

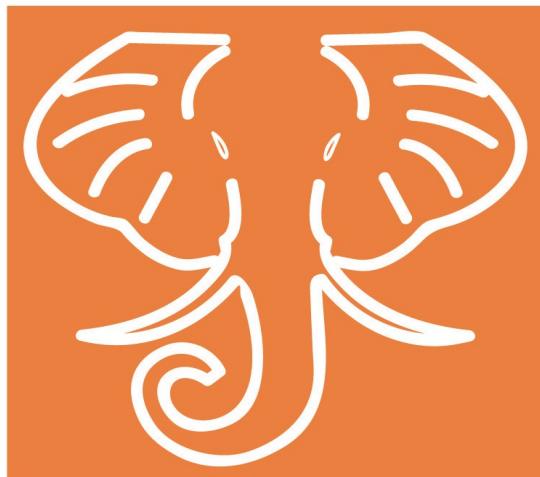
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United States.

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**Minimum Wage
Study Commission**

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Volume I

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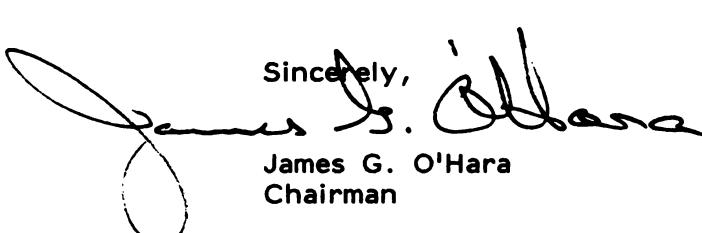
Dear Mr. President:

I am pleased to transmit to you, in accordance with Section 2(e)3 of the Fair Labor Standards Amendments of 1977 (Public Law 95-15), the Final Report of the Minimum Wage Study Commission.

The Commission has devoted the last three years to examining the social, political and economic ramifications of the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938. We have conducted the most exhaustive inquiry ever undertaken into the issues surrounding that Act since its inception. Our task included the examination of existing literature, the conduct of innovative research, and the development of original data. In our efforts, we have sought to examine and balance the interests of business, labor, consumers, agriculture, and the working men and women of our country as a whole.

If adopted, we believe the recommendations set forth in our report will strengthen our society and are in the best interest of our nation.

Sincerely,


James G. O'Hara
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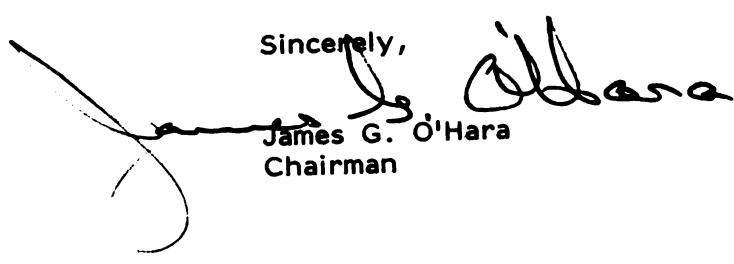
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If adopted, we believe the recommendations set forth in our report will strengthen our society and are in the best interest of our nation.

Sincerely,


James G. O'Hara
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Report of the Minimum Wage Study Commission

Volume I: Commission Findings and Recommendations

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PREFACE

Congress created the Minimum Wage Study Commission in 1977 (Public Law 95-151) to help it resolve the many controversial issues that have surrounded the federal minimum wage and overtime requirements since their origin in the Fair Labor Standards Act of 1938. Business and labor interests have debated for years whether increasing the minimum wage or extending its coverage helps or harms workers or the economy without ever agreeing on definitive conclusions. The legislative history of the 1977 Fair Labor Standards Act Amendments contains strongly worded and deeply felt convictions on both sides of the question. Yet both parties to the debate over those amendments agreed that they were voting on complex and technical proposals that, as one Member of Congress stated, "...simply have not been addressed in depth by Congressional study commissions or by any totally independent study commission since the inception of the law on minimum wage standards."*

The Commission comprises eight members nominated by four federal agencies, the Departments of Agriculture, Commerce, and Health, Education and Welfare (now Health and Human Services) and Labor. The eight members

*U.S. Congress, House. Congressman Jim Guy Tucker, 95th Cong., 1st sess., Sept. 15, 1977, Congressional Record, 123, 9439.

selected a chairperson from among them to preside over meetings during the Commission's three-year life. The chairperson in turn appointed an executive director to oversee operations.

Section 2(e)2 of the 1977 Amendments directed the Commission to study the "...social, political, and economic ramifications of the minimum wage, overtime, and other requirements of the Fair Labor Standards Act of 1938," and specified the following 12 topics or "mandates" that were to be addressed:

- A. The beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens.
- B. The inflationary impact (if any) of increases in the minimum wage prescribed by the Fair Labor Standards Act.
- C. The effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act.
- D. The economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index.
- E. The employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and

unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals.

- F. The effect (if any) of the full-time student certification program on employment and unemployment.
- G. The employment and unemployment effects (if any) of the minimum wage.
- H. The exemptions from the minimum wage and overtime requirements of that Act.
- I. The relationship (if any) between the federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance.
- J. The overall level of noncompliance with the Act.
- K. The demographic profile of minimum wage workers.
- L. The extent to which the exemp-

tions from the minimum wage and overtime requirements of the Act may apply to employees of conglomerates.

Because the 12 topics are inter-related to some extent, the Commission grouped them under six research areas and assigned each area to a senior economist on the Commission staff. To fully study each of the mandates, the staff conducted extensive original research. Under contract with the Commission, prominent economists throughout the country also analyzed aspects of these mandates and supplied much additional information that has been incorporated into the Commission's final report.

Volume I of the final report contains the Commission's policy recommendations together with summaries of research findings and conclusions for each of the 12 mandates. Volumes II through VII contain the research studies corresponding to each of the six research areas: Volume II -- Demographics, Volume III -- Noncompliance, Volume IV -- Exemptions, Volume V -- Employment and Unemployment, Volume VI -- Inflation, and Volume VII -- Income Distribution.

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The Commission appreciates the many private organizations and individuals who provided their comments on minimum wage issues.

Introduction

HISTORY OF THE FAIR LABOR STANDARDS ACT

The 1938 Fair Labor Standards Act (FLSA) culminated a long, arduous struggle for state and Federal protective legislation for workers stretching back into the 19th century. The industrial states enacted the first wage and hour laws, but on the eve of the Great Depression most had been declared unconstitutional by the courts. Proponents of minimum wage laws stressed society's obligation to act through its elected officials to insure an adequate standard of living for all working citizens. Opposing interests based their countering legal arguments on the right of employees to contract their services freely to employers. Under the prevailing laissez faire market philosophy, freedom of contract between employers and their employees was considered one of the highest principles of a free society. The evolutionary course of wage and hour legislation -- the types of bills proposed and the order in which they were enacted -- reflects the gradual shift in public opinion that took place as the nation developed into the world's major industrial power. Nineteenth century free-market liberalism, the cornerstone of an earlier agrarian and small-town business ethic, gradually gave way to 20th century urban industrial liberalism. The use of available state authority to insure that the output of the developing industrial economy was equitably distributed to the workers who made its success possible was more readily

accepted under the new outlook.

The separation of powers between state and Federal jurisdictions and between executive and judicial authority served the country well in defining the desired legal and political balance between preserving the right to free private contracting on the one hand and protecting employees and employers from the economic consequences of cut-throat competition on the other. The states were the testing ground for new legislation, and the frequent court cases triggered by their wage and hour laws provided ample room for experimentation in redrafting those found unconstitutional.

State work-hour limits were first set in 1842 with the passage in Massachusetts of a 10-hour maximum work-day for children under 12. Such legislation did not directly address the freedom of contract issue since children clearly were not in a position to exercise that freedom. Yet the child labor laws implicitly established the principle that industrial work posed dangers that the marketplace alone could not control.

State legislation limiting the work-day for women was the next stage in the evolution of wage and hour laws. Under the prevailing attitudes of the day, the legal status of women was similar to that of children; hence, protective labor legislation for working women also did not confront the free-

dom of contract doctrine. Moreover, it was effectively argued that the work-day of women should be regulated to insure their health and safety. Massachusetts in 1879 once again was the lead state in this effort. Although few other states followed that example during the next 30 years, the principle of limiting women's working hours received a major boost when the Supreme Court in 1908 upheld the constitutionality of an Oregon law setting hour standards for women. That case, argued for labor by Louis Brandeis, opened the floodgates to new hour limitation laws. Thirty-four states passed hour laws for women in the next four years.

Hour laws for men also grew out of a concern for maintaining the public welfare but with a different rationale. Louisiana passed the first laws for men in 1886 to limit the hours of street railway operators. Protecting the public from dangerous mistakes of overtired conductors was seen as more important than retaining the right of private contract. Similar legislation appeared in other states in the first decade of the 20th century, and Congress in 1907, exercising its powers over interstate commerce, passed the first national hour law limiting the workday of railroad operators.

With the political and philosophical underpinnings laid by the hour laws, labor and progressive reformers turned their attention to minimum wage legislation. Massachusetts passed the first state minimum wage law for women and children in 1912, the same year that Theodore Roosevelt included a minimum wage plank in his platform as the Independent Progressive candidate for President.

The National Consumers League under the pioneering leadership of Florence Kelley prepared a model minimum wage bill based on a 1909 British law, which in turn grew out of an 1896 act in the Australian province of Victoria. Following Massachusetts' example, seven states passed the Consumers

League model bill in 1913.

Progress in minimum wage legislation for women soon began to wane even though 16 states, Puerto Rico, and the District of Columbia had such laws on the books by 1923. That year saw the tide begin to turn in the other direction when the Supreme Court declared the District of Columbia's minimum wage law unconstitutional as a denial of the right to freedom of contract. With that as a precedent, state supreme courts declared five more minimum wage laws unconstitutional. It was not until the Depression that public opinion changed sufficiently to regain the momentum lost in the rash of adverse court rulings.

Under President Franklin Roosevelt's New Deal leadership, Congress overwhelmingly passed in 1933 the National Industrial Recovery Act (NIRA) granting the President authority to set minimum wage and maximum hour standards for all workers, men as well as women, in private industry. The legal basis of the NIRA was the federal government's power to regulate interstate commerce. Roosevelt argued that low wages and cutthroat business competition acted as an internal national tariff that reduced workers' purchasing power and held down output from the nation's factories. "The aim of this whole effort is to restore our rich domestic market by raising its vast consuming capacity," stated the President.

The Supreme Court, however, did not accept that argument and declared the NIRA unconstitutional in Schechter Poultry Corp. v. the U.S. on the grounds that determining labor standards was part of a purely local economic transaction. The Court went even further in other rulings following that case, effectively striking down New York's minimum wage law for women by refusing to hear an appeal of a state supreme court decision rendering that law unconstitutional.

Roosevelt tried again in his second administration. The Fair Labor Standards bill, a modified version of the

labor provisions of the NIRA, was introduced in 1937. Although the measure easily passed the Senate, it became bogged down in the House. Not until Claude Pepper, running on a platform supporting wage and hour legislation, soundly defeated his anti-New Deal opponent in the 1937 Florida senatorial primary did the House opposition begin to disappear. Pepper's decisive victory in a conservative Southern state convinced Congress of the widespread public support for minimum wage legislation. The House passed the bill on May 24, 1938; Roosevelt signed it on June 25; and it went into effect on October 24, 1938.

Sections 2(a) and (b) of the FLSA spell out the Act's findings and declaration of policy:

Sec. 2(a). The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce. The Congress further finds that the employment of persons in domestic service in households affects commerce.

(b). It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the

several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

The original Act contained provisions for minimum wage of 25¢ an hour, premium overtime pay, child labor restrictions, and recordkeeping requirements for firms engaged in interstate commerce. The law set up a Wage and Hour Division in the Department of Labor to be directed by an administrator appointed by the President. Committees containing labor, management and public members were established in each major industry to set the level for the minimum wage prior to the statutorily defined 40¢ minimum required by 1945.

The Act also gradually reduced the standard workweek, setting a 44-hour limit to be reached by the end of the following year, 42 hours after two years and 40 hours after three. The law exempted certain businesses for various reasons, including those in agriculture, most retail trade, and the air, water, rail and motor transport industries.

Congress has amended the Act six times since 1938. The main purposes of the amendments have been to extend the law's coverage to additional employees, and to raise the level of the minimum wage to reflect increases in the general level of wages and the cost of living. The first amendments, in 1949, raised the minimum from 40¢ an hour to 75¢ for all workers and extended minimum wage coverage to workers in the air transport industry but slightly decreased the small number of subject workers in retail trade. The 1949 amendments also eliminated the industry committees except in Puerto Rico and the Virgin Islands. A specific section was added granting the Administrator explicit authorization to control the incidence of exploitive industrial homework. An amendment in 1955 increased the mini-

mum to \$1.00 an hour with no changes in coverage.

The 1961 amendments greatly expanded the Act's scope in the retail trade sector and increased the minimum for previously covered workers to \$1.15 an hour effective September 1961 and to \$1.25 an hour by September 1963. The minimum for workers newly subject to the Act was set at \$1.00 an hour effective September 1961, \$1.15 an hour by September 1964, and \$1.25 an hour in September 1965. Retail and service establishments were allowed to employ full-time students at wages no more than 15 percent below the minimum with proper certification from the Department of Labor. The amendments extended the coverage to employees of retail trade enterprises with sales exceeding \$1 million annually although individual establishments within those enterprises were exempt if their annual sales fell below \$250,000. The 1961 amendments extended coverage in the retail trade industry from an estimated 250,000 workers to 2.2 million.

Congress further broadened coverage with amendments in 1966 by lowering the enterprise sales volume test to \$500,000 effective February 1967, with a further cut to \$250,000 effective February 1969. The 1966 amendments also extended coverage to public schools, nursing homes, laundries, and the entire construction industry. Farms were subject for the first time if their employment reached 500 or more man-days of labor in the previous year's peak quarter. The minimum wage went to \$1.00 an hour effective February 1967 for newly covered non-farm workers, \$1.15 in February 1968, \$1.30 in February 1969, \$1.45 in February 1970, and \$1.60 in February 1971. Increases for newly subject farm workers stopped at \$1.30. The 1966 amendments extended the full-time student certification program to subject agricultural employers and to institutions of higher learning.

In 1974, Congress included under

the Act all nonsupervisory employees of Federal, state, and local governments and many domestic workers. The minimum increased to \$2.00 an hour in 1974, \$2.10 in 1975, and \$2.30 in 1976 for all except farm workers, whose minimum initially rose to \$1.60. Equality with other workers was reached at \$2.30 in 1977.

Although the Supreme Court in 1966 upheld the constitutionality of bringing state and municipal employees within the scope of the wage and hour standards of the Act, it reversed itself in a landmark decision in 1976 (National League of Cities et al. v. Usery), two years after the Congress extended full coverage to all state and local employees. The Court found that "the challenged amendments operate to directly displace the states' freedom to structure integral operations in areas of traditional governmental functions."

The latest FLSA amendments came in 1977. Congress at that time eliminated the separate lower minimum for large agricultural employers (although retaining the overtime exemption) and set a new uniform wage schedule for all subject workers. The minimum went to \$2.65 an hour in January 1978, \$2.90 in January 1979, \$3.10 in January 1980, and \$3.35 in January 1981. Amendments eased the provisions for establishments permitted to employ students at the lower wage rate and allowed special waivers for children 10 to 11 years old to work in agriculture. The overtime exemption for employees in hotels, motels, and restaurants was eliminated. To allow for the effects of inflation, the \$250,000 dollar volume of sales coverage test for retail trade and service enterprises was increased in stages to \$362,500 after December 31, 1981.

The Fair Labor Standards Act initially provided minimum wage coverage for only one fourth of the private sector workforce although its supporters had envisioned a law giving basic protection to all wage workers. The

amendments added to the law throughout the years gradually extended minimum wage coverage and estimated exemptions. Today, much of what its supporters envisioned has been realized. Almost 92 percent of the non-supervisory farm and nonfarm wage earners employed in mid-1979 were effectively covered by the minimum wage provisions of the Act.

The Act was also designed to increase the number of available jobs by requiring employers to pay a penalty

overtime premium to subject employees working in excess of 40 hours per week. The premium provided an incentive for employers to hire additional workers and maintain an normal 40-hour workweek rather than requiring employees to work overtime. Most employees now subject to the minimum wage provisions also are subject to the maximum hour provisions.

The 1977 amendments also created the Minimum Wage Study Commission, whose final report follows.

Chapter 1

A DEMOGRAPHIC PROFILE OF MINIMUM WAGE WORKERS

This chapter presents the Commission's most important findings from its investigation of the demographic profile of minimum wage workers required by mandate K.¹ This summary describes the personal characteristics of those working at or below the minimum wage: where they live, the occupations and industries in which they work, and how their group characteristics are likely to change over the next decade.

Data and Method

The primary data source for this research effort was the Current Population Survey (CPS), which consists of monthly sample surveys of approximately 65,000 households.² The U.S. Bureau of the Census conducts this survey for the Bureau of Labor Statistics (BLS). Besides providing current monthly national estimates of employment and unemployment, the survey collects data on usual weekly and hourly earnings of the various population groups that make up the labor force, and other useful socio-economic data (Flaim 1977). There

are some limitations to these household data, but they are the most comprehensive and current source of demographic information on earnings of the working-age population.

While CPS data provide useful insights into many of the demographic attributes of minimum wage workers, they do not supply information on the characteristics of the firms employing them. That information is most accurately collected from the payroll records of the firms themselves. For that reason, an employer survey was conducted between 1978 and 1980 specifically for the Minimum Wage Study Commission and the Employment Standards Administration by BLS. Named the Wage Distribution Survey (WDS), it gathered detailed employment data for workers in private non-farm establishments by weekly hours of work and average straight-time hourly earnings. The survey also collected data on tip status, coverage under the Fair Labor Standards Act, overtime pay and the extent of collective bargaining agreements.

A third data set used in this study is the National Longitudinal Surveys (NLS), conducted by the U.S. Bureau of the Census and the Center for Human Resource Research of Ohio State University. Basically, this set of surveys provides much information on the social and labor force behavior of the same individuals over an extended period of time. With this type of data

¹This chapter is based on the complete research report entitled, "A Demographic Profile of Minimum Wage Workers" (Gilroy 1981) found in Volume II of this Report.

²For an expanded and technical description of the CPS see U.S. Department of Commerce (1978). See also Gilroy (1981).

set, it is possible for the analyst to observe the average time period an individual in a given population subgroup will have average hourly earnings less than or equal to the minimum wage.³

The fourth data series is from a survey conducted for the Commission by the University of Michigan's Institute for Social Research (ISR). The survey determined how employers changed prices, employment, and output in response to increases in the minimum wage. Much of the data collected in the survey concerned the characteristics of minimum wage workers -- with unique information on their training and productivity -- and the establishments that employed them.⁴

Using four different sets of data provided an extra benefit because each survey had some comparable data items found in the others. This allowed cross-checking of estimates among the four surveys to examine their accuracy. For most data items, estimates produced by the different data sets were essentially the same.

A precautionary note on method is in order. The analyses rely solely on the description of the characteristics of the population of workers at or below the minimum wage. As a result, no causal relationships are "proved" or even implied. No theories are tested; the analysis attempts instead to lay proper groundwork for further investigation and hypotheses testing in the chapters that follow, and the subsequent formulation of minimum wage policy.

³For a discussion of the CPS, WDS, and NLS sample designs and their shortcomings see Appendix A of Gilroy (1981).

⁴For more information on the ISR survey see the chapter in this volume on the inflationary effects of the minimum wage and also Converse, et al. (1981) in Volume VI of this Report.

Minimum Wage Workers: Their Personal and Household Characteristics

In the second quarter of 1980, 10.6 million wage and salary workers had jobs paying the minimum wage (\$3.10 per hour) or less (Table 1-1). These workers accounted for 12.4 percent of total wage and salary employment, with half of the 10.6 million earning wages less than the mandated minimum. Note-worthy differences occur among the various subgroups of this minimum wage population.

Examination by age groups reveals that teenage and elderly workers were much more likely to earn a wage less than or equal to the minimum compared to workers in other age groups (Figure 1-1). Over 60 percent of 16 and 17 year-olds and one third of 18 and 19 year-olds worked at or below the minimum wage. Although 40 percent of workers over seventy and 29 percent of those aged 65-69 also earned low wages, those segments of the labor force were relatively small. Figure 1-2 reveals another important perspective: almost 70 percent of all minimum wage workers were adults 20 years of age or over; 50 percent were 25 or over.

Considerable differences also exist in the composition of this minimum wage population by sex as women have historically been overrepresented at the low end of the earnings scale. Approximately 18 percent of all working women earned \$3.10 an hour or less compared to 8 percent of all working men. These 6.7 million women accounted for nearly two thirds of the minimum wage population. Other factors should, however, be considered before hasty conclusions are reached. The data show that part-time workers were much more likely than full-time workers to be earning the minimum wage or less (Table 1-2). Given that over 25 percent of all working women were part-timers compared to 11 percent of all working men, some of the preponderance of women in the low-wage group may be related to their part-time status. Nevertheless, even among full-

Table 1-1
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Age and Sex, Second Quarter 1980

(Numbers in thousands)

Age and Sex	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
Both Sexes									
Total, 16 years & over	85,504	10,615	12.4	5,321	6.2	5,294	6.2	100.0	
16-19 years	7,397	3,267	44.2	1,454	19.7	1,814	24.5	30.8	
20-24 years	13,007	1,850	14.2	817	6.3	1,033	7.9	17.4	
25-64 years	63,047	4,822	7.7	2,619	4.2	2,202	3.5	45.4	
65 years & over	2,053	677	38.0	432	21.0	245	12.0	6.4	
Men									
Total, 16 years and over	47,657	3,895	8.2	1,937	4.1	1,958	4.1	36.7	
16-19 years	3,936	1,505	38.2	609	15.5	897	22.8	14.2	
20-24 years	6,901	788	11.4	330	4.8	458	6.6	7.4	
25-64 years	35,668	1,287	3.6	804	2.3	483	1.4	12.1	
65 years & over	1,152	315	27.4	195	16.9	120	10.4	3.0	
Women									
Total, 16 years and over	37,847	6,721	17.7	3,384	8.9	3,336	8.8	63.3	
16-19 years	3,461	1,762	50.9	845	24.4	917	26.5	16.6	
20-24 years	6,106	1,062	17.4	487	8.0	575	9.4	10.0	
25-64 years	27,379	3,535	12.9	1,815	6.6	1,719	6.3	33.3	
65 years & over	901	362	40.2	237	26.3	125	13.9	3.4	

Note: Individual items may not add to totals because of rounding.

¹Refers to wage and salary workers only and excludes self-employed and unpaid family workers. This figure differs from the 87.8 million officially reported employed wage and salary workers in the Current Population Survey because it excludes those self-employed workers whose businesses were incorporated.

²The minimum wage was \$3.10 per hour in 1980. Those working at the minimum include the interval \$3.05-\$3.15 to account for rounding problems which would otherwise exclude workers who were reported as not earning exactly \$3.10. Those workers earning less than \$3.05 are included in the "below minimum" group.

Source: Current Population Survey

time workers, a greater proportion of women than men work at or below the minimum.

Because length of workweek differs substantially not only between men and women but also among age groups, data on hours of work should be analyzed along with the number of employed persons. Using an appropriate weighting procedure, the hours of part-time workers were combined to produce a smaller number of full-time employees with the

same total hours.³ This smaller "number" of minimum wage workers (in a full-time equivalent sense) produces quite a different distribution of workers at or below the minimum (Table 1-3). Scanning these adjusted data, it is clear that teenage workers as well as

³For the technical derivation of this weighting procedure, see Gilroy (1981), especially Appendix Table B-2.

Figure 1-1

Proportion of Employed Wage and Salary Workers At or Below the Minimum Wage by Age, Second Quarter 1980

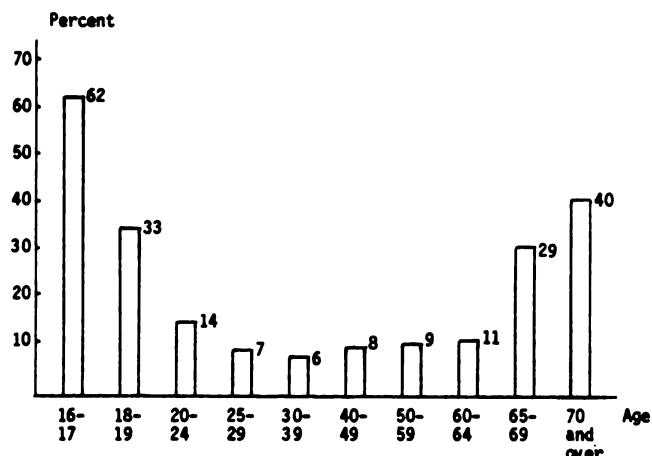


Figure 1-2

Distribution of Employed Wage and Salary Workers At or Below the Minimum Wage by Age, Second Quarter 1980

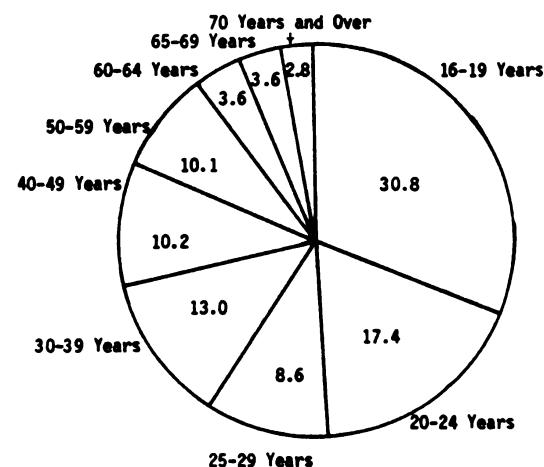


Table 1-2

Wage and Salary Employment of Persons At or Below the Minimum Wage by Full-time and Part-time Status, Second Quarter 1980

(Numbers in thousands)

Full- and Part-time Status	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
All Workers	85,504	10,615	12.4	5,321	6.2	5,294	6.2	100.0	
<u>Men</u>									
Full-time	42,419	2,099	5.0	1,141	2.7	958	2.3	19.8	
Part-time	5,238	1,796	34.3	796	15.2	1,000	19.1	16.9	
<u>Women</u>									
Full-time	28,025	3,086	11.0	1,499	5.4	1,586	5.7	29.1	
Part-time	9,822	3,635	37.0	1,885	19.2	1,750	17.8	34.2	

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 1-1.

²See Note 2, Table 1-1.

Source: Current Population Survey

Table 1-3
Wage and Salary Employment and Full-time Equivalent Estimates of Persons
At or Below the Minimum Wage by Age and Sex, Second Quarter 1980¹

Age and Sex	CPS-Reported Estimates		Full-time Equivalent Estimates	
	(1) Number	(2) Percent	(3) Number	(4) Percent
Both Sexes				
Total, 16 years & over	10,615	100.0	9,112	100.0
16-19 years	3,267	30.8	2,101	23.1
20-24 years	1,850	17.4	1,710	18.8
25-64 years	4,822	45.4	4,776	52.4
65 years & over	677	6.4	526	5.8
Men				
Total, 16 years & over	3,895	36.7	3,677	40.4
16-19 years	1,505	14.2	1,018	11.2
20-24 years	788	7.4	784	8.6
25-64 years	1,287	12.1	1,608	17.6
65 years & over	315	3.0	268	2.9
Women				
Total, 16 years & over	6,721	63.3	5,435	59.6
16-19 years	1,762	16.6	1,083	11.9
20-24 years	1,062	10.0	925	10.2
25-64 years	3,535	33.3	3,168	34.8
65 years & over	362	3.4	258	2.8

Note: Individual items may not add to totals because of rounding.

¹See Note 2, Table 1-1.

Source: Current Population Survey

older persons assume less importance while prime age workers become more important in this full-time equivalent minimum wage population. Women represent a slightly smaller proportion of this group (60 percent versus 63 percent) while prime age men account for a much greater proportion (18 percent versus 12 percent).

Aside from the number of hours worked per week, another important factor influencing the distribution of minimum wage workers among different age groups must be considered. Although some working persons are officially classified as employed, their major activity may be something other than work. This is particularly prevalent among young

people attending school. Using CPS sample data on "major activity," it was estimated that the major activity of 1.5 million minimum wage workers aged 16-24 was going to school. This represented 30 percent of minimum wage workers in this age group and roughly 14½ percent of all minimum wage workers. As expected, those whose major activity was school attendance were at least three times as likely to earn the minimum or less as were their peers who were not in school.⁶

⁶For more detailed information on workers' major activity, see Appendix Table B-3 in Gilroy (1981).

Like women, blacks and other minorities are historically concentrated at the lower end of the earnings distribution. In the second quarter of 1980, a greater proportion of blacks was likely to be working at or below the minimum wage compared to other racial or ethnic groups, despite the fact that whites accounted for over three quarters of all low-wage workers (Table 1-4). Nearly one out of every five blacks worked for the minimum wage or less. Hispanic workers, about half the size of the black working population, also experienced a disproportionate share of the minimum wage burden.

Cross classification by sex, however, shows that differences between men and women were more pronounced than among racial and ethnic groups. Women of all ages, regardless of race or ethnic classification, were more likely to be working at lower wages than their male peers. For example, black women in 1980 were 1.4 times as likely as white women to earn the minimum or less (23 percent and 16.6 percent, respectively) but were 1.7 times as likely as black men (13.6 percent).

Examining workers by household and marital status helps to clarify the role of minimum wage workers within

Table 1-4

**Wage and Salary Employment of Persons At or Below the Minimum Wage
by Race, Ethnicity, and Sex, Second Quarter 1980**

(Numbers in thousands)

Race, Ethnicity, and Sex	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
<u>Both Sexes</u>									
All Workers	83,535	10,293	12.3	5,178	6.2	5,116	6.1	100.0	
White	69,015	7,825	11.3	4,050	5.9	3,776	5.5	76.0	
Black	8,485	1,540	18.1	722	8.5	818	9.6	15.0	
Spanish	4,529	718	15.8	293	6.5	425	9.4	7.0	
Other	1,506	210	13.9	113	7.5	97	6.4	2.0	
<u>Men</u>									
All Workers	46,482	3,773	8.1	1,882	4.1	1,891	4.1	36.6	
White	38,652	2,792	7.2	1,451	3.8	1,342	3.5	27.1	
Black	4,361	593	13.6	273	6.3	320	7.3	5.8	
Spanish	2,711	310	11.4	109	4.0	201	7.4	3.0	
Other	758	78	10.3	49	6.5	29	3.8	0.8	
<u>Female</u>									
All Workers	37,053	6,520	17.6	3,296	8.9	3,225	8.7	63.3	
White	30,363	5,033	16.6	2,599	8.6	2,435	8.0	48.9	
Black	4,124	948	23.0	449	10.9	499	12.1	9.2	
Spanish	1,818	408	22.4	184	10.1	224	12.3	4.0	
Other	748	132	17.6	64	8.6	68	9.1	1.3	

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 1-1. The totals are somewhat lower because some respondents either refuse or do not know how to answer the race/ethnicity question.

²See Note 2, Table 1-1.

Source: Current Population Survey

the family unit (Tables 1-5 and 1-6). These estimates show that over half of all minimum wage workers were either household heads or spouses of heads. The remainder consisted of other household members including non-relatives. As expected, younger members of households had a higher probability of earning the minimum or less compared to older members. Although male and female household heads together accounted for more than one fourth of all minimum wage workers, women who headed households were much more likely to earn the minimum wage or less than their male counterparts.

Most minimum wage workers (68 percent) resided in families headed by married couples. Of these, 1.5 million were the only earners in their families, making up 14 percent of all low-wage workers. Fifty-four percent of all minimum wage workers, however, were in families with two or more earners. This is not surprising since more than half of the wage-earning families in the United States had two or more earners.

Regardless of household, family, or marital status, women were much more likely to be working at or below the minimum wage than men. In fact, there were three times as many women who alone maintained (headed) families.⁷ As women earned on average considerably less than men, it was not surprising that they were 4.5 times as likely to be earning the minimum wage or less. In addition, there were one million women who were the sole earners in their families, accounting for 10 percent of all minimum wage workers and over 40 percent of all low-wage single earners. Nor does differing marital status relieve this disproportionate burden of the minimum wage on women. Fourteen percent of married women, compared to 4 percent of mar-

ried men, were minimum wage workers. In addition, widowed, divorced or separated women were severely burdened. Twice as many of them as their male counterparts were employed, but nearly four times as many worked for the minimum wage or less.

The 10.6 million minimum wage workers belonged to 6.8 million families (Table 1-7). These families represented 17 percent of the 40.3 million families in the U.S. Almost 90 percent of all minimum wage families had only one minimum wage worker, although there may have been other wage earners in those families. In 55 percent of the minimum wage families, the wife or a teenager was the only minimum wage worker. In only 11.7 percent of the families was the husband the solitary minimum wage worker. Most families with more than one minimum wage worker had at least one teenager working at the minimum or below. Families with both the husband and wife earning the minimum or less accounted for more than 15 percent of all families with only two minimum wage workers.

Although 17 percent of all families had minimum wage workers, that figure can be misleading. Minimum wage workers generally are not the primary earners in families with more than one earner, and those families constitute more than half of all U.S. families. When the wages of the workers in those families were weighted to reflect the lower number of hours generally worked by those at or below the minimum, the number of such families with both husband and wife earning an average wage below the minimum became quite small. For example, there were 1.4 million families where both the husband and wife worked, with the wife earning the minimum or less and the husband earning more than the minimum. But when those wages were weighted to reflect the generally fewer hours that the wives worked, both the number and proportion of families with average wages below the minimum were reduced to only 42,000 and 3 percent, respectively (Table 1-8,

⁷This does not include married couple families.

Table 1-5
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Marital Status, Household Status and Household Relationship,
Second Quarter 1980

(Numbers in thousands)

Marital Status, Household Status & Household Relationship	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
All Workers	85,504	10,615	12.4	5,321	6.2	5,294	6.2	100.0	
Marital Status									
Men									
Single	12,229	2,422	19.8	1,065	8.7	1,357	11.1	22.8	
Married, Spouse present	31,618	1,158	3.7	683	2.2	475	1.5	10.9	
Widowed, Divorced or Separated	3,801	315	8.3	189	5.0	126	3.3	3.0	
Women									
Single	9,994	2,699	27.0	1,366	13.7	1,333	13.3	25.4	
Married, Spouse present	20,601	2,822	13.7	1,407	6.8	1,415	6.9	26.6	
Widowed, Divorced or Separated	7,251	1,199	16.5	611	8.4	588	8.1	11.3	
Household Status									
Head or Spouse of Head	67,000	5,566	8.3	2,982	4.5	2,585	3.8	52.4	
Other Household Member:									
Less than 18 Years	2,869	1,764	61.5	841	29.3	922	32.2	16.6	
18-24 Years	10,355	2,549	24.6	1,070	10.3	1,478	14.3	24.0	
Over 24 Years	5,249	734	14.0	423	8.1	308	5.9	6.9	
Household Relationship									
Men									
Head, living w/relatives	32,292	1,180	3.7	692	2.1	488	1.5	11.1	
Head, living w/o relatives	5,317	377	7.1	240	4.5	137	2.6	3.6	
Relative of Head	8,535	2,194	25.7	925	10.8	1,269	14.9	20.7	
Nonrelative of Head	1,504	145	9.6	81	5.4	64	4.3	1.4	
Women									
Head, living w/relatives	4,423	629	14.2	318	7.2	311	7.0	5.9	
Head, living w/o relatives	4,847	639	13.2	373	7.7	266	5.5	6.0	
Spouse of Head	20,141	2,743	13.6	1,359	6.7	1,384	6.9	25.8	
Relative of Head	6,955	2,395	34.4	1,161	16.7	1,234	17.7	22.6	
Nonrelative of Head	1,480	314	21.2	172	11.6	142	9.6	3.0	

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 1-1.

²See Note 2, Table 1-1.

Source: Current Population Survey

Table 1-6
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Type of Family, Second Quarter 1960

(Numbers in thousands)

Type of Family	All Employed Workers ¹	Minimum Wage Workers ²			Non-minimum Wage Workers as Percent of All Non-minimum Wage Workers
		Number	Percent	As Percent of All Minimum Wage Workers	
All Workers	85,351	10,607	12.4	100.0	100.0
<u>In Family Households</u>	72,734	9,212	12.7	86.8	85.0
<u>In Married Couple Families</u>	62,141	7,257	11.7	68.4	73.4
1 Earner	17,496	1,506	8.6	14.2	21.4
Husband	12,618	552	4.4	5.2	16.1
Wife	3,607	567	15.7	5.3	4.1
Children 16-19	512	244	47.7	2.3	.4
Other Family Members	759	143	18.8	1.3	.8
2 or More Earners	44,645	5,751	12.9	54.2	52.0
Husband & Wife	24,522	1,848	7.5	17.4	30.3
Husband & Children 16-19	2,297	608	26.5	5.7	2.3
Wife & Children 16-19	773	248	32.1	2.3	.7
All Other Family Members	17,053	3,048	17.9	28.7	18.7
<u>In Families Maintained by Men</u>	2,623	354	13.5	3.3	3.0
1 Earner	1,212	118	9.7	1.1	1.5
Householder	942	68	7.2	.6	1.2
Children 16-19	58	24	41.4	.2	.0
Other Family Members	212	26	12.2	.3	.2
2 or More Earners	1,412	235	16.6	2.2	1.6
Householder & Children	188	43	22.9	.4	.2
Householder & Other Family Members	809	90	11.1	.8	1.0
All Other Family Members	415	102	24.6	1.0	.4
<u>In Families Maintained by Women</u>	7,969	1,602	20.1	15.1	8.5
1 Earner	4,205	728	17.3	6.9	4.7
Householder	3,206	451	14.1	4.3	3.6
Children 16-19	196	122	62.2	1.1	.1
Other Family Members	804	155	19.3	1.5	.9
2 or More Earners	3,764	874	23.2	8.2	3.9
Householder & Children	986	292	29.6	2.8	.9
Householder & Other Family Members	1,721	297	17.3	2.8	1.9
All Other Family Members	1,057	284	26.9	2.7	1.0
<u>Not in Family Households</u>	12,617	1,395	11.1	13.2	15.0
Living Alone	8,256	867	10.5	8.2	9.9
Men	4,039	297	7.4	2.8	5.0
Women	4,218	570	13.5	5.4	4.9
All Others	4,361	528	12.1	5.0	5.1

¹See Note 1, Table 1-1.

²Refers to workers at or below the minimum wage combined. See also Note 2, Table 1-1.

Source: Current Population Survey

Table 1-7

Number of Families with Wage and Salary Workers At or Below the Minimum Wage
by Number of Earners and Family Relationship, Second Quarter 1980

Family Relationship of Minimum Wage Worker ¹	Number of Families with			Total ²
	1 Minimum Wage Worker	2 Minimum Wage Workers	3 or More Minimum Wage Workers	
All Families (number)	5,913	750	105	6,768
(percent)	87.4	11.1	1.5	100.0
Husband only	795			795
Wife only	2,010			2,010
Children, 16-19, only	1,733	157	4	1,894
Other family member only	1,375	73	9	1,457
Husband and wife		125		125
Husband and children		23	3	26
Husband and other family members		27	5	32
Wife and children		117	21	138
Wife and other family members		58	4	62
Children and others		170	31	201
Husband, wife and children			13	13
Husband, wife and other family members			5	5
Husband, children, and other family members			2	2
Husband, wife, children, and other family members			1	1
Wife, children, and other family members			7	7

Note: Individual items may not add to totals because of rounding.

¹See Note 2, Table 1-1.

²See Note 1, Table 1-1.

Source: Current Population Survey

columns 4 and 5).

There were far more families maintained by single women with minimum wage workers, both in number and percent, than those headed by single men. The 1.3 million female-headed families accounted for 19 percent of all families with workers at or below the minimum; the 229,000 families headed by single men made up 3 percent. When the wages are adjusted by hours worked to determine the weighted average family wage, families headed by women made up 35 percent of all families with workers earning the minimum or less, and those maintained by men, 4 percent. Twenty-four percent of families maintained by women contained minimum wage workers while

only 15 percent of those maintained by men contained minimum wage workers.

Relatively large proportions of minimum wage workers were found in all classes below \$50,000 in annual income, although a greater proportion of workers from low-income than from high-income families worked at or below the minimum (Table 1-9). In 1978, over 40 percent of all minimum wage workers came from families with annual incomes under \$10,000.⁸ One fourth of all minimum wage workers were from families with incomes between \$15,000 and \$25,000

⁸The nation's official poverty level for an urban family of four was \$6,662.

Table 1-8
Number of Families with Wage and Salary Workers At or Below the Minimum Wage¹
by Type of Family, Second Quarter 1980

(Numbers in thousands)

Type of Family	Number of Families			
	Total ²	With Earner(s) at or Below the Minimum ³		With Earner(s) with Average Wages at or Below the Minimum ⁴
		Number	Percent	
All family households	40,293	6,768	16.8	2,190
Married couple families	33,256	5,235	15.8	1,316
1 earner	14,444	964	6.7	964
Husband	11,854	467	3.9	467
Wife	2,001	342	17.1	342
Children, 16-19	153	78	51.0	78
Other family members	437	77	17.6	77
2 or more earners	18,812	4,271	22.7	352
Husband & wife ⁵	12,766	1,776	13.9	211
H>M; W>M	10,990	0	0	0
H>M; W≤M	1,404	1,404	100.0	42
H≤M; W>M	260	260	100.0	58
H≤M; W≤M	111	111	100.0	111
Husband, wife & others ⁶	3,075	1,326	43.1	49
Husband & children ⁶	970	517	53.3	16
Wife & children ⁶	133	59	44.4	8
All other family members ⁶	1,868	592	31.7	68
Families maintained by men	1,542	229	14.9	97
1 earner	968	69	7.1	69
Householder	793	43	5.4	43
Children, 16-19	22	13	59.1	13
Other family members	153	13	8.5	13
2 or more earners	574	160	27.9	28
Householder & children	94	43	45.7	6
Householder & other members	367	70	19.1	16
All other family members	113	47	41.6	6
Families maintained by women	5,494	1,302	23.7	777
1 Earner	3,883	633	16.3	633
Householder	3,012	399	13.2	399
Children, 16-19	174	110	63.2	110
Other family members	698	124	17.8	124
2 or more earners	1,611	669	41.5	144
Householder & children	487	263	54.0	59
Householder & other members	786	233	29.6	50
All other family members	337	173	51.3	35
				10.4

Note: Individual items may not add to totals because of rounding.

