in the country average 50 cents an hour. Why was not some attention paid to that survey? Why did you use 35 percent as the amount?

Mr. MARTIN. John, I cannot tell you. This new section of the bill was presented to us when our subcommittee met. It was written before we gathered and was accepted by the subcommittee. I cannot tell you the reasoning of the chairman in arriving at this 35-percent figure. Jimmy Roosevelt's bill was 50 percent.

Mr. ANDERSON. This bill reduced it then 15 percent?

Mr. MARTIN. Yes.

Mr. ANDERSON. Right.

Thank you, Mr. Chairman.

The CHAIRMAN. That is all?

Mr. PEPPER. Mr. Chairman, just one thing.

The comment was made by the gentleman about agricultural labor. I thought it might be pertinent to call attention to an order relative to

the sugarcane industry in Florida by the Secretary of Agriculture, October 26, 1965:

Information available to the Department indicates that unskilled workers employed on the piecework basis as canecutters earn an average of about \$1.35 an hour during the 1964-65 season as compared to \$1.27 an hour a year earlier.

Semiskilled workers usually employed on an hourly basis were paid at wage rates ranging from \$1.35 to \$1.90 per hour during the 1964-65 season.

Average wage rates and earnings of sugarcane fieldworkers in recent years has been in excess of the wage rate testified as wage determination.

Mr. MARTIN. That is true, Claude, in our sugarbeet industry in Nebraska, hourly employees last year were paid a minimum of \$1.40 an hour.

Mr. QUILLEN. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. QUILLEN. Dave, I want to commend you on such a fine statement, and as the gentleman from California said, you put in a lot of time in the study of this measure. I commend you.

I want to say one thing about the canneries exemption. I think it would do violence to the industry in my district if they are reduced to one 14-week period, 10 hours a day, 48 hours a week. Actually that is no concession at all.

I would like to see the present exemption included in this bill.

Mr. MARTIN. I agree with you. We attempted to do that in the subcommittee and were voted down.

Mr. QUILLEN. I have some unresolved problems of special interest to the restaurant and hotel industries which I would like to point out. They are a little bit lengthy, and I ask unanimous consent that they be included as a part of the record, Mr. Chairman.

The CHAIRMAN. Without objection, so ordered.

(The information referred to follows:)

UNRESOLVED PROBLEMS OF SPECIAL INTEREST TO RESTAURANT AND HOTEL INDUSTRY

Since 1949 the Federal minimum wage law has excluded from the definition "hours worked," time spent by employees in changing clothes and washing up on the employer's premises.

Under the 1966 bill restaurant workers will be covered for the first time. It has not been the custom in the restaurant industry to compensate employees for this time.

Under the 1966 amendments is the restaurant industry assured that time spent by an employee in changing clothes, washing up, or eating on the employer's premises will be excluded from the definition of "hours worked" as compensable time?

Should Section 3(o) of the present bill be amended to exclude uniform changing, washing, and meal-eating time from the definition of "hours worked."

Under the present Federal minimum wage law the definition of "wages" includes the fair value of meals, lodging, and other facilities customarily provided by the employer to his employees.

Existing interpretations of the meal allowance by the Wage and Hour Division of the Labor Department deny any allowance where meals are provided for the convenience of the employer, rather than the employee.

Will the 1966 amendments assure employers in the restaurant industry of a credit for minimum wage purchases of the fair value of meals served to employees, whether or not they are for the convenience of the employer or the employee?

Section 3(m) should be amended to assure an allowance for meals regardless of whether meals are for the convenience of the employee or the employer, since the value of meals is not taxable as income to employees under the Internal Revenue Code.

"Tipped" employees of restaurants will be covered under the 1966 bill for the first time. Labor Department statutes show that 97 percent of such employees receive over 50 cents an hour in tips alone.

The pending bill limits a tip credit against the \$1 an hour minimum wage for the employer to 35 cents an hour, increasing to 40 cents an hour when the wage raises to \$1.30 or \$1.45, and 45 cents an hour when the wage reached \$1.60 an hour at the end of 5 years.

Since "tipped" employees will receive the minimum wage from combined salary and tips in any event, and tips like the price of the meal are a cost to the consumer, why should the employer and the public not receive a full credit for total tips against minimum wage?