¹See Note 2, Table 1-1 and note 2, Table 1-6.

²All families with at least one wage and salary worker.

³Represents the number of families with one or more wage and salary worker earning the minimum wage or less.

⁴Represents the number of families in which the (weighted) average earnings of all earners is the minimum wage or less. See Gilroy (1981) footnote 12.

⁵Husband and wife earners only. "H>M; W>M" denotes both the husband and wife earn more than the minimum wage; etc.

⁶Three or more earners.

Source: Current Population Survey

Table 1-9
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Family Income, May 1978

(Numbers in thousands)

Family Income	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
All workers ³	65,512	9,229	14.1	4,805	7.3	4,424	6.8	100.0	
Less than \$6,000	5,933	2,271	38.3	1,305	22.0	966	16.3	24.6	
\$6,000-\$9,999	8,375	1,589	19.0	799	9.5	790	9.4	17.2	
\$10,000-\$14,999	14,160	1,846	13.0	902	6.4	944	6.7	20.0	
\$15,000-\$24,999	23,327	2,238	9.6	1,130	4.8	1,108	4.8	24.3	
\$25,000-\$49,999	12,538	1,146	9.1	573	4.6	573	4.6	12.4	
\$50,000 and over	1,179	139	11.8	96	8.1	43	3.7	1.5	

Note: Individual items may not add to totals because of rounding.

¹Refers to wage and salary workers only.

²The minimum wage was \$2.65 per hour in May 1978. Those working at the minimum include the interval \$2.60 - \$2.69 to account for rounding problems which would otherwise exclude workers who were reported as not earning exactly \$2.65. Those workers earning less than \$2.60 are included in the "below minimum" group.

³Refers to annual income over the 12-month period prior to the (May) survey. This figure is somewhat less than the reported level of wage and salary employment because about 1.4 million employed persons did not answer the question on family income.

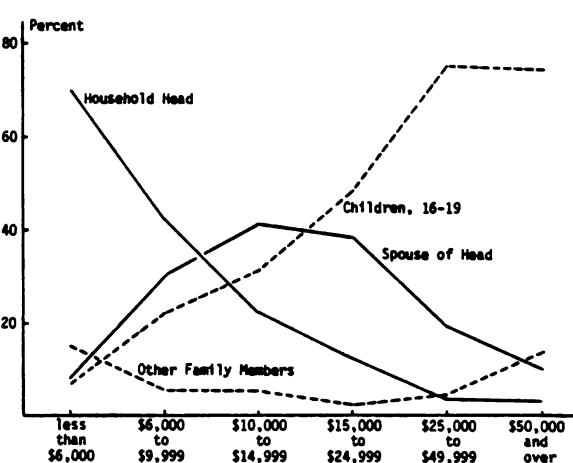
Source: Current Population Survey

annually, but only 10 percent of workers from those families earned the minimum or less. Families with incomes between \$25,000 and \$50,000 still accounted for 12 percent of all minimum wage workers.

Spouses, mostly wives, earning the minimum wage or less made up a relatively high percentage of minimum wage workers in middle-income families and a relatively low percentage in both high- and low-income families. For example, spouses made up only 8 percent of minimum wage workers in families with less than \$6,000 in annual income and 10 percent of minimum wage workers in families with more than \$50,000 in annual income, but they constituted over 40 percent of minimum wage workers in families with \$10,000 to \$15,000 in annual income (Figure 1-3).

Household heads, mostly husbands, earning the minimum wage or less made up a relatively high percentage of minimum wage workers in low-income families and a relatively low percentage of mini-

Figure 1-3
Proportion of Employed Wage and Salary Workers At or Below the Minimum Wage, by Family Income and Household Relationship, March/May 1978



Source: Current Population Survey

mum wage workers in high-income families. In families earning less than \$6,000 annually, 70 percent of the minimum wage workers were heads of households, only 22 percent of minimum wage workers in families earning between \$10,000 and \$15,000 annually were heads of households, and only 3 percent of minimum wage workers in families with \$50,000 or more in annual income were household heads.

Teenagers made up a greater percentage of minimum wage workers in higher-income families. More than 50 percent of minimum wage workers in families with incomes greater than \$15,000 were teenagers. Nearly 75 percent of all minimum wage workers in families with incomes greater than \$25,000 were teenagers (Figure 1-3.) In addition, 70 percent of teenagers who were minimum wage workers were found in families with incomes greater than \$15,000; 37 percent were in families with incomes greater than \$25,000.

Three fourths of all minimum wage workers were in families with incomes

well above the poverty line in 1978. Only 11 percent of minimum wage workers in that year were in families with incomes below the poverty threshold, and another 6 percent were in families with incomes between one and one-and-a-half times the poverty level (Table 1-10). The official poverty level varies depending on the size of the family unit, age and sex of the family head and whether the family head is employed in the farm or nonfarm sector. The 1978 poverty level ranged from \$2,650 to \$11,038, depending on these factors.

Occupational, Industrial, and Regional Characteristics of Minimum Wage Workers And Their FLSA Coverage

Workers in the service occupations accounted for the greatest proportion of minimum wage workers in the second quarter of 1980 (Table 1-11). Although private household workers composed only 7 percent of this minimum wage population, three out of every four household workers earned the minimum wage or less. Approximately 75 percent

Table 1-10
Wage and Salary Employment of Persons At or Below the Minimum Wage by Poverty Status, March/May, 1978¹

Poverty Status	All Employed Workers ²			
	Total	At or Below the Minimum Wage ³		
		Number	Percent	As Percent of All Minimum Wage Workers
All Workers	17,108	2,257	13.2	100.0
Below Poverty 1.00-1.24 times the poverty threshold	581	247	42.5	10.9
1.25-1.49 times the poverty threshold	438	144	32.9	6.4
1.50 and over times the poverty threshold	570	167	29.3	7.4
	15,519	1,699	11.0	75.3

¹In order to take advantage of the richness of the information on income and poverty collected on households in the March supplement to the CPS, it is desirable to match the respondents in that survey with those who provided wage rate information in the May supplement. For further detail, see Gilroy (1981).

²See Note 1, Table 1-9.

³See Note 2, Table 1-9.

Source: Current Population Survey

Table 1-11
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Occupation and Industry, Second Quarter 1980

Occupation & Industry	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
All Workers.	85,504	10,615	12.4	5,321	6.2	5,294	6.2	100.0	
<u>Occupation</u>									
Professional & Technical Managers & Administrators	13,830	483	3.5	296	2.1	187	1.4	4.6	
(except Farm)	7,616	233	3.1	173	2.3	60	.8	2.2	
Sales Workers	4,865	964	19.8	436	9.0	528	10.8	9.1	
Clerical Workers	17,550	1,651	9.4	655	3.7	996	5.7	15.6	
Craft & Kindred Operatives (except Transport)	11,157	340	3.1	163	1.5	177	1.6	3.2	
Transport Equip. Operatives	9,915	936	9.4	312	3.2	624	6.3	8.8	
Nonfarm Laborers	4,284	798	18.6	324	7.6	474	11.1	7.5	
Private Household Workers	1,005	752	74.8	662	65.9	90	9.0	7.1	
Other Service Workers	11,135	3,712	33.3	1,798	16.2	1,914	17.2	35.0	
Farmers & Farm Managers	33	11	33.9	11	33.9	0	0	.1	
Farm Laborers & Foremen	971	460	47.4	328	33.8	132	13.6	4.3	
<u>Industry</u>									
Agriculture	1,032	461	44.7	337	32.7	124	12.0	4.3	
Agricultural Services	349	67	19.2	24	6.9	43	12.3	.6	
Forestry & Fisheries	93	8	8.6	3	3.2	5	5.4	.1	
Mining	824	21	2.6	9	1.1	12	1.5	.2	
Construction	4,571	203	4.4	102	2.2	101	2.2	1.9	
Manufacturing - Durables	12,556	325	2.6	135	1.1	190	1.5	3.1	
Manufacturing - Nondurables	8,333	638	7.7	195	2.3	443	5.3	6.0	
Transport & Public Utilities	6,029	263	4.4	148	2.5	115	1.9	2.5	
Wholesale Trade	3,174	198	6.2	94	3.0	104	3.3	1.9	
Retail Trade	13,485	3,835	28.4	1,743	12.9	2,092	15.5	36.1	
Finance, Insurance and Real Estate	5,148	353	6.9	202	3.9	151	2.9	3.3	
Private Household Services	1,156	827	71.5	718	62.1	109	9.4	7.8	
Professional Services	17,989	2,068	11.5	957	5.3	1,111	6.2	19.5	
Other Services	5,422	1,078	19.9	514	9.5	564	10.4	10.2	
Public Administration	5,343	271	5.1	142	2.7	129	2.4	2.6	

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 1-1.

²See Note 2, Table 1-1.

Source: Current Population Survey

of all private household employees were adult women; most of the remainder were teenagers. One third of other service workers earned the minimum or less; they represented more than one third of all minimum wage workers. Women also dominated in these occupations, which include food preparation and health-related, personal, and cleaning services.

Approximately 47 percent of all farm laborers earned inordinately low wages, the majority below the minimum. They represented, however, only 4.3 percent of all minimum wage workers. Unlike other occupations with a high incidence of low-wage labor, farm laborers were composed of primarily male workers. Many were students or youth seeking temporary or seasonal employment only.

Roughly 20 percent of all sales workers earned the minimum wage or less, due largely to the low earnings of sales clerks in retailing. Stock clerks, file clerks, messengers, office helpers, cashiers, and teachers' aides made up the relatively large number of clerical workers at or below the minimum wage. Employees in clerical occupations composed almost 16 percent of all minimum wage workers.

Most of the other occupations, including managerial, professional, and technical, contained much lower proportions of minimum wage workers compared to all workers in the occupation and, usually, small percentages of all minimum wage workers. Many of these occupational categories are highly aggregated and caution should be used in interpreting these proportions.

Table 1-11 also shows employment of minimum wage workers by industry. Care must be taken in interpreting these industry data as well. A person's work decisions are not made on the basis of industry classification but in terms of occupation, which opens up employment possibilities in any number of different industries. To the extent that certain occupations predominate in

some industries, the data are meaningful. But generally an industry breakdown of minimum wage workers provides a less useful distribution. An exception to this is the high concentration of minimum wage workers in retail trade and services.

Using WDS data collected in May 1979, estimates were made of the number of all workers and the number of workers earning the minimum or less in establishments both subject and not subject to the FLSA (Table 1-12).⁸ Approximately 80 percent of the nonsupervisory workers at or below the minimum wage were in establishments subject to the provisions of the FLSA. Although only 1.3 million persons worked for the minimum wage or less in nonsubject firms, they accounted for over 30 percent of the 4.2 million nonsubject workers. Only 10 percent of all subject employees worked for the minimum wage or less. Nonsubject establishments contained a greater proportion of workers at minimum wage jobs across all industries than did subject establishments. Eating and drinking places and services accounted for the greatest number and proportion of low-wage workers. Nearly 60 percent of all employees in eating and drinking places were minimum wage workers, and these 2.4 million employees made up more than one third of all persons at or below the minimum.

It is important to distinguish between tipped and nontipped employees. Special provisions in the FLSA permit employers to pay a wage less than the statutory minimum to employees who regularly receive tips. As a result of this lower wage, a greater proportion of tipped relative to nontipped workers held jobs paying the minimum wage or less. This was true for workers in both subject and nonsubject establishments.

⁸For more information on the Wage Distribution Survey, see Tables B-9 through B-11 in Gilroy (1981), and U.S. Department of Labor (1981).

Table 1-12
**Nonsupervisory Employees At or Below the Minimum Wage,
 by Selected Industry and Tip Status in Subject and
 Nonsupervisory Private Nonfarm Establishments, May 1979**

Industry	All Employed Workers			Minimum Wage Workers In						As Percent of Total Employment in all Establishments		
	Total	Subject	Not Subject	All Establishments			Subject Establishments		Nonsupervisory Establishments	Number Percent	Number Percent	Establishments
				Number	Percent	Number	Percent	Subject				
Total nonfarm employment ²	57,716	53,508	4,208	6,637	11.5	5,297	9.2	1,340	2.3	9.9	31.8	
Tipped	1,543	1,282	261	1,259	81.6	1,080	70.0	178	11.6	2.0	4.2	
Non tipped	56,172	52,226	3,946	5,392	9.6	4,230	7.5	1,162	2.1	7.9	27.6	
Manufacturing ³	11,029	17,029	0	544	3.2	544	3.2	0	0	1.0	0	
Retail Trade	10,060	10,747	2,313	3,683	28.2	2,708	20.7	975	7.5	5.1	23.2	
Tipped	1,199	993	206	1,061	88.5	881	73.5	180	15.0	1.6	4.3	
Non tipped	11,862	9,754	2,108	2,622	22.1	1,834	15.5	789	6.6	3.4	18.8	
Retail Trade except eating & drinking places	8,892	7,739	1,153	1,254	14.1	975	11.0	279	3.1	1.8	6.6	
Tipped	27	27	0	9	33.3	9	33.3	0	0	0	0	
Non tipped	8,865	7,712	1,153	1,241	14.0	964	10.9	277	3.1	1.8	6.6	
Eating & drinking places	4,168	3,008	1,160	2,434	58.4	1,738	41.7	696	16.7	3.2	16.5	
Tipped	1,171	965	206	1,051	89.8	872	74.5	179	15.3	1.6	4.3	
Non tipped	2,997	2,043	954	1,385	46.2	864	28.8	521	17.4	1.6	12.4	
Services	12,724	10,829	1,895	2,023	15.9	1,657	13.0	366	2.9	3.1	8.7	
Tipped	1,344	1,289	55	199	57.8	159	57.8	0	0	.4	0	
Non tipped	12,380	10,541	1,839	1,832	14.8	1,455	11.8	377	3.0	2.7	9.0	

Note: Individual items may not add to totals because of rounding and the relatively small size of some sample cells (see Appendix A in Gilroy (1981)). Data for manufacturing employees, tipped workers, and those in nonsupervisory firms do not meet BLS statistical standards of reliability.

¹Workers earning less than \$2.95 an hour.

²Because data are not available for all industries separately in the 1979 MDS survey (mining, contract construction, transportation and public utilities, wholesale trade, and finance insurance and real estate are missing), the sum of individual industries will not equal totals.

³All workers in manufacturing are nontipped employees and subject to the provisions of the Fair Labor Standards Act.

Source: Wage Distribution Survey

The same relationship between tipped-nontipped and subject-nonsubject employees held when the estimates were presented by establishment status according to collective bargaining agreements. Workers in establishments where all or a majority of employees were covered by collective bargaining agreements were much less likely to earn the minimum wage or less than were their counterparts in establishments where none or a minority of employees were union-affiliated (Table 1-13). In 1978, sixteen percent of nonunion workers but only 2 percent of union workers in subject firms were working at or below the minimum wage; in nonsubject firms, 40 percent of nonunion and 15 percent of union workers were employed at or below the minimum.¹⁰ Persons experiencing the double jeopardy of working in a non-FLSA-subject firm in which none or a minority of employees were under a collective bargaining agreement had a much greater likelihood of earning the minimum wage or less.

The ISR survey revealed that the typical employees working near the minimum wage had a low-skill, non-seasonal job that provided little opportunity for advancement (Converse et al., 1981). Nearly half of all minimum wage workers were employed in jobs that required formal training, usually lasting two weeks. The average minimum wage worker could meet company productivity standards in approximately 25 days including training.

Turnover was greater among minimum wage workers than among those earning higher wages. On a monthly basis, 13 percent of minimum wage workers left their jobs and 18 percent were hired; overall, workers left their jobs at a 6 percent monthly rate and were hired at a rate of five percent. Minimum wage job vacancies were slightly higher

¹⁰Data for 1979 do not meet BLS statistical standards of reliability.

than vacancies in jobs paying above the minimum. Minimum wage employees held their jobs an average of 20 months.

A regional breakdown reveals that the South had the highest concentration of low-wage workers, nearly 40 percent of all workers at or below the minimum. That percentage accounted for approximately 15 percent of all employees in the South (Table 1-14). The second highest concentration was in the North Central region, where 12.4 percent of all employees, 27 percent of all low-wage workers, worked at or below the minimum wage. The lowest concentration of these workers was found in the West, where only 15 percent of all minimum wage workers were located. These estimates should be interpreted with care, however, as average wages and the costs of living vary substantially across regions.

This same cautionary note applies to the estimates of urban-rural concentration (Table 1-15). Based on 1978 data, 70 percent of all low-wage workers held jobs in metropolitan areas. These employees represented only 12 percent of all urban workers. Rural minimum-wage employees on the other hand, composed approximately 16.3 percent of all rural workers. Although the vast majority of workers in both areas were employed in subject establishments, a larger proportion of nonsubject relative to subject workers held minimum wage jobs.

The Minimum Wage Population Over Time

Up to this point, all reported research results have discussed the minimum wage working population in terms of the most recent period for which data are available. Other estimates critical for further research and minimum wage policy formulation require tracing this minimum wage population over several years. By using data collected earlier, estimates were generated for the 1973-80 time period (Gilroy 1981).

An examination of these estimates shows that the proportion of employed

Table 1-13
 Nonsupervisory Employees At or Below the Minimum Wage¹
 by Selected Industry and Subject Status, by Sex,²
 Union Membership,³ and Tip Status, May 1979

Industry	All Workers		Men		Women		Union Membership		Tipped		Non-tipped	
	Number		Percent		Number		Percent		Number		Percent	
All Industries ⁴	6,637	11.5	2,111	7.8	4,024	16.6	269	1.5	6,363	16.0	1,259	81.6
Subject	5,297	9.9	1,761	6.9	3,092	14.3	269	1.5	5,015	14.1	1,081	84.2
Not Subject	1,340	31.9	350	22.8	932	35.6	0	0	1,348	32.0	118	68.2
Manufacturing ⁵	544	3.2	122	1.4	351	6.6	76	.8	470	6.3	0	0
Subject	544	3.2	122	1.4	351	6.6	76	.8	470	6.3	0	0
Retail Trade	3,683	28.2	1,135	23.4	2,237	37.3	134	11.1	3,557	30.0	1,061	88.5
Subject	2,708	25.2	985	22.4	1,522	33.0	134	11.1	2,576	27.0	882	88.8
Not Subject	975	42.2	250	27.8	715	51.7	0	0	981	42.4	179	86.9
Retail Trade, except eating & drinking	1,254	14.1	490	14.0	717	19.6	53	5.4	1,194	15.1	9	33.3
Subject	975	12.6	395	13.6	537	17.2	53	5.4	926	13.7	9	33.3
Not Subject	279	24.2	95	15.9	180	33.7	0	0	268	23.3	0	277
Eating & drinking places	2,434	58.4	647	47.9	1,518	64.9	80	36.0	2,355	59.7	1,052	89.8
Subject	1,738	57.8	492	46.9	984	66.1	80	36.0	1,657	59.5	872	90.4
Not Subject	696	60.0	155	51.7	534	62.8	0	0	698	60.2	179	86.9
Services	2,023	15.9	658	15.7	1,271	16.0	50	3.4	1,979	17.6	199	57.8
Subject	1,657	15.3	537	15.1	1,048	15.6	50	3.4	1,800	17.1	199	68.9
Not Subject	366	19.3	121	19.1	223	18.1	0	0	379	20.1	0	377

Note: Individual items may not add to totals because of rounding and the relatively small size of some sample cells (see Appendix A in Gilroy 1981). Data for manufacturing employees, tipped workers, and those in nonsupervisory occupations do not meet BLS statistical standards of reliability.

¹See Note 1, Table 1-12.

²Numbers do not add to totals (see Appendix A in Gilroy 1981).

³The union designations signify all or a majority of nonsupervisory employees are covered by collective bargaining agreements. The non-union designation means that none or a minority of such workers are so covered.

⁴See Note 2, Table 1-12.

⁵See Note 3, Table 1-12.

Source: Wage Distribution Survey

Table 1-14
**Wage and Salary Employment of Persons At or Below the Minimum Wage
by Region, Second Quarter 1980**
(Numbers in thousands)

Characteristic	All Employed Workers ¹	Minimum Wage Workers ²							
		Total		Below Minimum		At Minimum		As % of All Minimum Wage Workers	
		Number	Percent	Number	Percent	Number	Percent		
All Workers	85,504	10,615	12.4	5,321	6.2	5,294	6.2	100.0	
<u>Region</u>									
Northeast	19,446	2,044	10.5	1,031	5.3	1,013	5.2	19.3	
North Central	22,888	2,837	12.4	1,567	6.9	1,270	5.6	26.7	
South	26,949	4,146	15.4	1,955	7.3	2,191	8.1	39.1	
West	16,221	1,588	9.8	768	4.7	820	5.1	15.0	

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 1-1.

²See Note 2, Table 1-1.

Source: Current Population Survey

persons working at or below the minimum wage, although fluctuating between 10 and 15 percent, often rose with increases in the minimum wage and fell during periods of no increase. One possible explanation is that because not all workers are subject to the FLSA provisions, they would not necessarily be paid the higher minimum wage when it became effective. Another is that some firms may delay implementing the higher mandated wage. Most firms eventually do comply, however, and this,

together with the overall upward movement of wages in general, will cause a decrease in the proportion of minimum wage workers.

This points out the importance of keeping in mind movements in average hourly earnings when examining the effect of changes in the minimum wage over a period of time on the behavior of those working at or below the minimum. For example, if a minimum wage increase is matched by a rise in average earnings, there should be no increase,

Table 1-15
**Number and Proportion of Nonsupervisory Workers At or Below the Minimum Wage
by Metropolitan and Nonmetropolitan Areas, in Subject and Nonsubject
Private Nonfarm Establishments, May 1978**

(Numbers in thousands)

Area	Total		Subject		Nonsubject	
	Number	Percent	Number	Percent	Number	Percent
All Workers	7,138	13.0	5,531	10.9	1,609	38.6
Metropolitan	4,999	12.0	4,085	10.5	926	33.6
Nonmetropolitan	2,160	16.3	1,468	12.4	683	48.4

Note: Individual items may not add to totals because of rounding.

Source: Wage Distribution Survey

other things being equal, in the proportion of minimum wage workers because the entire wage distribution would simply move upward. Indeed, a comparison of the data over the 1973-80 period bears this out. In only three particular years has the ratio of the minimum wage to average hourly earnings changed significantly. In each of these years the proportion of minimum wage workers also changed in the same direction (Figure 1-4). That is, if the minimum wage went up more than average hourly earnings, the ratio of the two would increase and the proportion of minimum-wage workers would also. If the minimum wage goes up less than average hourly earnings, the ratio of the two would decrease, and the proportion of minimum wage workers would go down too.

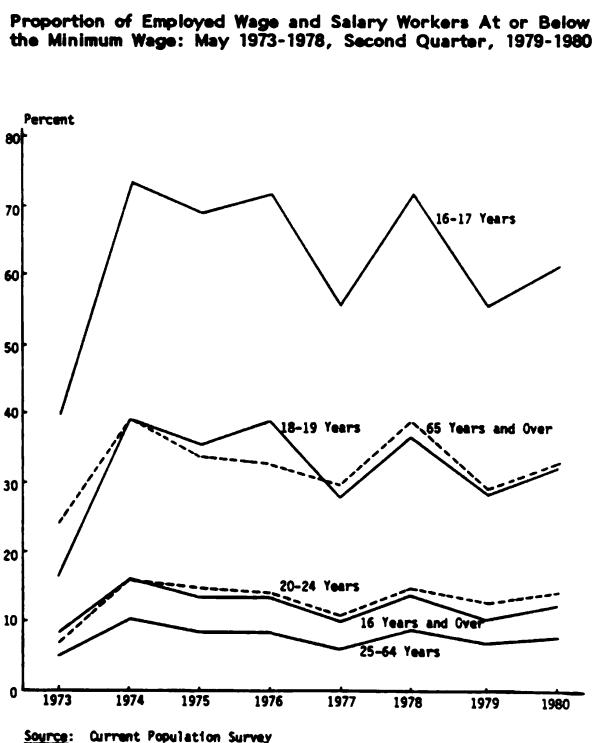
Similar fluctuations in the proportions of minimum wage workers among the various age, sex, racial, and ethnic

subgroups of the labor force occurred in the 1973-80 period. The proportions of youth, women, and minority minimum-wage workers are higher and fluctuate more than those of their older, male, and white counterparts. Wider fluctuations among youth, women, and racial and ethnic minorities are due in part to smaller sample sizes, but the variation also shows the comparatively disadvantaged position of these workers in the labor market.

A comparison of the number or proportion of minimum wage workers at different times must be interpreted cautiously, however. Aside from changes in the minimum wage, many other factors influence the future size and direction of the number of minimum wage employees. The effects of those factors are difficult to isolate. For example, there were major changes in economic conditions during this time, and the composition of the labor force changed dramatically as well. In addition, the characteristics of the various demographic groups have changed. Young persons in 1980 are undoubtedly different from their counterparts in 1973 with respect to education, experience, job expectations, and minimum acceptable wage.

Research on the duration of employment in minimum-wage jobs is best conducted with data on the same individuals at different times. Workers can thus be followed as they grow older, revealing their movements in and out of minimum wage jobs. This kind of data, however, makes it harder to compare minimum wage workers from one period of time to another. In addition to the problems noted earlier with the interpretation of data over a period of time, the number and proportion of employees in each sample group paid the minimum wage or less naturally decrease as the workers get older. (Data used for this part of the analysis are from the National Longitudinal Surveys (NLS) which are the oldest and most comprehensive collections of this type of data on labor

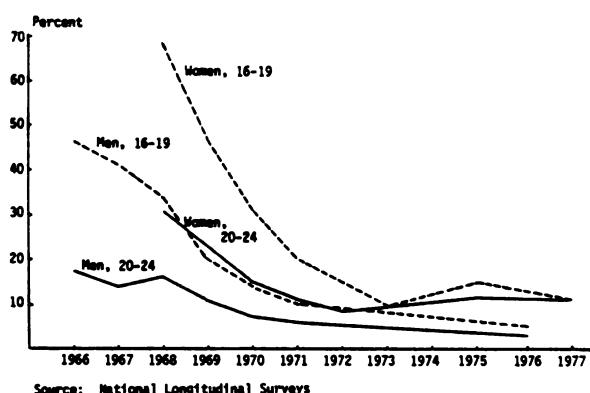
Figure 1-4



market activity.)

Analysis of the estimates produced by these data show a decrease in the proportion of young men and women between 1966 and 1977 who were working at or below the minimum wage. For example, over 45 percent of men 16-19 years old were minimum wage workers in 1966; by 1976, when this group was between 26 and 29 years of age, less than 10 percent of them were still earning the minimum or less (Figure 1-5). As expected, the proportion of women below the minimum remained greater than that of men for both age groups for all years. Also, both male and female teenagers were more likely than those 20-24 years of age to be minimum wage workers. Similarly, a greater proportion of black youth worked at or below the minimum compared to their white counterparts. Again, the proportion of women who were low-wage workers was greater than that of men.

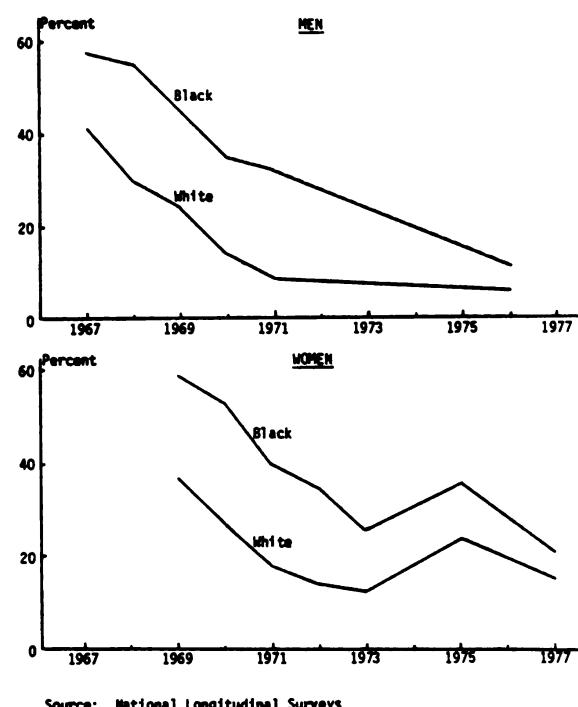
Figure 1-5
Proportion of Employed Wage and Salary Workers At or Below the Minimum Wage, by Age and Sex, 1966-1977



The estimates presented in Figure 1-6 are also useful in examining employment duration at or below the minimum wage. In 1967, for example, about 57 percent of those black men 16-24 years old and out of school earning the mini-

mum wage in 1966 had jobs that paid wages at or below the minimum. By 1971, their proportion had dropped to 32 percent. The corresponding decrease for white men was from 41 percent to 9 percent. Over the 1967-71 period, it appears that blacks were more likely than whites to remain in minimum wage jobs. Indeed, proportionate to their levels of employment, only 10 black men for every 13 white men earning the minimum in 1966 had a job that paid more than the minimum by 1971. On the other hand, black women were somewhat better off than white women over the 1969-73 period. Four black women for every 3 white women earning the minimum wage in 1968 earned more than the minimum by 1973.

Figure 1-6
Proportion of Employed Wage and Salary Workers 16-24 Years Old and Out of School At or Below the Minimum Wage, Who Were Minimum Wage Workers in 1966 (Men) or 1968 (Women), 1967-1977



Projections of the Minimum Wage Population

Determining what the number and distribution of minimum wage workers might be in five or ten years is fraught with uncertainty. Nonetheless, estimates may be made using labor supply projections that take account of the changing composition of the labor force and BLS unemployment forecasts together with some assumptions about the age and sex of minimum wage workers. Using the BLS labor force projections (Flaim and Fullerton 1978) under the intermediate growth scenario with the aggregate unemployment rate forecasts for 1985 (4.9 percent) and 1990 (4.5 percent), hypothetical employment distributions by age for those years were derived (Table 1-16).

The projections for 1985 and 1990 show an increase of about 2.5 million in the number of workers at or below the minimum wage but a decline to 11.5 percent in their proportion of total wage

and salary employment from 12.4 percent in 1980. This is the result of offsetting trends among demographic groups. The decline in the number of youths aged 16-24, who have a relatively high propensity to be at or below the minimum, offsets the increase in middle-age groups, primarily women, who are less likely to be earning the minimum wage. Both male and female teenagers, who accounted for 30 percent of all minimum wage workers in 1980, are expected to make up less than 25 percent by 1990. The proportion of those 20-24 years old is expected to drop from 17 percent to 14 percent, while the proportion of men and women aged 25-64 will rise from 12 to 13 percent and 33 to 43 percent, respectively.

Recommendation

The Commission felt that the considerable amount of data it has amassed on the characteristics of minimum wage workers ought to be made available to

Table 1-16
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Age and Sex, Second Quarter 1980, and
Projections for 1985 and 1990

Age and Sex	1980		1985		1990	
	Number	Percent	Number	Percent	Number	Percent
All Minimum Wage Workers ¹	10,615	100.0	12,615	100.0	13,147	100.0
Percent of all employed	12.4	---	11.7	---	11.5	---
<u>Men</u>						
16 Years & Over	3,895	36.7	4,118	32.6	4,042	30.7
16-19 Years	1,505	14.2	1,435	11.4	1,351	10.3
20-24 Years	788	7.4	675	5.4	580	4.4
25-64 Years	1,287	12.1	1,570	12.4	1,681	12.8
65 Years & Over	315	3.0	438	3.5	430	3.3
<u>Women</u>						
16 Years & Over	6,721	63.3	8,497	67.4	9,105	69.3
16-19 Years	1,762	16.6	1,831	14.5	1,808	13.8
20-24 Years	1,062	10.0	1,277	10.1	1,168	8.9
25-64 Years	3,535	33.3	4,957	39.3	5,629	42.8
65 Years & Over	362	3.4	432	3.4	431	3.3

Note: Individual items may not add to totals because of rounding.

¹See Note 2, Table 1-1.

the public. In this regard the Commission unanimously recommends that the Department of Labor on a regular basis provide tables and analyses on the basic characteristics of minimum wage workers including age, sex, race, family relationship, household income, and poverty status. Particularly important is the linking of statistics on employment status and earnings of minimum wage workers with their family income.

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Chapter 2

THE EMPLOYMENT AND UNEMPLOYMENT EFFECTS OF THE MINIMUM WAGE

Section 2 of the Fair Labor Standards Act states that the purpose of the Act is to raise wages "without substantially curtailing employment." Whether the Act has led to a "substantial" reduction in employment has been a much-studied subject in the four decades since the Act was first passed. This chapter examines the evidence on the effects of the minimum wage on employment and unemployment (Mandate G), the potential effects of a lower minimum wage for young workers, and the effect of the minimum wage on the handicapped (Mandate E).¹

The first section presents a brief summary of the relationship between minimum wages and employment from a theoretical perspective. Evidence of the effect of the minimum wage is then discussed, first for young workers (the most often studied group) and then for other groupings of workers. The following section is devoted to a discussion of proposals for a lower minimum wage for young workers (a youth "differential" or "subminimum"). The next section discusses the effects of the minimum wage on employment of handicapped workers. Policy recommendations appear in the last section.

¹Staff and contractor research conducted in these areas appears in Volume V of this Report.

The Minimum Wage and Employment -- Theory

Academic discussions of the minimum wage typically begin with the implications of standard economic theory for the effects of minimum wages on employment. Usually, the goal is to present the "predictions" of the theory, which can later be tested against the data.

Our presentation of the theory is guided by rather different motivations. First, a simple theoretical framework is useful in interpreting the evidence. Often, different conclusions about the effect of a minimum wage are due to different ways of measuring that effect. Understanding these differences requires a theory of what is being measured. Second, in some cases theoretical models have advanced faster than the available data. While existing empirical studies offer at best a weak test of such models, the theory provides an informed speculation that may be the best available guide in the absence of satisfactory data. A third reason for at least a brief discussion of the theory is to show that the frequent complaint that the theory predetermines the result of any subsequent empirical investigation is false.

The simplest theory of the employment effects of a minimum wage is that as the wage is increased employers will decide to employ fewer workers, or

employ the same number of workers fewer hours per week. This "theory" follows from the fact that minimum wage laws determine the lowest wage an employer can pay but leave the employer free to decide how many workers are desirable at that wage. The theory says nothing about the size of the reduction in the number of workers or the workweek, only that it will take place.

Increasing the minimum wage reduces the employment of low-wage workers for two reasons. First, it encourages firms to use more of other inputs such as machinery or more skilled workers in place of the now more expensive workers. A worker-replacing machine which was not worth buying if the hourly wage was \$3.00 might become worthwhile if that wage were set at \$4.00. Second, increasing the price of labor will increase the cost of the product and lead firms to raise their prices. As these prices rise, fewer units would be purchased, fewer would be produced, and fewer workers would be needed to produce them.

Even at this simple level, the theory is useful for resolving some contradictory assertions about the minimum wage's effect. When one says that the minimum wage will reduce employment, the basis for comparison is the level of employment that would otherwise occur if everything else except the level of the minimum wage were the same. Thus, the theory does not imply that, if the minimum wage is increased, employment will be lower this year than last. Rather, it predicts that, with a higher minimum wage, employment will be lower than it otherwise might be. It is not necessary that the reduced employment take the form of layoffs or discharges, though these dominate public attention in the period following a minimum wage increase. Reduced employment can be achieved simply by not hiring workers who would have been hired or not replacing those who leave voluntarily but would have

been replaced had the minimum not been increased.²

This insight has two implications. First, the fact that employment often rises following an increase in the minimum does not disprove the theory. The important issue is whether employment rose less than it otherwise would have. Second, an "other things being equal" comparison requires that when determining the minimum wage's effect we hold those other things constant, usually through statistical procedures. Sometimes one can structure the comparison so that one has confidence that little of importance besides the minimum wage is being changed.

This simple theory, which applies to a labor market that approaches perfect competition, has been criticized in two ways. First, one can show that in labor markets characterized by monopsony (a small number of employers competing for workers in a given labor market) a skillfully set minimum wage may actually increase employment. If the minimum wage is set above the level that would occur in a competitive labor market, further increases in the minimum will tend to reduce employment. It is questionable, however, whether there are many monopsony labor markets (Rosen 1981b).

A second line of criticism is the argument that a minimum wage increase will "shock" employers into organizing production more efficiently. This might allow the firm to continue employing the

²Interviews with employers suggest that only 12 percent of the disemployment accompanying the 1980 increase in the minimum wage took the form of discharges (Converse et al. 1981). While employer-estimated disemployment (a 2 percent reduction in total employment due to a 10 percent increase in the minimum wage in 1980) is higher than independent estimates, the distribution of these losses among discharges and reduced hiring may be more accurate.

same number of workers as it would have in the absence of or at a lower level of the minimum wage. A more recent version of this argument suggests that a minimum wage would allow employers to require greater levels of effort from the workers they do hire,³ thus at least partially offsetting the increase in the cost of employing low-wage labor (Pettengill 1981). But even if one grants the possibility of this taking place, it is not obvious that it would happen often enough to offset the full disemployment effect of the minimum wage increase.

Thus, while the simple theory based on perfect competition suggests that the minimum wage will reduce employment, the two criticisms say that the minimum wage could increase employment, decrease it, or have no effect. Yet despite these differences, the statistical procedures used by authors whose introductory discussion is closely tied to the standard model of the minimum wage are often almost indistinguishable from those of researchers openly critical of that model's assumptions.⁴

Nothing has been said thus far

³Fifteen percent of minimum wage workers were employed in establishments that reported increasing responsibilities of minimum wage workers in response to the 1980 increase in the minimum wage. Ninety percent of establishments which discharged workers and 74 percent of establishments which reduced hours of work in response to the 1980 increase reported that these reductions were offset by increases in work done by other workers (Converse et al. 1981).

⁴Piore (1981) argues that acceptance of the standard theory reduces the set of other factors held constant. In many ways, however, his dissatisfaction is with data limitations which hamper researchers of any theoretical orientation.

about differences among workers. Workers come in a nearly infinite variety: some old, others young, some skilled, some with very few skills, and so on. Realizing that these differences are often very important to employers does not change the fundamental conclusion that an increased minimum wage is expected to reduce employment, but it leads to a much more complicated and interesting picture of the employment response.⁵ Presumably, those whose employment is most threatened by an increase in the minimum wage are those who would otherwise earn less than the new minimum -- those whose wages must be increased if the employer is to remain in compliance with the law. Those who are more highly valued by employers may suffer no employment reduction; indeed, demand for their services may be increased by the minimum wage. If the price an employer must pay for a fresh-out-of-school teenager with no work record and hence little evidence of reliability is increased, the employer may decide instead to hire an older worker, even though that older worker commands a wage somewhat above the new minimum. Alternatively, the employer may turn to a young worker with a more extensive work history -- again, even at a somewhat higher wage.

These observations are important for interpreting estimates of the effects of the minimum wage on the employment of various groups of workers. One almost never has data on employment of a group of workers so nearly identical that all are directly affected by the minimum wage. Rather, one has data on groups of workers classified by age or industry. Employment effects should be most pronounced among groups which have the heaviest concentration

⁵Elegant though difficult models of the effect of minimum wages on a heterogeneous workforce are presented by Pettengill (1981), Heckman and Sedlacek (1981) and Abowd and Killingsworth (1981).

of workers who would otherwise earn less than the minimum wage. Moreover, the employment of groups with a relatively light concentration of such workers might even be expected to rise in response to a minimum wage. For example, while a minimum wage might be expected to reduce the employment of low-wage adults, it could increase demand for higher-wage adults enough that employment of adults as a group would be increased. More generally, the effect of the minimum wage on the employment of any group is a mixture of gains and losses. If the balance of gains and losses results in a "small" net gain or loss, it may be difficult to estimate this net effect with any precision.

Not all employment is subject to the minimum wage requirements of the FLSA. We can think of a "covered" sector subject to the minimum wage, in which changes in the minimum wage have a direct and predictable effect on the lowest offered wage, and an "uncovered" sector not subject to the minimum wage, where wage levels are determined by market forces as modified by workplace "custom" and in some cases labor unions.

So long as wages in the uncovered sector are reasonably flexible, the uncovered sector is a potential source of employment for those not employed in the covered sector because of the minimum wage (Welch 1976, Mincer 1976). Those who cannot find work in the covered sector are free to look in the uncovered sector, and their doing so will tend to make the overall employment loss less than the covered sector employment loss. Note, however, that this flow from covered to uncovered sectors presumes that uncovered-sector wages are free to fall, so that uncovered-sector employers have an incentive to increase their level of employment. It also assumes that workers are willing to work in the uncovered sector at a below-minimum wage rather than remain unemployed to search for the more attractive, though scarce, jobs in the

covered sector.* Thus, the existence of an uncovered sector does not guarantee that overall employment losses will be minimal, but it does raise the possibility that covered-sector employment reductions may be mitigated.

The employment reductions from a minimum wage may be partially offset by employees working harder to justify their higher wages and the availability of jobs in the uncovered sector (Petten-gill 1981). But critics of the minimum wage would argue that such offsets may themselves entail considerable cost. If employees have to work harder for the higher wage, they may be less satisfied than with the lower-effort, lower-wage job that the minimum wage has eliminated. Supporters of the minimum probably would reply that at least for young workers, making them work harder than they would prefer may be desirable in the long run.

The movement of workers to the uncovered sector may also involve important costs. Uncovered sector wages must fall to accommodate the additional workers, reducing benefits to low-wage workers as a group. Moreover, most economists would see displacement of covered sector workers to the uncovered sector as inefficient. Workers naturally gravitate toward the employment setting where they are most valuable; moving from their preferred status in the covered-sector to the uncovered sector typically means moving from a higher-value to a lower-value use of their time and talents (Mincer 1981a, Rosen 1981b).