Should the pending bill be amended to exclude "tipped" employees, unless combined tips and salary is less than the minimum wage.

Mr. SISK. Mr. Chairman, would my colleague yield on the question of reference to cannery workers, because I have questions on that?

With reference to this, this definition of "highly perishable," is the gentleman referring to a desire to return to the 14 weeks from the 28 weeks or discussing the language which the committee has put in there for the first time on highly perishable products. The interpretation of the definition of what that term means may cause problems.

Mr. QUILLEN. I am concerned entirely with the commercial commodities, such as green beans.

Mr. SISK. What I am concerned with are the commercial canneries.

Mr. QUILLEN. The tomatoes and peaches that you mention.

Mr. SISK. Yes.

Mr. QUILLEN. Under the present law the canneries have two 14-week periods.

Mr. SISK. They have two 14-week periods.

Mr. QUILLEN. They have one 14-week unlimited.

Mr. SISK. That is right, and the other unperishables.

Mr. QUILLEN. They have another 14-week period which is 56 hours a week.

Now, the compromise or this bill, which is no compromise, really, creates only one 14-week period, 48 hours a week, 10 hours a day. Actually it is no concession to the canning industry whatsoever, and everybody that I have talked with, including the Department of Labor, and Mr. Dent and the others, agree that actually nothing has been done for the industry.

It will put a lot of them out of business, raise the price of food and, more than that it will get down to the heart of the bean-producing area and the people really producing these crops and hurt them.

We discussed the railroad boxcar bill the other day. There is an extreme shortage of transportation and in my area if you cannot take your beans to the market, they spoil; if you cannot take your peaches to the market, they spoil; if you cannot take commercial commodities to the market, they are destroyed. They must be canned, and in some instances, Bernie, in my district where the canneries are located, there is not any transportation to take them out fresh.

Mr. SISK. Will the gentleman yield further?

I think we both have the same problem. As you know, we have a very large canning industry—

Mr. QUILLEN. You do in California.

Mr. SISK (continuing). Both in vegetables and in fruits.

But the question that I was trying to determine was in your request for a change, as I would understand it, in this proposed legislation,

as to whether or not it went to the matter of simply going to an unlimited 14-week exemption or if you sought reinstatement of it.

Mr. QUILLEN. Keep what we have.

Mr. SISK. As it is at the present time?

Mr. QUILLEN. Yes, sir.

Mr. SISK. Here is the point. There is a lot of discussion on it and it seems to me that as a matter of compromise, and this is why I was trying to determine what the gentleman's position is, to eliminate the one 14-week exemption which is in the existing law, and leave in an unlimited 14-week period, would be of a great deal of help to the canning industry in my area certainly.

Mr. QUILLEN. Let us say this. It would be considerably better than the proposed 14-week period.

Mr. SISK. That is what I was trying to get at.

Mr. QUILLEN. It would be specifically better, but still, Bernie, I have had no indication at all from the Department of Labor that they are interested. They want to kick the canneries in the teeth without any compromise. I say that it is wrong, it is going to do violence, it is going to do harm. I appreciate your thinking in this regard because it will do violence to your area.

Mr. SISK. To the extent that it hurts the economy, of course, it is going to hurt jobs, employment, and payroll.

Mr. QUILLEN. That is right.

Mr. SISK. And so that is why I was seeking to see if there was a middle ground.

Looking at it on strictly a political basis, and you know we have to deal in the possible around here, I have a feeling that the chances of restoring the law to its original form are not good, and I, frankly, was searching for some compromise because in the canning industry in California and even among some of the people that are concerned about labor, specifically, are concerned as to the extent of the impact upon the canning industry due to some of this language which is rather wide open to interpretation as to what is highly perishable and what is not. This attempt to write in a 24-hour situation—fruit, for example, can vary. In one case it may go bad in 24 hours. Carrots, for example, may last a little longer. Still, it is a perishable commodity.

It is a new term which requires new definition which heretofore we did not have to worry about.

Mr. QUILLEN. I will be glad to sit down with you, Bernie. I feel that we need to do something.

Mr. SMITH of California. No questions, Mr. Chairman.

Mr. LATTI. Mr. Chairman.

The CHAIRMAN. I hope to get a chance, but go ahead.

Mr. LATTI. I yield to the chairman.

The CHAIRMAN. I thought you wanted to ask a question.