While most of the theoretical analysis of the minimum wage has focused on its relationship to employment, most public attention focuses on its relationship to unemployment. But a reduction

*This assumption may be more plausible than it seems, since workers have the option of looking for covered-sector jobs while working in the uncovered sector (Barth 1981).

in employment does not necessarily mean an equal increase in unemployment. The reason is that the "unemployed" are not simply "all those not employed." Rather, the unemployed are those who are not employed but are looking for work.⁷ The labor force is the sum of employment plus unemployment: all those either working or looking for work.

In theory, changes in the minimum wage can either increase or reduce the labor force. Two opposing responses are at work: a higher minimum wage increases the reward for those who find work but, assuming it lowers employment, reduces one's chances of finding work at the higher wage. If the second response dominates, the minimum wage increase could make jobs scarce enough to discourage people from looking for work and reduce labor force participation. Hence, the reduction in employment may have little effect on unemployment.

Effects on Employment and Unemployment of Youth

The effects of the minimum wage on employment and unemployment have been studied most extensively for youth and especially teenagers. At least two dozen studies of the effects of the minimum wage on teenage labor force status have been conducted. The focus on youth reflects concern about the higher unemployment rate of teenagers and the expectation that, as a low-wage group, a relatively larger fraction of youth would be directly affected by minimum wage legislation.

Time-Series Studies. Most of these studies used time-series data, i.e., they examined teenage employment or unemployment over a period of years to see whether the level of teenage employment or unemployment changed with the mini-

⁷Those wishing to work but not looking for a job are sometimes called "discouraged workers."

mum wage.

The effect of the minimum wage on teenage labor force status depends on the level of other wages in the economy, as well as the degree to which teenage employment was covered by minimum wage legislation. To take those factors into account, most studies constructed an index of the relative level and coverage of the minimum wage. For each industry group, the relative minimum wage was defined as the ratio of the legal minimum to average hourly earnings in the industry. The minimum wage index was then defined as the weighted sum of the relative minimum wages in each industry, with the weights dependent both on the extent of coverage in the industry and the fraction of total or teenage employment accounted for by the industry.⁸

Combining the level and coverage of the minimum wage into a single variable has both advantages and disadvantages. The primary disadvantage is that it assumes that a 10 percent increase in the minimum wage, e.g., from \$3.00 to \$3.30 per hour, has the same effect on teenage labor force status as a 10 percent increase in coverage, e.g., from 70 to 77 percent of nonsupervisory employment.

In order to avoid this rather arbitrary assumption, one could treat the relative level and coverage of the minimum wage as separate variables and estimate the effects of each. Obtaining reliable estimates of the two effects separately has generally proven difficult, given available data. An alternative adopted by some studies was to consider only the relative level of the minimum wage and ignore coverage.

Teenage coverage has increased in steps as coverage has been broadened through successive amendments to the FLSA. On the other hand, the relative

⁸Due to data limitations, this index is based on private nonagricultural wages, coverage, and employment.

level of the minimum wage shows little trend; rather, there is a saw-toothed pattern of increases when the minimum is increased followed by gradual reductions as average wages rise relative to the unchanging minimum. The minimum wage index reflects a combination of these two patterns (Table 2-1).

Time-series studies relate the minimum wage (as reflected in the minimum wage index, the relative level of the minimum wage, or some other "minimum wage variable") to one or more measures of the labor force status of youth. The most common measures of labor force status are the percent of the population employed, the labor force

participation rate (the percent of the population in the labor force), and the unemployment rate (the ratio of unemployment to labor force).

As noted in the previous section, it is important to control for other factors that might affect youth employment or unemployment when assessing the impact of the minimum wage. A good example is the state of the overall economy. If the minimum wage increased just as the economy was entering a recession, a simple correlation of youth labor force status and the minimum wage that did not control for overall business conditions would show that minimum wage increases

Table 2-1
Selected Minimum Wage and Related Time Series

Year	Yearly Average Minimum Wage ¹ (Non-tipped Employees)	Minimum Wage Index ²	Coverage Ratio ³	Relative Minimum Wage ⁴
1954	\$0.75	.187	.425	.441
1955	0.75	.181	.427	.425
1956	.96	.215	.418	.516
1957	1.00	.209	.405	.516
1958	1.00	.190	.376	.505
1959	1.00	.183	.379	.482
1960	1.00	.181	.389	.465
1961	1.05	.212	.433	.489
1962	1.15	.280	.538	.520
1963	1.18	.272	.532	.512
1964	1.25	.273	.523	.522
1965	1.25	.272	.519	.523
1966	1.25	.268	.530	.506
1967	1.39	.350	.676	.517
1968	1.58	.378	.684	.553
1969	1.60	.395	.735	.537
1970	1.60	.386	.732	.527
1971	1.60	.376	.734	.512
1972	1.60	.357	.741	.482
1973	1.60	.343	.761	.451
1974	1.87	.367	.760	.484
1975	2.10	.389	.756	.515
1976	2.30	.416	.783	.531
1977	2.30	.412	.819	.502
1978	2.65	.443	.834	.532
1979	2.90	.445	.839	.542

¹The basic minimum wage was computed as an annual average of the monthly values of the actual minimum wage.

²The minimum wage index is the weighted sum of the ratio of the minimum to the average wage in each industry, with the weights reflecting the extent of FLSA coverage and the share of teenage employment in each industry.

³The coverage ratio is defined as the proportion of nonsupervisory workers in each industry subject to the minimum wage, weighted by the share of teenage employment.

⁴The relative minimum wage was calculated by dividing the minimum wage index by the coverage ratio.

led to lower employment and higher unemployment. Conversely, if the minimum wage were increased just as the economy began to recover from a recession, a simple comparison that did not control for business conditions would show that the minimum wage increased employment and reduced unemployment. These problems with simple comparisons are widely recognized, and all studies include some control for business conditions.

Other factors generally held constant are seasonal influences and a time trend. Including a time trend reduces the likelihood that the many factors affecting youth employment that are not reflected in the specific variables studied will bias estimates of the minimum wage effects.⁹ With a time trend included as a control variable, one can identify the combined effect of other variables not specifically included but which change gradually over a period of time and not erroneously attribute their effect to the minimum wage.

Still other factors were controlled for in some studies but not in others. These include some measure of the importance of the military's demand for youth, a measure of the extent of Federal employment and training programs, and the relative share of youth in the working-age population.

One controversial control variable is the youth population share, the ratio of the 16 to 19 year-old population to the total population aged 16 and over. Early studies on the effect of the minimum wage on teenage employment excluded this variable because it was felt teenage employment depends only on the demand for teenage labor if the minimum wage is higher than the market wage.

⁹More precisely, omitted factors will not bias the estimated minimum wage effects unless the departures of these omitted factors from a simple trend are correlated with deviations of the minimum wage variable from its upward trend.

The youth population share variable, which measures the relative teenage labor supply, would not be relevant. More recent studies, however, have included it because many teenage workers make more than the minimum and are not affected by increases in the minimum wage or extensions of FLSA coverage. Including the variable controls for changes in the teenage labor supply that are not caused by increases in the minimum or its coverage, producing a more accurate measure of the minimum's effect on employment.

There has been an even greater controversy over the proper way to specify the determinants of youth unemployment. Some authors have argued that without a minimum wage, youth unemployment would fall to some frictional level, i.e., a level reflecting the brief spells of unemployment from moving from one job to another. Unemployment above that frictional level is therefore caused by the minimum wage and there is no point in controlling for youth labor supply through use of the youth population share. A closer analysis suggests that the minimum wage is only one factor preventing the youth labor market from achieving a balance of supply and demand and that it is incorrect to attribute all unemployment above the frictional level to the minimum wage.¹⁰

The differences among the many studies on this subject make it hard to summarize them. Most focused on teenagers 16-19 years old, though a few also considered young adults aged 20-24. Many of the teenage studies analyzed 16-17 year-olds and 18-19 year-olds separately, and separate estimates by race and sex were also common. To make it easier to compare the studies, the estimated effects of the minimum wage on various teenage subgroups

¹⁰For a fuller discussion of these issues, see Brown, Gilroy, and Kohen (1981a).

were expressed by Commission staff in the same way. The most convenient way to do that was to determine the effects of arbitrary 10 percent increases or decreases in the minimum wage on teenage employment and unemployment. A 10 percent increase was assumed to have the same effect as a 10 percent decrease, except in the opposite direction. Up to a point, larger changes in the minimum had linear effects, that is, employment and unemployment went up or down to the same degree as the minimum increased or decreased. For example, the effects of a 15 percent minimum increase were 1.5 times as large as those of a 10 percent increase. The effects of major changes, however, such as doubling the minimum wage or eliminating it, could not be determined with the methods used in the studies.

A review of teenage employment and unemployment time-series studies completed by 1979 (Brown, Gilroy, and Kohen 1981a) found that a 10 percent increase in the minimum wage would reduce teenage employment between 0.5 and 3.0 percent, with most studies finding 1.0 to 2.5 percent reductions. The latter translates into a loss of 80,000 to 200,000 jobs from a base of 8 million.

Estimated effects on the teenage unemployment rate varied more widely, with a range from essentially zero to an increase of more than three percentage points. More recent studies have consistently estimated less than one percentage point. (A percentage point increase in the teenage unemployment rate, from 16 to 17 percent for example, would equal nearly 100,000 more workers unemployed.)

The range of estimated effects in the studies stems from different combinations of time periods, control variables and other subtler differences in the models used and not from different data sources since all studies relied on the Current Population Survey.

It is difficult to explain the variation in estimates among the different studies. The authors did not compare

their findings with those of previous studies in a way that would explain different results. For example, they included a longer, more up-to-date series of observations and added or deleted a control variable or two with little or no attention devoted to the importance of each innovation.

The only real exception to the failure to determine the effects of departures from earlier studies was the finding that, at least for papers whose data series ended in the late 1960s, larger unemployment effects were found when the teenage population share was omitted from the analysis than when it was included.

Commission staff attempted to update the studies through the fourth quarter of 1979 to explore the sensitivity of the estimates to differences in the variables held constant in estimating the minimum wage effects and to analyze other more technical issues (Brown, Gilroy, and Kohen 1981c, 1981d). In general, the updated estimates were quite consistently in the lower range of estimates suggested in the earlier literature. The staff estimated that a 10 percent increase in the minimum wage would reduce teenage employment about 1 percent. Other staff estimates with alternative models were quite regularly in the 0.5 to 1.5 percent range.

The staff unemployment effect estimates also were at the low end of the range found in the literature--in no case did a 10 percent increase in the minimum raise the teenage unemployment rate by more than 0.1 percentage point using the full 1954-1979 sample period. The small unemployment effect apparently results from a large number of people who withdrew from the labor force--stopped looking for work--as a result of the jobs lost from the minimum wage increase. The results for the full sample period were roughly the same as those from the 1954-1969 period, but the 1970-1979 period showed a higher effect on unemployment--a 0.5 to 0.75 percentage point increase. (The time

periods analyzed were chosen to coincide with those used by the other researchers and do not correspond to business cycles.)

Changes in the set of control variables produced few dramatic differences in the estimates, but other experiments produced more interesting (if not always anticipated) results. Separating minimum wage level and coverage effects proved unsuccessful because the coverage effects could not be estimated with adequate precision. The minimum wage level, however, appeared to have a greater effect on employment and unemployment than did the extent of coverage, although precise differences between the two could not be determined.¹¹

Most of the earlier studies assumed that teenage employment and unemployment are affected only by current values of the minimum wage, although some studies allowed for a lagged response. The lagged response is the effect on employment and unemployment of past changes in the minimum. None of these studies reported how much difference the response to past changes made in the estimated minimum wage effect, and most of them were based on data that ran only through the late 1960s. The staff's updated data sample revealed little evidence that allowing for responses to past changes increased the estimated effect of the minimum wage on teenage employment.

While nearly all of the previous studies focused on the number of teenagers employed, a good case can be made for looking at their hours of work as well. When part-time workers were converted to full-time equivalents, i.e.,

¹¹For example, a 10 percent increase in the level of the minimum would reduce teenage employment by about 1.8 percent, while a 10 percent increase in coverage would lead to a 0.3 percent reduction. Effects of either level of the minimum or coverage on unemployment remained negligible.

two part-time workers equal one full-time equivalent, the estimated effect on full-time equivalent teenage employment was increased 0.5 percent, for a total of a 1.5 percent reduction from a 10 percent minimum wage increase. The precision of these estimates is compromised to some extent by the fact that quarterly data on teenage employment by full- and part-time status are only available from 1963 on.

Under contract to the Commission, Hamermesh (1981) extended the earlier work in quite a different direction with a more complex analysis of the demand for labor than in previous studies. He noted that previous work had focused on the relationship between the minimum wage and average hourly earnings and neglected other components of labor cost such as Social Security taxes, pension contributions, and vacation pay. Because these components had increased substantially over the last 20 years, ignoring them could bias estimates of the impact of the minimum wage. He also argued that most of the literature on the employment effects of the minimum wage bore little relationship to theoretical and empirical work on the demand for labor. In Hamermesh's view, a proper specification of the demand for teenage labor should include average wages of teenagers and adults as well as the minimum wage.¹²

¹²Hamermesh's minimum wage variable incorporated the ratio of the minimum wage to the average teenage wage. He recognized that an increase in the minimum wage increases the average wage of teenagers and, to a lesser extent, the average wage of adults. In calculating his minimum wage impacts, he took into account the effect of minimum wage increases on the average wage of teenagers but ignored the much smaller effect on average adult wages. Incorporating the effect on adult wages would lead to a small reduction in the estimated minimum wage impact on teen employment.

After correcting hourly earnings to include the other components of labor cost and including average employment costs of teenagers and adults, Hamermesh's results were quite consistent with those discussed above. Regardless of the choice of wage measures, the choice of time periods, or the choice of models, a 10 percent increase in the minimum wage reduces teenage employment by about 1 percent. Despite the agreement with other studies, however, Hamermesh's estimates of the effects of the minimum wage should be viewed with caution since his estimates of the effects of other factors are sometimes implausible (Fleisher 1981).¹³

Hamermesh also considered the lagged response issue. He found that allowing for a lagged response led to a somewhat larger estimated effect of the minimum wage. However, in obtaining the lagged-response estimates, he assumed that the impact of a minimum wage increase begins when that increase takes effect and that it has no impact between the time the increase is legislated and the time it becomes effective. (Allowing the effect of the increase to depend on both its date of enactment and its effective date would have been very difficult.) As a result, he con-

cluded that the lagged response estimates were not to be preferred to his earlier estimates.¹⁴

A judgment about the seriousness of the estimated employment and unemployment effects may well depend on what teenagers do with the time not spent working. There is some time-series evidence that they respond by staying in school longer than they otherwise would (Mattila 1978 and 1979), though there is also some contrary evidence (Ragan 1977).

Little has been said thus far regarding differences in the impact of the minimum wage on different groups of teenagers. Perhaps the most widely discussed difference is between nonwhite and white teenagers. Because nonwhite teens have lower average wage rates than white teenagers, one would expect that the minimum wage would have a greater effect on nonwhite teens. But a review of the literature suggests that there is little empirical support for such a generalization; some studies found that nonwhites were more adversely affected, while others found the reverse. Whether the estimated differences could be due to chance alone is almost never discussed. This is a particularly important issue given the relatively small number of nonwhite teenagers in a typical Current Population Survey sample, which means that effects of the minimum wage on nonwhite teenagers may not be estimated with great precision (Welch 1976, pp. 121-122).

Analysis of the staff-updated sample underlined these difficulties. Estimated employment effects were smaller for nonwhite than white teenagers, though the possibility that this difference was due to chance alone could not be rejected. Thus, while we cannot say that the oft-asserted racial differential is absent, it seems safe to

¹³For example, a time trend was included to control for the impact of technological change on firms' demand for teenage labor. Assuming that wages and firms' output are held constant, a technological improvement should enable firms to produce the same amount of goods with fewer workers. In other words, an improvement in technology should increase the productivity of each worker and the firms should demand less labor to produce a given amount of output. Hamermesh's statistical estimation of this impact suggests that improvements in technology would instead increase firms' demand for teenage labor, which is contrary to the theoretical prediction.

¹⁴For an argument in support of the lagged relationship, see Mincer (1981).

say that the persuasiveness of that assertion rests on an a priori argument rather than on convincing empirical evidence.¹⁵ An analysis of differential effects by sex found no significant differences.

As noted in the introduction, most of the time-series studies of the effects of the minimum wage on youth employment status have focused on teenagers. However, the literature does include a smaller number of studies dealing with young adults (those 20-24). These generally found that the minimum wage reduced employment and raised unemployment although less than among teenagers. The number of available studies is too small, and the diversity among them too large, to support broader generalizations.

Using data for the 1954-1979 period, the staff found smaller disemployment effects among young adults than among teenagers. A 10 percent increase in the minimum wage reduced young adult employment approximately 0.25 percent, although this is not as reliable an estimate as the one for teenagers. Perhaps surprisingly, statistically significant unemployment effects were detected--a 10 percent increase in the minimum raising young adult unemployment by about 0.2 percentage points.

In principle, one could also envision studies of the effects of the minimum wage over a period of time on the employment of other youth subgroups, such as inner-city youth or Hispanic youth. However, concern for these groups has only recently led to collecting data on their employment status, and the time period for which data are available is too short to permit meaningful analysis.

Cross-Section Studies. Time series studies rely on differences over a period of time to estimate minimum wage

¹⁵See also Osterman (1981).

effects, i.e., how did youth employment change when the minimum wage was changed? An alternative approach is to rely on cross-section data, making comparisons between states or metropolitan areas that differ in the importance of the minimum wage.

A basic question that must be confronted with the cross-section approach is how to identify differences in the degree of importance of the minimum wage when the same Federal minimum wage law applies to all states. Statistically, if the "minimum wage variable" does not vary, one cannot estimate the minimum wage's effect. Two approaches to this question have been tried in the literature on youth.

Early studies, using 1960 census data, investigated whether state minimum wage laws, which do vary, lowered teenage employment. But that approach was limited because the extension of federal minimum-wage coverage to retail trade and services in the 1960s reduced the importance of state laws. Later investigators tried to solve the problem by studying average wages in different areas. They assumed that the effect of the federal minimum depends on area wage levels -- high-wage areas would be less affected and low-wage areas more affected -- and on the extent to which the areas' industries are subject to the minimum wage laws.

Studies focusing on differences in state laws generally determine the effect of these laws on teenagers' average wages and the effect of higher wages on teenage employment. The latter is of greater interest in studying the effect of Federal minimum wage increases.¹⁶

¹⁶Knowing how much the presence of a state minimum wage law increases average teenage wages does not tell us how much an increase in the federal minimum wage will raise average wages. However, if we are able to estimate this relationship using other data, we can use this increase in average wages and the response

These studies found that higher wages in general reduced teenage employment. Variations among the studies make a precise summary difficult, but a 10 percent increase in average wages reduced white teenage employment by a few percent, with some evidence of a larger reduction for black teenagers. Because a 10 percent increase in the minimum wage would increase average teenage wages by considerably less than 10 percent (less than half of all teenagers work at or below the minimum wage), the implied employment effects of a 10 percent increase in the minimum wage found in these cross-section studies are roughly consistent with the time-series results.

Cross-section studies of the effect of the Federal minimum wage are a recent addition to the literature. As in the time-series studies, youth employment is assumed to depend on the minimum wage, the demand for labor (as reflected in the area unemployment rate), and other factors. A survey of these papers (Brown, Gilroy, and Kohen 1981a) found a wide range of estimates, from essentially no effect to a 5 or 6 percent reduction in teenage employment in response to a 10 percent increase in the minimum wage. There was some tendency for studies that controlled more thoroughly for other determinants of teenage employment to produce smaller reductions, but even this generalization had its exception.

There are doubts about whether these studies really provided estimates of the effects of the minimum wage. Because most of the variation in the minimum wage variable comes from variation in wage levels across states or areas,

of employment to increasing average wages to calculate the change in employment. This approach does, however, ignore possible differences in the responsiveness of minimum wage and better paid teenagers' employment to their wage rates.

one is never certain whether the estimated effects are minimum wage effects or state average wage effects.

A quite different cross-section approach to the problem of estimating employment effects was developed for the Commission by Meyer and Wise (1981). They observed that the minimum wage can be expected to have three effects on youth wages. First, some who would otherwise earn less than the minimum wage are brought up to the minimum. Second, some of those who would otherwise be below the minimum are not employed because of the minimum. A third effect (to which the authors devote less attention) is that wages of those who would otherwise be at or above the minimum may be increased.

A frequency distribution of wages (a graph showing the number of workers at each wage level) with a minimum wage in effect shows a "peak" at the minimum level and fewer workers below that level than would be found in a hypothetical frequency distribution of wages in the absence of a minimum wage. The reasons for this are that with a minimum wage, the wages of some workers formerly below that level are brought up to the minimum -- causing the peak or high number at that point, while those low-wage workers who lose their jobs or are not hired because of the minimum drop out of the distribution. Therefore, by assuming a hypothetical distribution without a minimum, one can estimate these raising and removing effects and, using the latter, come up with an estimate of the disemployment effects of the minimum wage.

The Meyer-Wise estimates, which are based on this procedure, appear considerably larger than the typical estimate discussed so far, although there are comparability problems that may explain part of the difference. Based on the distribution of wages of hourly workers aged 16-24 who are not in school, they estimate that a 10 percent increase in the minimum wage

would reduce employment of this group by 2.2 percent. Given that their estimate for 20-24 year-olds is 1.7 percent, the implied estimate for teenagers is 3.6 percent.¹⁷

The major problem in comparing their estimates with those discussed earlier is that Meyer and Wise studied only out-of-school youth. But if the minimum wage not only reduces the number of non-students working full time but also increases the number of students working part time (as Mattila 1979 reports), then the job losses among all youth would be less than Meyer and Wise's estimate of job loss among non-student youth.

Obviously the Meyer-Wise results depend on the hypothetical shape assumed for the wage distribution without a minimum (Rosen 1981b).¹⁸ While their assumptions in this regard are reasonable, it is hard to be very confident that they are correct.¹⁹ Thus, it is

¹⁷Based on Meyer and Wise (1981). The impact on teenagers can be inferred from the fact that the percentage change in employment of 16-24 year-olds is a population-weighted average of the percentage changes for 16-19 and 20-24 year-olds. In 1978, 73.6 percent of out-of-school youth age 16-24 were 20-24.

¹⁸To be more precise, Meyer and Wise assume that wages depend on a set of observable variables and a random error term. They must make some assumption about the distribution of the error term or, equivalently, about the distribution of wages for workers with a given set of observable variables.

¹⁹Meyer and Wise's assumption that, among workers with given observable characteristics, wages are distributed "lognormally" would probably be the first choice of most researchers in the area. However, that distribution is ordinarily chosen for its general simi-

possible that their assumed shape for the wage distribution without the minimum wage is responsible for their larger estimates.

Other Employment Effects

Studies on general employment effects of the minimum wage did not fall neatly into simple categories as did those on youth employment. Few studies directly address the effect of the minimum wage on adult employment or even estimate adult employment effects for comparison with youth estimates. Most focus on industrial groupings rather than demographic categories. For example, there have been several analyses of the effect of minimum wages on employment in low-wage manufacturing industries and on employment in industries as they become subject to minimum wage standards for the first time.

Effects on Adult Employment. As noted in the discussion of the theory of the minimum wage, one expects to be able to detect effects of the minimum wage most readily if the group studied contains a relatively large fraction of workers who would have earned less than the mandated wage in the absence of minimum wage legislation. While teenagers and, to a lesser extent young adults fit this description, adults generally do not.²⁰ As a result, it is not clear whether one should expect the minimum wage to reduce adult employment, and, if it does, the amount may be so small compared to total adult employment that it will not be detected

larity to observed distributions, rather than any close correspondence in the lower tail of the distributions. (Indeed, the message of Meyer and Wise's method is that the lower tail observed distribution should not look like that of the hypothetical, no-minimum distribution.)

²⁰Among those aged 25 and older in 1980, only 8.4 percent were at or below the minimum wage. See Chapter I, Table 1-1.

with precision.

Time-series studies on the subject produce quite mixed results. Mincer (1976) reported statistically significant employment reductions among white males over age 65 and white female adults but not for other age, sex, and race combinations. Gramlich (1976, pp. 438-443) found statistically insignificant reductions for adult males and no effects for adult females. Hamermesh's (1981) results imply a small and statistically insignificant increase in adult employment because the minimum wage raises the wages of competing teenagers. The only conclusion emerging from these studies is that it is difficult to estimate the effect of the minimum wage on adult employment with any precision from time-series data.

A new cross-section study by Linneman (1980) adopted a quite different approach to estimating adult disemployment effects. Given data on wages and other characteristics such as age and education of workers in 1973, he estimated the wage such workers would have earned in 1974, had the minimum wage not been increased. He argued that those directly affected by the minimum wage are those whose predicted wages would have been less than the new 1974 minimum and that the negative employment effects should be greatest for those whose predicted wage was furthest below the minimum. Linneman found that this was indeed the case. While he did not estimate the overall reduction in adult employment due to the minimum wage increase, his results permit the inference that it is substantial.²¹ However, Linneman also found that those with wages just above

the minimum also suffered lower employment, while most theoretical predictions would have yielded the opposite result. This raises the possibility that his results reflect the fact that low-wage workers are less likely to be employed without convincingly implicating the minimum wage as a cause of this problem.

Effects on Employment in Low-Wage Industries. The observation that the employment effects of the minimum wage are most easily detected when a relatively large fraction of the workers studied are minimum wage workers suggests that low-wage industries are a reasonable place to study such impacts. "Low-wage industry studies" cover a great diversity of industries, methods, and conclusions (Brown, Gilroy, and Kohen, 1981b).

Two types of questions could be asked of such studies. First, is there evidence that the minimum wage has reduced employment in such industries? Second, how do the effects differ among industries? One possibility is that, because they have more low-wage workers, some industries find their wage bill raised more than others by a minimum wage increase, although they may reduce employment to the same degree in response to a given wage bill increase. Alternatively, the responsiveness of employment to wages may differ. In general, the existing literature demonstrates the difficulty of answering the first question, so that little attention is devoted to the second, subtler one.

The strongest evidence of employment reduction caused by the minimum has been found in low-wage manufacturing industries. One approach has been to study such industries over a period of time as the minimum wage is increased and then is eroded by increases in prices and other wages. Another is

²¹Linneman reported that, when wage gains and employment reductions were both taken into account, earnings of those who would otherwise earn less than the minimum-wage were reduced by the minimum wage increase. This would imply at least a 1 percent reduction in em-

ployment of minimum-wage adults in response to a 1 percent increase in the minimum.

to compare the change in employment in establishments that initially paid a large fraction of their workers below the new minimum with the change in establishments less directly affected by the increase. Using this second approach, the employment changes of the less-affected establishments are used to estimate what would have happened to employment at those with a large proportion of low-wage workers if the latter had not been significantly affected by the minimum wage. Both types of studies find reductions in employment due to increases in the minimum wage, but there is conflicting evidence on changes in the number of hours worked per week.

Studies of the effect of the minimum wage in agriculture also generally report reduced employment. In general, these studies were faced with more severe limitations than those characterizing the manufacturing studies. It has been a relatively short time since the introduction of minimum wage coverage to agriculture and there is a greater danger that the changes may be caused by technological advances in time-series studies or differences in farm size in cross-sectional analyses rather than minimum wage effects.

Studies of retail and service industries, which also became increasingly covered by minimum wage requirements in the 1960s, produce conflicting conclusions. The major weakness of these studies is the difficulty in determining whether reported negative effects are due to chance alone or whether those not finding negative effects suffer from limitations of sample size or study design that obscure small effects. From the published analyses and a reanalysis of the published data tabulations, it is difficult to reach any conclusions for this group of industries with confidence.

A different approach to studying the effect of the minimum wage on low-wage industries was taken by Madden and Cooper (1981). Instead of

focusing on the effects of the minimum wage on the level of employment, they asked whether the minimum wage affected states' share of output and employment in wholesale and retail trade. To the extent that firms' decisions on where to locate are based on labor costs, increases in the minimum wage should make states with larger concentrations of low-wage workers or a larger fraction of workers subject to minimum wage laws less attractive locations. The authors noted, however, that firms in wholesale and especially retail trade are typically considered to be relatively insensitive to such considerations in deciding where to locate; changes in population and income are more important.

They report no consistent evidence of the hypothesized effects of Federal or state minimum wages in either wholesale or retail trade. This conclusion holds even when considering the possibility that reactions to a given relative minimum wage and degree of coverage differ by region. The authors point out, however, that the state-by-industry data base they constructed back to 1958 had limitations that may have compromised the correctness of their conclusions.

Effects of a Lower Minimum Wage for Youth

As concern about youth unemployment has grown, and as the effect of the minimum wage on teenage employment has been more widely understood, proposals to reduce the minimum wage for younger workers have become more common. In its simplest form, such a "youth differential" or "subminimum" wage for youth would reduce the lowest wage employers could pay to workers below a specified age who are subject to the FLSA while remaining in compliance with the law. The most common proposals allow employers to pay those who have not yet reached their twentieth birthday either 75 percent or 85 percent of the basic minimum wage. How-

ever, most of the recent differential proposals do not take this simple form; they restrict employer use of such a differential in various ways.

The first part of this section deals with the effect of a "simple" youth differential. The second discusses features of the present law that now provide a lower minimum wage or similar inducement to employers to hire youth in certain categories. The third section discusses the most common restrictions included in proposed youth differential legislation.

A Simple Differential for Teenagers. A differential minimum wage for teenagers would reduce the wages employers pay to the lowest-paid teenagers. It would not directly affect the wages of better-paid teenagers or adults, or the price of other inputs such as machinery.

A lower wage for minimum-wage teenagers will have two effects. First, production costs will be lower, and firms will have an incentive to reduce prices so that they can produce and sell more of their products. This "output expansion" effect increases the use of all workers and other inputs. Its magnitude depends on minimum-wage teenagers' share of production costs and consumers' response to the lower price charged by producers. A reasonable estimate of the effect is that a 15 percent youth differential would increase demand for all inputs by about one tenth of one percent (Brown 1981). The second effect of a youth differential is to encourage firms to substitute minimum-wage teenagers in place of other production inputs such as higher-wage teenagers, adults, or equipment. The prospect of such substitution, particularly for minimum-wage adults, is responsible for much of the controversy surrounding the youth differential.

The fundamental difficulty in estimating the effects of such a differential is that we have never had one. Thus, any estimate must be based,

with appropriate adjustment, on some other related experience such as what happens when the minimum wage is changed for both teenagers and adults or when the average wages of youth rise or fall compared with those of adults. Such adjustment sorely tests our catalog of relevant facts from previous research and the ability of the data to give new clues about the appropriate adjustment.

Consider, for example, what can be learned from historical evidence on the effects of the minimum wage on teenage and adult employment. Past increases in the legal minimum and inflation-caused reductions in the effective minimum between legislated increases applied equally to unskilled teenagers and adults. Thus, a youth differential differs from a reduction in the basic minimum wage in that it does not reduce the wages of minimum-wage adults. As a result, we would expect that a youth differential would have greater effects on teenage employment than would a comparable reduction in the basic minimum because the youth differential improves the competitive position of minimum-wage teenagers vis-a-vis minimum-wage adults. For the same reason, effects on adult employment are expected to be worse.²² Thus, if a 10 percent reduction in the general minimum wage raises teenage employment 1 percent, a 10 percent youth differential would increase it by more than 1 percent. Unfortunately, this leaves two important questions unanswered: How much more than 1 percent would teenage employment rise? How would

²²Both of these statements assume, as seems plausible, that the substitution response is more important than the output-expansion effect. Because it reduces the wages of low-wage adults as well as teenagers, a general reduction in the minimum wage would have a greater output expansion effect than a comparable youth differential.

adult employment be affected?

Hamermesh (1981) estimates that a 25 percent youth differential would increase teenage employment by about 3 percent or 250,000 jobs. Although he does not calculate adult employment effects, his estimates imply that the output expansion effects would create enough new jobs to offset those lost by adult workers replaced by teenagers. Commission staff performed an alternative calculation based on Hamermesh's work showing a larger teenage employment gain of 4 to 5 percent or 400 to 450 thousand jobs, at a cost of some 50 to 150 thousand adult jobs. Among the alternative calculations of teenage and adult employment effects from Hamermesh's study, those assumptions producing the smallest teenage employment gains also produce the smallest adult losses and those leading to the largest teenage gains also lead to the largest adult losses. Therefore, the implied effects on the total employment of teenagers and adults lie in the relatively narrow range of 250 to 350 thousand jobs.

This discussion gives some indication of a reasonable range of expectations for teenage employment. For various technical reasons, however, they probably underestimate somewhat the adult employment losses.²³

²³The change in adult employment is the sum of the gain in adult employment due to output expansion and the substitution of teenagers for adults, holding output constant. The rate at which teenagers can be substituted for adults without changing output depends on their relative productivities, which are measured indirectly by their wages. Hamermesh implicitly assumes that teenagers are being substituted for "average" adults rather than predominantly minimum-wage adults. Since the average adult would be more productive than the typical minimum wage adult, the number of teenagers needed to substitute for one adult is

An alternative source of estimates is the literature on substitutability of different types of labor, especially teenagers and adults. These studies generally find "easy" substitution between teenagers and adults, suggesting that the increase in teenage employment and probably the reduction in adult employment would be greater than Hamermesh estimates. But it is difficult to get reliable estimates from this literature, partly because some of the estimates of the responsiveness of demand for teenage labor to its price are implausibly high, partly because the studies generally define youth too broadly as those less than 25 years of age, and partly because of uncertainties about the relative substitutability of workers of different skill levels.²⁴

These uncertainties are compounded when the possibility of changes in other wages is considered. If a youth differential encourages employers to substitute minimum wage teenagers for other workers, the growing number of displaced workers unable to find employment would tend to lower their wages or at least lead them to rise less rapidly than they otherwise would. Restraining the wages of better-paid teenagers in this way would further increase teenage employment and reduce

overstated by this assumption. The ratio of teenage gains to adult losses resulting from this substitution is therefore also likely to be overstated. See Brown (1981).

²⁴The problem here is that, in aggregating workers into youth and adult, the studies implicitly assume that, for example, minimum wage adults and higher-wage adults are equally substitutable with minimum wage teenagers. While it seems likely that minimum wage adults are much better substitutes for minimum wage teenagers than are higher-paid adults, there is no direct evidence on this subject. See Brown (1981).

adult employment, while restraining the wages of better-paid adults would have opposite effects. The excess of minimum wage adults could not, of course, reduce their wages so long as the minimum wage was effectively enforced.

Thus, despite the obvious importance of an accurate estimate of the effects of a youth differential, such an estimate remains elusive. A reasonable prediction might be that teenage employment would increase by 1.5 to 3 percent in response to a 15 percent differential, and by 2.5 to 5 percent in response to a 25 percent differential,²⁵ but there is substantial uncertainty that the true effect would be within that range. Adult employment would probably be reduced. Such a reduction could be significant compared to the teenage employment gain, but it is very unlikely that adult employment reductions would be as large as teenage employment gains.

In evaluating whether the tradeoff of teenage for adult jobs is a desirable one, it is important to know something about who gains and who loses. Will the additional teenage jobs go to disadvantaged inner-city youth or merely provide more regular employment for teenagers with no real employment problem? How will the adult job losses be distributed? Unfortunately, available data do not allow us to make a firm judgment on this matter.

One might expect that the teenage job gains from a youth differential would go to those teenagers whose value to a potential employer is just below the current minimum wage. Judging from observed wage distributions, this might suggest that minority youth and youth from disadvantaged families would benefit disproportionately since

²⁵This assumes that sufficient numbers of teenagers would work for these lower wages, which seems likely, but would be less certain if the differential were 25 percent (Brown 1981).

they are more likely to receive low wages. This would also lead us to expect, however, that black teenagers would be disproportionately affected by past increases in the minimum wage and, as noted earlier, the evidence on this score is not very strong. Moreover, experience with the Targeted Jobs Tax Credit (discussed below) makes less plausible the conjecture that disadvantaged youth would benefit disproportionately from a youth differential.

The adult job losses would be concentrated among those who are most substitutable with low-wage teenagers. This suggests that, in general, low-wage adults would be more vulnerable than high-wage adults. (The demographic characteristics of adults employed at low wages are discussed in Chapter 1.) Whether the demographic characteristics of low-wage job losers would differ significantly from those of currently employed low-wage workers is uncertain.

Even if the effect of a youth differential on teenage employment were known, its effect on teenage unemployment would still be uncertain. As noted earlier, teenage employment increases do not automatically translate into one-for-one reductions in teenage unemployment. Most studies report that a lower minimum wage would increase teenage employment and teenage labor force participation, i.e., more would begin looking for work. More teenagers looking for work and not finding it would limit the unemployment reduction that an increase in employment would otherwise bring about. If responses to a youth differential are similar, the employment increases which it allows would not lead to comparable reductions in teenage unemployment.

Current Youth Differentials and Wage Subsidies. Often overlooked in discussions of proposals for a youth differential is the fact that a special differential already exists for full-time students (FTS) working part time and summers. The Student Certification

Program allows employers to hire such students at a wage at least 85 percent of the basic minimum wage. First introduced in 1961, the program has been amended to reduce restrictions on using the program. The most important restrictions at present are: (1) the program applies only to employers in retail, service, and higher education; (2) the individuals are allowed to work only 20 hours per week when school is in session and 40 hours at other times; (3) the fraction of total hours worked in an establishment by full-time students is limited.

Commission contractors Freeman, Gray, and Ichniowski (1981) attempted to estimate the degree of substitutability between FTS and other workers among a sample of establishments that were relatively heavy users of the FTS program. They found some evidence that FTS workers and others are readily substitutable so that the program increases demand for FTS workers appreciably but their results varied greatly depending on their treatment of regional differences and the estimate of the wages received by non-FTS workers.

Besides this variation in the estimated effects of the FTS program, the implications of their findings for the effects of a youth differential are clouded by three facts. First, the restriction on hours worked per week makes FTS workers less substitutable for other workers under the certification program than these workers would be under an unrestricted youth differential. Thus, an employer might be willing to substitute youth eligible for a differential for other workers if they were able to work "normal" hours, but would not be willing to do so if special schedules for differential-eligible workers had to be accommodated as in the FTS program. Second, there is no reason to believe that FTS workers would be substituted for non-FTS workers to the same degree that teenagers would be for adult workers. For example, it is quite pos-

sible that much of the employment gain of FTS workers comes from the substitution of FTS teenagers for non-FTS teenagers rather than substitution between teenagers and adults. Third, industries eligible for FTS may differ from those not eligible in the extent to which their demand for teenage labor increases in response to lower teenage wages (Rosen 1981a).

The existence of the Student Certification Program has one other implication for the effects of a youth differential on demand for labor. Because FTS workers already qualify for a differential, there has doubtless been some substitution of them for other workers, both adults and nonstudent teenagers. A youth differential would encourage reverse substitution among teenagers, by undoing the "advantage" that FTS certification gives to students. That would increase the employment of non-student teenagers, who are on average from less affluent families, at the expense of enrolled teenagers, who are on average more affluent (Rosen 1981a). Whether one regards this as an advantage because non-enrolled teenagers are generally needier or a disadvantage because enrolled teenagers may have less money to continue their education is, of course, a value judgment.

From the employer's viewpoint (though not the worker's), a reduced minimum wage is similar to a wage subsidy because both lower the cost of hiring certain types of workers. As part of the Targeted Jobs Tax Credit (TJTC) begun in 1979 and slated for expiration unless extended by December 1981, employers hiring youth aged 18 to 24 who are members of economically disadvantaged families²⁶ qualify for a

²⁶An economically disadvantaged family is one whose income in the preceding six months was less than 70 percent of the level needed to reach the Bureau of Labor Statistics lower living standard. In the latter part of 1980, this would

subsidy equal to one half of wages paid (up to a maximum subsidy of \$3,000) in the first year of employment and half of that in the following year. Thus, for a full-time minimum-wage worker, the first-year subsidy would be very nearly half of wages paid, though a smaller fraction of total labor costs.²⁷

Ideally, one would determine how many additional youth from disadvantaged families who would not otherwise have been employed have been hired under the TJTC program and to what extent their gains came at the expense of other groups. In particular, it would be important to know the extent of substitution of disadvantaged for non-disadvantaged youth, since a youth differential (unlike the TJTC) would lower employers' cost of hiring all teenagers and thus would not encourage such substitution.

Unfortunately, relatively little is known about the effects of the TJTC. The program effectively began in March 1979. Not enough time has passed for gathering the needed data, let alone making the appropriate inferences from such data.

One striking feature of the experience to date, however, is the limited use that has been made of a rather generous subsidy. Between March 1979 and July 1980 approximately 70,000 18-24 year-olds from economically disadvantaged families were hired out of an estimated 2.8 million of potentially

mean a monthly income of about \$735 for a family of four.

²⁷An individual working 40 hours in each of 52 weeks at the federal minimum wage of \$3.35 per hour would have gross earnings of \$6,968, so the \$3,000 subsidy would cover 43 percent of those earnings. The employer would, in addition, have to make payments for payroll taxes under Social Security and unemployment insurance, so that less than 47 percent of labor costs would be covered.

eligible persons.²⁸ This limited participation may be due to lack of information about the program on the part of both employers and potentially subsidized workers, although one study (O'Neill 1980) reported that 63 percent of firms answering a mail questionnaire said they knew about the program.²⁹ Another potential problem is the reluctance of employers to ask "too-personal" questions about family circumstances and the reluctance of workers to "advertise" their disadvantaged status to potential employers (O'Neill 1980, Mershon Center 1980, p. 35).³⁰ Moreover, subsidized disadvantaged youth may be considerably less attractive to employers in periods of considerable unemployment than in tighter labor markets.

²⁸The 2.8 million figure is the number of economically disadvantaged youth aged 18-24, some of whom are ineligible because they are not looking for work or were hired by their current employer before the TJTC took effect.

²⁹O'Neill's sample was drawn from a universe representing all firms with 50 or more employees and firms hiring less than 50 employees with a net worth of \$500,000 or more. He notes that "the major omission in coverage of the private business sector is the approximately 2.5 million very small firms (employment between 1 and 9) who have very little in the way of fixed assets In the aggregate, these very small firms although accounting for about 80 percent of all firms, only employ about 17 percent of all workers in the private business sector." If we assume that O'Neill's results are representative of the other 83 percent of employment, then at least half of all employees work in firms which knew about the credit.

³⁰Note, however, that either employer or worker being knowledgeable about and favorably disposed toward the credit may lead to utilizing the credit.

One should not, however, place too great an emphasis on the factors that might be thought to artificially reduce program participation. The 70,000 hires mentioned above include "retroactive certifications," workers certified as being eligible after being hired and including those hired without knowledge of TJTC eligibility. One study of 25 TJTC sites (Mershon Center, 1980, p. viii) found that 80 percent of the TJTC certifications were retroactive. (This percentage is based on all TJTC certifications including other "target groups" besides disadvantaged youth.)

Interestingly, the "substitution" issue -- whether TJTC workers would be used to replace other workers -- has not arisen with the same force it commands in the youth differential debate. Nothing directly prohibits such substitution, though limits on the extent of TJTC credits per firm discourage wholesale substitution. The only evidence available on this score so far is based on O'Neill's mail survey, which reports both expanded employment and the substitution of eligible for ineligible workers.

Employer response under the disadvantaged youth portion of the TJTC might differ from the response to an equally generous general youth differential for several reasons. First, the age range covered by the TJTC, 18-24, differs from the "teenage" range typically contemplated by a youth differential. It is not clear whether demand for 18-24 year-olds ought to be more or less responsive than demand for teenagers to changes in employers' cost. Second, even if employers' demand for "youth" was completely insensitive to wage costs, substitution within the youth group might be expected. TJTC encourages substitution of subsidized for non-subsidized youth, while a youth differential encourages substitution of minimum-wage for higher-wage youth. Thus, one cannot make a direct translation from the employer responsiveness to TJTC to

their responses to declining wages under a youth differential. The record of TJTC thus far, however, leads one to doubt that demand for youth is as responsive to their wage cost as the labor-substitution literature would suggest. The Mershon Center report observes that businesses "do not appear to be rushing of their own volition to use TJTC."

In addition to raising questions about the responsiveness of youth employment to lower employer costs, the TJTC experience also suggests that teenagers from disadvantaged families may not be the primary beneficiaries of teenage employment increases brought about by a youth differential.³¹

More Complicated Youth Differentials. The discussion thus far has assumed a youth differential of the simplest, least restrictive variety -- employers being free to pay any teenager a fixed fraction of the regular adult minimum. Concern that a youth differential would have undesirable effects on adult employment or wages has led to two proposed modifications on the basic scheme: prohibiting firms from displacing adults in order to take advantage of the lower minimum wage for youth and restricting the differential to an initial period, most frequently six months, of employment with the firm.

Prohibiting the substitution of teenage for adult workers seems at first glance to be a desirable way of responding to a major objection to a youth differential--that teenagers will gain at the expense of adults. Defining and detecting such substitution, however, is likely to be a good deal more difficult in practice than it may seem. The most obvious form of substitution would be firing adult workers and hiring teenagers on the day the differential takes effect. This form of substitution, however, is not likely to

³¹Osterman (1981) makes a similar point.

be an important part of the teenage-adult substitution one would otherwise predict (Fisher 1981). The heart of the problem is that the only meaningful measure of substitution as discussed above is to compare teenage and adult employment to what it would have been without the differential. However, what is most easily observable is current teenage and adult employment compared with last year's.

To illustrate the potential problems, consider the following actions of establishments paying their teenagers the differential minimum wage.

(1) An establishment reduces its workforce, eliminating adult and teenage jobs in proportion to their previous employment levels. It can be argued that if the employer would have discharged more teenagers and fewer adults in the absence of the differential, then substitution has occurred. But we do not know what "would have" happened, and to all appearances the employer may not have substituted.

(2) An establishment adds a new wing, perhaps producing or selling a related but somewhat different product, and all of the new employees in the wing are subminimum teenagers. Has the establishment substituted youth for adults? One would want to know how the employer would have staffed the new wing in the absence of the differential, but that is not known. It might matter how different the new product was, or whether the differences seemed to point to using teenagers in any case, but that is obviously not an easily resolved issue.

(3) As the children of the baby boom pass through their teens, the ratio of teenagers to adults in most establishments will probably decline. If an establishment maintains the 1981 ratio, has it engaged in substitution?

(4) A new firm is started, or an existing firm opens a new establishment. Does the non-substitution rule impose any restrictions on staffing of the new place of business?

The point of these examples is not to show that regulations to curtail substitution could not be written or that once written they would utterly fail. The point is that regulations would necessarily miss some genuine substitution and prohibit other changes that are not really substitution as discussed above.

Simple regulations, e.g., those keyed to last year's adult employment level or adult/teenage employment ratio, would be likely to lead to relatively frequent "errors." For example, a constant ratio rule--the employer may not reduce the ratio of adults to total employment if taking advantage of the differential--would miss the substitution that might have occurred in case 1, would prevent the employer from adopting the preferred staffing pattern in case 2 and possibly discourage the new wing altogether, would provide employers increasing opportunities for substitution over time in case 3, and leave new establishments unaffected by the regulations in case 4. More complicated rules might do better but at the cost of requiring a good deal more employer and compliance resources and discouraging some employers from taking even legitimate advantage of the differential.

Users of the full-time student certification (FTS) program are prohibited from using subminimum wage teenagers to reduce the number of full-time employment opportunities. Apparently, there have been virtually no cases in the 20 years of the program on this issue. This is thought to be due in large part to the importance of part-time work for both teenagers and adults in retail trade, so that substituting them for full-time adults would be less common than it otherwise would be. Unless one believes the FTS restriction to be self-enforcing, it is hard to believe that it has prevented employers from whatever level of substitution they might wish to do. Freeman, Gray, and Ichniowski regard the regulation as a

dead letter.

One version of the restricted youth differential permits wages 15 percent below the basic minimum for those under age 20 in their first 6 months with an employer. This tenure-dependent youth differential poses several additional, rather difficult issues.

The fraction of teenagers who would qualify for such a differential is substantial. In January 1978 over half of all teenagers had been on their current job for six months or less, 59.5 percent of those 16-17, and 52.5 percent of those 18-19 (U.S. Bureau of Labor Statistics 1980, p. A8). Summer jobs are necessarily excluded by the January survey month. Thus, at any one time, roughly half of all teenagers would be eligible for such a differential, and this fraction would increase in the summer months. Of course, not all these jobs are minimum wage jobs, so that less than half of all teenagers would be directly affected by such a differential.

There has been almost no discussion of the appropriate differential during the "probationary" period. If the goal of such a differential is to allow teenagers to work their way up to the minimum wage in, say, six months so that relatively few of those hired under its provisions would be discharged as the regular minimum became applicable, then the differential should be set at a level equal to the regular minimum less six months' normal wage growth. But there is little evidence that the typical teenager's value to the employer grows by 25 percent, or even 15 percent, in the first six months on the job. Hence, a large, e.g., 25 percent, six-month differential would lead either to routine discharges after six months of those hired at the full differential or employer reluctance to take advantage of such a differential in the first place. The latter problem would be intensified if discharging workers without cause at the end of

their differential was prohibited.³²

Compared with a general teenage differential of the same percentage, a tenure-dependent differential would be likely to have quantitatively smaller but qualitatively similar effects. This is because the differential would apply to only some minimum wage teenagers. However, it is less likely that a shortage of teenagers willing to work at the differential would limit the effect of such a differential.

If reducing quit rates among teenagers is seen as desirable, a differential applying to an initial period with any employer would contribute to this goal. At present, quitting a minimum wage job imposes no wage loss because the next job will also pay the minimum. Under a 6-month differential, a quitter would start the new job at the lower rate, providing an incentive to stay with one employer to qualify for the "regular" minimum.

The Minimum Wage and Employment of Handicapped Workers

From the standpoint of economic theory, the effect of a legislated minimum wage on the employment of handicapped (or disabled) persons may be understood with the same analytic tools as would be applied for any other population subgroup such as teenagers or nonwhites. In the simplest model of the labor market, imposing or increasing a legal wage floor creates an excess of supply over demand for handicapped

³²It is sometimes argued that the minimum wage forces employers to reduce the training content of the jobs they offer to low-wage workers, which suggests that wage growth might be more rapid as a result of the differential. Converse et al. (1981) report that some employers assert that they increased the training and responsibility of low-wage workers to offset the increase. For more general evidence, see Lazear and Miller (1981), Mincer (1981b), and Brown (1981).

labor, assuming that the floor is above the wage that handicapped workers would otherwise receive. This excess supply is manifested in reduced employment (in terms of hours worked by the handicapped who are employed, number of handicapped persons employed, or both) and a higher rate of pay for the employed. Whether the aggregate earnings of the handicapped will rise, remain the same, or fall depends on whether the employment reduction is proportionately less than, equal to, or greater than the wage increase.

A more complex and realistic model recognizes the existence of "covered" and "noncovered" sectors of the labor market and considers the movement of handicapped labor between the sectors as well as movement out of the labor force entirely. Thus, in addition to the employment response to wage changes in the two sectors, the net employment change among the handicapped also will depend on the rate of withdrawal from the labor force among job losers, their propensity to search for work in the covered sector while unemployed, and the ease or difficulty of substituting handicapped and nonhandicapped workers. It is often plausibly (if casually) theorized that this substitutability for nonhandicapped workers is low, if not negligible. In fact, it seems that an intuitive understanding of this theory of the labor market motivated the special provisions in the Fair Labor Standards Act exempting certain employers of handicapped persons from the requirement to pay the statutory minimum wage. That is, the rationale for authorizing the payment of subminimum wages to handicapped persons is stipulated in the Act as being "in order to prevent curtailment of opportunities for employment . . ."³³

In order to assess the effect of the subminimum on the employment ex-

periences of handicapped workers, several projects were undertaken by the Minimum Wage Study Commission. A comprehensive survey of the research literature and the data pertaining to the labor market economics of disability was performed. New analyses of existing data were conducted and a new case study was commissioned to examine the special employment experiences of the disabled in sheltered workshops. The outcomes of these endeavors are summarized below along with a synthesis of the findings.³⁴

Under the best of conditions, quantitative forecasts of the employment effects of altering the statutory minimum wage based on empirical research using historical data are rife with uncertainties and qualifications. When focusing on handicapped workers, these problems are infinitely compounded. A thorough review of existing data sources and research based upon these data regrettably reveals an inability to estimate the historical impact of changes in the federal minimum wage on the employment of the handicapped, thus making quantitative forecasts impossible.

Fundamental to this inability is a series of data gaps and differences in research approach. First of all, despite the existence of several major national surveys during the past fifteen years, there is no generally accepted, precise estimate of the number or proportion of individuals who are handicapped or disabled. In part, this is due to differences in the definition and measurement of disability. There is now a generally accepted necessity to distinguish among disability, pathological conditions, impairments, and functional limitations. There is not universal agreement, however, about which of these is most theoretically appropriate for defining "the handicapped." Moreover, the existence of a particular disability may or may

³³Section 14C of the Fair Labor Standards Act.

³⁴For a more detailed presentation see Kohen (1981).

not constitute a handicap for an individual, depending on the characteristics that determine how he or she performs on the job. A cautious summary of existing facts is that there are between 8.5 and 23 million disabled adults of working age.

The second source of the inability to estimate the historical effect of minimum wages on handicapped employment is the lack of time-series data on the disability status of the U.S. labor force. Thus, even with accurate or consistent counts of the labor force and employment status of the total population over the post-war period, quantifying the economic effect of the minimum wage is not possible without corresponding information on handicapped persons.

Notwithstanding these major problems, some reasonably consistent profiles of the labor market experiences of disabled persons do emerge from reviewing the research literature. Irrespective of how disability is measured, the labor supply of the handicapped is lower than the labor supply of comparable non-handicapped persons. That is, the consensus of the research is that the rate of labor force participation, the annual weeks of work and the weekly hours of work of the disabled are less than those of the nondisabled, controlling for many other factors such as age and education that influence labor force participation. There is also consistent evidence that the effects of these other factors are different for handicapped and non-handicapped workers.³⁵ Much of the research that has been done ignores the potential effects of disability on unemployment by focusing exclusively on hours employed and neglects the hours people are willing to work. And while the evidence is extremely fragmentary,

³⁵There is much less consensus about whether disability reduces labor force participation, weeks of work, and weekly hours of work to the same degree.

it does seem to indicate that handicapped persons modify the number of hours a year that they work more than the nonhandicapped in response to a given relative wage change.³⁶

There are far fewer empirical studies on the demand for the labor of disabled persons than on its supply. The research evidence on comparative unemployment rates and wages certainly conforms with (but does not prove) a priori assumptions that there is less demand for the labor of the handicapped. The staff analysis of some time-series and longitudinal data on workers in twelve selected age-sex-race groups is also consistent with this. That is, handicapped workers exhibited a greater likelihood than nonhandicapped workers of earning a wage that is at or below the minimum wage. This analysis further indicated that during periods in the 1960s and 1970s when the nominal minimum rose, the probability of being a minimum wage worker rose more among disabled workers than among nondisabled workers, irrespective of sex or race. Likewise, during periods when the minimum wage was stable and the wages of all workers were increasing, the probability of handicapped persons working at the minimum wage declined less rapidly than that of non-handicapped workers.

The principal factor underlying the demand for handicapped labor, namely productivity, was last the subject of a national, comprehensive study more than 3 decades ago. A multitude of more recent case studies of employer attitudes found widespread prejudice that manifests itself in lower demand for the labor of handicapped individuals. The importance of this demand element is buttressed by

³⁶This, of course, is consistent with more conventional findings that the labor supplies of women and blacks exhibit greater wage elasticity than do those of men and whites.

one study that used research methods similar to those in studies of labor market discrimination according to race and sex and concluded that discrimination against the disabled is as serious as that against blacks but somewhat less serious than that against women.

The admittedly fragmentary empirical evidence on the supply of and demand for the labor of handicapped persons presents a picture of concentration of handicapped workers in secondary labor markets, those characterized by firms employing low-skilled workers at low wages. To the extent that one is willing to speculate about how much lower handicapped labor supply and demand is compared to nonhandicapped labor supply and demand, it may be that imposing (or increasing) a legal wage floor is relatively more detrimental to employment of the disabled than of the nondisabled. Furthermore, expanding FLSA coverage would further reduce the employment chances of the handicapped by decreasing the number of alternative lower-wage jobs available in the uncovered sector.

Unlike other groups of persons, many handicapped individuals have a special alternative source of employment if they become unemployed or are unable to secure work in the regular labor market, namely, sheltered workshops. In 1980 more than 185,000 handicapped persons were employed in this manner, representing a more than four-fold increase since 1968. Despite the fact that nearly all disabled individuals employed in sheltered workshops are legally paid less than the statutory minimum wage, the rate of pay of many is directly linked to the minimum by a specified percentage. Even the wages of those employed in Work Activities Centers, where no minimum is specified, are indirectly linked to the statutory floor by the workshop's ostensible obligation to pay "commensurate" wages. That is, to the extent that the level of prevailing wages is influenced by the legal minimum, appropriately defined

commensurate wages will also be so influenced.

Although there have been three major national studies of sheltered workshops, there are several reasons why it is still impossible to evaluate rigorously the effect of changes in the federal minimum wage on employment in this sector. First, workshop employment in theory would be affected only by an increase in the minimum without corresponding productivity increases. However, the studies collected no hard data on productivity because the extremely variegated and somewhat haphazard practices of measuring physical production of individual disabled workers are not systematically documented by the workshops. Second, during the past twelve years, while the nominal minimum has increased, there has been dramatic growth in sheltered employment due to the nationwide movement to deinstitutionalize persons who are mentally retarded or afflicted with mental or emotional disorders. Thus, any negative employment effects of the rising wage floor cannot, with existing data, be separated from the dramatic increase in employment associated with deinstitutionalization. Third, an added complexity is the sheer growth of the workshop labor force, which has been accompanied by considerable change in its composition toward a greater percentage with severe and multiple handicaps, both of which probably reduce average productivity.

Reanalysis of the published and unpublished data from the three studies does reveal the following relevant, but not conclusive, findings. As is true in the regular labor market, the average wage within the several types of sheltered workshops rose as a percentage of the minimum during the period 1968-1973, when the nominal minimum was stable. Also, as was observed among handicapped workers in the regular labor market, during periods of a rising nominal minimum wage, average wages in sheltered employment did not rise as

rapidly as the floor. Further, the percent of disabled sheltered workers earning less than the minimum rose noticeably during the 1973-76 period, when the federal minimum was rising.

An analysis of data on individual wages in sheltered workshops provides some evidence that disabled workers' wages do rise, albeit at a diminishing rate, with increased tenure in the workshop. The direct or indirect role of the statutory minimum in this relationship cannot be ascertained. Additionally, the analyses indicate that, on average, the workshops are effective at returning to the competitive labor market those handicapped persons who have achieved the productive and social capacity to work there, although only at the minimum wage. Finally, this analysis provides scant evidence that specific vocational skill training in the workshop increases wages earned by the disabled either in the shops or after reentering mainstream employment.

A special case study of workshop wages and employment was conducted for the Commission.³⁷ In summarizing the results of the study the following should be noted: while the existence of a federal minimum wage raises wages in sheltered employment, this may in turn reduce the hours worked by recipients of cash income transfers (public assistance) and the demand for workers in production-oriented workshops. More efficient equipment, better managerial capacity and orientation, and use of nondisabled employees all increase the productivity and wages of impaired workers. However, those shops with high capital-to-labor ratios, i.e., with more equipment and machinery per worker, also tend to apply more restrictive admissions and hiring standards with regard to the severity of an applicant's impairments. Nevertheless,

the researchers believe that improved productivity in the workshops emanating from greater capital, more skilled, production-oriented management, and more use of nondisabled workers would increase both wages and employment opportunities for the disabled. Finally, the researchers acknowledge the difficulty of establishing precise and measurable definitions of exploitation but recognize that disabled employees of sheltered workshops are relatively more vulnerable because of their limited ability to use the "protection" of alternative jobs offered by competitive markets.

Recommendations

The record does not justify the establishment of a youth differential.

Several considerations led us to this recommendation. First, available estimates suggest that a youth differential has a limited potential for reducing the unemployment rate among teenagers because teenage employment increases probably would be modest and a differential is likely to attract additional teenagers into the labor market. Also, there is no evidence that areas with the highest youth unemployment rates would be the most likely beneficiaries of a youth subminimum. Second, adult employment would be reduced by a youth differential and, forced to choose between teenage and adult employment, the latter seems a considerably higher priority. Third, there is reason to hope that teenage unemployment will lessen in the not-too-distant future as the large group of baby-boom teenagers passes into young adulthood. Fourth, a youth differential would represent a departure from the principle that there should be equal pay for equal work, regardless of accidents of birth such as race, sex, ethnic or national origin, or age. If suggestions were made that the very real employment problems of women or members of minority groups should be "solved" by paying them less for their labor, such a

³⁷This paragraph is based on the findings and recommendations in Berkowitz (1981).

proposal would be rejected out of hand as fundamentally unjust. We can see no difference in principle between such proposals and those based on age.

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Chapter 3

THE IMPACT OF THE MINIMUM WAGE ON INFLATION

This chapter analyzes the potential inflationary impact of increases in the minimum wage (Mandate B) and the effect such increases might have on the wages of employees making more than the minimum (Mandate C).

The Commission's efforts to provide accurate estimates of the direct and indirect effects on wage and price inflation of minimum wage increases were in five directions: (1) a staff study of all economic interactions relevant to disentangle the aggregate direct and indirect impacts of minimum wage increases on wage- and price-inflation; (2) an estimate of the impact of minimum wage changes on wages and prices in nine Standard Industrial Classification (SIC) categories; (3) a cross-section survey of employers' responses to minimum wage increases; (4) a staff study contrasting the wage-inflation effects in different nonunion occupations and an analysis of minimum wage effects on union wages; and (5) studies of the differences in the effects on wage and price inflation depending on the economy's position in the business cycle.

It is easier to understand how changes in the minimum wage affect wage and price inflation if the process is viewed as taking place in six partly overlapping stages. First, there is a direct increase in the hourly earnings of subject employees who were previously paid less than the new minimum. Second, increases take place in the

wages of workers who already were making more than the new minimum wage. This increase, commonly referred to as the "wage-comparison" or "ripple" effect may be caused by specific labor contract clauses contingent on the minimum wage or by employers' wage policies designed to maintain relative wage levels. Third, as businesses are faced with higher wages and therefore higher labor costs, they attempt to raise their product prices and require employees to increase production in the short run. Fourth, businesses revise the level and the mix of low-skilled labor, high-skilled labor, capital goods, and raw materials used in their production processes. This new combination, designed to minimize costs and meet expected demand, could involve an increase in the use of machinery, a reduction in the use of low-skilled labor, and a slight increase in the use of high-skilled labor. Because equipment is used more intensively by fewer workers, output per worker-hour (labor productivity) increases. This increase in labor productivity lessens the overall price rise induced by the higher minimum. Fifth, the new employment levels and worker earnings resulting from the adjustments to the higher minimum combine to change national income and aggregate demand. This new demand level prompts firms to adjust production after a period of time. Sixth, the inflation and unemployment rates of the new levels of in-

come, output, costs, demand for goods, and factor demand and supply, may in time again raise average hourly earnings. This is the "spillover" or "pass-through" effect (Figure 3-1). Of course, the overall inflation rate also will be affected by the particular stage of the business cycle that the economy is in and on government fiscal and monetary policies.

Besides the direct boost to the earnings of minimum wage workers, a higher minimum indirectly raises other workers' wages through (1) the wage-comparison effect, (2) the substitution of higher-paid workers for those earning the minimum and (3) the inflation and inflationary-expectations effect. Any higher unemployment resulting from the minimum wage increase, of course, tends to reduce overall wages. The higher productivity exerts upward pressure on wages and downward pressure on prices. Because of these opposing effects of higher productivity on wage and price inflation and because labor costs account for only one third of business' total unit costs, the effects on price and wage inflation of a given minimum wage increase are expected to be quite different.

Lessons from Previous Research

Earlier studies have estimated the direct wage increases from a 10 percent rise in the minimum would range from 0.1 percent to 0.4 percent, while the total wage increases would range from 0.2 to 0.4 percent. Estimates of the total price increases ranged from 0.2 to 0.9 percent.¹

Contrary to what one would expect, these results show higher estimates of the price effects than the wage

¹To permit the comparison, the studies' empirical findings were converted to impact elasticities for a standard 10 percent rise in the minimum wage. A complete review of the studies and a table contrasting the authors' results appears in Sellekaerts (1981a), Section I.

effects and no appreciable difference between the total effects and the direct wage impacts--that is, no apparent indirect effects. These puzzling findings undoubtedly stem from the underlying methodologies in those studies. The studies generally focused on merely one, or at best a few, of the several steps in the transmission process outlined above, preventing the proper measurement of ripple and other spillover effects. And where efforts were made to study all steps, the impact of the minimum wage was not traced in a sufficiently accurate way to capture both the wage and price interactions and the productivity effect.²

The Direct, Indirect and Total Wage and Price Effects³

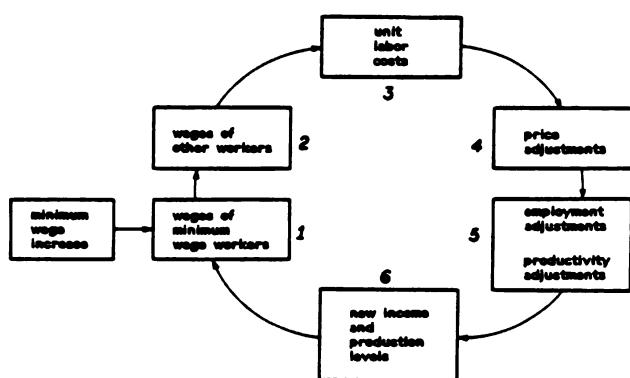
Only one of the studies for the Commission failed to detect any inflation from minimum wage increases. Pettengill (1981) espoused the monetarist view that

²Even the estimates of the direct impact of the minimum wage--ignoring all indirect effects--by means of econometric wage determination relationships can vary significantly according to (1) the particular measure of hourly earnings selected as the dependent variable, (2) inclusion of explanatory variables capturing the effect of changes in old age, sickness, disability and health insurance (OASDHI) and unemployment insurance (UI) contributions and (3) the time period studied. As expected, selection of wage measures that express net earnings, *ceteris paribus*, leads to smaller estimates of the minimum wage impact coefficient (Sellekaerts 1981a).

³The empirical findings of several studies analyzed in this section are drawn from the authors' reports prepared for their testimony before the Commission and, therefore, may not always match those of the papers contained in Volume VI of this Report.

Figure 3-1

Transmission of Minimum Wage Effects on Wage/Price Inflation



no inflationary wage ripples per se emanate from minimum wage increases. The only link he saw between the minimum wage and inflation comes from the eventual expansionary monetary policy initiated in reaction to a rise in unemployment caused by the rise in the minimum. But he provides no new empirical evidence supporting this view and, therefore, it cannot form a solid basis for policy recommendations.

A Commission staff study estimated the total wage- and price-inflation effect with the aid of a modified large quarterly econometric model of the U.S. economy.⁴ The study estimated the effect of a 10 percent increase in the minimum in each of the years 1973 through 1979 and the effect of a one-time 10 percent increase in the 1975 rate (Table 3-1). The staff also analyzed the effect of the actual increases legislated in 1974 and 1977.

The staff study found that a sustained 10 percent rise in the minimum

⁴The detailed description of the estimated equations and the manner in which the simulations were performed is provided in Sellekaerts (1981a and 1981b).

wage from 1974 through the second quarter of 1979 caused an average direct wage rise of 0.3 percent, which after three quarters rises to 0.7 percent because of the wage-comparison effect. The other indirect economic effects on productivity, price inflation and unemployment averaged 0.05 percent and boosted the total wage inflation effect to 0.8 percent. The 10 percent minimum wage hike increased wholesale and consumer-price inflation somewhat less than 0.3 percent. The small rise in productivity is caused by business's attempt to make employees work harder following minimum wage increases and by the fact that minimum-wage induced employment reduction by definition raises aggregate output per person-hour.⁵ Commission staff estimated the productivity-induced aggregate wage increase to be 0.03 percent.

Pettengill also quantified the long-run productivity-induced effect of the minimum wage on real wage rates caused by employers' requiring low-wage employees to work harder. He suggests that for every 1 percent increase in the long-run real minimum wage, the real average wage would rise 2 percent. Since this is the effect on low-wage workers and not on all workers, the estimate is not strictly comparable with the Commission staff's. Moreover, his figure is based on a range of estimates of the minimum's effect borrowed from other studies and is derived under the monetarist assumption mentioned previously that there is no long-run price inflation effect from a given minimum wage increase.

The University of Michigan's Insti-

⁵It was found that firms begin to adjust the pattern of their demand for labor (measured as hours worked) as soon as the FLSA Amendments are announced and that the average percentage impact of these increases known to become effective in future years on the net output per worker-hour is 0.9 percent.

Table 3-1
Minimum Wage Levels under Alternative Policy Scenarios¹

Year	Actual Minimum Wage As Legislated (\$ Per Hour)	10 Percent Sustained Increase (\$ Per Hour)	10 Percent Sustained Decrease (\$ Per Hour)	Single Period Increase (\$ Per Hour)
1974	2.00	2.20	1.80	2.20
1975	2.10	2.31	1.89	2.10
1976	2.30	2.53	2.07	2.30
1977	2.30	2.53	2.07	2.30
1978	2.65	2.92	2.39	2.65
1979	2.90	3.19	2.61	2.90

¹The policy simulations were performed using different sub-periods as well as the complete 1974:1-1979:2 span.

tute for Social Research (ISR) employer survey (Converse et al. 1981, Table 7.1) provides a view of the importance of the productivity effect. Nearly 90 percent of responding establishments reported that the work done by employees discharged as a result of the 1980 minimum wage increase was being done by the remaining workers; 74 percent said the reductions in the hours of minimum wage workers caused by the 1980 increase were made up by extra hours worked by remaining employees.

The Commission staff study found one of the indirect effects of a 10 percent rise in the minimum wage to be a small increase of .05 percentage points in the overall unemployment rate. But since total personal income adjusted for inflation did not change even though unemployment rose, the distribution of income was altered by the minimum wage increase.

The estimated inflation effect was found to differ considerably according to the time period studied. From 1966 through 1972 the average contribution of the minimum wage to wage inflation (including the wage-comparison effect) was found to be 1 percent rather than the 0.8 percent effect found in 1973 through 1979 for each 10 percent rise in the minimum. This finding of a decreased importance of the minimum wage in the more recent business cycle runs

counter to some expectations. But it is explained by the coverage extensions in the earlier period, which strengthened the minimum wage effect and by the increased contribution of other factors such as world oil price increases to U.S. wage and price inflation in the later period. The greater inflation rate from those other factors rendered the effect of the minimum wage increase relatively less important.

The study also found that the 1974 and 1977 minimum wage increases passed by Congress boosted wage inflation 0.6 percent and producer- and consumer-price inflation 0.2 percent on an average annual basis, from 1974 to the second quarter of 1979.

These estimates from the Commission staff study must be interpreted with several qualifiers. First, they pertain to total wage effects and therefore include the effect on the wages of minimum wage workers and on the wages of other workers. Second, the aggregate estimates combine the effects on unionized and nonunionized workers.⁶ Third, they include not only the

⁶Estimates derived in the same study support the hypothesis that the average wage impact of the minimum is larger for the non-unionized sector (1.8 percent) than for the aggregate (0.7 percent).

effect of minimum wage legislation but also that of increases in the wage rate of minimum wage workers that would have taken place anyway because of inflation. Unless the legislated increases cause substantial gains in real minimum wages during a given time, their effect may not be much more than a change in the timing of the increases. For that reason, the study presents estimates of the effects of minimum wage increases rather than the effect of minimum wage legislation. Fourth, the estimates combine the effect of the minimum wage increases and increases in coverage.

The minimum wage variable used was fully adjusted for coverage weighting the minimum wages of previously covered and newly covered workers by the number of workers in each of those categories. This was done with monthly data for each of the nine SIC industry categories and the resulting nine minimum wage variables were combined into the average variable for each quarter. It is necessary to estimate the combined impact of minimum wage and coverage because these two variables are generally changed in the same FLSA Amendments, making it nearly impossible to capture their separate effects. Fifth, these are the estimated effects of a 10 percent sustained rise in the minimum wage. The Commission staff's analysis of the effect of a one-time increase lasting only one calendar quarter found that the inflation effects would be similar to those of the sustained increase in the first quarter but would dissipate after eighteen months.

Furthermore, it is important to stress that the inflation effects of the sustained minimum wage increases were non-linear. That means for example, that the effect of a 20 percent increase is more than twice that of a 10 percent increase, and the effect of a 10 percent reduction in the minimum would not be the mirror image of a 10 percent increase, but somewhat smaller--a negative 0.7 percent rather than the expected negative 0.8 percent.

The study undertaken for the Minimum Wage Study Commission by Grossman and Boschen (1981) shows that attempts to estimate the separate effect of minimum wage levels and coverage are futile. Not surprisingly, one of the two variables was significant, while the other was not. This is a familiar symptom of the problem, which is known as multicollinearity.

Overall, the total wage inflation effect--direct and indirect--estimated by Grossman and Boschen was 0.3 percent for a given 10 percent rise in the minimum wage.⁷ This coefficient should not be interpreted as identical to the Commission staff's 0.3 percent direct wage-inflation effect. Their estimate differs from the staff's in three important ways. First, it refers to the minimum wage only. When adjusted for coverage, as in the Commission staff study, the minimum wage will effectively increase more, thus producing larger wage-effect estimates.⁸ Second, it includes the wage-comparison effect. Third, it does not allow for the possibility of minimum wage spillover effects on prices, unemployment, and productivity. Therefore, Grossman and Boschen's 0.3 percent estimate understates the total wage impact of minimum wage legislation.

The survey of employers conducted for the Commission by ISR provides little additional insight into the relative sizes of the aggregate direct inflation effects, the ripple effect, and other

⁷This coefficient was computed on the basis of the estimated coefficients and the autoregressive parameters of the equation prescribed in Section 4 of their paper.

⁸However, Grossman and Boschen's equation is plagued with multicollinearity, and it is likely that their estimated impact coefficient of the minimum wage level encompassed the effect of coverage changes.

Table 3-2
Summary of Price and Other Impacts
 from the ISR Survey
 (Percent of Establishments)

Employer Responses	1979 Minimum Wage Increase (9.4% above 1978 value)		1980 Minimum Wage Increase (6.9% above 1979 value)	
	For establishments with employees below the new minimum wage prior to the mandated change	For all establishments	For establishments with employees below the new minimum wage prior to the mandated change	For all establishments
1. Employers who reported raising prices due to the mandated increase in the minimum wage	39.9	5.7	36.1	6.5
2. Employers who reported that the minimum wage-induced increases in production labor costs were fully offset by their resulting price increases	NA ^a	NA ^a	20.0	NA ^b
3. Employers who reported ripple effects	8.4	2.8	17.0	4.2
4. Employers who reported that they required increased work efforts from their minimum wage workers in response to the mandated change in the minimum wage	NA ^a	NA ^a	20.8	3.3
5. Employers who reported other effects ^c	19.0	2.8	29.3	5.3
6. Employers who reported no effects	51.4	91.4	40.1	85.6

^aThe other effects are exclusive of eventual layoffs reported and include (1) cutbacks of employee fringe benefits, (2) contracting work to other firms done previously by the establishment's own employees, (3) cutbacks of products or services and (4) introduction of labor-saving equipment.

^bThese entries were not obtained in the survey.

^cSource: Converse et al. (1981), Tables 4 and 8.

spillover effects resulting from the 1979 and 1980 increases in the minimum wage. Table 3-2 presents the fraction of establishments that in response to the 1979 and 1980 increases claimed to have (1) raised the prices of their products, (2) raised the wages of workers earning more than the minimum and (3) introduced other changes.

Unfortunately, there is strong evidence that the changes cited by these employers were partly made in response to economic factors other than the minimum wage. Indeed, since the 1979 minimum wage increase of 9.4 percent was higher than the 6.9 percent increase in 1980 in both absolute and relative terms and since the survey took place soon after the 1980 increase, the responses for 1980 should be smaller than those for 1979. Instead, quite the opposite is true.⁹ Apparently, business establishments partly attributed their reactions to general inflationary pressures and the economic recession of 1980 to the minimum wage. For that reason, the entries in Table 3-2 overstate the true percent of establishments making these responses to the minimum wage increases. But even those overstated responses show that the vast majority (86 percent) of establishments reported no reaction to the minimum wage increase. The low number of price increases reported by all of the establishments, 5.7 percent in 1979 and 6.5 percent in 1980, also appears unimportant. Those numbers are not comparable with the aggregate price effect estimated by the Commission staff because the survey was conducted fairly soon after a minimum wage increase had taken place, and did not allow for the full-time lag in price adjustments and because the 1980 in-

⁹The only exception to this pattern is the price effect reported by establishments with employees below the minimum wage (39.9 percent in 1979 and 36.1 percent in 1980).

crease was small compared with other unit cost increases due to inflation.

Minimum Wage Effects by Union Status

There is little doubt that the minimum wage will tend to have a stronger effect on average hourly earnings of nonunionized workers than on the earnings of workers who are unionized. In another study prepared for the Commission, Farber (1981) investigated whether a change in the minimum wage affects collective bargaining outcomes through its effect on a "reference wage" used as a basis for formulating union wage demands and whether the minimum wage is more important when reference wages are relatively close to the minimum wage.

He found that increases in the minimum do not have an appreciable effect on negotiated wages, even when the reference wage is only 10 percent above the statutory minimum. In those cases, a 10 percent increase in the minimum would have raised union wages less than 0.5 percent. The larger the reference wage is compared to the minimum, the less effect increases in the minimum have.¹⁰

The small relationship that was found may be because the minimum wage has a much greater influence on wages in nonunionized industries. These represent the alternative wages available to negotiating union members, and therefore govern the ultimate concessions unions can make at the bargaining table. Not surprisingly, union wage demands were found to be affected mainly by changes in the average hourly earnings in the manufacturing sector rather than

¹⁰This finding is consistent with that of the ISR Survey of Employers where virtually all establishments giving differential pay increases report that these increases were not mandated by union contracts.

the minimum wage.¹¹

Commission staff found that while the effect of the minimum wage varied among nonunion occupations, it generally greatly exceeded the average effects in industries that are unionized. Using pooled data over several years on average hourly earnings, unemployment rates, consumer prices and overall productivities covering twelve occupations in seventeen metropolitan areas, the staff estimated that the combined direct and ripple effects of a 10 percent rise in the minimum wage during the 1970s raised wages on the average 1.8 percent in the non-unionized sector. That contrasts with a 0.7 percent average wage increase in the total non-farm business sector, which includes both unionized and non-unionized industries. The total 0.7 percent increase is fairly consistent with the 0.5 percent increase found in unionized sectors and the 1.8 percent increase in non-unionized sectors.

Industry Differences in the Inflation Effects

Two studies prepared for the Commission shed some light on the inflationary effects of minimum wage legislation on different industry types and establishment sizes.¹²

¹¹The impact of the minimum wage on average hourly earnings in manufacturing is non-zero and, therefore, the minimum wage affects union wage demands indirectly via manufacturing wages. His conclusion that the minimum wage does not affect union wage demands may therefore be too strong.

¹²It was hoped that a third study, prepared by E. Wolff and I. Nadiri (1981) would produce usable results detailed by two-digit SIC industries. However, two major effects of the minimum wage, notably its effect on relative industry wages and its effect on capital-labor substitution were imposed a priori in

Cox and Oaxaca studied the effect of freezing the minimum wage at its 1974 levels, \$2.00 for the basic adult minimum and \$1.60 for the highest farm minimum wage, over the 1975-1978 period for each of the nine SIC industry divisions.¹³ The freeze is equivalent to a 13.8 percent average annual decline in the minimum from its actual rate of increase. They used an econometric model explaining four basic economic phenomena in each industry--product demand, product supply, conditional labor demand and labor supply.

Although one would expect that a freeze of the minimum wage at its 1974 levels would induce the greatest wage-price reduction in those industries making extensive use of low-wage labor, i.e., retail trade, services, and agriculture, this is not generally reflected in the authors' empirical findings. For example, the average effect of the freeze in 1975-78 was found to be smaller for the combined retail and wholesale trade sector--a 0.9 percent price reduction and a 3.6 percent average wage rate decline--than for the mining sector, where prices dropped 9.3 percent and wages 13.4 percent. Part of this problem can be attributed to the fact that the authors' methodology did not incorporate coverage and noncompliance variations among industries. The effects for manufacturing are even more puzzling, with an overall increase in average wages and a price increase beginning in 1978. It is clear that these results are not yet useful for policy purposes.

The employer survey conducted for

the input-output framework used by the authors. Therefore, their estimates cannot be truly considered as new empirical findings in this subject area.

¹³The nine categories are: agriculture; mining; construction; manufacturing; transportation, communications, and utilities; trade; finance, insurance, and real estate; services; and government.

Table 3-3
Proportion of Establishments Reporting Direct Price Effects
of the January 1980 Increase in the Minimum Wage

Major SIC Group	Total	Price Increases Which Covered Costs	Price Increases Which Did Not Cover Costs	Establishments That did not Raise Prices
All Industries	100.0	20.8 (2.7)	12.4 (1.5)	66.2 (3.3)
Retail Trade	100.0	18.7 (4.1)	14.9 (2.5)	66.4 (4.4)
Eating and Drinking Places	100.0	28.8 (5.4)	31.5 (5.5)	39.7 (7.0)
Other Retail Trade	100.0	15.8 (5.1)	10.3 (2.1)	73.9 (5.1)
Manufacturing and Wholesale Trade	100.0	18.3 (5.5)	20.1 (6.3)	61.6 (8.1)
Services	100.0	27.4 (8.6)	5.1 (1.7)	67.5 (8.5)
Other	100.0	26.9 (12.1)	16.7 (9.6)	56.4 (13.3)

Note: Standard errors of the estimates are in parentheses.

Source: Converse et al. (1981), Table 11.

the Commission by ISR also provides information on the range of the industry differences in the inflation effect of the minimum increases. The following results of that study must be viewed with caution since the 1980 responses are too high and the responses for different industry types and sizes are only provided for that year. The survey found that 73.9 percent of the retail trade (excluding eating and drinking) establishments and 67.5 percent of service establishments did not raise prices as a result of the minimum wage increase, even though these industries employ a large fraction of minimum wage workers (Table 3-3). This may result from the combination of high noncompliance, ability to hire exempt workers and a high degree of competition in those industries.¹⁴ Sixty percent of eating and

drinking establishments reported that they did raise prices, but half of these increases were too low to cover cost increases.

Conclusions

The Commission found that the effect of a 10 percent sustained annual rise in the minimum wage over its historical level from 1974 to the second quarter of 1979 would have increased wages 0.8 percent and consumer prices somewhat less than 0.3 percent. This effect is small, considering that the actual average annual rate of inflation during the same period was 9 percent for wages and 9.3 percent for consumer prices.

The actual 1974 and 1977 FLSA-amended minimum wage increases raised wages 0.6 percent and consumer prices 0.2 percent from 1974 through the second quarter of 1979. Without these increases, the average annual rate of inflation would have been 8.4 percent in wages and 9.1 percent in consumer prices during that

¹⁴Evidence of the high noncompliance is presented in Sellekaerts and Welch (1981).

period.

The effect of minimum wage changes on inflation was found to be non-linear, that is, a 20 percent sustained increase in the minimum wage over its historical level had more than twice the effect of a 10 percent rise during the 1974-1979 period.

The Commission also found that the effect of a one-time temporary increase in the minimum wage disappears after a certain amount of time--taking one and one-half years in one study.

A 10 percent sustained rise in the minimum showed a total ripple effect on wages of 0.4 percent and other economic spillover wage effects of 0.1 percent during the time period studied. Again, the ripple effect of a one-time temporary minimum wage increase would disappear after one and one-half years. The other economic spillover effects included a small increase of 0.05 percentage points in the total unemployment rate, virtually no change in personal income adjusted for inflation, and a small 0.9 percent rise in overall output per worker-hour.