Mr. LATTI. I will yield to you.

The CHAIRMAN. I just have two or three short ones because I asked what questions I wanted to ask the other day. But I am still puzzled about putting this farm labor under the wage and hour bill because many of them get as you described a while ago, a house and garden and milk and firewood and fuel. How are you going to figure that out?

Now, I asked that question of the author of the bill, Mr. Dent, the other day, and he said all those fringe benefits are going to be figured out by the Secretary of Labor, and will then be included in the minimum wage.

Well, let us take an example. In my area, throughout Virginia, generally, and some other Southern States, one of the items we give a fellow is 300 pounds of fresh pork which he salts down. Now, of course the price of it varies every day and by the week. Sometimes it is high, sometimes low. Then there is the quality of it. What is the Secretary of Labor going to do? Come out on my farm and see whether this hog is a No. 1 or a No. 2 hog or a No. 3 hog, or what the price of it is the day it was delivered to him, and then he is going to tell the farmer he can keep his books accordingly and he can tell the farmer how much he can allow him. Now, how in the world are you going to figure that thing out, and how much bookkeeping is the farmer going to have to do to keep up with all this stuff?

You know and I know that the Secretary of Agriculture is not going to do anything about it. He may send the farmer a lot of statistics, which he will not understand after he gets them.

Does this not simply drift down to the same thing that I was saying the other day to the author of the bill, that you just cannot put industry and business and farming and everything else in the country in a strait-jacket and run it from Washington?

How is he going to do it as a practical matter?

Mr. MARTIN. You put your finger on one of the most complex problems presented by this bill, particularly the section in regard to the coverage on agriculture. It just cannot be done in a fair and equitable manner because we have too many imponderables to consider in trying to make a determination as to the value of these fringe benefits furnished employees in agriculture. That is why I feel it is so important that this section of the legislation should be removed.

The CHAIRMAN. That is the next question I was going to ask you, and I only have one other.

You said that you were going to offer an amendment to delete a certain portion of the agricultural section. I want to know if you are preparing to offer an amendment to eliminate the entire agricultural section.

Mr. MARTIN. No, not the entire section, Judge, if you take a look at the bill—

The CHAIRMAN. I will have to take that out myself.

Mr. MARTIN. No, if you look at the bill there are many other sections in regard to all those who travel the irrigation ditches, and so forth, and other phases that are tied in with agriculture that I did not intend to eliminate. I am primarily interested in that part of the section which eliminates the coverage for all farms and ranches and the 500-man-day-per-quarter exemption provided there. That is the one that I am primarily interested in.

I would be happy to eliminate the entire section, in fact the whole bill, but I do not think that is realistic. I may not get that done.

The CHAIRMAN. One other thing on the restaurants. The bill says that a tipped employee means any employee engaged in an occupation which he customarily and regularly receives more than \$20 a month in tips. That is another one that you might call an imponderable.

I just wondered how you were going to find out how many tips a waitress slips down in that apron. Are you going to search her when they close the restaurant?

Mr. MARTIN. Again you hit upon a very complex problem. That is going to be difficult to enforce.

The CHAIRMAN. In fooling around with tips it looks like Ways and Means Committee, in search of revenues, is pretty near scraping the bottom of the barrel, is it not?

Mr. MARTIN. I think that is correct, yes.

The CHAIRMAN. I have no other questions.

How much time do you think should be allowed for debate?

Mr. MARTIN. I think, Mr. Dent asked for 4 hours, was it not? Four hours.

The CHAIRMAN. Is that agreeable?

Mr. MARTIN. I think that will be sufficient on the bill.

The CHAIRMAN. No further questions.

Mr. PEPPER. Mr. Chairman, I just want to call the attention of the reporter to an error in the record of the hearings of April 26, 1966, part III, on page 69.

Evidently, due to my clipped Alabama accent, you have "Los Angeles" instead of "Louisiana," in the first main paragraph and on page 70 again, "Los Angeles" appears instead of "Louisiana." I talked about Florida and Louisiana in respect to the cane industry. By inadvertence, the reporter has "Los Angeles" instead of "Louisiana."

Thank you, Mr. Chairman.

Mr. SISK. Mr. Chairman, if I could just be recognized for one additional question here on this farm—

The CHAIRMAN. You are not going to fool with female corn?