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Chapter 4

THE ECONOMIC CONSEQUENCE OF MINIMUM WAGE INDEXATION

Mandate D required the Commission to analyze the effects of indexation--an automatic increase in the minimum wage based on increases in some index of wages, prices, or the cost of living.¹

The key issue to be resolved in indexation is the purpose of the minimum wage--whether it is to maintain purchasing power (set a real wage floor), designate a specific dollar level (set a nominal wage floor), keep the wages of minimum wage workers at the same position relative to other workers, or some combination of these. Keeping minimum wage workers' wages at the same relative level with those of other workers would require indexing on the basis of some measure of wage advances in the economy; maintaining a real minimum wage floor requires indexing with some measure of consumer prices. But possible detrimental effects of any form of indexation must be balanced against its economic advantages.

The FLSA amendments setting the minimum wage for several years in the future have not consistently maintained the minimum wage's purchasing power, which has been seriously eroded by the periodic double-digit inflation over the last several years (Figures 4-1 - 4-4). In the 1950s and 1960s, when inflation averaged only 1.6 percent and 2.3

percent, respectively, legislated minimum wage increases caused marked improvements in purchasing power. But for three reasons those earlier improvements do not compensate for the purchasing power lost due to the inflation of the 1970s and 1980s. First, many minimum wage earners began working in the 1970s and experienced only the decline in the minimum's purchasing power. Second, low-income workers in general and minimum wage workers in particular save very little, and cannot provide for the future erosion of the purchasing power of their earnings. Third, those earlier legislated increases were not designed as a buffer for the unexpectedly high inflation of the 1970s and 1980s since Congress did not foresee the oil crisis and other economic phenomena that boosted the underlying inflation rate into double-digit figures in those years.

Benefits and Costs of Minimum Wage Indexation

Indexation's most important potential benefit is maintaining low-wage workers' standard of living during periods of unexpectedly high inflation. Of course, if indexation increases inflation, reduces employment, or has some other harmful effect on the economy, the living standard of low-wage workers could actually decline. The only way to predict accurately what will happen is to conduct an empirical

¹For an extended discussion of indexation, see Volume VI of this Report.

Figure 4-1

**Ratio of Minimum Wage to Consumer Price Index
1947-1980 (1967 Dollars)**

Constant \$
Per Hour

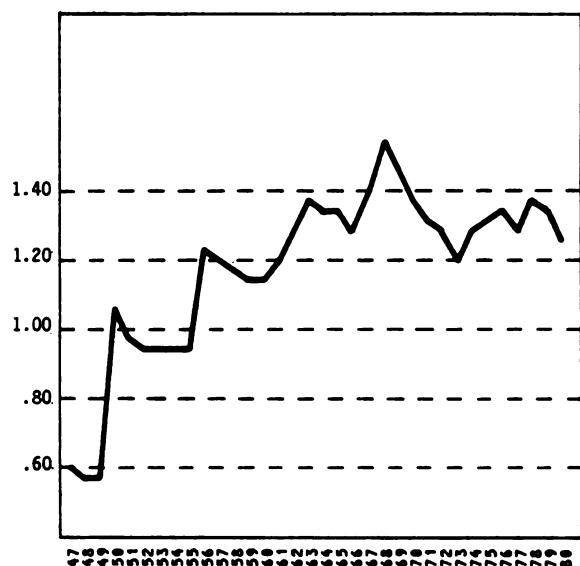


Figure 4-2

**Ratio of Minimum Wage to Indexed Implicit
Consumption Deflator 1947-1980
(1967 Dollars)**

Constant \$
Per Hour

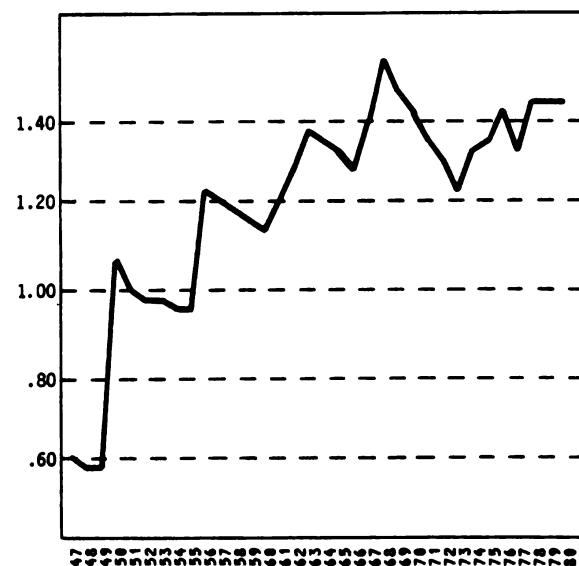


Figure 4-3

**The Minimum Wage as a Percent of Average Hourly Earnings
in the Private Nonfarm Business Sector 1947-1980**

Percent

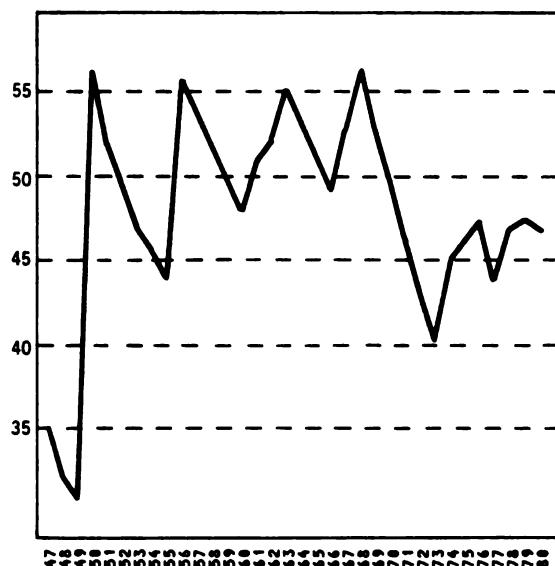
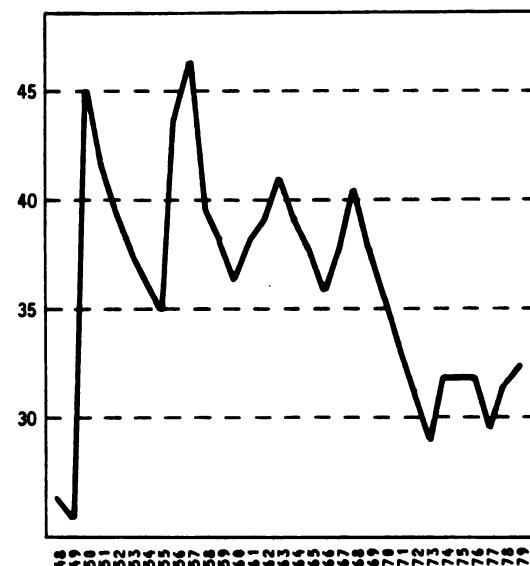


Figure 4-4

**The Minimum Wage as a Percent of Average Compensation
Per Manhour in the Private Nonfarm Business Sector
1947-1980**

Percent



analysis, i.e., to study the effect on the economy of past minimum wage increases using actual data. The results of the Commission's analysis are discussed later in this chapter.

Indexation also may be a more efficient way than public assistance payments to maintain or increase the incomes of the low-income population. (See also Chapter 5.) It could provide an incentive for marginal workers to stay in the labor force rather than relying on nonproductive public assistance payments.

Changing the present system of irregular, stepwise increases in the minimum wage to more gradual and predictable indexed increases could promote economic stability. For example, a gradual rise in an indexed minimum wage from 1969 through 1974 would have been much less inflationary than the large abrupt increase passed by Congress in 1974 to catch up with the double-digit inflation caused in part by the sharp rise in world oil prices. But it is not true, as some economists maintain, that indexation always promotes general economic stability.²

Finally, indexation would allow Congress to turn its attention to other FLSA issues such as coverage and exemptions, which may be neglected under the pressure to increase the minimum during periods of high inflation.

On the cost side, many economists fear that an indexed economy would be synonymous with an inflationary economy, that unemployment would go up, employer noncompliance with minimum wage laws would increase, the balance of payments would worsen, the incentive to work would be reduced, and necessary legislative review would

²A more complete analysis of the views expressed by these economists and their framework of analysis is presented in Sellekaerts (1981b).

be eliminated. There is also the concern that there may be no ideal wage or price to serve as an index base.

Indexation could hardly be termed the original cause of inflation, however, if wages or other indexed benefits are only permitted to increase after a specified amount of inflation has occurred. On the other hand, it is possible that the economy's underlying inflation rate would be higher under indexation if business based its price increases and labor its wage demands on expected future indexed minimum wages and anticipated higher inflation.

Businesses that have trouble passing higher costs on to customers may not be able to absorb the increased wage cost of indexation. That could lead to loss of jobs and increased noncompliance with the FLSA.³ Any loss of employment from indexation, however, would not necessarily negate the beneficial effects.

Abolishing the minimum or keeping it at a constant level would only be a short-term aid for reducing price inflation and narrowing the trade deficit. In the long run, the underlying structural causes of those problems must be corrected by restoring productivity growth, increasing the use of domestic energy sources, and stepping up exports of American services, agricultural products and capital-intensive finished goods.

The argument that minimum wage indexation would reduce the incentive to work does not hold up; in fact, it would do just the opposite. The real work disincentive would come from indexing non-wage income alternatives to work.

³Such higher noncompliance and unemployment would clearly be determined by the size of the difference between the indexed minimum wage relative to the one that would have otherwise prevailed. Therefore, it is an empirical issue.

It is true that indexation would eliminate periodic legislative review of the minimum wage level. But as already explained, Congress would still be able to review periodically other FLSA issues such as coverage and exemptions.

There are several wage and price measures that could serve as an indexing base for the minimum wage. Selecting the best one depends on many factors, which are discussed below.

Specific Adjustment Mechanisms

The best minimum wage index would maintain the real income of low wage workers, cause at worst only a slight increase in inflation and inflationary expectations, and have only a small or no negative effect on economic growth, employment and trade balance. In addition to the many different wages, prices, cost-of-living indicators, and poverty level indicators that could serve as a minimum wage index, there are two basic ways that minimum wages could be linked to those indexes: the ex-post method or sliding wage scale and the ex-ante method.

The sliding wage scale is the only one suitable for the minimum wage since the ex-ante method is based on forecasts of price increases rather than actual increases and requires negotiations between labor and business representatives. The sliding wage scale method, used in many collective bargaining agreements, can function automatically since it raises wages at regular intervals if the Consumer Price Index or some other measure used for adjustment increases more than a certain amount. Such wage escalator clauses, which sometimes include wage increases when productivity goes up, are common in many three-year collective bargaining agreements in the United States, Denmark, Italy, Belgium, Finland, Norway and the United Kingdom. Sliding wage scales are not inflationary by design

since they permit indexed wage increases only after prices have gone up. They also provide policy flexibility in that the wage increase need not be equal to the full price increase for every sector of the economy or for every time period.

The less preferable ex-ante method, which would not work well for the minimum wage, calls for new wage negotiations between business and labor to be scheduled whenever consumer prices exceed a certain level. The negotiations arrive at a wage increase based on a forecast rate of inflation. This method is employed in Switzerland, the Netherlands, and France. Besides requiring labor-management negotiations for each new increase, the ex-ante method suffers the major disadvantage of setting the wage increases on the basis of a forecast of consumer price increases rather than increases that have already taken place. Predictions of future price increases, of course, may or may not be accurate. The minimum wage increases in the 1974 and 1977 FLSA amendments failed to keep low-wage workers' incomes up with inflation because they were based on forecasts of future price increases that were too low. The opposite could occur as well; minimum wage increases could be set too high if the expected degree of inflation does not take place.

Possible Indexing Bases

To keep minimum wage workers at the same level relative to other workers, the minimum could be indexed to average hourly earnings in the national economy, the private economy, the private business sector or the manufacturing sector. All of these are to some extent the result of collective bargaining. This would keep the minimum up with cost-of-living increases and have the added advantage of incorporating productivity increases, which would be especially helpful to minimum wage workers during

Periods of high inflation.*

Some economists have advocated setting the minimum wage at 50 percent of average hourly manufacturing wages since minimum wages have historically hovered around that level. While this form of indexing may have intuitive appeal, it has several drawbacks. First, if the minimum is linked to wages in only one sector, where wages are rising more than in other sectors, it may increase the wages of minimum wage workers at the expense of other workers. If the minimum is tied to earnings in a sector that has a large proportion of low-wage workers, it may affect collective bargaining in that sector. Employers may not be willing to meet wage demands of higher-paid workers if they know that increasing their pay will also automatically increase the wages of those working at the minimum. Second, increases in average hourly earnings in some sectors include productivity gains but others do not, so a national minimum wage cannot be indexed to the earnings in a particular category just because of a weak historical relationship. Economy-wide average hourly earnings would be a more preferable wage index for the minimum. Third, since both economy-wide and sectorial average hourly earnings tend to rise more when the economy approaches a new business-cycle peak, a tight rule imposing immediate and frequent minimum wage increases of the same size may make the inflation rate worse.

*The elasticity of average hourly compensation with respect to consumer prices in the private non-farm business sector during the 1973-1979 period was found to equal 1.0, indicating that on the average in that period a given percent rise in the CPI was reflected in wage increases of the same magnitude. During that same period, the impact of productivity on average hourly compensation was 0.32 percent (Sellekaerts, 1981a).

There are three possible indexes that could be used to maintain the real purchasing power of minimum wage workers' earnings: the Consumer Price Index, a cost-of-living index, and the implicit deflator of personal consumer expenditures--a measure of price increases for goods that consumers currently buy.

To select the most appropriate of these indexes, policymakers must decide whether they wish to maintain purchasing power with respect to the base period consumer spending patterns or current spending patterns. Linking the minimum wage with the CPI would maintain the incentive to work for those potential low-wage workers faced with a choice of working at the minimum or going on some form of public assistance. The CPI, which is based on the prices of a typical "market basket of goods" also has the advantage of not penalizing those who have to switch from certain items when they become too expensive.⁵ Tying the minimum to another index that might more accurately measure the cost of living by keeping up with changes in consumers' spending patterns would penalize those who switch to less expensive items. Since those items would now be part of the "basket," the index would rise less than would the older one based on more expensive items.

One problem with the CPI is the fluctuation caused by the home ownership component. It added three percentage points to the CPI inflation rate in the first half of 1980 but drastically reduced the CPI inflation rate in the second half. The CPI treats the purchase of a home as it does the purchase

⁵That advantage is especially important to minimum wage workers who may never be able to regain their former standard of living if the index is based on the present involuntary consumption pattern forced on them by the rapid increase in the prices of specific items.

of nondurable items and factors into home ownership the following five components: contractual mortgage interest costs, home purchase, property taxes, property insurance, and maintenance and repairs. The procedure used by the Bureau of Labor Statistics to compute this CPI component attaches excessive importance to the combined home purchase and contracted mortgage interest components.⁶

The CPI may also exaggerate the economy's inflation rate in periods of rising prices for certain consumer goods. Since the CPI is a Laspeyres index, i.e., it measures inflation weighted by a base-period basket of commodities (currently computed from the 1972-1973 Consumer Expenditure Survey), it does not account for the substitution effect caused by price increases that are larger for some items than for others. This "substitution bias" of Laspeyres price indexes is greater the more prices for those items increase compared to other prices and the more consumers switch from higher-priced to lower-priced goods. The differences between inflation rates measured by the CPI and by other indexes of consumer price advances during recent quarters weighted for current consumption patterns is presented in the Survey of Current Business (1980) and illustrated in Table 4-1.⁷

"That exaggeration of the cost of owning a home could be rectified by excluding home ownership when using the CPI as an index for the minimum wage. A detailed discussion of the home-ownership issue and possible remedies is provided by Blinder (1980, pp. 552 ff.).

⁶A recent empirical estimate of the substitution bias of a Laspeyres index, based in 1958 relative to a computed true cost of living index for the 1958-1973 span, was derived by Braithwaite (1980). (A true cost of living

Another potential problem, one that also would occur with average hourly earnings as the index, is a possible increase in business-cycle fluctuations. If an increase in the CPI near the peak of the business cycle were followed too quickly by an increase in the minimum wage, inflation would rise more rapidly than it would ordinarily. That problem could be easily avoided, however, by making the minimum wage adjustments annually or semiannually based on an annual average change in the CPI rather than immediately after a monthly or quarterly CPI increase.

Tying the minimum wage to a cost-of-living index, if one were compiled by an official data-gathering body, would cause less inflation than the CPI because it would rise less during inflationary periods. Since the CPI is based on fixed and sometimes outdated spending habits it would not reflect consumers' purchasing shifts to less expensive goods during periods of rapid price increases of specific products. But as mentioned earlier, linking the minimum wage to a cost-of-living index would penalize those low-wage workers who were frugal enough to switch to less expensive goods. With a minimum wage linked to a cost-of-living index, the pay of minimum wage workers would not rise as rapidly as that of higher-paid workers, whose pay has been shown in empirical studies to increase in tandem with the CPI. (See footnote 4.)

The index known as the implicit deflator for consumption comes close to being a true cost-of-living index since it is based on actual consumer expenditures.* It has the same shortcoming as

index is defined as the "money cost of purchasing an additional unit of utility.")

*The implicit deflator for personal consumer expenditures is published by

Table 4-1
Reconciliation of the Implicit Deflator for Personal Consumption
and the All-Urban Consumer Price Index
(Seasonally Adjusted Data)

	(% Changes at Annual Rates)	
	<u>1979:4</u>	<u>1980:1</u>
Implicit Deflator for Consumption (PC)	9.7	12.5
<u>Plus</u> contribution of shifting weights	0.4	0.5
PC Chain Price Index	10.1	12.9
<u>Plus</u> contribution of differences in weights of comparable CPI ad PC expenditure components	1.5	1.4
<u>Plus</u> contributions of PC expenditure components not comparable with CPI components	0.1	1.0
<u>Plus</u> contribution of CPI expenditure components not comparable with PC components (esp. autos and home ownership)	1.7	1.2
<u>Plus</u> contribution of differences in seasonal adjustment of CPI and PC	-0.1	0.1
<u>Equals:</u> Consumer Price Index, All Urban	13.6	16.9

Note: Individual items may not add to totals because of rounding.

Source: Adapted from Survey of Current Business (1980), Table 3.

a true cost-of-living index--penalizing consumers for being frugal--but that would be compensated for somewhat because it would be less inflationary than the CPI. Changes in the implicit consumption deflator are very close to changes in the CPI with the mortgage interest component removed.

The overall implicit deflators for gross national and gross domestic product are other possible indexes, but they would not be suitable for the minimum wage. Increases in import prices may reduce the implicit GNP

the Bureau of Economic Analysis as part of the National Income and Product Accounts and is available in three forms: a current-weighted (Paasche) index, a chain-price index and a constant-weighted (Laspeyres) index. The deflator chosen for analysis here is the Paasche version.

deflator, although they cause domestic inflation to increase. Thus an overall GNP deflator index would not always keep minimum wages up with inflation and could seriously erode the purchasing power of low-wage workers in periods of rapidly increasing import prices. (Declining import prices would have the opposite effect.) In 1974, for example, consumer-price inflation reached 11.0 percent but inflation measured by the aggregate implicit GNP deflator was only 9.7 percent.

In addition, the commodities included in the GNP deflator are not at all typical of those purchased by minimum wage workers since it includes investment, government and export goods. The implicit GDP deflator would be preferable to the GNP deflator, but it would remain inferior to the implicit deflator for personal consumption, since it still incorporates government and investment goods and, hence, does not

accurately reflect changes in consumer prices.

The poverty income level also is unsuitable as a minimum wage index for three reasons: First, there are 128 different poverty level definitions depending on the structure of the household, making it difficult to choose an appropriate one. Second, indexing the minimum to maintain a given standard of living or the position of the minimum in the nation's wage structure is not the same thing as maintaining minimum wages above the poverty level; they should be treated as separate issues by policymakers. Third, yearly changes in the poverty level are the same as increases in the CPI, since poverty-income estimates are computed for a base year and then adjusted annually on the basis of the CPI.

In summary, the best minimum wage indexation scheme depends on

whether the motive is solely to maintain a given standard of living or whether it should also allow low-wage workers to share productivity increases and maintain their economic position relative to other workers. If the former, consumer prices are the most appropriate index; if the latter, average hourly earnings in the private economy would be a better index. A list of the advantages and disadvantages of these indexes is presented in Table 4-2.

Long-Run Effects of Minimum Wage Indexation

The Commission analyzed several studies to determine the long-run effects of various indexing schemes. One study, conducted by Commission staff, analyzed what would have happened through 1979 if several different indexation schemes had been in effect rather than the minimum wage increases legis-

Table 4-2
Basic Characteristics of Various Indexes¹

<u>Indexes:</u>	<u>Advantages</u>	<u>Disadvantages</u>
1. <u>Wage Rates</u>	a. Result from bargaining b. Include average productivity increases	a. May exacerbate business cycle b. Does not redistribute income c. Affected by wage guidelines
2. <u>Consumer Prices</u>	a. Same index as that used for federal programs b. Maintains purchasing power	a. What geographic area CPI to use b. What commodities in the CPI to use c. May violate wage guidelines d. Based on outdated consumption basket
3. <u>Implicit Deflator of Consumption</u>	a. Maintains real purchasing power b. Less inflationary than CPI c. Based on the <u>actual</u> basket of consumption	a. Penalizes consumers b. May distribute income away from low-wage earners

¹Although a poverty index could also be advocated as a base for minimum wage indexation, this study distinguishes the poverty issue from the maintenance of a real wage floor. The implications of selected minimum-wage indexation schemes for the reduction of poverty are discussed in Sellekaerts (1981b).

lated in the 1966 and later amendments to the FLSA.⁹

The results of three of those are presented below: a quarterly adjustment of the minimum based on the average percent change in the aggregate consumption deflator in the previous four quarters, a quarterly adjustment based on the average percent change over the last four quarters in the index of average hourly earnings in the private non-farm business sector, and an annual adjustment based on the average change over the last four quarters in the CPI. Minimum wage levels under each of the three schemes compared to levels under the current system are shown in Figures 4-5A, B and C.

Table 4-3 shows that none of the three would have been inflationary in the long run although overall real GNP would have been slightly higher. The effect of all three on employment is small, although it varies slightly with the method used. Corporate profits would be increased slightly under all three, lending support to the hypothesis that firms find it easier to adjust to gradual and expected advances in labor costs than to the more abrupt legislated

⁹The pertinent estimated equations explaining demand for labor, productivity, labor supply, and wage and price determination, as well as the detailed discussion of the empirical findings, are presented in Sellekaerts (1981a, Section II and 1981b, Appendix B). The macroeconomic effects of a given indexed minimum wage increase are not identical to those resulting from the same size increase under the present system of successive FLSA amendments, because announced minimum wage increases affect labor force participation rates as well as productivity. Moreover, the direction and the size of this difference in the impact under the two systems depends on the pattern of actual inflation and, hence, the pattern of minimum wage increases.

increases that have at times exacerbated inflation.

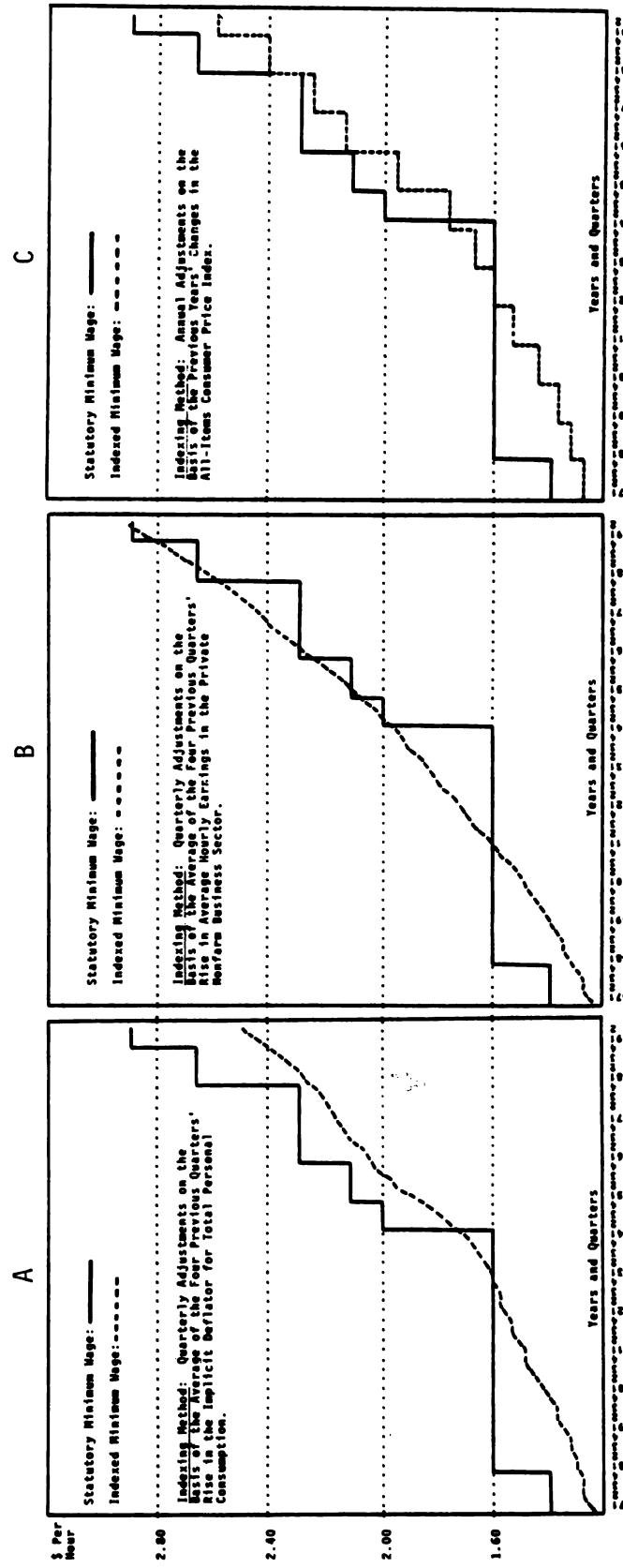
Indexing the minimum to the consumption deflator would have resulted in a more gradual increase in the minimum wage to a lower level than it is today. As explained previously, the changes in this index are fairly close to those in the CPI without the mortgage interest component. Since it is based on current consumer purchases, the deflator comes close to being a cost-of-living measure and its use for minimum wage indexation assures that a real wage floor will be preserved. And since this method would increase the minimum on the basis of annual price changes, it would smooth out the shock of external price hikes on the domestic inflation rate, thereby also keeping down inflationary expectations.

Had minimum wages been tied to average hourly earnings growth, the long-run impact on consumer price inflation, corporate profits, and real gross national product would have been small, though beneficial. Aggregate employment would have dropped marginally in the complete period from 1967 through the second quarter of 1979, though there would have been an employment gain during the business cycle of 1967 through the third quarter of 1969. These employment findings are not surprising since this indexing scheme would have led to more sizeable minimum wage increases than the other two methods in the late 1960s and early 1970s, when average earnings kept pace with both consumer price increases and productivity advances. Figure 4-5B shows that under this system the minimum wage would not have exceeded its \$2.90 level attained in 1979 under the FLSA amendments of 1977.

Short-Run Effects of Minimum Wage Indexation

In 1977, consumer price inflation had cooled to 5.7 percent while average hourly earnings growth was 7.2 percent. The 1977 FLSA amendments

Figure 4-5
**Comparison of the Statutory and Indexed Minimum Wage
Under Alternative Indexing Scenarios**



Source: Sellekarts (1981b).

Table 4-3
Long-Run Impact of Three Minimum-Wage Indexation Schemes¹
(Average Percentage Differences Relative to Historical Levels)

Indexing Method	Implicit Consumption Deflator (4-Quarter Average)	Average Hourly Earnings (4-Quarter Average)	Consumer Price Index (Annual Adjustment)
Impact on:			
(a) <u>During Complete Business Cycle²</u>			
1967:1 - 1969:3	+0.04	+0.02	+0.45
1969:3 - 1973:4	-0.12	+0.21	+4.47
1973:4 - 1979:1	-0.00	+0.06	-2.72
(b) <u>During an Economic Downturn</u>			
1973:4 - 1975:1	-0.07	+0.08	+0.37
1975:1 - 1979:1	+0.02	+0.03	-3.22
(c) <u>During an Economic Recovery</u>			
1975:1 - 1979:1	+0.03	+0.10	+0.31
(d) <u>Average for the Complete Period</u>			
1967:1 - 1979:2	-0.03	+0.10	+0.27

¹The empirical results of this study were generated for all 326 endogenous variables in the econometric model.

²Measured peak-to-peak. Numbers following years indicate quarters.

Source: Sellekaerts (1981b).

raised the minimum wage annually over the next four years in steps of 15.2, 9.4, 6.9, and 8.1 percent. The first step was a real gain over inflation, but the last three were not. If the minimum had been indexed from 1978 on, the increase would have been smaller in that year than actually occurred and larger in the three following years. CPI linkage would have produced a minimum wage of \$2.45 in 1978 and \$2.64 in 1979.¹⁰ That would have kept producer and consumer price inflation somewhat below their actual rates in 1978 and would have increased employment slightly.¹¹

If, on the contrary, the minimum had been linked to the CPI in 1974, it would have been \$2.20 an hour in 1975, with a gradual increase to \$2.70 an hour in 1978. A CPI-based minimum would have been somewhat higher in 1976 and 1977 than one based on average hourly earnings. It is interesting to note that in 1978 the \$2.70 minimum would have been very close to the \$2.65 minimum legislated for that year. This suggests that Congress may have attempted to compensate minimum wage workers for their lost purchasing power.

Another study conducted for the Commission estimated the short-term effects of indexation based on average hourly manufacturing earnings.¹² The study found that such a policy beginning in 1975 would in the first year

have lowered prices 0.4 percent and real wages 0.7 percent. Over the 1975-1978 period, aggregate prices would have dropped 0.3 percent and wages 0.2 percent (adjusted for inflation). In the same four-year period, total employment would have increased 0.4 percent, low-wage workers' employment 3.2 percent, and total output 0.1 percent. Businesses would have reduced their use of higher-skilled and higher-paid labor 0.2 percent, thus increasing minimum wage workers' employment share 2.7 percent. The average price impact underlying these researchers' results for indexation is equivalent to a price response elasticity of 0.15 percent (that is, every 1 percent hike in the minimum wage would increase inflation 0.15 percent) compared to other researchers' estimates, which range from 0.02 percent to 0.06 percent for wages.¹³ Only the Commission staff's elasticity figure for the inflationary impact on average hourly wages in the nonunionized sector, 0.18 percent comes close to the authors' aggregate estimates.¹⁴

Substantial industry differences were revealed in the simulations studying the effect of freezing the minimum wage at 1974 levels. The framework used is a model explaining changes in product demand, supply, conditional labor demand, and labor supply for the nine basic SIC industry divisions. The structure of the model is outlined in Appendix A.

¹⁰These large differences relative to other findings on the inflation impacts cannot be attributed to differences in economic behavior as the result of indexation, since the Cox-Oaxaca model does not capture such differences.

¹¹A table contrasting the previous research results with the Commission staff findings is presented in Sellekaerts (1981a). The paper also includes a brief discussion of the methods applied.

¹⁰The method used was a once-a-year adjustment using the previous year's inflation rate in the CPI. When the CPI-less mortgage interest was chosen, the results were slightly lower.

¹¹The estimated impacts of alternative indexing methods during the same periods are reported in Section V of Sellekaerts (1981b).

¹²The effects for industry divisions are provided in Cox and Oaxaca (1981).

The study further estimated that real wages of higher-paid workers would have risen 0.4 percent under this indexation method. The wage increases for high-wage workers probably is the result of the authors neglecting to account for the minimum wage's "ripple effect," i.e., increases in the minimum cause other wages to go up as well, and decreases in the minimum cause other wages to drop.

Impact of Minimum Wage Indexation on Low Wage Industries

Another study was done for the Commission (Grossman and Boschen 1981) based on a fixed fraction of last year's average wage. Replacing the present system with this indexation method would adjust the minimum wage automatically based on last year's average wages rather than on Congress's estimates of future wages.¹⁵

The authors argued that this indexation scheme would not differ from the present system in its effect on average wage rates or total employment but would reduce employment in those industries where the minimum wage exceeds the wage that would otherwise be paid.¹⁶ The study agreed in general with the others discussed previously, finding that the higher the indexed minimum compared to what it would be under the present system, the lower the employment level

¹⁵Many will disagree that during the existence of the FLSA, policymakers have merely targeted minimum wage increases to the average expected wage increases. However, the authors' empirical estimates for aggregate employment and aggregate wages are not affected by this claim.

¹⁶In other words, employment is affected only in those labor markets where the minimum serves as an effective constraint.

of low-wage workers.

The specific results of this study should be viewed with caution, however, since the authors made the unrealistic assumption that workers who lose their jobs because of a higher minimum wage can get new jobs in the uncovered sector of their own industry or in other covered industries. This is possible but not likely. Minimum wage workers generally have few marketable skills and they cannot easily find jobs in other sectors, least of all in the uncovered sectors of most industries, which consist largely of highly skilled, specialized labor.

The authors' theoretical model predicts that indexation would make employment in low-wage industries higher than under the current system, if the actual wage inflation that determines the indexed minimum wage is less than the expected inflation rate on which the present minimum-setting system is based. If actual wage inflation is greater than expected, indexation would reduce employment from what it would be with the current system. If the expected inflation rate stays the same over the long run, indexation would have the same effect on employment as the current system, according to the theory, although the authors have no empirical evidence to support the prediction.

Conclusions

There are three main conclusions to be drawn from the Commission's research on indexation. First, the present system has not maintained the purchasing power of the minimum wage. Second, indexation is not necessarily inflationary if it is based on cost-of-living or other increases that have already taken place, as measured for example by average hourly earnings, the consumer price index without the mortgage interest payments or the implicit deflator. Third, indexation would have a small beneficial effect on the economy in the long run. In the

short run, indexation could have either a small beneficial or small harmful effect depending on underlying economic conditions.

Recommendations

The Commission recommends that the minimum wage be indexed on the basis of average hourly earnings in the private economy and adjusted each year on the basis of the previous year's overall rate of change in this index. The Commission further recommends that Congress confer with the Bureau of Labor Statistics to devise a suitable index that incorporates both average hourly earnings in the private nonfarm business sector and in the farm sector. The Commission concludes that regular and predictable increases in the minimum wage would be non-inflationary and would be easier for business to adjust to than the irregular increases of the present system.

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Chapter 5

THE EFFECTS OF THE MINIMUM WAGE ON INCOME DISTRIBUTION

This chapter examines the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens (Mandate A) and the relationship (if any) between Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance (mandate I).¹

Review of the Literature

Only in the past five years have economists produced studies on how the minimum wage affects family incomes and the number of people below the poverty line. The lack of earlier work was due largely to the scarcity of adequate information before the 1973 data expansion of the Current Population Survey (CPS), which enabled wage rates to be linked to family income.

During the last five years there have been eight studies that have attempted to assess the effect of the minimum wage on one or more aspects of the redistribution of income. The studies have relied on sample data sets representative of the entire U.S. population or selected segments and have employed varied econometric and simula-

¹Staff and contractor research in these areas appear in Volume VII of this Report.

tion techniques. The studies also have used a variety of measures of well-being including annual personal earnings, annual family earnings, annual family income, variances in earnings and income, and the likelihood that income is below some threshold defined as "poverty." Finally, the researchers have used varying degrees of caution in setting forth and generalizing from their conclusions, and honest critics have challenged even the most cautious interpretations.

Notwithstanding all of this diversity, a fairly clear message stands out from this admittedly incomplete body of research: the minimum wage has caused a small but real improvement in the personal well-being of those near the poverty level. Equally clear, however, is the message that other mechanisms such as direct government transfer payments or some variant of a negative income tax would be more effective tools for fighting poverty, no matter how it is defined.²

Three of the eight studies reviewed below were conducted for the Minimum

²The official definition of poverty is dependent on the location, size, and nature of the household (see Table 5-5). For more detailed discussions of the alternative definitions of poverty see Haveman (1977), Levitan and Belous (1979) or Paglin (1978).

Wage Study Commission. Of the remaining five, only the studies by Gramlich (1976) and Kelly (1976) were completed before the Commission was established. Gramlich's study was entered as official testimony during the 1977 Congressional hearings on amending the FLSA. The other three studies, Bell (1979), Linneaman (1980), and Parsons (1980), have appeared during the life of the Commission.

Using data from the 1973 Current Population Survey on 1973 wage rates and 1972 annual family income, Gramlich found that the median family income for adults earning less than \$2.00 an hour was \$7,600 while adults working at more than \$4.00 an hour had family incomes of \$15,100. He found 23 percent of adult low-wage workers to be below the poverty level, which he defined as \$4,000 in annual income, but only 2 percent of the adults working at high wages (\$4.00/hour) were below that level. On the other hand, one fourth of the adult low-wage workers were in families with total income above the national median. Using these same data, Commission staff focused on adult minimum wage workers (at or below \$1.60 in 1973). Although the numbers were somewhat different, they did not contradict his conclusion that "[any] policy aimed at benefitting low-wage workers will have some nontrivial 'spillover' benefits for high-income families" (Gramlich 1976, p. 446).

He discovered a reversal of the wage-income relationship for teenagers, who constitute a substantial fraction of all minimum wage workers, namely that the median family income of low-wage workers earning less than \$2.00 an hour was actually higher than that of high-wage workers earning at least \$4.00 an hour. This relationship prevailed even when he controlled for whether or not the teenager was a household head or worked full time. This and other findings imply that any beneficial minimum wage effects on income would go to high-income families as much as to low-

income families, thus negating much of the expected income redistribution effect of raising the minimum wage. He concluded that as long as minimum wages are kept low compared to other wages, they are not especially harmful and have slightly beneficial effects both on low-wage workers and on the overall distribution of income.

Kelly, using CPS data gathered one year later, simulated the effect of five hypothetical increases in the minimum wage on three measures of poverty in the U.S., keeping coverage as it is today. He also analyzed the same five minimum wage values under the assumption that all workers are covered.

Kelly found that extending coverage would reduce the number of poor families by 1.5 percent if there were no resulting disemployment or reduction in hours. Raising the minimum 25 percent to \$2.00 along with 100 percent coverage would reduce the number of poor families 2.5 percent. The most extreme change, a 119 percent increase in the minimum wage (from \$1.60 to \$3.50), would reduce the number of poor families slightly less than 10 percent.

Kelly is forthright in acknowledging the data problems of his study and cites several additional factors that may account for what he calls the "amazingly small" poverty-reducing effects of raising the minimum that are implied by his simulations. First, many of the working poor may not work enough hours in a year for an increase in their wage to move them out of poverty, even though their absolute incomes would rise. Second, even large absolute income increases from a higher wage may not be enough to move large families out of poverty. Third, a substantial proportion of those whose earnings benefit directly from an increased minimum wage are not poor, which limits to some extent the intended income redistribution effects.

Using published and unpublished 1978 CPS data, Bell (1979) extended the Kelly-Gramlich description of the

link between hourly wages and annual family income. She examined some detailed demographic characteristics of workers earning wages at or below the then-prevailing statutory minimum and explored a number of possible explanations for the small effect of the minimum on reducing poverty. Bell recognizes the shortcomings of the data for very detailed cross-tabulations, but she regrettably neglects to compare her findings systematically with the simulations of Kelly and Gramlich. She concludes (on p. 26) that the data "seem adequate to establish that raising the minimum wage would not, in fact, assist many families with incomes below the official poverty levels and would provide sizeable additional income to families with incomes well above."

In a separate study, Linneman also concluded that there is a large segment of the adult work force in what he calls the "subminimum population," usually workers who would have wages less than the prevailing minimum if there were no minimum. Using data on adults over age 20 from the 1973-1975 samples of the University of Michigan's Panel Study on Income Dynamics, Linneman constructed a profile of workers in the "subminimum" population, measured the impact of the minimum wage on their probability of working, and estimated the changes in the individual earnings for various sub-groups of workers as a result of the 1974 and 1975 increases in the minimum wage.

He concluded that "whatever the intention of the FLSA might be, [its] effect is to weaken the economic status of those at the bottom of the distribution of earnings."³ Of course, even

³Among the unacknowledged difficulties in the study is the apparent lack of information on the unionization status of female workers, which biases the estimated effects of union membership and sex in the equations using data pooled across the sexes. Another problem ap-

accepting this conclusion at face value does not have any specific implications for the minimum wage's effect on the distribution of family or household incomes or for the size of the poverty population because he studied only its effect on individuals.

On the other hand, the results on changes in individual earnings suggest larger absolute gains for black men than for white men, which implies that the 1974 amendment may have narrowed the racial differential in family incomes.⁴ Finally, it is important to note that in sharp contrast to Gramlich, Linneman concludes that adult female low-wage workers are disadvantaged by increases in the minimum wage.

Parsons focused on adult women workers to examine the income redistribution and poverty-ameliorating effects of the Federal minimum wage using data from the 1967-1976 samples of the National Longitudinal Surveys (NLS) of women aged 30 to 44. He observed that "Both common sense and economic studies suggest that adult females are the principal beneficiaries of minimum wage legislation" (p. 58). He used the NLS data to chart the actual experiences of minimum wage and nonminimum wage women workers during two distinct "natural experiment" periods, 1967-1974 and 1974-1976. In the first period, there was a very small increase in the nominal minimum wage and a substantial decline

pears to be no statistical significance in the variables used in the equation imputing membership in the subminimum group for black women. Also, there is a notably unexplained and implausible finding that black women are less likely than black men to be in the subminimum population.

⁴Without knowledge of their contribution to family incomes, it is unclear how the simulated losses in individual earnings by white and black women would alter this inference.

in the real minimum; in the second, there were large increases in the nominal minimum wage and a slight increase in the real minimum.

He summarized the various findings on hourly wages and annual earnings during the 1967-1974 period as follows: "The federal minimum wage law in 1967 appears to have raised the average wage rate of low-skilled, adult female workers, although quite modestly. More precisely, the real reduction of the wage minimum ... resulted in a slight decline in real wage rates The important observation, however, is that actual, real earnings of low-wage workers did not decline over this period Apparently employment grew sufficiently to offset the wage-rate decline" (pp. 31-33).

For the 1974-1976 period he concluded that the 1974 increases in the level and coverage of the minimum "altered the structure of wages in the low-wage market in the intended direction" (p. 36). He added, however, that "The massive restructuring of the wage rates of low-wage workers apparently resulted in no significant gain in the actual earnings of female low-wage workers" (p. 44). Parsons offered two now-familiar reasons for the failure of large wage hikes to make similar increases in earnings. First, he observed that, on average, white minimum wage workers earning under \$2.00 an hour worked 34 percent fewer hours during 1974 than did whites earning above the minimum; among blacks the difference was 22 percent. Second, many female workers with low earnings were not low-wage workers: 1 out of 2 whites and 1 out of 5 blacks with earnings under \$2,000 in 1974 had a wage above the minimum.

For his analysis of family income and poverty, Parsons relied on comparisons based solely on a poverty level of \$4,000 and ignored the available information on family size and location. This is a somewhat restricted definition of poverty, but he found (as did Gramlich) a strong, positive (but less than per-

fect) relationship between the wages of adult female members and the level of family earnings. He concluded: "No invisible hand directs wage and earnings gains to low-wage workers from the poorest families. Neither do female workers from wealthier families systematically obtain the 'better' jobs opened up by minimum wage laws." Parsons also computed lower- and upper-bound estimates of the total income transferred to poverty families containing working adult women. These values (\$130 and \$600 million) represented only 0.1 and 0.5 percent, respectively, of the total social welfare expenditures in the U.S. in 1974, thus hardly affecting the degree of poverty.

The three studies conducted for the Commission complement the rather pessimistic findings of the preceding five that the minimum wage does little to ameliorate poverty. The study by Behrman, Taubman, and Sickles (1981) employed data from the 1973 Current Population Survey-Social Security Administration-Internal Revenue Service Exact Match sample of annual individual earnings over the 26 years between 1951 and 1976. They used four separate measures of the wages of each of 12 sex-age-race groups. Unfortunately, nowhere in the analysis do the data permit identification of minimum wage workers *per se*. All of their conclusions, however, incorporate the effects of minimum wage changes and any ripple, disemployment, price-level, and wage-raising or depressing effects and are therefore more realistic than other studies that do not include these effects.

One general conclusion that seems to have escaped controversy is that the changes in the level of the minimum wage have helped low-wage workers less than have changes in coverage. While this is not altogether surprising, it is somewhat at variance with the findings of the more systematic time-series studies that have investigated employment effects with an eye to separating level and coverage effects

(Brown, Gilroy and Kohen 1981).

Commission discussants have indicated that the authors' summary also seems to be somewhat at odds with occasionally inconsistent conclusions in the text, which the authors do not attempt to reconcile (Barth 1981, Cain 1981, Mason 1981, and Ruttenberg and Lav 1981). It is noteworthy, however, that, in their summary, they indicate that some of their findings conflict with the conventional wisdom about who is most affected by the minimum wage. Specifically, they assert that "our estimates suggest that the young are affected least by changes in the level of minimum wages" and that the significant coverage effects "are about equally distributed among our three age groups." In addition, the findings do not support the hypothesis that changes in the minimum's level or coverage hurt blacks more than whites. Finally, the study provides mild support for the contention that female workers are less adversely affected than male workers by changes in the minimum wage.

Behrman, Taubman, and Sickles analyzed a massive amount of data relating the level and coverage of the minimum wage to several measures of the earnings of various demographic groups. Their mixed findings will doubtless be cited by both proponents and opponents of the minimum wage, but neither is justified in drawing confident conclusions about the minimum's effects on poverty or its direct effects on minimum wage workers. One clear conclusion is that coverage extensions have had greater effects than increases in the minimum on the distribution of earnings. Another is the confirmation of the common conception that adverse effects are felt most strongly by the least-educated workers. The findings are weakened, however, by the inability of the data to identify minimum wage workers specifically and the failure to consider family income and size when identifying the poverty status of the household in which an individual resides.

Datcher and Loury (1981) analyzed pooled CPS data from 1971 to 1977 in addressing two questions: what effects have recent changes in the level and coverage of the minimum wage had on the annual earnings of persons in 12 specific sex-age-race groups and how does an increase in the level of the minimum wage affect the distribution of family earnings among blacks and whites?⁵

The answer to the first question was that extending coverage raised annual earnings uniformly for all 12 sex-age-race groups identified. But increasing the minimum either reduced earnings or had no effect on all groups except black men aged 25 and over.

The answers to the second question were somewhat mixed. The authors did conclude, however, that increasing the minimum wage does not produce greater equality in family earnings either within racial groups or between them. Further, the largest reduction in earnings caused by raising the minimum wage occurred among adult women, especially in black families. Despite the incomplete nature of this study, its findings do not disagree with most of those reviewed above.

The authors attempted to address a major oversight in most of the other work, which examined individual rather than family earnings. They examined the effects on family earnings within two family-size categories, households with 2 and 4 persons. They found that in both cases raising the minimum increased the inequality in earnings among different income groups, although the effects were very mixed between and within racial groups. It should be em-

⁵The twelve groups identified by Behrman, Taubman, and Sickles are (black,white) x (male,female) x (ages 18-24, 25-49, and 50-64 years). Datcher and Loury focus on groups defined by the following: (black,white) x (male,female) x (ages 16-19, 20-24, and 25 and over).

phasized that their study fell short of examining poverty per se because it analyzed earnings, not income.

Serious criticism has been directed toward both the Datcher-Loury and the Behrman-Taubman-Sickles studies by Cain (1981), primarily on statistical grounds. He points to fundamental flaws in the ways both studies statistically treated the minimum wage variable, i.e., how it was combined with coverage or how it was weighted for employment levels in different industries. This problem led to an understatement of the generally harmful results of increasing the minimum in the Behrman-Taubman-Sickles study and an overstatement of those effects in Datcher and Loury. This together with other difficulties leads Cain to conclude that the effect of the minimum wage on income distribution as measured by these studies is unclear.

In one of the more thorough studies conducted, Johnson and Browning (1981), using a specially modified version of the March 1975 CPS data set, were able to analyze the effect on incomes of a hypothetical rise in the minimum after taking into account the effects on taxes and income-conditioned government transfer payments such as welfare and food stamps.

They found that, assuming no disemployment, a 22 percent increase in the minimum raised income evenly across the different income groups studied, but the income increase was extremely small. Combining this largely equal distribution of gains across the income classes with the relatively small contributions of minimum-wage worker earnings to total family incomes and the impact of marginal tax rates (the tax rate rises higher as income increases), led the authors to conclude that "the minimum wage [is] a very weak redistributive policy" (p. 57). Their research also showed a redistribution of income among households within income classes: 1 in 6 households in the lowest income decile experiences a net income gain, as does 1 in 10

households in the highest decile.

Finally, while this study does not pretend to address directly the effect of the minimum wage on the incidence of absolute poverty, it did find some net gain to households in the bottom fifth of the income scale, which is generally considered to be below the poverty level.

As noted at the outset of this literature review, there is tremendous diversity in the data, methods, and interpretations found in the studies, and none of them is definitive. It is the Commission's judgment that the weight of evidence indicates that increases in the level and coverage of the minimum wage have had significant, albeit small, effects on the distribution of well-being in the United States. Coverage now exceeds 80 percent of the labor force and extending it further would not help the poor a great deal. And since public assistance payments now make up a larger share of the typical American household's income than they did previously, it seems appropriate to conclude that "without diminishing the past achievements of the minimum wage, it would be unrealistic to place excessive reliance upon such legislation as a tool to combat poverty." (Levitin 1976, p. 120).

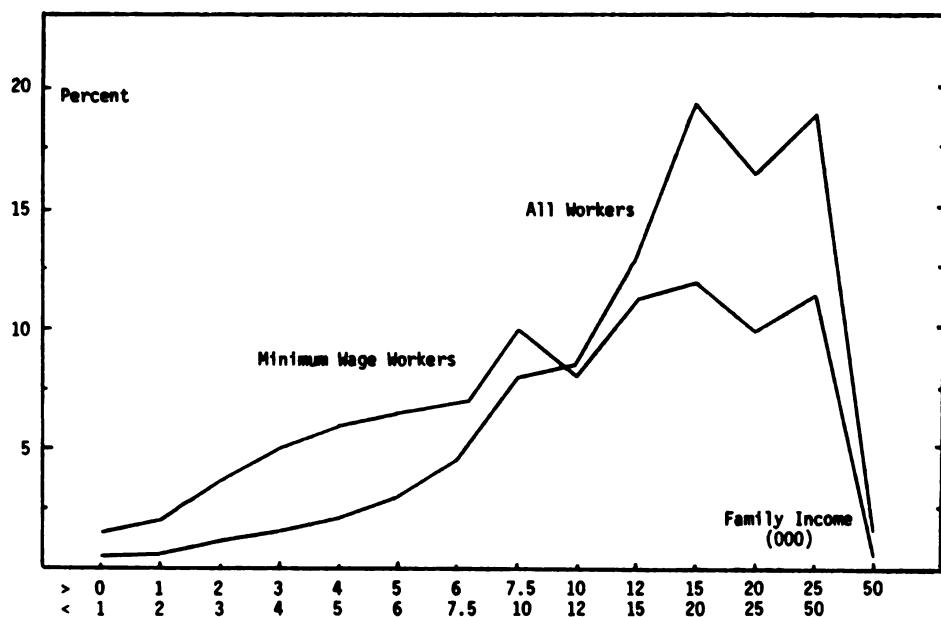
A Demographic Profile⁶

As one would intuitively expect, minimum wage workers, in contrast to workers above the minimum, are concentrated in families with low incomes. Data from the special May supplement to the Current Population Survey for 1978, which provides information on both individual earnings and family income, show that over 40 percent of those workers earning the minimum or less were in families with incomes under \$10,000. By contrast, only 21 percent

⁶For additional information on the characteristics of minimum wage workers, see Chapter 1 and Gilroy (1981).

Figure 5-1

Proportion of Employed Wage and Salary Workers At or Below,
and Above the Minimum Wage, by Family Income, May 1978



Note: > and < denote "greater than" and "less than."

Source: Current Population Survey

of all workers were in these families (Figure 5-1).

From this, the casual observer might suppose that the majority of minimum wage workers would be found in families with low incomes and relatively few would be in high-income households. But there need not be a strong correlation between individual earnings and family income (Stigler 1946, p. 362). Families differ sharply, for example, in the amounts of unearned income they receive. Family sizes are different, as are the numbers of earners per family. There are also major differences in hours worked, and there may be large numbers of low-wage earners (with marginal attachments to the labor force) in high-income families. The data, as well as the conclusions of the studies in the previous section, bear

this out.⁷ Those in the \$15,000-\$24,999 income class actually account for over one fourth of all low-wage workers; another 18 percent of minimum wage workers are found in families with annual incomes of \$25,000 or more (Table 5-1).⁸

⁷See Gramlich (1976) for a description of data derived from a special match of March and May CPS data. See note 8 below.

⁸These data are from a special sample of matched respondents from the March and May supplements to the CPS (using the May supplement alone produces a similar distribution). Although the March/May sample is considerably smaller than that of the regular monthly survey--less than half as large--there are

Table 5-1
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Family Income¹ and Sex and Race,² March/May 1978

(Numbers in thousands)

Sex, Race and Family Income	All Employed Workers ³	Employed Workers		
		At or Below the Minimum Wage ⁴		As Percent of All Minimum Wage Workers
		Number	Percent	
<u>Total</u>	17,108	2,257	13.2	100.0
Men				
White	8,722	651	7.5	28.8
Black & Other	924	127	13.7	5.6
Women				
White	6,559	1,250	19.1	55.4
Black & Other	903	229	25.4	10.2
<u>Less than \$6,000</u>	1,056	412	39.0	18.3
Men				
White	291	93	32.0	4.1
Black & Other	94	44	46.8	2.0
Women				
White	523	195	37.3	8.6
Black & Other	148	80	54.1	3.5
<u>\$6,000-\$9,999</u>	1,986	405	20.4	17.9
Men				
White	789	114	14.4	5.1
Black & Other	145	29	20.0	1.3
Women				
White	857	198	23.1	8.8
Black & Other	195	64	32.8	2.8
<u>\$10,000-\$14,999</u>	3,212	409	12.7	18.1
Men				
White	1,598	107	6.7	4.7
Black & Other	214	27	12.6	1.2
Women				
White	1,213	232	19.1	10.3
Black & Other	187	43	23.0	1.9
<u>\$15,000-\$24,999</u>	6,261	619	9.9	27.4
Men				
White	3,521	190	5.4	8.4
Black & Other	309	20	6.5	0.9
Women				
White	2,203	377	17.1	16.7
Black & Other	228	32	14.0	1.4
<u>\$25,000-\$49,999</u>	4,246	382	9.0	16.9
Men				
White	2,319	135	5.8	6.0
Black & Other	151	7	4.6	0.3
Women				
White	1,637	230	14.1	10.2
Black & Other	139	10	7.2	0.4
<u>\$50,000 and over</u>	347	30	8.7	1.3
Men				
White	204	12	5.9	0.5
Black & Other	11	0	0	0
Women				
White	126	18	14.3	0.8
	6	0	0	0

Note: Individual items may not add to totals because of rounding.

¹Refers to income during the previous year (1977).

²According to the 1970 Census, black workers comprised about 89 percent of the "black and other" population group.

³Refers to wage and salary workers only. Of course, this figure is much lower than the official employment level, since only those households who participated in both the March and May CPS and who answered the income question are included.

⁴The minimum wage was \$2.65 in May 1978. Those working at or below minimum include those earning \$2.69 or less. The additional five cents is to account for rounding problems which would otherwise exclude workers who were reported as not earning exactly \$2.65.

Source: Current Population Survey

Significant differences occurred in the distribution of minimum wage workers by race and sex. A large proportion of blacks in families with incomes below \$25,000 were working at or below the minimum wage, although they accounted for a relatively small proportion of all minimum wage workers (Table 5-1). For example, in those families with annual incomes less than \$6,000, 32 percent of white men and 47 percent of non-white men earned the minimum or less, yet white men accounted for 4 percent of all minimum wage workers and non-white men only 2 percent. In this income class, white men made up 23 percent of the minimum wage workers and nonwhite men, 11 percent.

In the same income class, 35 percent of the men and 41 percent of the women earned at or below the minimum. But women accounted for 12 percent and men only 6 percent of the minimum wage work force. This 2 to 1 relationship held true for all income classes.

The number of families containing minimum wage workers in the different income levels was similar to that of individuals. Of the 18,800 households surveyed, about 2,000 (10.7 percent) were found to have one or more minimum wage workers (Table 5-2). The number of such households in the income classes under \$50,000 is fairly even, although a larger proportion is in the \$15,000-\$24,999 income range.

A greater proportion of families

certain advantages to using the matched sample. First, comprehensive data are available from the March supplement in areas of particular interest such as sources of income and poverty status. In addition, because the sample households interviewed in May and asked the earnings questions were those from which family income and other information was collected in March, the matched sample (compared with the full sample) is free of attrition (movers) and in this regard is unbiased.

in which there are one or more minimum wage workers, however, was found in the low-income classes under \$10,000 compared to families with no minimum wage workers. Nineteen percent of families with one or more minimum wage workers but only 11 percent of non-minimum wage worker families have incomes under \$6,000.

Within low-income families with minimum wage workers, 92 percent of the workers at or below the minimum are adults; this proportion steadily declines as family income rises. Teenage minimum wage workers become more numerous in higher-income families: in over half of all families with incomes over \$25,000 and containing minimum wage workers, the minimum wage worker is a teenager.

Family Composition

The effect of increasing the minimum wage on the distribution of income depends in large part on the demographic characteristics of minimum wage workers and their status in the household. It is therefore essential to look at the data by household relationship and to examine the role of the minimum wage worker in the family unit.

Household heads and spouses each accounted for 28 percent of all minimum wage workers, while dependent teenagers made up 38 percent (Table 5-3). In families earning less than \$6,000 a year, the largest proportion of minimum wage workers was accounted for by heads of households (70 percent) and their proportion fell dramatically as family income rose. Heads of households accounted for less than 8 percent of all minimum wage workers in families with incomes over \$15,000; yet they made up over half of all earners in these families. Nearly 90 percent of all minimum wage workers in these higher-income families were workers who tended to have a marginal attachment to the work force; 30 percent were spouses (mostly wives) and 59 percent were teenage dependents. Spouses and teenage dependents together

er in families with annual incomes over \$15,000 accounted for over 40 percent of all workers at or below the minimum; in families with incomes over \$10,000, they account for 54 percent of all minimum wage workers.

earned in families with incomes under \$6,000; this proportion falls drastically as family income rises. (To see this, compare Table 5-4, column 4, with Table 5-3, column 3.) By contrast, dependent teenagers' share of total wages is only

Table 5-2
Proportion of Families with Minimum Wage Workers¹
by Family Income, March/May 1978

Income ²	Proportion of Families			Proportion of Families with 1 or More Minimum Wage Workers Who Are	
	Total	With No Minimum Wage Workers	With 1 or More Minimum Wage Workers	Adults Only	Teens & Others ³
All families					
Number	18,838	16,814	2,024	1,465	559
Percent	100.0	100.0	100.0	72.4	27.6
Less than \$6,000	11.8	10.8	18.9	91.6	8.4
\$6,000-\$9,999	14.6	14.1	18.4	85.0	15.0
\$10,000-\$14,999	20.0	20.2	18.0	76.2	23.8
\$15,000-\$24,999	32.1	32.7	26.8	64.4	35.6
\$25,000-\$49,999	19.2	19.5	16.6	47.6	52.4
\$50,000 and More	2.4	2.5	1.3	42.3	57.7

¹See Note 4, Table 5-1.

²See Note 1, Table 5-1.

³Families contain at least 1 teenage minimum wage worker and may contain any combination of other minimum wage workers.

Source: Current Population Survey

Although there are significant differences in the work hours of family members earning the minimum wage or less, the distribution of total wages earned by different family members who were low-wage workers was very similar to the distribution of all minimum wage workers (Table 5-4, columns 2 and 3). Dependent teenagers made up 38 percent of the minimum wage population and accounted for 37 percent of the total minimum wage bill, yet they worked an average of only 21.4 hours a week while heads of households worked an average 37.4 hours.

Heads of households accounted for 70 percent of the total minimum wages

7 percent in low-income families and rose dramatically as income grew. The proportion accounted for by spouses also rose considerably before falling in the highest-income families. Together, spouses and teenage dependents made up over 50 percent of the minimum wage bill in families with incomes between \$6,000 and \$10,000. This proportion rose considerably to where they earned nearly 95 percent of the minimum wages in families with annual incomes between \$25,000 and \$50,000.

The findings of this section show that substantial numbers of minimum wage workers belonged to relatively high-income families and accounted for a

Table 5-3
Wage and Salary Employment of Persons At or Below the Minimum Wage
by Family Income¹ and Household Relationship, March/May 1978

(Numbers in thousands)

Family Income and Household Relationship	All Employed Workers ²	Minimum Wage Workers ³		
		Total Number	Percent	As % of All Minimum Wage Workers
All Workers				
Total	17,108	2,257	100.0	100.0
Less than \$6,000	1,056	412	39.0	100.0
\$6,000-\$9,999	1,986	405	20.4	100.0
\$10,000-\$14,999	3,231	409	12.7	100.0
\$15,000-\$24,999	6,261	619	9.9	100.0
\$25,000-\$49,999	4,246	382	9.0	100.0
\$50,000 and Over	347	30	8.6	100.0
Household Head				
Total	9,989	636	6.4	28.2
Less than \$6,000	758	288	38.0	69.9
\$6,000-\$9,999	1,368	171	12.5	42.2
\$10,000-\$14,999	2,119	91	4.3	22.2
\$15,000-\$24,999	3,637	73	2.0	11.8
\$25,000-\$49,999	1,947	12	.6	3.1
\$50,000 and Over	160	1	.6	3.3
Spouse of Head				
Total	4,191	635	15.2	28.1
Less than \$6,000	78	34	43.6	8.3
\$6,000-\$9,999	295	122	41.4	30.1
\$10,000-\$14,999	696	169	24.3	41.3
\$15,000-\$24,999	1,766	236	13.4	38.2
\$25,000-\$49,999	1,273	71	5.6	18.6
\$50,000 and Over	83	3	3.6	10.0
Teenage Dependents				
Total	2,235	849	38.0	37.6
Less than \$6,000	47	30	63.8	7.3
\$6,000-\$9,999	159	88	55.4	21.7
\$10,000-\$14,999	258	126	48.8	30.8
\$15,000-\$24,999	741	295	39.8	47.8
\$25,000-\$49,999	939	288	30.7	75.4
\$50,000 and Over	91	22	24.2	73.3
Other				
Total	693	137	19.8	6.1
Less than \$6,000	173	60	34.7	14.6
\$6,000-\$9,999	164	24	14.6	5.9
\$10,000-\$14,999	139	23	16.6	5.6
\$15,000-\$24,999	117	15	12.8	2.4
\$25,000-\$49,999	87	11	12.6	2.9
\$50,000 and Over	13	4	30.8	13.3

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 5-1.

²See Note 3, Table 5-1.

³See Note 4, Table 5-1.

Source: Current Population Survey

stantial proportion of the minimum wages earned in these households. At the same time, there were a fair number of heads of households earning the minimum

wage in low-income families, although 28 percent of all heads of households earning the minimum or less were in families with incomes of \$10,000 or more.

Table 5-4

**Wage and Salary Employment of and Percent of Wages Earned
by Minimum Wage Workers by Family Income¹
and Household Relationship, March/May 1978**

Family Income and Household Relationship	Minimum Wage Workers ²		Total Wages Earned by Minimum Wage Workers	
	Total	As Percent of All Minimum Wage Workers	As Percent of All Minimum Wages Earned	As Percent of All Minimum Wages Earned
Total	2,257	100.0	100.0	100.0
Household Head	636	28.2	28.1	28.1
Spouse of Head	635	28.1	29.1	29.1
Teenage Dependents	849	37.6	36.9	36.9
Other	137	6.1	5.8	5.8
Less than \$6,000	412	18.3	17.6	100.0
Household Head	288	12.8	12.4	70.4
Spouse of Head	34	1.5	1.5	8.4
Teenage Dependents	30	1.3	1.3	7.4
Other	60	2.7	2.4	13.8
\$6,000-\$9,999	405	17.9	18.3	100.0
Household Head	171	7.6	7.7	42.3
Spouse of Head	122	5.4	5.6	30.8
Teenage Dependents	88	3.9	4.0	21.8
Other	24	1.1	.9	5.1
\$10,000-\$14,999	169	18.1	18.5	100.0
Household Head	91	4.0	4.2	22.7
Spouse of Head	169	7.5	7.8	42.2
Teenage Dependents	126	5.6	5.4	29.3
Other	23	1.0	1.1	5.8
\$15,000-\$24,999	619	27.4	27.6	100.0
Household Head	73	3.2	3.2	11.7
Spouse of Head	236	10.5	10.9	39.4
Teenage Dependents	295	13.1	12.8	46.4
Other	15	.7	.7	2.5
\$25,000-\$49,999	382	16.9	16.8	100.0
Household Head	12	.5	.5	3.1
Spouse of Head	71	3.2	3.2	19.1
Teenage Dependents	288	12.8	12.5	74.7
Other	11	.5	.5	3.2
\$50,000 and Over	30	1.3	1.3	100.0
Household Head	1	0	.1	3.9
Spouse of Head	3	.1	.1	8.8
Teenage Dependents	22	1.0	.9	71.5
Other	4	.2	.2	15.7

Note: Individual items may not add to totals because of rounding.

¹See Note 1, Table 5-1.

²From Table 5-3. Also, see Note 3, Table 5-1.

Source: Current Population Survey

Poverty Status

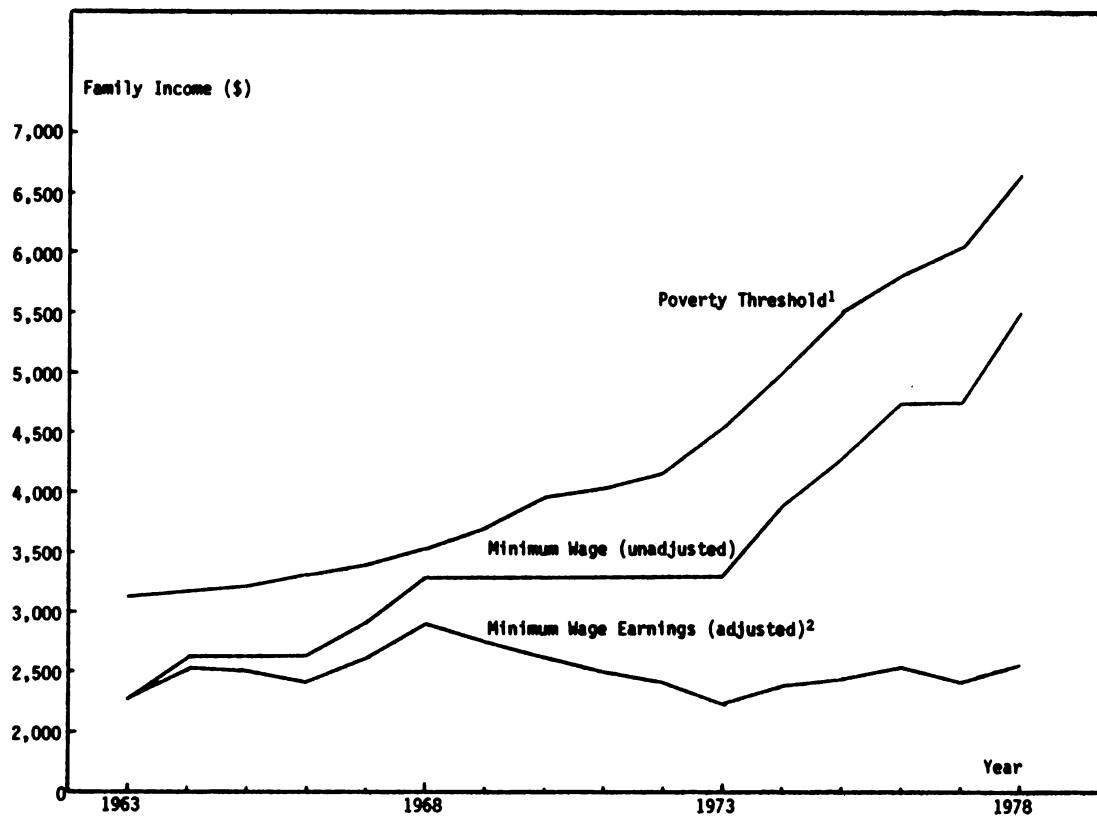
One purpose of the FLSA and its amendments is to maintain a real wage floor to insure a reasonable standard of living in the face of inflation. Because of the present system of setting increases in the nominal minimum wage several years in advance, it is not surprising to see the minimum eroded when

inflation is rampant. The minimum wage was \$2.65 in 1978, but in 1968 dollars it was worth only \$1.42, actually below the 1968 minimum of \$1.60.

This suggests that the minimum wage should be examined in relation to some standard below which family incomes ought not to fall. The relationship between the poverty level for a

Figure 5-2

Comparison of Poverty Threshold Income and Minimum Wage Earnings
(adjusted and unadjusted for inflation) for a One-earner
Nonfarm Family of Four, 1963-1978



¹This series is adjusted annually for changes in the Consumer Price Index (1963=100)

, ²Adjusted to correspond to the poverty threshold (1963=100)

one-earner nonfarm family of four and the income of a similar minimum wage worker is shown in Figure 5-2.⁹ The gap between the two has widened, particularly since 1968, until the minimum wage family income adjusted for inflation was only 39 percent of the poverty

threshold in 1978.¹⁰ On an unadjusted basis, the minimum wage family income for 1978 was \$5,512, 83 percent of the poverty income level of \$6,662. The average poverty income thresholds for 1978 by size of family, sex of head, and farm-nonfarm residence are shown

⁹The minimum wage family income level was calculated on the basis of the head of household working full time (40 hours per week), full year (52 weeks per year). In most cases, this is an overestimate since many minimum wage workers do not work 52 weeks in a year; the majority works, on average 30 hours a week.

¹⁰Comparisons of minimum wage worker income to poverty level income for a four-person family also appear in U.S. Department of Labor (1976), Tables 7 and 8, although no adjustment is made in minimum wage worker income for changes in the general level of prices. See also Figure 4 in Sellekaerts (1981).

Table 5-5

Weighted Average Thresholds At the Poverty Level in 1978
by Size of Family and Sex of Head, by Farm-Nonfarm Residence

Size of family unit	Total	Nonfarm			Farm		
		Total	Male Head ¹	Female Head ¹	Total	Male Head ¹	Female Head ¹
1 Person (Unrelated Individual)	\$3,302	\$3,311	\$3,460	\$3,196	\$2,795	\$2,898	\$2,690
14 to 16 Years	3,386	3,392	3,516	3,253	2,913	2,987	2,764
65 Years & Over	3,116	3,127	3,159	3,118	2,661	2,685	2,650
2 Persons	4,225	4,249	4,258	4,206	3,578	3,582	3,497
Head 14 to 16 Years	4,363	4,383	4,407	4,286	3,731	3,737	3,614
Head 65 Years & Over	3,917	3,944	3,948	3,923	3,352	3,354	3,313
3 Persons	5,178	5,201	5,231	5,065	4,413	4,430	4,216
4 Persons	6,628	6,662	6,665	6,632	5,681	5,683	5,622
5 Persons	7,833	7,880	7,888	7,806	6,714	6,714	6,700
6 Persons	8,825	8,891	8,895	8,852	7,541	7,543	7,462
7 Persons or More	10,926	11,002	11,038	10,765	9,373	9,386	8,813

¹For one person (i.e., unrelated individual), sex of the individual.

Source: U.S. Department of Commerce (July 1980).

in Table 5-5. To insure that a family would reach the 1978 poverty threshold, the minimum wage should have been \$3.20 in that year, assuming no inflationary effects from the higher minimum.

Forty-three percent of all workers in families below the poverty level had jobs at or below the minimum, although they accounted for only 11 percent of all minimum wage workers (Table 5-6, column 4). Heads of households made up 57 percent of all minimum wage workers in poverty-level families, although they accounted for only 28 percent of all workers at or below the minimum. Spouses made up 12 percent of all poverty-household minimum wage workers and 28 percent of all minimum wage workers, while dependent teenagers constituted 17 percent and 38 percent, respectively.

Using the minimum wage to redistribute income toward poverty families then would probably not work. Even if minimum wages did raise the incomes of low-wage teenagers and spouses, most of this income would go to families above the poverty line, since 9 out of every 10 minimum wage workers are in families above the poverty level.

School Enrollment. Data from the

National Longitudinal Surveys show considerable differences in the proportions of students and nonstudents from poverty households who are minimum wage workers. These differences are due in large part to differences in both the nature and work hours of jobs held by students versus nonstudents and the concentration of minimum wage workers among youth (Gilroy 1981).

Over the 1966-70 period, male and female students working at or below the minimum wage were much less likely to be in poverty families than nonstudents and about as likely to be in such families as their peers who were not employed (Table 5-7). In the late 1960s, less than 10 percent of the white and about 50 percent of the black teenage students were from families below the poverty threshold.

Teenage nonstudents were more likely to be in a poverty household if they worked at or below the minimum wage than if they earned a wage above the minimum. That is not surprising since nonstudents' earnings probably make up a greater share of total family income than do the earnings of students. Yet even among nonstudent teenagers working at the minimum or less, only 1

Table 5-6
Wage and Salary Employment of Minimum Wage Workers
by Household Relationship and Poverty Status, March/May 1978

Household Relationship and Comparison of Family Income to Poverty Threshold ¹	All Employed Workers ²	Employed Workers			
		At or Below the Minimum Wage ³		As Percent of All Minimum Wage Workers	
		Number	Percent		
<u>Total</u>	17,108	2,257	13.2	100.0	100.0
<u>Below Poverty</u>	581	247	42.5	10.9	100.0
1.00-1.24	438	144	32.9	6.4	100.0
1.25-1.49	570	167	29.3	7.4	100.0
1.50 +	15,519	1,699	11.0	75.3	100.0
<u>Head of Household</u>					
<u>Total</u>	9,989	636	6.4	100.0	28.2
<u>Below Poverty</u>	363	140	38.6	22.0	56.7
1.00-1.24	294	78	26.5	12.3	54.2
1.25-1.49	371	72	19.4	11.3	43.1
1.50 +	8,961	346	3.9	54.4	20.4
<u>Spouse</u>					
<u>Total</u>	4,191	635	15.2	100.0	28.1
<u>Below Poverty</u>	68	29	42.7	4.6	11.7
1.00-1.24	55	18	32.7	2.8	12.5
1.25-1.49	100	43	43.0	6.8	25.7
1.50 +	3,968	545	13.7	85.8	32.1
<u>Teenage Dependents</u>					
<u>Total</u>	2,235	849	38.0	100.0	37.6
<u>Below Poverty</u>	62	42	67.7	5.0	17.0
1.00-1.24	55	33	60.0	3.9	22.9
1.25-1.49	75	41	54.7	4.8	24.6
1.50 +	2,043	733	35.9	86.3	43.1
<u>Other</u>					
<u>Total</u>	693	137	20.7	100.0	6.1
<u>Below Poverty</u>	88	36	40.9	26.3	14.6
1.00-1.24	34	15	44.1	11.0	10.4
1.25-1.49	24	11	45.8	8.0	6.6
1.50 +	547	75	13.7	54.7	4.4

Note: Individual items may not add to totals because of rounding.

¹See Table 5-5.

²See Note 3, Table 5-1.

³See Note 4, Table 5-1.

Source: Current Population Survey

in 5 white males and 1 in 10 white females were from poverty households. Two out of 5 black females and 3 out of 5 black males, however, were from families below the poverty threshold.

The pattern for 20-24 year-olds is somewhat similar to that for teenagers: minimum wage workers were more likely to be from poverty families than above-minimum wage workers, although the differential is considerably less. Rela-

tively greater proportions of teenagers than older youth are from families above the poverty line. Fewer than 1 in 4 whites (male or female), 1 in 2 black males and 1 in 3 black females who were nonstudents working at or below the minimum wage were in poverty households. Male nonstudents working at the minimum wage were noticeably more likely to be poor than those employed above the minimum wage or those not

Table 5-7
**Proportion of Employed and Not Employed Persons¹ Living in a Household
 that is in Poverty² by Sex, Age, Race,³ and Enrollment Status,
 Selected Years 1966-1973**

Year, Sex, Age, and Enrollment Status	Whites			Blacks		
	Employed		Not Employed	Employed		Not Employed
	At Minimum	Above Minimum		At Minimum	Above Minimum	
<u>Men, 14-19</u>						
1966:	Student	6.0	4.8	6.5	43.9	54.2
	Nonstudent	21.4	8.2	23.2	56.7	23.2
	All	9.6	6.6	8.0	49.1	30.5
1967:	Student	6.5	4.4	4.0	49.7	30.6
	Nonstudent	21.3	5.9	16.6	65.7	31.3
	All	9.9	5.2	5.2	56.4	31.1
1968:	Student	7.3	2.6	5.9	51.1	24.4
	Nonstudent	22.2	3.7	11.6	54.8	19.1
	All	10.5	3.3	6.6	52.4	20.4
<u>Women, 14-19</u>						
1966:	Student	7.7	1.0	9.8	57.3	4
	Nonstudent	10.1	8.7	12.8	41.9	36.9
	All	8.5	6.6	10.6	51.2	36.1
1969:	Student	8.7	5.9	9.4	41.1	43.4
	Nonstudent	10.4	8.9	23.0	43.0	26.8
	All	9.0	7.8	12.0	41.9	33.6
1970:	Student	3.6	4.6	8.9	52.2	4
	Nonstudent	18.9	4.9	19.8	4	31.4
	All	6.8	4.8	11.5	53.1	30.9
<u>Men, 20-24</u>						
1966:	Student	4.4	3.4	2.4	4	4
	Nonstudent	24.2	2.2	3.4	39.4	21.1
	All	14.6	2.4	2.6	39.1	20.4
1967:	Student	8.4	3.9	3.8	4	4
	Nonstudent	23.0	2.4	17.2	56.6	13.2
	All	16.4	2.7	6.3	50.3	12.5
1968:	Student	5.7	2.4	4.6	4	4
	Nonstudent	16.7	2.1	9.5	45.7	11.9
	All	11.3	2.2	5.4	42.7	11.0
1969:	Student	3.7	2.0	8.2	4	4
	Nonstudent	15.1	1.6	14.8	52.0	13.6
	All	9.5	1.7	9.9	46.8	12.6
1970:	Student	1.0	2.9	4.3	4	4
	Nonstudent	15.3	2.3	13.3	43.7	14.3
	All	7.1	2.4	8.2	38.1	14.7
1971:	Student	16.2	3.4	6.1	4	19.2
	Nonstudent	13.4	3.6	10.1	49.2	13.1
	All	14.7	3.5	8.0	45.6	13.7

(continued)

Table 5-7 (continued)

Year, Sex, Age, and Enrollment Status	Whites			Blacks		
	Employed		Not Employed	Employed		Not Employed
	At Minimum	Above Minimum		At Minimum	Above Minimum	
<u>Women, 20-24</u>						
1968:	Student	5.2	4.1	9.7	4	36.2
	Nonstudent	7.8	4.5	11.1	31.5	46.3
	All	7.3	4.5	10.8	30.2	45.3
1969:	Student	15.9	6.6	26.9	4	46.4
	Nonstudent	13.5	3.1	13.2	30.6	49.0
	All	14.1	3.5	16.0	29.4	48.7
1970:	Student	3.9	6.6	4.4	4	25.2
	Nonstudent	10.1	2.5	9.8	32.6	49.2
	All	8.5	2.9	8.7	32.5	45.9
1971:	Student	14.7	6.7	7.4	4	40.2
	Nonstudent	12.7	2.6	11.8	39.7	45.8
	All	13.4	3.1	10.9	33.6	45.0
1972:	Student	15.7	4.2	13.1	4	37.4
	Nonstudent	18.2	3.6	14.3	40.2	48.6
	All	17.5	3.7	14.0	33.7	47.0
1973:	Student	4	9.0	5.6	4	28.2
	Nonstudent	11.9	3.5	13.1	44.2	59.2
	All	15.0	4.1	11.5	41.7	57.3

¹Employment status is divided into a trichotomy for use in this presentation and is defined as of the time of the survey (November-December for males, January-February for females). Employment "at the minimum" actually includes all wage and salary workers whose hourly wage is not higher than the federal minimum wage plus 5 cents. See notes 1 and 3, Table 5-1.

²Determination of a household's poverty status is made by comparing total household income to the low income threshold level (as utilized by the U.S. Bureau of the Census) for the relevant year, family size and farm/nonfarm status. The matrix of income thresholds for 1974 (U.S. Department of Commerce, December 1977, p. 481) was adjusted by using the Consumer Price Index as a deflator for the relevant years.

³Data refer to Black workers only. According to the 1970 Census, they comprised about 89 percent of the "nonwhite" population group.

⁴Percentage not shown where sample size for the cell is less than 25.

Source: National Longitudinal Surveys.

working. The comparison with those not employed probably reflects a difference in the basic character of the household in which they live, that is, those working are more likely to be on their own than living with their parents. Just the opposite is true for black females: nonstudents working even at the minimum wage were more likely to be in families above the poverty line than those not working.

Contribution to Household Income

Special tabulations have been constructed to show the contribution of minimum wage workers' earnings to total

family income. In 30 percent of households with workers at or below the minimum, minimum wage workers contributed less than 10 percent of total family income (Table 5-8). Most of these households contained at least one teenage minimum wage worker. On the other hand, in nearly 20 percent of all minimum wage households, workers earning at or below the minimum accounted for all family income. These families are made up almost exclusively of adult low-wage workers. More than 72 percent of all households have only adult minimum wage workers, although there may be other earners. These households prob-

Table 5-8
Contribution of Earnings of Minimum Wage Workers¹
to Total Family Income, March/May 1978

(In percentage points)

Income Ratio ²	Households Containing Minimum Wage Workers ¹		
	All	Adults Only	Teenagers and Others ³
Less than 10 Percent	29.8	13.8	16.0
10-24 Percent	18.9	12.4	6.5
25-49 Percent	17.3	14.3	3.0
50-74 Percent	9.1	8.3	.8
75-99 Percent	5.6	5.3	.4
100 Percent	19.2	18.0	1.2
Total	Percent	100.0	72.1
	Number	2,000	1,442
			27.9
			558

¹See Note 4, Table 5-1.

²Proportion of total family income accounted for by earnings of minimum wage workers.

³See Note 3, Table 5-2.

Source: Current Population Survey

ably have workers earning above the minimum wage who account for a sizeable proportion of total family income, although other sources of income such as social security, forms of public assistance, and other non-wage income may also be important.

Sources of Income. Nearly 64 percent of workers at or below the minimum had no income other than their earnings compared to 50 percent of those workers earning more than the minimum wage. The earnings of the higher-wage workers accounted for only 43 percent of their total income (Table 5-9). Nearly 14 percent of minimum wage workers had some interest or dividend income besides their wage earnings, while more than 30 percent of higher-wage workers had some form of capital income besides their earnings. Non-minimum wage workers with incomes from earnings and capital received 37 percent of the income of all non-minimum wage workers from those sources; minimum wage workers with income from earnings and capital received only 13 percent of all minimum wage workers' income from those sources. The 13.2

percent of all persons working at the minimum wage or less accounted for only 5.4 percent of all individual income.

Similar results are found for households. Families with at least one minimum wage worker were more likely to receive public assistance and Social Security transfer payments to supplement members' earnings.

Transfer Payments.¹¹ An estimate of the impact of increasing the minimum wage on the level of transfer payments directed toward the poorest fifth of the population can be derived from Johnson and Browning (1981). Ignoring any disemployment effects, their 22 percent increase in the minimum wage led to an

¹¹Transfer payments referred to in this section are for all programs together. The Commission attempted to obtain statistics on individual programs such as Food Stamps, Aid to Families with Dependent Children (AFDC), Social Security, and Supplemental Security Income (SSI), but for technical reasons, was unable to derive statistically reliable estimates for each of the programs.