Mr. SISK. No. I am completely away from female corn. I do not want to get into deep water again.

Getting back to this question of coverage of farm labor, I question whether or not the problem of bookkeeping and recordkeeping and so on is going to be as much of a burden as has been indicated?

Now, I certainly am opposed to adding any additional burdens to the farmer because he has plenty of them as the businessman has. The whole business of recordkeeping is a tough situation.

But on the modern farm employing 500-man-days of labor a quarter, under present agricultural adjustment acts, how many records do they have to keep now?

Mr. MARTIN. Well, I would agree with you, Bernie, I do not think this will be a great deal of burden to them in one respect. All farmers and everyone today has to keep fairly accurate records in regard to their income tax returns.

Mr. SISK. That is my point.

Mr. MARTIN. The cost of labor, of course, is a deductible income expense item and they do have to keep records. Now, perhaps some of them do not keep too accurate a record, but nevertheless they do at the present time.

Mr. SISK. I am as concerned as everyone with reference to increasing the burden of recordkeeping, but I know that a farmer is going to have to employ at full time a minimum of at least seven or eight men on a farm. Now, the farm of that size today with the type of

records that they have to keep with reference to their farm programs, of which they are a part, or with which they are participating, as well as their cost with reference to income tax, does not seem to be a serious problem.

I can see problems if you paid them partly with pigs, as the chairman indicated, or some otherwise, but generally a farm that employed 500 man-days of labor per quarter, today with all the records he has to keep in participating in these various farm programs and also with reference to income taxes would not have any substantial increase in the amount of records.

The CHAIRMAN. Let me answer you on that, because I know something about it.

Mr. SISK. All right.

The CHAIRMAN. I run a dairy farm myself, and I know how much labor has to be employed by my tenants who employ the labor. A dairy farm that has less than 100 cows milked a day is not a very profitable farm.

Mr. SISK. I quite agree.

The CHAIRMAN. And I know that my men milk about 100 cows, and they employ about 6 people. Any dairy farm that has 100 cows is going to come within this law.

Of course, we are driving the dairy farms out of business. It has become a public utility now. They are governed by the health department and by various and sundry other things, and the Government fixes the price that they can get for the milk. So it is rapidly going out of business. But nevertheless while it is still tottering we might leave it alone.

Mr. MARTIN. If the gentleman will yield—you mentioned seven or eight employees on a permanent basis to make this 500 man-days per quarter. It is based on the highest quarter in the preceding year. You do not have to have that many permanent employees to put you under the Fair Labor Standards Act.

Mr. SISK. I agree.

Mr. MARTIN. We have sugar business and you have cane, and vegetables and fruits. Maybe you have a sugarbeet farm, Bernie, and 20 people come in there to weed and thin your beets. They might only work 6 or 7 weeks, you might have sufficient man-days built up because of such people. The temporary employees are not exempt from being counted towards the 500 man-days per quarter. You might have one or two permanent employees but by bringing in these additional workers it shoots you over 500 man-days for that particular calendar quarter.

Mr. SISK. I agree with that.

Mr. MARTIN. In H.R. 10518 there was an exemption for seasonal workers which took care of this situation, those which worked less than 13 weeks. I tried to get it in this bill but I was unsuccessful.

Mr. SISK. Mr. Chairman, I simply want to say I recognize these things are complicated and complex. They do create some problems.

The only point that I was trying to make today is that modern-day agriculture with all the types of programs that you already indicated and all the records they have to keep would be practically all the

records that would have to be kept to satisfy this situation. I may be wrong but this certainly was my interpretation of it, gentlemen.

That is all I have, Mr. Chairman.

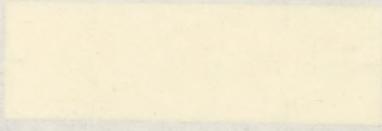
The CHAIRMAN. The whole trouble is you are under one kind of agriculture in California, and we run an entirely different system in Virginia and probably run another system in Nebraska.

Mr. SISK. I recognize the difference.

The CHAIRMAN. Is there anything further?

We will meet tomorrow morning on the bond participation legislation at 10:30.

(Whereupon, at 12:15 p.m., the committee adjourned to reconvene at 10:30 a.m., on Wednesday, May 4, 1966.)





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