Table 5-9

Percent Distribution of Income of Employed Workers¹
and Households by Source of Income, March/May 1978

Income Source	All Workers		All Income Received by		All Households		
	At or Below Minimum Wage	Above Minimum Wage	Workers At or Below the Minimum Wage	Workers Above the Minimum Wage	With at Least One Minimum Wage Worker	With No Minimum Wage Workers	
Total	Number Percent	2,257 13.2 <u>100.0</u>	14,851 86.8 <u>100.0</u>	\$513,389 5.4 <u>100.0</u>	\$9,061,714 94.6 <u>100.0</u>	2,024 10.7 <u>100.0</u>	16,814 89.3 <u>100.0</u>
Earnings Only		63.8	49.3	64.5	43.1	25.9	28.8
Earnings and Social Security ²		5.4	.9	4.9	.6	6.4	2.6
Earnings and Public Assistance ³		.3	.1	.3	.1	4.3	1.7
Earnings and Capital Income ⁴		13.7	30.6	13.1	37.0	26.0	32.7
Earnings and Unemployment Insurance		1.6	2.9	1.7	2.4	3.6	3.4
Earnings and Other Income ⁵		2.6	2.6	2.7	3.3	4.7	4.3
Earnings, Public Assistance and Other		2.9	.7	3.0	.5	2.6	1.3
Earnings, Social Security and Other		5.5	1.5	5.5	1.3	13.9	10.9
All Other		4.2	11.3	4.1	11.6	10.7	17.1

¹See Note 3, Table 5-1.

²Also includes supplemental security income and railroad retirement.

³Includes aid to families with dependent children.

⁴Includes interest, dividends, rents, and estates and trusts income.

⁵Includes among other income, all pensions, alimony or child support, and other regular contributions.

Source: Current Population Survey

estimated increase in earnings by the poorest fifth of households of \$856 million (1975 dollars) but increased taxes and reduced transfer payments (amounting to \$449 million) cut their net gain to \$407 million. In other words, higher taxes and reduced benefits offset roughly half of the earnings gains that a minimum wage increase brings to the lowest fifth of the income distribution. These findings indicate that the effects of the tax-transfer system have limited the impact of minimum wage increases on the net income of the poorest households.

Conclusions

Inasmuch as there is not a strong correlation between individual earnings and family income, with large numbers of minimum wage workers found among households in all income levels, the message from the body of empirical evidence

is that the minimum wage has had small "beneficial" effects on the distribution of income. There are, however, other mechanisms that would be more effective in providing income support for individuals and families such as direct Federal government transfer payments or some variant of a negative income tax.

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Chapter 6

EXEMPTIONS FROM THE FAIR LABOR STANDARDS ACT

Mandate H required the Commission to analyze the exemptions from the minimum wage and overtime requirements of the Act.¹

Since its enactment in 1938, the FLSA has contained provisions exempting specific groups of covered workers from minimum wage and maximum hour (overtime) requirements. Major amendments have been added six times: in 1949, 1955, 1961, 1966, 1974, and 1977. Amendments eliminating existing exemptions and introducing new ones were enacted each time with the exception of 1955 when only minimum wage rates were increased.

Currently, 42 exemptions completely or partially exempt almost 30 million private-sector workers (including some supervisory employees) from the minimum wage or maximum hour provisions of the Act. Over 90 percent of nonsupervisory employment, however, is subject to the minimum wage provisions of the Act. Exempt employees include approximately 700,000 workers, mostly full-time students legally hired at sub-minimum wages under provisions of various certification programs and 7 million workers subject to minimum wage

provisions who are completely or partially exempt from the standard maximum hour provisions.

Minimum wage provisions were designed to maintain earnings levels of employed workers. Maximum hour provisions were expected to provide the socially beneficial effect of expanding job opportunities for the unemployed by reducing excessively long workweeks. The limited individual coverage criteria and breadth of the exemptions contained in the 1938 legislation, however, limited its application to only about one fourth of the work force. Eleven million employees were subject to the Act in 1938; 2.5 percent of these earned less than 25¢ per hour, the first established minimum (Daugherty 1939).

The maximum hour provisions had a greater initial effect. Twenty percent of the newly subject employees worked more than 40 hours a week, with 12 percent working more than 44 hours a week. The Act established a 44-hour weekly maximum the first year and a 42-hour maximum the second. In the third and succeeding years the maximum was 40 hours a week.

Section 13 of the Act contained twelve specific minimum wage and maximum hour exemptions in 1938, but a much larger segment of the U.S. adult labor force was outside the protective minimum wage provisions than today. The child labor provisions, however, which prohibited the employment of

¹For an extended review of exemptions, including the rationale for eliminating or not eliminating each one and the expected economic impacts, when available, see Volume IV of this Report.

youth under 16 in the manufacturing, mining, and processing industries, reinforced the job expansion effects for adult workers under the maximum hour provisions. Since most jobs in sectors subject² to the minimum wage and overtime provisions in 1938 were held by adult males, the child labor provisions set forth a consistent public policy statement to prevent youth from holding those jobs. In addition, the legislation provided employment opportunities in major industries for principal wage-earners 18 years old and above.

The rationale for such protection in 1938 was clear and elegant. The experience of the previous fifty years of industrial development had exposed the social evils of exploitive child labor practices. In the absence of active public policy to the contrary, some employers consistently hired children of the working poor below subsistence wages. It could be argued that in the short run such practices advanced the cause of economic development and augmented the income of low-wage families.

But social reformers saw it as a deterrent in the long run to the realization of the full potential of children so employed. The child labor provisions of the Fair Labor Standards Act clearly reinforced the prevailing philosophy of public education, which was designed to provide a minimum level of formal educational training to all youth of the nation, not just to the elite. In 1938, the youth employment issue was not whether "hands-on" work experience was a val-

²The terms "subject" and "nonsubject" are used to avoid confusion associated with use of the terms "covered," "non-covered" and "exempt." "Subject" employees (or employers) are "covered" as defined in section 3 of the Act but are not exempt as defined under sections 6, 7, or 13. "Nonsubject" employers or employees are either "not covered" or "covered" but exempt under sections 6, 7, or 13.

ued objective in the development and growth of children; youth employment opportunities were obviously there. Instead, the real issues were whether children of immigrant and other low-income workers would achieve their full economic, social, and political potential as responsible adults and whether they would realize their personal job goals without the formal public educational opportunities guaranteed by law. By declaring most jobs in the primary manufacturing, mining, and construction industries beyond the reach of youth under 16, the child labor provisions of the FLSA provided the public policy needed to insure that children of low-wage workers were guaranteed that access to a formal education.

Minimum Wage and Maximum Hour Exemptions

The total number of workers subject to the Act was reduced in 1949 by defining retail trade and services in a way more favorable to industry, although minimum wage protection was extended to air transportation employees. That same year Congress also enacted section 11(d), which recognized the authority of the Department of Labor to regulate industrial homework. The Department previously had not explicitly been granted this authority although it had justified its regulation of industrial homework under the general authority given to the Administrator of the Wage and Hour Division to enforce the minimum wage provisions. The existing homeworker regulations were directly descended from regulations originally developed in codes written to carry out the intent of the National Industrial Recovery Act of 1933. The action of the Congress in 1949 reconfirmed its support of active public policy designed to eliminate and prevent exploitive working conditions.

With the exception of two special minimum wage exemptions affecting babysitters working 20 or fewer hours per week and persons employed inter-

mittently as domestic household workers, all exemptions enacted since 1961 have been limited to providing relief from overtime provisions only. To be sure, most of the remaining original minimum wage exemptions have been amended several times and their scope is now more limited than in 1938, but this does not detract from the general conclusion that recent additions have been new maximum hour rather than new minimum wage exemptions (Table 6-1).³

processing of agricultural products and to large agricultural employing units newly subject to minimum wage provisions. The six maximum hour exemptions enacted in 1974 affected certain agricultural service firms and public employees, domestic service workers and employees of small logging operations, all of whom became subject to the minimum wage provisions that year. The three 1977 maximum hour exemptions were directed toward seasonal cotton-gin workers, seasonal sugar-pro-

Table 6-1
Enactment Date of Existing Minimum Wage and Maximum Hour Exemptions to the Fair Labor Standards Act

Year Enacted	Type of Exemption	
	Minimum Wage and Maximum Hour	Maximum Hour Only
1938 ¹	9	2
1949	2	3
1961	0	13
1966	0	2
1974	2	6
1977	0	3
Total	13	29

¹ Includes an amendment added in 1939 exempting switchboard operators employed by small telephone exchanges.

With few exceptions, maximum hour exemptions enacted in 1961 were directed toward the large segments of the retail trade and service sectors that were newly subject to the Act that year. The 1966 maximum hour exemptions were granted to additional firms providing agricultural services or initial

³Throughout this section, the use of the term "minimum wage exemption" when referring to specific exemptions or class of exemptions means an exclusion from both minimum wage and maximum hour provisions, while the term "maximum hour exemption" is limited to a specific exemption or class of exemptions providing exclusion from maximum hour provisions only.

cessing workers, and concessioners in national parks and forests. The agricultural service exemptions were further refinements of existing maximum hour exemptions and were not associated with new or extended minimum wage coverage of previously excluded sectors. In this sense, they depart from the major pattern prevailing from 1961 through 1974. The partial overtime exemption granted concessioners in national parks and forests was carved out of the existing full exemption granted to seasonal amusement operations.

As implied in the preceding summary, an evaluation of FLSA exemptions is aided by grouping them into industrial or occupational sectors.

-- Sixteen exemptions apply to work-

ers and employers in the retail trade and nonagricultural service sector. Half of these are maximum hour provisions.

- Thirteen exemptions affect employers and workers in agricultural production or in the processing of agricultural or related products. Eleven of the 13 exemptions affecting the agricultural production and agricultural service sectors are maximum hour exemptions.
- Nine exemptions pertain to the transportation sector. Eight are maximum hour exemptions.
- Seven certification programs are provided in section 13(a)(7), which authorize employers to hire certain workers at hourly wages below the statutory minimum with approval of the Department of Labor. A certification program in section 11(d) authorizing the Department of Labor to enforce minimum wage provisions of the Act for industrial homeworkers is also addressed.
- Two exemptions apply to public sector employees. Both are maximum hour exemptions.
- One minimum wage and maximum hour exemption affects 13 million private sector executive, administrative and professional employees, and 2.4 million outside sales workers.

The overwhelming majority of the exemptions are industry-based, but almost two thirds of the workers exempted from both minimum wage and maximum hour regulation fall under section 13(a)(1), which designates outside sales workers and executive, administrative, and professional employees as beyond the scope of the subject workforce (Table 6-2). Although this

exemption apparently affects a larger segment of the workforce, its actual effect on minimum wage workers is much less than that of the remaining 12 minimum wage exemptions. With very few exceptions, workers within the scope of this exemption earn much more than the minimum wage. The focus of this exemption then is more correctly placed on its implications under maximum hour rather than minimum wage provisions of the Act.

Most workers still outside the basic minimum wage protection are employed in the nonagricultural service and retail sectors (4.2 million) and in the agricultural production sector (830,000). (Casual babysitters and domestic workers employed on an intermittent basis, are also exempt from the minimum wage and maximum hour provisions of the Act. They are not included in the above figures.) Three fourths of all workers earning at or below the minimum in the first quarter of 1980 were concentrated in these three sectors (Gilroy 1981). In these sectors, the statutory minimum wage or a wage rate within 15 percent of the minimum is often likely to be the relevant wage range for all but a few executive or administrative personnel.

Employees in the transportation sector make up the largest industry group specifically placed outside the maximum hour provisions of the Act (Table 6-2). Some 1 million employees of interstate truck carriers subject to provisions of section 204 of the Motor Carrier Act of 1935 are exempted from the maximum hour provisions of the FLSA. These include drivers, drivers' helpers, mechanics, and loaders. An additional 500,000 employees of common rail carriers subject to part I of the Interstate Commerce Act and 360,000 air carrier employees subject to Title II of the Railway Labor Act are excluded from maximum hour provisions. About 140,000 seamen on U.S. oceangoing vessels and employees engaged in inland and intracoastal waterways shipping,

Table 6-2

**Private Sector Employees Exempt from the Minimum Wage
or Maximum Hour Provisions of the Fair Labor Standards Act
by Industry or Occupation Group, 1980**

(Numbers in thousands)

Minimum Wage and Maximum Hour Exemption	Workers Excluded	Maximum Hour Exemption Only	Workers Excluded
<u>Full Exemption</u>		<u>Full Exemption</u>	
Executive, Administrative, and Professional Outside Sales Workers	13,100 2,400	Nonagricultural Service and Retail	1,100
Retail Trade and Service Agriculture	4,200 830	Transportation Agriculture and Agricultural Services	2,100 800
Seasonal Amusement	200		
Private Households	460		
Home Newspaper Carriers	900		
All Others	200		
Subtotal	22,290	Subtotal	4,000
<u>Partial Exemption (Certified)</u>		<u>Special Exemption</u>	
Full-time Student Handicapped and Patient Workers	495 193 5	Hospital and Nursing Home Workers	2,800
All Others			
Subtotal	693	Subtotal	2,800
TOTAL	22,983	TOTAL	6,800

Source: Fritsch (1981) Vol. IV, this Report.

30,000 local delivery drivers, and 44,000 taxicab drivers are also exempt from maximum hour provisions. The remaining exemption directed toward transportation workers excludes, among others, U.S. citizens working on foreign-flag ships. Estimates of the size of this workforce are unavailable.

Apart from the 1938 truck and rail transportation exemptions all but two of the present maximum hour exemptions were enacted since 1961. The two exceptions are section 13(b)(5), which provides a maximum hour exemption to employees of outside buyers of poultry, eggs, cream or milk, and section 13(b)(17), which grants a maximum hour exemption to taxi drivers. Both were added as part of the 1949 amendments.

In addition to full exemptions from minimum wage and maximum hour pro-

visions, the Act provides special exemptions from standard maximum hour provisions to compensate for perceived economic contingencies inherent in certain employment relationships. Over 90 percent of all employees affected by these exemptions are within the scope of section 7(j), which provides for paying one-and-a-half times the regular rate to 2.8 million employees of hospitals or nursing homes for hours worked over 80 in a 14-day period or after 8 hours per day. (Standard provisions require one-and-a-half times the regular rate after 40 hours in a consecutive 7-day period.) Moreover, some 500,000 employees receiving at least half of their earnings from commissions are exempt from the overtime provisions of the Act if their average hourly earnings are at least one-and-a-half times the

statutory minimum.

Alternative Criteria For Evaluating Minimum Wage Exemptions from the FLSA

The most common rationale used to justify the existing minimum wage exemptions from the Fair Labor Standards Act is the perceived relationship between small size and low profit rates. Another is the potentially high administrative cost of enforcing the law if applied to a large number of very small employing units, especially if they are widely scattered in rural areas.

The major sectors exempt from the minimum wage provisions of the Act are retail trade (including small production establishments selling their own products at retail), retail service and agriculture.⁵ In each case exempt establishments are judged to be small by a specially defined criterion. "Smallness" for retail trade and service establishments is measured by total annual receipts excluding excise taxes. In agriculture, it is the number of "man-days" worked during a certain time period. The criterion exempting switchboard operators on telephone exchanges is the number of telephones served out of a single location.

⁵Establishments which meet the retail trade and service criteria for the purposes of the 13(a)(2) exemption include hotels and motels, motion picture theaters, amusement and recreational establishments including bowling alleys, golf courses, gasoline stations, fuel and ice dealers, barber shops, and shoe repair shops. Types of operations not within the retail trade and service criteria include business and professional services such as accounting firms, ambulance services, auction houses, junk dealers and auto wreckers, banks, credit companies, labor unions, and medical and dental clinics. Laundry and dry cleaning establishments, although providing retail services, cannot claim an exemption under section 13(a)(2).

Loggers and sawmills are exempt if they have no more than a certain number of employees. Newspaper publishers can claim an exemption if their total circulation within a contiguous area is below a certain level. Population density is the basis for exempting certain employees working for small radio and television stations.

Total annual receipts criterion. The "smallness" criterion used to determine whether retail trade and service establishments are subject to the law is annual dollar volume of sales excluding excise taxes.⁵ This monetary criterion has wide acceptance in the industry.

In general, monetary criteria maintain the number of exempt employees during periods of general price stability but wage-level criteria (such as size of payroll) are more effective at maintaining stability than sales criteria. Both depend on price and number of units sold but a criterion based on total wages directly measures labor use since it is a function of wage rates and labor use. A price criterion such as that used to identify exempt retail trade and service enterprises is an indirect measure of labor use since it depends on the products or services sold and the prices.

Labor-use intensity⁶ can be measured directly with employment criteria but only by inferring from monetary criteria. Differences in the ratio of labor cost to sales among retail trade

⁵The dollar volume of sales test applies to the enterprise as defined in section 3(s) rather than to the establishment. In this sense it is a coverage rather than an exemption criterion. It remains the major criterion for determining the nonsubject status of retail trade and service operations and is discussed here in this context.

⁶Labor use intensity as used here defines in a quantitative sense the work effort of employees either in months, weeks, days, or hours worked.

and service establishments resulting from technology differences make the current sales volume criterion less desirable than a payroll-level criterion as a measure of labor use.

During periods of inflation, wage or sales criteria do not maintain constant levels of non-subject employees or establishments. Increasing wage or price levels reduce the number of exempt employees unless indexing or periodic legislative remedies are adopted. If one argues that all employees should be subject to the minimum wage provisions of the Act, however, a reduction can be viewed as attaining the objectives of the Act.

Man-day and other employment criteria. Employment criteria are used to determine the exempt status of agricultural employers and logging establishments. The man-day criterion applied to agricultural employers is defined in section 3(u) of the Act as "any day during which an employee performs any agricultural labor for not less than one hour." Employers are exempt from the minimum wage and maximum hour provisions if 500 or fewer man-days of labor were used in the peak calendar quarter of the previous calendar year.

This criterion is an effective measure of labor use since it identifies the total units of labor used rather than simply the number of employees without regard to employment intensity. It is a function of both total workers hired and the days worked by each. The relationship between man-days and total employment is not constant, however, and, as a result, some large employers of seasonal labor may remain exempt under a man-day criterion but not under a total employment criterion. For example, an establishment hiring 100 seasonal workers for four days each during the peak calendar quarter remains exempt under the current provisions as does an employer of six full time employees working six days a week. But employers hiring 7 full time workers for 6 days a week or 8 full

time workers for 5 days a week are subject to the Act.

An hours test more accurately measures labor intensity than total employment or days of work simply because hours of work is a more precise definition. But it poses severe administrative problems since it is not commonly used for record-keeping purposes.

An employee test, that is, the number of employees hired per quarter or per year, is not as efficient in measuring seasonal labor-use intensity as days or hours of work. But for coverage of full-time employees little is lost by counting total employment. Such a test is used to determine the exempt status of employers in the logging industry.

An employee test is simpler administratively than the man-day test, an hours test or a wage- or price-level test. It maintains the labor-measuring efficiency of the other employment criteria in that the identified target group remains constant regardless of the rate of inflation. It is also simpler administratively than a sales dollar-volume test since coverage identification can be made directly from payroll records and recourse to sales records is not required.

Administrative Subminimum Wage Provisions for "Entry-Level/Student-Worker" Jobs

Section 13(a)(7) contains several "entry-level/student-worker" provisions exempting certain employees of subject employers from the section 6 statutory minimum wage provisions. Payment of subminimum differentials requires prior administrative authorization from the Department of Labor. Establishments in the retail trade and service sectors, through the use of special certification provisions for hiring full-time students, are the primary beneficiaries of these partial exemptions.

Certification provisions exist for
(1) industrial-learners--experienced

workers at least 16 years of age in non-apprenticeable production occupations, (2) student-learners--students at least 16 years of age employed on jobs as part of a bona fide program of vocational education, (3) student-workers--students at least 16 years of age employed as trainees in shops and laboratories of schools in which they are enrolled, (4) apprentices at least 16 years of age working under DOL- or state-approved apprentice programs, (5) messengers at least 14 years of age primarily delivering messages and (6) full-time students hired by subject retail or service establishments, agricultural employers, and private institutions of higher education when in compliance with child labor laws.

The statute sets the lower limit for subminimum wages paid under the full-time student certification program at 85 percent of the statutory minimum, but the Labor Department determines minimum wage rates paid under the remaining programs. Regulations issued by the Department of Labor set wages at no less than 75 percent of the minimum for student-learners and student-workers but authorize rates only 10¢ to 15¢ below the statutory minimum for participants in the industrial-learner program.

Alternative Criteria for "Entry-Level Student "Subminima.

Table 6-3 summarizes alternative 1980 subminimum wage differentials under existing certification programs, although the rationale for setting subminima at these different levels is not clear from an initial review of the data. Two approaches can be developed. First, an appeal can be made to the lower productivity of untrained workers and of youth in certain occupations. Second, an appeal can be made on a social welfare basis. Under the latter, the major objective of minimum wage rate legislation is to guarantee for all workers a minimum social reservation wage based on some

measure of perceived economic well-being.⁷

Evaluating existing subminimum wage rates on a productivity basis starts from the presupposition that the wage rates reflect the lower productivity of the lower-wage employees when compared to workers paid at some higher wage. This suggests, for example, that by a measure such as the number of dresses sewed by employees enrolled in the industrial-learner program, the subminimum employee could produce from 96 to 98 dresses in the same time that the minimum wage worker could produce 100. (Subminimum rates for these employees are currently 96 to 98 percent of the statutory minimum). Similarly under this rationale the productivity of students employed under an approved subminimum certification program should only be about 75 or 85 percent of nonstudents or students at the same job who earn the minimum.

On intuitive grounds alone it is difficult to accept the 10¢ to 15¢ differentials in wage rates of certificated sewing-machine operators as reflecting true productivity differences. In fact, these rates were set after hearings in the early 1960s. At the time, the

⁷A reservation wage is defined as a rate below which an individual will not offer his or her services to the labor market. By analogy, a statutory minimum wage rate can be viewed as a public or social reservation wage below which an individual does not have to offer his or her services to the labor market. As such, it is set on the presupposition that the community or society has an obligation to guarantee to all wage employees, particularly those who, for one reason or another, find themselves in a poor economic bargaining position, a basic minimum hourly wage rate which is directly or indirectly related to some publicly acceptable concept of economic well-being.

Table 6-3

Subminimum Wage Rates Under
Alternative Certification Programs, 1980

FLSA Program	Alternative Minima under the FLSA, 1980
Section 6 statutory minimum	\$3.10
Full-time student minimum	\$2.64
Student-learner minimum	\$2.33
Industrial-learner minima:	
Apparel industry	
clothing	\$3.00
All others	\$2.95
Knitted wear industry	\$3.00
Hosiery industry	\$2.95-\$3.025

minimum wage was \$1.15 per hour and the differential represented wage rates from 86 percent to 91 percent of the statutory minimum. The maintenance of absolute rather than a relative differential during a period of rising minimum wage rates has had the effect of gradually phasing out the program by decreasing the economic incentive for its use. Such a policy is consistent with the egalitarian view that all employees should be subject to a uniform minimum wage rate.

The 15 to 25 percent lower subminimum in the student-targeted programs reflects a more substantial variation in productivity. This wage differential may be a valid measure of skill distinctions between students employed in clerical and entry-level laboratory jobs when compared to nonstudent co-workers. The differential between certificated student-learners (75 percent of the minimum) and certificated full-time students (85 percent of the minimum) was designed to reflect the need for greater supervision of employees en-

rolled in jobs as part of their vocational education programs. Jobs held by students employed under the full-time student certification program are not tied to vocational training requirements. They include occupations such as checkout clerks or baggers in retail establishments, counter clerks in fast-food restaurants, seasonal farm workers, ushers and ticket-takers in motion picture theaters and paper-graders, laboratory assistants or library workers at private colleges and universities. Most of these jobs offer little, if any, advancement opportunity. They often require high levels of manual dexterity or specific skills that can be mastered in a relatively short time. On these jobs there is no reason to expect that students have a particular disadvantage compared to nonstudent youth or more mature employees. Moreover, students may have a competitive advantage in specific jobs such as paper-grading or library work over their non-student counterparts or as checkout clerks in comparison with more mature employees.

To the extent that either of these situations prevail, market-determined wage differentials do not justify a subminimum. Finally, in those jobs where students compete with nonstudent youth, the differential may work to the disadvantage of the nonstudent.

Another rationale for justifying lower wage rates for students and other entry-level workers occurs if they were satisfied with earnings lower than they could obtain from working at the statutory minimum. In other words, their individual reservation wage is below the social reservation wage guaranteed by law. Under such conditions employees would be willing to offer their services at a wage rate lower than the statutory minimum. The Office of Management and Budget (OMB) poverty-level annual income thresholds provide a convenient base for demonstrating this point. Under the assumption of full-time employment (2,080 hours per year), the equivalent hourly earnings of a single worker by household status is summarized in Table 6-4. The hourly rate under the 1980 student certification

households of three or more individuals but may be attractive to youth without family obligations.

The willingness of students to work at wages less than the statutory minimum wage was noted by Freeman et al. (1981) in a recent study of the full-time student certification program. To the extent that the Table 6-4 wage rates, which are derived from the OMB subsistence-level incomes, are an accurate proxy for the wages that student and nonstudent youth would find satisfactory, they provide useful guidelines for setting subsistence-based subminimum wage rates.

Alternative Criteria for Evaluating Maximum Hour Exemptions to FLSA Overtime Provisions

The minimum wage provision of the Fair Labor Standards Act has received in recent years considerably greater scrutiny than the maximum hour provisions. Indeed, the stated objective of the Act in section 2(a) is to increase wages of the lowest-paid workers for "the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." As viewed from the perspective of its sponsors, however, the maximum hour provisions were an important public policy tool to encourage the expansion of jobs and promote economic recovery. The role of adding new jobs fell to employers faced with higher labor costs from employing workers in excess of the statutory maximum hours permitted under the Act.

The use of economic sanctions to encourage compliance with the 40-hour workweek was a departure from enforcement provisions in earlier maximum hour legislation designed to protect women and children from exploitative working conditions. These earlier state and Federal statutes directly prohibited subject employees from working beyond the maximum allowable hours. The intended effect was not always achieved, however, since most laws

Table 6-4

Hourly Wage Equivalent for an Individual Worker Employed Full-time and Earning at the OMB Poverty Level, 1980

Number of persons in Household					
1	2	3	4	5	6
\$1.82	\$2.41	\$3.00	\$3.58	\$4.17	\$4.76

program was 45 percent higher than the OMB poverty-equivalent wage for a single-person household and 10 percent higher than the OMB equivalent wage for a two-person household with one wage earner. This subminimum differential is clearly insufficient for workers who were the sole wage earner in

were poorly enforced or contained clauses rendering them unenforceable. Unlike legal prohibitions, which may place rigid and sometimes unrealistic limitations on economic production and sales activities, the economic sanctions of the FLSA maximum hour provisions provide a degree of flexibility that can be advantageous to both employers and employees. Under the Act, subject employers are required to pay employees a penalty rate of one half the normal straight-time wage rate for all hours worked over 40 a week in addition to the regular rate. If this penalty is below the extra cost of hiring and training a new employee, the employer, the already employed worker, and the consumer stand to gain. The employer is able to meet an unexpected increase in demand for the product or service produced, the employee gains from higher earnings, and the cost to the consumer is lower than if a new worker had been hired. Similarly, if the cost of hiring and training a new worker is below the cost of the penalty, new jobs will be created to meet the increased product demand, and the cost of production will be lower than if extra hours were worked by existing employees at the penalty rate.

It is clear that the use of economic sanctions provides greater flexibility than using direct legal prohibitions. However, by requiring that employees receive a wage premium for work in excess of the legal maximum, the economic sanctions as currently applied create conflicting incentives between employers and employees. The requirement that the penalty rate be paid directly to employees as a wage premium provides workers with an incentive to work more than the statutory maximum. The conflicting incentives between employers and employees potentially limits employment expansion and detracts from the otherwise desirable features of the wage penalty as a means of encouraging compliance with the maximum hour provision of the Act.

Justifying Exemptions to the Maximum Hour Provisions

Unlike pure minimum wage exemptions, which have been justified primarily on the presumed relationship between "smallness" and low profits, exemptions to the overtime provisions have been justified by the existence of unique job attributes or structural or institutional industry factors that limit the effectiveness of monetary sanctions imposed on employers. In certain industries, sub-sectors or occupations, it may be demonstrated that the use of penalty overtime wage payments as provided in the FLSA will not have the intended effect of expanding employment opportunities or providing an incentive for employers to reduce maximum weekly hours to 40 or less. Seven such cases are discussed below.

Prior or concurrent legislation. Prior or concurrent legislation prohibiting excess hours of work may make redundant an FLSA overtime premium designed to accomplish the same end. Where Congress assigns exclusive jurisdiction to an agency other than the Department of Labor, the basis for the exemption is the prior jurisdiction contained in that Congressional action. In the case where Congress has not assigned jurisdiction, a penalty overtime rate can be defended on economic grounds if its administrative cost is less than the cost of enforcing legal prohibitions.

The issue of prior exclusive jurisdiction is a factor in determining the exempt status of certain employees of interstate truck carriers, whose maximum work hours are regulated by the Department of Transportation under provisions contained in the Motor Carrier Act of 1935. Issues of concurrent jurisdiction could arise with respect to interstate air and water carriers if the present exemptions to the FLSA overtime provisions were repealed. The Federal Aviation Administration and the Maritime Administration, regulate maximum hours of certain employees in these

industries which are now exempt from the maximum hour provisions of the FLSA.

The case of a fixed labor supply. If the labor supply to an industry is fixed in the short run, the penalty payment may not function as an incentive to expand employment. In such cases the net short-run effect of the overtime premium is simply to increase the cost of production. In this extreme case, it may be argued on economic grounds of cost control that an exemption from the maximum hour provisions is justified. The issue of a fixed short-run labor supply is the main reason for maintaining the exempt status for employees of ocean-going and inland and intracoastal waterways shipping.

The case of technological or institutional rigidities. A case for justifying an exemption to the FLSA overtime penalty provisions may exist if technology or the organizational structure of the industry dictates the use of work periods other than 40 hours per week as more appropriate for achieving the desired objective of job expansion. Penalty payments for work performed beyond a given weekly standard may be inappropriate for such industries. Other standard accounting periods, such as daily, biweekly, monthly, or annually, may be better. Such consideration may be warranted on the grounds of economic efficiency in air, truck and rail transportation and in the provision of health care where products or services must be provided to the public seven days per week. In such cases, work standards designed to achieve equitable sharing of weekend work may override concerns of employment expansion.

The case of commission pay schedules. An additional rationale for considering an exemption to the standard overtime provision may exist in occupations where normal payment is on a commission basis. Commission-based pay schedules result in unequal hourly rates for employees in the same firm doing essentially the same work and do not

provide a straightforward method for computing overtime rates. Adopting the standard overtime provisions can lead to complex enforcement procedures. Existing FLSA overtime exemptions for sales workers and taxi drivers are often justified on this basis.

The case of seasonally fluctuating employment patterns. An overtime exemption may be justified in seasonally sensitive industries hiring large numbers of short-term workers with limited attachment to the full-time labor force or year-round workers whose weekly hours of work vary seasonally. Maximizing the total hours of work for employees over the entire season may, under special circumstances be more socially desirable than imposing an overtime premium designed to expand peak employment in these sectors. This is a major issue in the review of existing overtime exemptions for intrastate distributors of oil products, beer, and other beverages.

Seasonally sensitive sectors such as agricultural production, agricultural services and processing, and seasonal retail and amusement park operations may reduce their employment to zero during the off-season. They are examples of where encouraging peak seasonal employment expansion through an overtime penalty wage may be detrimental to maximizing the seasonal earnings of already employed short-term workers.

Compensatory privileges and non-standardized work output. Employees in executive, administrative, and professional occupations are exempt from the overtime provisions of the Act. Although these employees often work more than 40 hours a week, it was argued that the value of compensatory privileges is sufficient to offset wages lost by nonpayment of an overtime premium. Moreover, work output in these occupations cannot be standardized relative to a specific time period, thereby negating the employment-expanding effects of an overtime provision.

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To the extent that executive, administrative and professional employees receive fringe benefits beyond those received by nonsupervisory employees, a direct monetary tradeoff may exist. Increased tenure, security, higher base pay and improved advancement opportunities can also be viewed as substitute compensation for lack of overtime premium pay provisions.

Employment expansion from overtime premium pay provisions is most easily attained in jobs where employees are perfect substitutes for each other such as factory assembly-line workers, machine operators, sales-counter clerks, and in jobs that do not require independent discretionary decision making. At the other extreme, employment levels of most executive, administrative and professional jobs would not increase with required overtime pay. To the extent that performance on these jobs depends on individualized job requirements, the employment-expanding effects of an overtime premium will not be realized.

Other evaluation criteria. Decisions to retain or repeal FLSA overtime penalty-wage exemptions based on the above criteria must proceed cautiously from a careful review of industry technology and existing employment practices. If existing technology is such that employment expansion from overtime-wage premiums does not occur, complete or modified exemptions may be required to prevent widespread noncompliance or unnecessary increases in production costs. Similarly, if employment practices in exempt sectors are the product of many years of labor-management bargaining and the standard FLSA overtime wage provisions have not been incorporated, the collective bargaining agreements must be carefully evaluated and understood to insure that the decision to eliminate an exemption will result in a more socially equitable policy. Finally, removal of exemptions may lead to additional paperwork and record-keeping burdens, especially for firms hiring few

workers. Although clearly subjective, this issue requires careful review when a large number of small employing units are involved.

Justifying the Elimination of Exemptions to the Overtime Provisions of the FLSA

The previous discussion of alternative justifications for exemptions to the maximum hour provisions of the FLSA proceeds directly from the job-expansion objective of the Act. The overtime wage penalty was designed as an incentive for employers to maintain a 40-hour workweek through a wage penalty that encourages the hiring of new employees rather than working existing employees beyond the statutory maximum. After more than 40 years under the Act, it may be reasonably argued that the 40-hour workweek is widely accepted by the American public. The work spreading objective of the maximum hour provision of the Act has been largely achieved and continued overtime exemptions are therefore anachronistic. As a result, all employees should receive the overtime premium to reinforce the acknowledged public acceptance of the 40-hour workweek and to provide additional compensation for inconvenience and added risk of injury associated with overtime work. Under this view, the employment-expanding effect of the penalty wage, which was a major original consideration for maximum hour legislation, is minimized or considered irrelevant.

A case for eliminating the maximum hour exemptions for establishments already subject to the minimum wage provisions can be made on administrative grounds as well. All of the section 13 maximum hour exemptions apply to establishments already subject to the minimum wage provisions. Determining the exempt overtime status of employees subject to the minimum wage provisions often entails a time-consuming review of payroll records by enforcement officials and requires special detailed record-keeping procedures by employers. The

total costs expended by Department of Labor enforcement officials in identifying non-exempt employees and the added employer cost of maintaining separate payroll records for those subject to the overtime provisions and those who are not subject may be greater than the cost of providing full subject status to all employees.

Recommendations

A. Retail Trade, Service and Related Exemptions

1. Low-Volume Retail Trade and Service Establishments--Section 13(a)(2) Minimum Wage and Maximum Hour

Approximately 1 million establishments employing 4.2 million nonsupervisory employees were eligible for this exemption in 1978. The exemption applies to any retail trade or service enterprise with annual sales less than \$325,000. (The sales test increases to \$362,500 after Dec. 31, 1981.) Half of the exempt establishments employed approximately 1 million workers at less than the minimum wage. The remaining 3 million exempt employees earned the minimum or above.

The Commission recommends that section 13(a)(2) be eliminated. This action is consistent with a major objective of the Fair Labor Standards Act--to provide a floor under wages for all workers. Moreover, elimination would bring within the scope of the minimum wage and maximum hour provisions of the Act the single largest exempt group of nonsupervisory employees. The Commission further believes that the cost to industry will be minimal since three fourths of the exempt employees already earn at or above the minimum and about half of the exempt employers will not experience wage-bill increases.

2. Seasonal Amusement Establishments--Section 13(a)(3) (Minimum Wage and Maximum Hour)

All seasonal amusement establishments, regardless of annual volume of sales, are exempt from the minimum wage and maximum hour provisions of the Act. Approximately 7,000 establishments employing 200,000 or more peak-week nonsupervisory employees are exempt. Employment varies greatly by season and most employees are hired by large "theme park" operations. About 80 percent are high school or college age youth. Although exempt from the minimum wage provisions, less than 20 percent of peak-week workers earned wages below the minimum. Almost 30 percent, however, worked more than 40 hours per week and did not receive premium overtime pay.

The Commission recommends that section 13(a)(3) be eliminated except for employees of traveling seasonal amusement or recreational establishments, organized camps, religious or non-profit educational centers or for any employee of an agricultural fair or exposition who is employed in a job during the period, not to exceed 30 days, when the fair or exposition is open to the public. The industry cost from eliminating the minimum wage exemption is small, since over 60 percent of the exempt establishments would not experience wage-bill increases. Employment-expanding affects are expected from elimination of the maximum hour exemptions, which would also keep wage-bill increases to a minimum. Retaining the exemption for traveling amusement establishments recognizes the difficulties inherent in enforcing the provisions of the Act on these highly mobile operations. The Commission further believes that retaining the current exemption for camps, religious and educational centers including agricultural fairs and expositions, is appropriate in light of the public service and educational nature of the services rendered by these operations.

3. Manufacturing Employees in

**Exempt Retail Establishments--
Section 13(a)(4) (Minimum Wage
and Maximum Hour)**

Some 5,000 establishments may be eligible to claim an exemption under this section. Most are small bakeries that sell at retail products baked in the same establishment. Approximately 11 percent of the exempt employees earned less than the minimum. The exemption was enacted in 1949 to provide the same treatment to individual employees engaged in manufacturing in a retail establishment as the retail trade employees hired by these establishments. After 1961, changes in coverage criteria for retail trade and service establishments limited the scope of employees eligible for this exemption. Section 13(a)(2) in that year exempted all employees in retail trade establishments engaged in interstate commerce meeting the establishment sales volume criteria.

The Commission recommends that section 13(a)(4) be eliminated. This action is consistent with our previous action on section 13(a)(2) since the establishments able to claim an exemption under 13(a)(4) are a subset of those within the scope of section 13(a)(2). Requiring currently exempt establishments to meet the minimum wage requirements of the Act will have no cost effect on 85 percent of the currently exempt operations.

**4. Employees of Low Circulation
Newspapers--Section 13(a)(8)
(Minimum Wage and Maximum Hour)**

This exemption applies to 4,400 establishments with 23,000 employees. It excludes from both the minimum wage and maximum hour provisions of the Act all employees on any daily, weekly, or biweekly newspaper with a circulation of 4,000 in the county in which it is published or in immediately adjoining counties. Less than one third of the exempt establishments employ workers

at wage rates below the minimum. Only 10 percent of the employees of these papers earned less than the minimum and about the same percent worked more than 40 hours a week and did not receive premium overtime compensation.

The Commission recommends that section 13(a)(8) be eliminated. The cost will be minimal since about 90 percent of the exempt employees already receive more than the statutory minimum wage.

**5. Switchboard Operators on Small
Telephone Exchanges--Section 13(a)
(10) (Minimum Wage and Maximum
Hour)**

Switchboard operators employed by independently owned public telephone companies with fewer than 750 stations are exempt from the minimum wage and maximum hour provisions of the Act. Approximately 50 employees working for 15 exchanges were exempt in 1975.

The Commission recommends that section 13(a)(10) be eliminated. The exempt occupation has become obsolete thereby negating the need for the exemption.

**6. Casual Domestic Workers, Babysitters, and Companions--Sections
6(f) and 13(a)(15) (Minimum Wage
and Maximum Hour)**

Domestic workers including babysitters and companions for the aged or infirm were brought under FLSA coverage in 1974. Exempted at that time were 615,000 casual babysitters (employed fewer than 20 hours per week) and domestic employees working fewer than 8 hours per week or earning less than the minimum quarterly amount required for inclusion under the Social Security system. The wage bill of employers is likely to double if the exemption is lifted and the provisions of the Act are strictly enforced.

The Commission recommends that sections 6(f) and 13(a)(15) relating to
domestic workers and casual babysitters

be retained. The current minimum wage and maximum hour provisions apply to workers who are employed for significant periods of time as domestic workers, babysitters, or companions. Employees now exempt are mostly casual babysitters who are likely to lose their temporary employment opportunities if employers are required to pay minimum wage rates.

7a. Home Delivery of Newspapers--
Section 13(d) (Minimum Wage,
Maximum Hour, and Child Labor)

More than 900,000 persons, about 90 percent 18 and under, are engaged in the home delivery of newspapers. Most are paid a fixed percentage rate of the home delivery price of the paper. The labor force in the industry has been traditionally composed of youth working up to several hours a day either before or after school. In suburban areas with lower density housing, however, papers are increasingly being delivered by adults using cars or trucks to improve productivity and increase earnings. Wages earned by youth using the traditional door-to-door delivery approach are typically below the statutory minimum.

The Commission recommends that this part of section 13(d) be retained. Although wage rates are often below the minimum, youth have traditionally performed this work to earn extra money and continue to do so. Eliminating the exemption could result in severe enforcement problems since actual hours of work of affected employees are difficult to define.

7b. Home Production of Holly
Wreaths--Section 13(d) (Minimum
Wage, Maximum Hour, and Child
Labor)

Since 1961, individuals engaged in gathering holly, cedar, pine cones, and other natural materials or using these materials for the production of holly

wreaths during the Christmas season have been exempt from the minimum wage, maximum hour, and child labor provisions of the Act. The exemption was enacted by Congress subsequent to a Supreme Court concurrence with a Department of Labor ruling that this activity constituted illegal industrial homework. Although the production and sale of holly wreaths to retail establishments for resale was considered to be in violation of the industrial homework provisions of the Act, the industry was never large and was limited primarily to small localities along the east coast. The few wreaths that are currently produced are sold primarily for fund-raising activities for local church and civic organizations.

The Commission recommends that this part of section 13(d) be eliminated. The occupation within the scope of this exemption has become obsolete. In addition, it is at variance with the prevailing Department of Labor regulations governing industrial homework, which do not recognize geographical location of production as a basis for special consideration under the Act.

8. Commissioned Workers in Retail
Trade or Services--Section 7(i)
(Maximum Hour)

Approximately 500,000 employees receiving at least half of their earnings from commissions are exempt from the maximum hour provisions of the Act if their straight-time hourly wage rate is at least one-and-a-half times the statutory minimum (\$5.025 in 1981).

The Commission recommends that section 7(i) be retained. The partial overtime provision provides wage protection for exempted employees. Removal will create serious administrative problems since working hours for commissioned salesworkers are often difficult to separate from non-work hours.

9. Employees of Hospitals and
Nursing Homes--Section 7(j) (Maxi-

mum Hour)

The Act provides special overtime provisions for nonsupervisory employees of private hospitals and nursing homes. The standard provision requiring a time-and-a-half premium after forty hours per week is waived under this provision, which requires that the standard overtime premium be paid after 80 hours in a consecutive 14 day period or after 8 hours per day.

The Commission recommends that section 7(j) be retained. The current special exemption provides employers with the necessary flexibility in work-week scheduling to meet the continuous care requirements of hospitals and nursing homes, while retaining the spirit of the overtime provisions for subject employees.

10. Selected Employees of Radio and Television Stations Located in Small Towns--Section 13(b)(9) (Maximum Hour)

This exemption is claimed by 3,000 establishments hiring some 17,000 exempt news editors, announcers, and chief engineers. More than 90 percent of the establishments and employees are located in nonmetropolitan areas. Announcers most often worked more than 40 hours a week, although a larger number worked less than 35 hours a week. Some employees in the three exempt groups could qualify as exempt from the minimum wage and maximum hour provisions of the Act under the duties test applied to employees exempt under section 13(a)(1), which applies to executives, administrators, and professionals. In the past, however, the salary levels were too low to qualify them as exempt under the salary test.

The Commission recommends that section 13(b)(9) be eliminated. The high proportion of employees working less than 35 hours per week suggests that desirable employment expansion might occur, which would reduce the resulting

wage-bill increases. Moreover, salary test levels used to determine the exempt status of executive, administrative, and professional employees have not been changed since 1975 while general wage rates have increased. This suggests that many employees exempt under section 13(b)(9) would remain exempt under section 13(a)(1).

11. Selected Employees of Retail Automobile, Truck Farm Implement, Trailer, Boat, and Aircraft Dealers --Section 13(b)(10) (Maximum Hour)

Salesworkers, parts-counter workers and mechanics employed by auto, truck, and farm implement dealers are exempt from the maximum hour provisions of the Act, as are salesworkers employed by trailer, boat, and aircraft dealers. Automobile dealers hired over 90 percent of the exempt employees, most of whom earn part of their income from commission. Exempt salesworkers often earn over half of their income from commissioned sales. An estimated 70 percent of the establishments within the scope of this exemption use it to preclude payment of the FLSA overtime premium to workers employed more than 40 hours a week. Workweeks of 44 or 48 hours are normal for many exempt establishments, which are open for business five and a half or six days a week.

The Commission recommends that section 13(b)(10) be eliminated. The cost impact is expected to be small and limited to mechanics and parts-counter workers. Most salesworkers receive over half of their earnings from commissioned sales and therefore will remain exempt under section 7(i). Extending the standard FLSA overtime protection to the remaining exempt employees is consistent with the general intent and spirit of the Act.

12. Live-in Domestic Workers--Section 13(b)(21) (Maximum Hour)

Over 100,000 household workers are exempt from the maximum hour provisions of the Act; 60 percent are live-in companions. These employees generally receive room and board in addition to their basic salary and are required to be on call for extended periods during the day to handle emergencies. As such, their employment situation is different than that of other full-time domestic employees, who work regularly scheduled hours.

The Commission recommends that section 13(b)(21) be retained. The unique employment relationship of these workers might be severely upset if the exemption is removed and could cause a net loss of income due to curtailment of in-kind perquisites, including room and board, or a reduction in hours worked.

13. Substitute Houseparents Employed by Orphanages with Associated Resident Educational Facilities --Section 13(b)(24) (Maximum Hour)

Husband and wife couples employed as houseparents by orphanages with adjoining educational facilities are exempt from the maximum hours provisions of the FLSA if they earn more than \$10,000 a year and receive room and board. Approximately 7 such institutions hiring 118 couples are eligible for this exemption.

The Commission recommends that section 13(b)(24) be eliminated. The exemptions affect only a small number of individuals and establishments, which should be treated the same as other private educational establishments.

14. Motion Picture Theaters--Section 13(b)(27) (Maximum Hour)

Approximately 12 thousand theaters hiring over 120,000 employees are eligible to take advantage of this exemption. Fewer than 5 percent of the exempt employees work more than 40 hours per week with over 60 percent working fewer than 25 hours per week.

The Commission recommends that section 13(b)(27) be eliminated. The small percent of overtime hours worked by employees in the industry suggests that the wage-bill increases from eliminating the exemption will be extremely small. Moreover, the resulting employment-expanding effects may totally offset any potential wage-bill increases.

15. Concessioners Operating Seasonally on Federal Lands--Section 13(b)(29) (Maximum Hour)

Concessioners operating seasonally in national parks, national forests, or on lands owned by the National Wildlife Refuge System are granted a partial exemption from the maximum hour provisions of the FLSA. Under this exemption, approximately 20,000 seasonal employees must be paid time-and-a-half for hours worked beyond 56 per week. The overtime premium rate is not required below 56 hours a week.

The Commission recommends that section 13(b)(29) be eliminated in two stages. During the first year the exemption would be in effect through 48 hours per week. The standard overtime provisions requiring premium pay for all hours over 40 would become effective during the second year. This action is consistent with Commission recommendations affecting other seasonal recreation activities. Moreover, we believe that the Federal government, as a signatory to the leases under which these seasonal concessioners operate, should in all instances require adherence to prevailing Federal wage and hour statutes by all parties with whom it does business.

B. Agriculture and Agricultural Services

1. Fishing and First Processing at Sea of Marine Products--Section 13(a)(5) (Minimum Wage and Maximum Hour)

Fishermen have been exempt from the minimum wage and maximum hour

provisions of the Fair Labor Standards Act since it was enacted in 1938. Currently, some 175,000 employees, many of them seasonal workers, are affected by this exemption. Fishing boats employing these exempt workers are generally small with crews rarely exceeding 5 per vessel.

The Commission recommends that section 13(a)(5) be retained. Employees traditionally have been paid on a "share of the catch" basis with earnings dependent on the value of the catch. Removing the exempt status would lead to insurmountable problems of enforcement and require major restructuring of the current employer-employee relationship.

2. Small Agricultural Employing Units--Section 13(a)(6)(Minimum Wage and Maximum Hour)

Agricultural employers using 500 or fewer man-days of labor in the peak calendar quarter of the previous calendar year are exempt from the minimum wage and maximum hour provisions of the FLSA. In July 1980 some 346,000 employers hiring 830,000 workers were exempt under this provision. In addition, certain employees remain exempt from both minimum wage and maximum hour provisions on large agricultural employing units, whose remaining workers are subject to the minimum wage requirements. Employee groups exempt from both the minimum wage and maximum hour provisions under section 13(a)(6) are:

- members of the immediate family of the farm operator.
- local hand-harvest piece-rate workers employed fewer than 13 weeks as farm workers during the previous calendar year.
- workers engaged in the range production of livestock.

-- children of migrant workers employed as piece-rate harvest workers on farms employing their parents provided they receive the same piece rate as other employees.

The Commission recommends that the 500 man-day requirements [section 13(a)(6)(A)] be reduced to 300 man-days. This should be accomplished in two steps unless unmanageable administrative problems are encountered. An estimated 32,000 employers and 150,000 employees would become subject to the minimum wage provisions by this action during the peak-season month.

The Commission further recommends that the minimum wage exemption for local hand-harvest piece-rate workers [section 3(a)(6)(C)] be eliminated. Approximately 35,500 local piece-rate workers employed on farms where other workers were guaranteed the minimum wage met the requirements of this criterion in July 1980. The estimated weekly wage-bill increase from removing this exemption was only \$125,000 for the entire industry. Moreover, this action provides improved equity in the administration of the Act by protecting all piece-rate workers employed by a single employer. It brings the agricultural sector into greater conformity with a major underlying principle of the Fair Labor Standards Act, which is to provide full minimum wage protection to all wage earners.

The Commission further recommends eliminating the exemption for children of migrant workers who are employed as piece-rate hand-harvest workers on the same farm as their parents [section 13(a)(6)(D)]. This action is taken to provide the same equity in minimum wage protection of migrant youth who are employed as piece-rate workers as is provided to local piece-rate workers under the previous Commission recommendation.

The Commission further recommends retaining the exemption for em-

ployees principally engaged in the range production of livestock [section 13(a)(6)(E)]. Including some 5,400 range livestock production workers under minimum wage provisions poses insurmountable administrative problems. While away from ranch headquarters, daily work schedules are often indeterminate and accurate records are difficult to maintain. These employees are subject to the minimum wage provisions when working for an agricultural employer meeting the man-day test while engaged in activities other than the range production of livestock. The Commission endorses the continuation of this policy.

3. Tobacco Handling Incidental to Auction Sales--Section 7(m) (Maximum Hour)

Approximately 500 tobacco auction warehouses hiring some 16,000 peak-week employees are partially exempt from the maximum hour provisions of the FLSA. Only warehouses handling selected tobacco grades and those engaged in post-sale stemming and redrying operations are within the scope of this exemption. The exemption applies during a 14-week period when establishments are required to pay premium overtime rates after 48 hours per week or after 10 hours per day. At other times the standard overtime pay provisions apply. The industry is highly seasonal with employment dropping sharply after the 7th week.

The Commission recommends that section 7(m) be eliminated. The exemption is inconsistent in its application since only warehouses handling selected types and grades of tobacco are exempt. This provides them with a competitive advantage over other tobacco warehouses and auction facilities required to meet the full maximum hour provisions under the Act at all times.

4. Outside Buyers of Poultry, Eggs, Cream, and Milk--Section

13(b)(5) (Maximum Hour)

Dairy and poultry products buyers who work away from their employer's offices were provided an exemption to the maximum hour provisions in 1949. A recent survey identified only 10 establishments hiring a total of 50 employees who could take advantage of this exemption.

The Commission recommends that section 13(b)(5) be eliminated. The exempt occupation has become obsolete as a result of changing technology in the production, marketing, and selling of farm products. Therefore, the exemption is no longer required.

5. Large Agricultural Employing Units and Irrigation District Employees--Section 13(b)(12) (Maximum Hour)

Currently, employees on farms hiring more than 500 man-days of labor in the peak calendar quarter of the previous calendar year are subject to the minimum wage provisions of the Act, except for those employees who qualify for one of the specific employee exemptions under section 13(b)(6). All agricultural employees, however, are exempt from the maximum hour provisions. Some 41,000 employers hiring 725,000 workers during July 1980 were subject to the minimum wage provisions of the Act but exempt from the maximum hour provisions under section 13(b)(12). In addition, some 4,400 peak-week employees of approximately 700 agricultural irrigation districts are exempt from the maximum hour provisions of the Act.

The Commission recommends that the maximum hour exemption provided to agricultural employers under section 13(b)(12) be retained. Eliminating this exemption may lower the total earnings of seasonal agricultural employees if employers hire additional workers to offset wage rate increases resulting from the overtime premium rate. In addition, long hours worked

by full-time employees during peak-work seasons are often compensated for by additional time off or shorter work days during slack periods. Finally, extending maximum hour provisions would increase employer costs by an estimated \$9 million per week--more than 10 percent of the wage bill on affected agricultural employing establishments.

The Commission further recommends that the maximum hour exemption applicable to employees of irrigation districts under section 13(b)(12) be eliminated. The majority of the employees affected by this exemption already receive premium overtime pay for hours worked in excess of 40 per week. This action extends the overtime premium pay provisions to the remaining employers, thereby eliminating the unfair competitive advantage they currently enjoy.

6. Farmer-Owned Livestock Auctions--Section 13(b)(13) (Maximum Hour)

Livestock auctions without adjoining farm operations are subject to the maximum hour provisions, but livestock auctions operating as an adjunct to farm operations are not. There are fewer than 100 such exempt operations, and they employ fewer than 500 workers.

The Commission recommends that section 13(b)(13) be eliminated. The continuation of this exemption provides an unfair competitive advantage of auctions operated in association with farms. Moreover, most of the exempt operations located in the South already voluntarily meet the maximum hour provisions of the Act. This suggests that the remaining operations, most of which are in the Midwest, can also adapt to the standard overtime premium pay provisions.

7. Employees on Small Country Elevators--Section 13(b)(14) (Maximum Hour)

Some 5,000 small country grain elevators hiring 5 or fewer employees are exempt from the maximum hour provisions of the FLSA. Peak-week employment is estimated to be approximately 15,000. Although total employment does not vary greatly throughout the year, hours of work often exceed 60 per week during the harvest season.

The Commission recommends that section 13(b)(14) be eliminated. The lack of maximum hour protection can result in excessively long peak work-weeks by exempted employees. Resulting worker fatigue can increase the risk of accidents or injury. Moreover, many exempt elevators operate farm supply stores on the same premises whose employees are not exempt from the maximum hour provisions of the Act. Extending the provisions to elevator operators removes the current inequity between employees working for the same employer.

8. Maple Syrup Processors--Section 13(b)(15) (Maximum Hour)

Approximately 600 operators of maple sap processing units employing some 2,000 nonsupervisory workers are exempt from the maximum hour provisions of the Act. Employment is highly seasonal, generally lasting no longer than 4 months a year.

The Commission recommends that section 13(b)(15) be retained. The Commission further recommends that the current language defining establishments exempt under section 13(b)(15) be added to section 13(b)(12) in lieu of retaining the language in its current location. The processing of maple sap into syrup or sugar is viewed most correctly as the processing of an agricultural product. The overwhelming majority of these maple syrup processors are farm operators in their own right. By including the language of this exemption under the basic agricultural maximum hour provision of the Act, the Commission action reinforces the agri-

cultural nature of the establishments affected by this recommendation.

9. Intrastate Transportation of Fruits and Vegetables and Farm Harvest Employees--Section 13(b) (16) (Maximum Hour)

The intrastate transportation or first processing of fresh fruits and vegetables from the farm to points of first marketing and the intrastate transportation of fruit and vegetable harvest workers are exempt from the maximum hour provisions of the FLSA. Approximately 2,500 peak-week employers hiring more than 85,000 employees are affected. Most employees are located in the West. Employment patterns are highly seasonal, with almost two thirds of total annual hours worked accounted for in the 14 peak weeks.

The Commission recommends that this exemption be retained. The Commission further recommends that the current language defining employees and employers exempt under section 13(b) (16) be added to section 13(b)(12) in lieu of retaining the language where currently located. The activities performed by establishments defined under section 13(b)(16) are most correctly viewed as integral to the farm operation. As such, the establishments performing these operations should be afforded FLSA status equivalent to that of large agricultural employing units. The action of the Commission is designed to accomplish this end.

10. Small Scale Logging Operations --Section 13(b)(28)(Maximum Hour)

Some 10,000 independent logging and integrated sawmill and planing mill operations with more than 30,000 employees are exempt from the maximum hour provisions of the FLSA. These exempt establishments all employ 8 or fewer nonsupervisory workers. Two thirds of the exempt establishments are located in the South and 8 out of 10 are

loggers.

The Commission recommends that section 13(b)(28) be retained. Extending overtime premium pay provisions to these small employing units may reduce earnings during peak work periods. Under the current exemption, hours worked in excess of 40 a week during good weather are balanced by shorter workweeks during inclement weather. Moreover, employment is geographically scattered in rural areas. As a result, administrative problems associated with removal of the exemption are likely to be severe.

11. Employees of Cotton Gins, Sugar-Cane and Sugar-Beet Processors, Cotton Warehouse and Cottonseed Processors--Sections 13(h), 13(i), 13(j) (Maximum Hour)

Approximately 3,300 establishments and over 125,000 employees of cotton gins, cottonseed processors, cotton warehouses, and sugar-cane and sugar-beet processors are partially exempt from the maximum hour provisions of the FLSA. The exemption requires that employers pay the standard overtime premium for work beyond 48 hours a week or 10 hours a day for a 14 week peak period. Beyond the 14 week period the overtime premium is required for all hours over 40 per week. Seventy percent of all exempt peak-week employment is related to cotton processing activities. Most of the remaining workers employed by sugar-cane and sugar-beet processing establishments currently receive overtime premium pay after 40 hours for all work performed.

The Commission recommends that section 13(h), 13(i) and 13(j) be eliminated. The affected establishments are already required to pay an overtime premium after 40 hours a week for all work performed outside of the 14 week peak period to which the partial exemption applies. The adjustment to full equality with the majority of other economic activities subject to the maxi-

mum hour provisions of the Act should not pose a major problem since these requirements are already met during the 38 weeks that the exemption does not apply.

C. The Transportation Sector

1. Seamen on Foreign Vessels -- Section 13(a)(12) (Minimum Wage and Maximum Hour)

All employees working on vessels registered under the laws of a foreign nation are exempt from the minimum wage and maximum hour provisions of the FLSA regardless of whether the vessel is owned by a U.S. citizen or a corporation organized under U.S. law. Estimates of the total U.S. citizens exempt under section 13(a)(12) are not available.

The Commission recommends that U.S. workers employed on vessels registered under the laws of a foreign nation be treated equally under the FLSA with workers employed on vessels registered under U.S. laws to the extent that this is possible under international law. It is the opinion of the Commission that all U.S. citizens engaged in shipping on the high seas should be treated equally with those employed on vessels registered under the laws of the United States.

2. Employees of Independent Wholesale or Bulk Distributors of Petroleum Products--Section 7(b)(3) (Maximum Hour)

The exempted employers are distributors of gasoline, fuel oil, and related products with total annual sales less than \$1 million, of which 75 percent must be distributed within the state in which the firm is organized. In addition, exempted employers must not sell more than 25 percent to wholesale distributors for resale purposes. Approximately 6,000 to 10,000 employees and 2,000 firms are exempted from the maxi-

mum hour provisions of the Fair Labor Standards Act. The firms are dispersed geographically and most employees are nonunion members working for firms that typically hire no more than three to five workers. Employment in many establishments peaks seasonally during winter deliveries of fuel oil and summer deliveries of gasoline.

The Commission recommends that section 7(b)(3) be eliminated. A clear rationale for retaining this exemption for year-round employees is not readily demonstrable. The Commission recognizes, however, that the present exemption is not without merit in cases where seasonality is clearly evident and we note that some employers provide employment opportunities for drivers during off-peak periods. Therefore, we would not oppose retaining the exemption for special situations where extreme employment seasonality is clearly evident. In such cases, elimination of the exemption could result in a reduction in annual hours of work, thereby reducing the earnings of affected employees.

3. Charter Activities of Local Transit Employees--Section 7(n) (Maximum Hour)

Approximately 100,000 potential charter drivers employed in local transit systems are currently exempted from the overtime provisions of the FLSA when driving for charter activities if pursuant to a prior agreement or understanding with the employer and if charter work is not part of the regular employment requirements. The statute permits overtime payments if there is no break in the employment between normal driving duties and charter duties. Normally the issue arises in the case of drivers who work a standard 40-hour, five-day week and do charter driving on weekends. The exemption affects primarily employees of municipal transit systems. Employees of major interstate carriers such as Greyhound and Conti-

nternal Trailways are exempted from the overtime provisions of the Fair Labor Standards Act because hours of work for employees of these carriers are regulated by the Interstate Commerce Commission. The sector is heavily represented by labor organizations.

The Commission recommends that section 7(n) be retained. It is consistent with provisions contained in current collective bargaining agreements. Moreover, determining overtime hours for overnight charter trips poses major administrative problems and elimination of the exemption may encourage employers to hire nonregular drivers who may not have the driving expertise of the regular fleet employees. This in turn could jeopardize the safety of the travelling public.

4. Transportation Employees Regulated Under the Motor Carriers Act of 1935--Section 13(b)(1) (Maximum Hour)

At least 1 million drivers, drivers' helpers, mechanics, and loaders subject to the provisions of the Motor Carrier Act of 1935 are exempted under this provision. Although the Secretary of Transportaton has the authority to set hours of work for all exempt categories of employees, this authority has never been exercised for mechanics and loaders. The courts have ruled that the Secretary of Labor cannot act on behalf of these employees under the current legislative setting.

The Commission recommends that section 13(b)(1) be retained for all employees subject to the Motor Carriers Act of 1935, except for those mechanics and loaders for whom the Secretary of Transportation has not exercised his authority. Since the authority resident in the Secretary of Transportation to regulate hours of exempt loaders and mechanics has not been exercised since the enactment of the exemption in 1938, the Commission believes that the requisite steps should be taken

to permit the protection of these employees under the maximum hour provisions of the FLSA.

5. Employees of Common Rail Carriers Subject to Title I of the Interstate Commerce Act--Section 13(b)(2) (Maximum Hour)

Approximately 512,000 employees of common rail carriers are exempt from the overtime provisions of the Fair Labor Standards Act. They are employed by approximately 400 common rail carriers, and 90 percent are employed by 40 Class 1 line-haul employers. Eighty percent of all workers are represented by labor organizations. This exemption has been in force since the enactment of the Fair Labor Standards Act.

The Commission recommends that this exemption be retained. Line employees of exempt railroads are provided with special overtime premium pay provisions reflecting their particular employment situation. Other exempt employees are covered under industry overtime provisions that meet or exceed FLSA standards.

6. Employees of Air Carriers Subject to The Railway Labor Act--Section 13(b)(3) (Maximum Hour)

Some 360,000 exempt employees are employed by 68 major trunk and other air carriers registered or certified by the Federal Aviation Administration (FAA). Ninety percent are represented by labor organizations, with the remaining employed under work standards and wage rates comparable to workers in the organized sector. Hours of work for flight crew members and flight mechanics are regulated by the FAA. Hours of work are not regulated for stewardesses under the current FAA administrative authority.

The Commission recommends that section 13(b)(3) be eliminated for stewardesses and other airline employees

whose hours of work are not specifically regulated by the FAA. This action is taken to insure that employees currently outside the scope of the FAA maximum hours protection be included within the maximum hour provisions of the FLSA.

7. Seamen on Vessels Registered Under the Laws of the United States--Section 13(b)(6) (Maximum Hour)

This exemption from the overtime premium pay provisions of the Act has existed since the enactment of the Fair Labor Standards Act in 1938. It affects employees in oceangoing shipping and those employed by employers operating on inland and coastal waterways. The employment conditions in oceangoing shipping vary considerably from those in coastal and inland waterway shipping. Employees on oceangoing vessels normally work 8-hour shifts 7 days a week while at sea. Exempt employees engaged in inland or intracoastal waterway shipping generally work two 6-hour shifts while on line duty. The exemption does not apply to employees engaged in dock-side work.

The Commission recommends that section 13(b)(6) be retained. Employees on many U.S. oceangoing vessels receive premium overtime pay for daily hours worked in excess of 8 as part of collective bargaining agreements. Moreover, extending the maximum hours provisions to these employees while aboard ship will not have any salutary employment expanding effects. Extending the standard overtime provisions to employees engaged in inland and intra-coastal waterway shipping will upset traditional work patterns in this industry and will not result in employment expansion effects.

8. Local Delivery Drivers Paid on a Trip-Rate Basis--Section 13(b)(11) (Maximum Hour)

Approximately 1,000 workers employed by 19 establishments are exempted under these provisions. Approximately 80 percent of the employees are represented by labor organizations and approximately the same percent are employed in the distribution of beer and other beverages in New Jersey, New York, Connecticut, Pennsylvania, and Illinois. The remaining employees work in North Carolina and are engaged in distributing oil and asphalt products. The exemption is available only to workers paid on a trip basis and on the condition that the employment plan submitted by the firm will result in the equivalent of no more than 2,080 annual hours of work or an average workweek of no more than 40 hours.

The Commission recommends that section 13(b)(11) be eliminated. The original purpose of this amendment is no longer relevant since few drivers employed by establishments originally assisted by this exemption appear to work more than 40 hours a week even during peak periods.

9. Taxicab Drivers--Section 13(b)(17) (Maximum Hour)

Approximately 44,000 drivers identified as bona fide employees hired by 2,000 firms are exempted from the overtime provisions of the Fair Labor Standards Act. Forty percent of the drivers are represented by labor organizations; approximately 95 percent receive earnings based on a percentage of fares collected.

The Commission recommends that section 13(b)(17) be retained. The prevalence of commission earnings as the major method of compensation would create severe administrative problems if the exemption were eliminated. In addition, hours of work for most employees are effectively controlled under existing collective bargaining agreements.

D. Certification Programs

The Fair Labor Standards Act includes provisions under which the Department of Labor may issue certificates authorizing subminimum wage rates for certain groups of workers for two reasons: (1) to prevent curtailment of employment opportunities (Section 14), and (2) to restrict outright or regulate the incidence of industrial homework in order to prevent or curtail the development of exploitive working conditions and to protect wage and labor standards in specific industries (section 11).

1. Industrial Homeworker Certificates--Section 11(d)(Enforcement of Minimum Wage Provisions)

Regulations governing the issuance of homework certificates remain essentially unaltered from those developed in 1942 after hearings held by the Department of Labor. Homework continues to be prohibited in seven industries without the appropriate certificates. These industries are: (1) women's apparel, (2) jewelry manufacturing, (3) knitted outerwear, (4) gloves and mittens, (5) button and buckle manufacture, (6) handkerchief manufacture, and (7) embroidery. Jewelry manufacture by Pueblo, Navajo, and Hopi Indians on their reservations is excluded from the homework prohibitions.

Because of the stringent provisions governing the certificates, they are issued only if homework prohibition results in "unusual hardship" to the homeworker. The care of infant children at home has never been considered an "unusual hardship" and therefore is not a sufficient reason for issuing certificates.

Homework is permitted without certification if supervised under a state-approved vocational rehabilitation program or sheltered workshop and is permitted in the private sector without prior certification in all areas except the seven specifically identified in the

regulations. All employers, however, are required to submit employment records using the designated Homeworker Handbook. These seven industries were initially targeted because prevailing technologies were highly conducive to the development of exploitive wages and working conditions.

Although the original intent of the homework regulations was to encourage the orderly elimination of industrial homework, a small number of certificates continue to be issued. Only 121 were issued in FY 1980, two thirds for the home manufacture of women's apparel, knitted outerwear, and gloves and mittens. This compares with an estimated 140,000 certificates issued in 1940.

The Commission recommends that the section 11(d) homeworker certification provisions be retained. The original purpose of this provision was to reinforce the authority of the Department of Labor to control effectively the production processes associated with industrial homework and to curtail the development of exploitive labor practices among establishments using this method of production. The Commission's action is taken to reaffirm its commitment to these goals and in recognition that continued vigilance is required to insure that substandard wages and working conditions do not again become a condition of employment for workers with few job alternatives.

2. Subminimum Wage Certificates--Section 14(a) (Subminimum Wages for Entry-Level Workers)

Certification programs under section 14(a) have been developed for industrial-learners, student-learners, student-workers, apprentices, and messengers. Section 14(b) authorizes the Department of Labor to issue certificates to retail trade or service establishments, agricultural employers, and private institutions of higher education desiring to hire full-time students at

wage rates no less than 85 percent of the statutory minimum.

Industrial-learner, apprentice, and messenger programs are little used today. The messenger and apprentice programs were never widely used, in sharp contrast to the learner programs, which were heavily used during the first 15 years of the Act.

Industrial-learner certificates have been issued for entry-level workers in specific occupations in the textile and garment trades. In FY 1979, only 35 certificates were issued authorizing 769 trainees. Three fourths were issued for sewing-machine operators. Minimum wage rates are administratively set for each recognized learner occupation. In recent years they have averaged from 96 to 98 percent of the statutory minimum. During the early years of the program industrial-learner certificates were heavily used by employers immediately following minimum wage increases. Over 73,000 workers were employed under the program in 1950. This cyclical use of industrial-learner certificates did not continue after the mid-1960s and the program is now virtually phased out.

The student-learner and student-worker certificates are outgrowths of the general learner certification program tailored to meet the employment needs of students employed part time in production-related jobs. Wages paid to workers employed under the program must be at least 75 percent of the statutory minimum wage. Student-learner permits are issued for employment of students enrolled in vocational education programs. The program continues to be utilized with over 4,000 certificates issued annually. Student-worker certificates were issued from 1956 to 1974 primarily to schools operated by Seventh Day Adventists. Amendments to the FLSA in 1974 authorized the Department of Labor to waive, by regulation or order, the minimum wage requirements for elementary and secondary schools, including those institutions formerly uti-

lizing the program. To date, regulations have not been developed under the 1974 amendment and the Department has decided not to enforce the minimum wage and overtime provisions. Child labor provisions continue to be enforced.

The apprentice subminimum-certification program has never received widespread use. No certificates have been issued for payment of subminimum wages for apprentice programs on the U.S. mainland since the early 1970s. Under existing regulations governing FLSA subminimum-apprentice certification procedures, certificates cannot be granted without prior registration of the apprentice program with the Bureau of Apprenticeship and Training (BAT) or the appropriate state agency. The BAT, however, will not register programs unless the starting apprentice wage is at least the statutory minimum. This regulatory policy effectively curtails the current use of the program.

Provisions to authorize payment of subminimum wages to individuals delivering letters and messages were contained in the FLSA as enacted in 1938. No messenger certificates were ever issued on the US. mainland and none have been issued in Puerto Rico since 1950.

The Commission recommends that all section 14(a) certification provisions be retained. Although some of these programs are not in use, they provide a useful fallback position in the event that economic conditions once again warrant their use to encourage job creation.

2b. Subminimum Wage Certificates --Section 14(b) (Subminimum Wages For Full-Time Students)

The full-time student certification program was initially authorized under the 1961 amendments in response to concerns that coverage of large retail trade and service establishments under the minimum wage provisions of the Act would reduce employment opportunities for youth. The program was limited to

authorized retail trade and service establishments, which in turn were limited to hiring no more than 10 percent of total establishment employment under the program. By regulation, students hired under the program could not be employed more than 24 hours a week while school was in session and only high school students 19 and under were eligible for the reduced rates. Slightly over 2000 certificates were issued in FY 1962.

The 1966 amendments codified many regulations including (1) removal of the 10 percent limitation (2) elimination of the upper age limitation (3) reduction of allowable hours of work from 24 to 20 while school is in session and (4) establishment of a base year for the purposes of determining maximum utilization percentages. The amendments also authorized program use by newly subject agricultural employers. Over 4,400 certificates were granted in FY 1967.

In 1974, the program was extended to institutions of higher education and new authority was granted to the Department of Labor to ease the qualifying requirements for retail trade, service and agricultural employers hiring 4 or fewer employees. In FY 1975, 26,170 certificates were issued compared to 7,551 in FY 1974.

The decision rendered in National League of Cities v. Usery eliminated the need for public institutions of higher education to use the certificates by declaring them outside the scope of the minimum wage provisions of the Act. The amendments of 1977 further eased the administrative qualifying requirements for small employing units by granting authorization to retail trade, service, and agricultural employers hiring 6 or fewer full-time student workers under the program simply by filing an initial application form. Total certificates issued to retail trade, service, and agricultural establishments increased to 30,616, up from 18,798 in FY 1977. Most of the FY 1978 gains have been maintained through FY 1980. In addi-

tion, 807 certificates were issued to private institutions of higher education. About 500,000 full-time students were authorized to work under the program in FY 1980.

The Commission recommends that provisions of section 14(b) permitting the employment of full-time students at subminimum wages by certificated retail trade, service, and agricultural employees and by private colleges and universities be limited to individuals enrolled in high school. Although we are in general agreement with the principle that all employees should earn at least the statutory minimum wage, we also recognize that high-school youth may gain useful experience from part-time employment opportunities offered by jobs approved under the full-time student certification program. We would prefer that such jobs be limited to those offering substantive skills development and be associated with regular increases in salary as job proficiency is attained.

E. The Public Sector

The 1966 and 1974 amendments to the Fair Labor Standards Act brought all public sector employees within the scope of the minimum wage provisions. Certain employees retained full or partial exemptions from the maximum hour provisions, including police and fire protection personnel.

The constitutionality of applying Federal wage and hour laws to state and municipal employees was challenged by the National League of Cities, the National Governors' Conference, and individual states and cities. The case was eventually heard by the Supreme Court, which ruled in June 1976 that "the challenged amendment operates to directly displace the states' freedom to structure integral operations in areas of traditional governmental functions." The Court further stated that the amendment specifically "penalizes the States for choosing to hire governmental employees on

terms different from those which Congress has sought to impose." This decision rendered unenforceable all minimum wage and maximum hour provisions as they applied to state and local public sector employees engaged in traditional governmental functions. Eight such traditional functions have been identified by the Department of Labor within the framework spelled out by the Court: (1) schools, (2) hospitals, (3) fire prevention, (4) police protection, (5) sanitation, (6) public health, (7) parks and recreation, and (8) libraries and museums. The status of Federal employees subject under the 1966 and 1974 amendments to the Act or private sector employees providing the same services was not affected by the ruling.

The direct effect of not enforcing the 1974 FLSA amendments extending minimum wage provisions to the public sector has resulted in a relatively high incidence of subminimum and minimum wage workers among local government employees across a large area of the U.S. including the Southern Appalachian and deep South states and most states in the Central Plains and Mountain Regions west of the Mississippi River. Up to 20 percent of all local public sector workers in these states received wages at or below the federal minimum during the second quarter of 1980. Although wage structures are relatively lower in these states, local public sector employment may provide greater security for some persons than higher paid private sector jobs because of the longevity of local elected officials who have a high degree of control over appointments. Moreover, some local employees are under civil service pay scales and employment standards, thereby mitigating the need for specific coverage under minimum wage laws. But the lack of effective federal minimum wage coverage for local public sector workers and the unlikelihood that this will change in the near future suggests that the relatively high incidence of workers receiving wages less than

the federal minimum will also continue.

1. Federal Fire Protection and Law Enforcement Personnel--Section 7(k) (Maximum Hour)

A partial exemption for standard FLSA maximum hour provisions is provided for federal fire protection and law enforcement personnel employed in units hiring 5 or more such employees. Effective January 1, 1978, federal law enforcement personnel receive overtime premium pay of one-and-a-half times straight-time pay for all hours in excess of 186 per 28-day work period or the equivalent for shorter work periods. This criterion was based on average hours worked by such employees as identified in a survey including calendar year 1975 as mandated by the 1974 amendments to the Act.

The survey disclosed that Federal fire protection personnel averaged 282 hours of duty time per 28-day work period (about 70 hours per week). Since this exceeded the existing statutory straight-time pay limit of 216 hours, this lower limit continues to prevail for federal fire protection personnel.

Converted to weekly equivalents, federal law enforcement personnel under the FLSA receive at least time-and-a-half after 46.5 duty hours a week and federal fire protection personnel after 54 duty hours a week. Federal firefighters, however, are also subject to the General Schedule applicable to all white-collar federal employees. Under the GS schedule they are compensated at 25 percent above the annual grade salary level to compensate for 24-hour duty tour requirements. Overtime premium pay is required beyond 72 hours per week (or three 24-hour duty tours).

The Commission recommends that section 7(k) be retained and that efforts continued to reconcile the FLSA wage and hour provisions with those contained in the General Schedule affecting federal fire fighters and law

enforcement personnel. The difficulties inherent in developing equitable personnel policy practices under two pay schedules cannot be minimized. We encourage continued negotiations to achieve a just and equitable set of wage and hour policies for employees included within the scope of this exemption. An eventual solution within the context of the General Schedule would seem to be the most advantageous goal for these negotiations.

**2. Law Enforcement and Fire Protection Personnel in Jurisdictions Hiring Four or Fewer Employees--
Section 13(b)(20) (Maximum Hour)**

A complete exemption for all law enforcement or fire protection personnel in jurisdictions with four or fewer employees in fire protection or law enforcement during the pay period is provided under the FLSA. The exemption as it was written in 1974 applied to all local, state, and federal jurisdictions meeting the minimum employment criteria. Although including federal, state, and local workers within its scope, the exemption was designed for use by very small local jurisdictions, which are now completely outside the effective scope of the minimum wage and maximum hour provisions of the FLSA as a result of the decisions rendered by the Supreme Court in National League of Cities v. Usery.

The Commission recommends that section 13(b)(20) be eliminated to conform with current reality concerning FLSA coverage of public sector employees. This action is taken to remove unnecessary language from the Act and should not be construed as an endorsement of the current absence of effective FLSA wage and hour protection for public employees.

F. White Collar Workers

1. Executive, Administrative and Professional Employees and Outside

**Salesworkers--Section 13(a)(1)
(Maximum Hour)**

Approximately 13 million employees are exempt from the minimum wage and maximum hour provisions of the FLSA as executives, administrators, and professionals. The statutory language is clear in its intent to exempt such employees from both the minimum wage and maximum hour provisions of the Act. The authority to define such exempt employees for purposes of administering the Act rests with the Secretary of Labor. To this end, three sets of regulatory criteria have evolved, which provide the basis for defining an exempt employee. Employees not meeting these tests are not exempt under section 13(a)(1) and are therefore subject to the Act unless specifically exempt under another provision. To be considered exempt an employee must earn a salary above an administratively prescribed test threshold (salary test), perform duties defined for either an executive, administrative, or professional employee associated with the minimum salary test level (duties test) and (3) devote no more than 20 percent (40 percent for retail and service employees) of total work hours in nonexempt duties (duties time test). Working foremen are not considered exempt under this provision. Since 1975 the basic salary test level for executives and administrators has remained at \$155. For professionals the salary test is \$170 per week.

Approximately 2 million employees are exempt from the minimum wage and maximum hour provisions of the Act under section 13(a)(1) as outside sales workers. Included in this category are individuals such as insurance, automobile and other sales workers who make sales or take orders away from their employer's place of business.

The Commission recommends that this exemption be retained and that salary test levels used as a partial criterion to determine eligibility for this

exemption be raised to the historical level prevailing during the period 1950 to 1975 and adjusted upward as needed to maintain this historical relationship. The salary test value in 1981 has declined to 15 percent above the equivalent weekly earnings for employees working 40 hours per week at the minimum wage. From 1950 to 1975 the salary test for executives was increased several times to maintain the test level at about twice the minimum wage equivalent for a 40-hour workweek.

Selected References

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Chapter 7

USE OF FLSA EXEMPTIONS BY CONGLOMERATES

Mandate L required the Commission to analyze the extent to which the minimum wage and overtime exemptions in the FLSA apply to conglomerates and the effect on conglomerates of eliminating those exemptions.¹ Section 2(e)(2) of the amendments defines a conglomerate as a business entity grossing more than \$100 million in annual sales with "common control"² over another business entity the activities of which are "not related for a common business purpose." The central question to be answered is whether the denial of those exemptions to conglomerates would protect smaller independent businesses.

Exemptions Studied

The Commission selected for study the 24 exemptions applying to conglomerates listed in Table 7-1 out of the more than 40 exemptions in the FLSA.

¹This chapter is based primarily on the research report "Conglomerate Use of Exemptions to the Fair Labor Standards Act of 1938" (Arthur Young and Company 1981) found in Volume IV of this Report.

²The Secretary of Labor has defined "control" as the power to direct, restrict, regulate or administer the performance of business activities and not the form of control employed. See Jacob I. Karro (1981).

Eliminated from the study were those exemptions clearly excluded by the legislative history of this mandate, such as the broad 13(a)(1) exemption covering executive, administrative, and professional employees and the 13(a)(7) exemption authorizing the Secretary of Labor to exempt certain employees (e.g. some students and handicapped workers) under specified circumstances. Removing those exemptions would either seriously damage the competitiveness of businesses qualifying as conglomerates or would treat categories of workers unequally according to the type of organization they worked for. The study also excluded those exemptions applying to industries where conglomerates are not found--for example, 13(b)(20) for certain Federal employees, 13(b)(21) for live-in domestic workers and 13(a)(15) for casual babysitters.

In addition, section 13(g), added to the Act in the 1974 Amendments, specifically denies the minimum wage exemptions contained in 13(a)(2) and 13(a)(6) for employees of conglomerates with annual gross sales over \$10 million if those employees work in an establishment that either controls, is controlled by, or is under common control with another establishment whose activities are not related to those of the first for a common business purpose which "materially support" the activities of the employing establishment. Such conglomerates are therefore eli-

Table 7-1
Exemptions Considered Under the Conglomerate Study Mandate

FLSA Section	Description of Industry/Occupation
Exemptions from Minimum Wage and Overtime	
13(a)(3)	Seasonal amusement or recreation/all employees
13(a)(5)	Catching and first processing of sea food/all employees
13(a)(8)	Low circulation newspaper/all employees
13(a)(10)	Small telephone exchanges/switchboard operators
13(a)(12)	U.S. seamen on foreign vessels
Exemptions From Overtime Only	
13(a)(2) ¹ , (4) ²	Retail or service/all employees
13(a)(6) ¹ ; 13(b) (12), (13), (14), (16)	Agriculture/all employees of specific operations
13(b)(1), (2), (3)	Transportation/all operating employees
13(b)(5)	Dairy products/outside buyers
13(b)(6)	Shipping/seamen
13(b)(9)	Small radio and television stations/editors, announcers and engineers
13(b)(10)	Motor vehicle dealers/salesmen, partsmen and mechanics
13(b)(11)	Boat, aircraft and trailer dealers/salesmen
13(b)(15)	Local trucking/drivers and helpers
13(b)(17)	Maple syrup/processors
13(b)(27)	Taxicab/drivers
13(b)(28)	Movie theaters/all employees
	Lumbering and forestry/all employees of firms with eight or less workers

¹Section 13(g) denies the minimum wage exemptions contained in 13(a)(2) and 13(a)(6) to conglomerates that have more than \$10 million in gross and annual sales and meet other criteria described on p.139.

²Those conglomerates mentioned above are eligible under Section 13(a)(4) for both minimum wage and overtime exemptions for the manufacturing portions of retail establishments exempted under 13(a)(2) that are also engaged in specialized manufacturing.

Source: Arthur Young and Company (1981).

gible only for the overtime exemption of 13(a)(2), which applies to small retail or service businesses, and 13(a)(6), which applies to small farms. Those conglomerates are eligible, however, for both the minimum wage and overtime exemptions in the case of the manufacturing portion of retail establishments exempted under 13(a)(2) that are also engaged in specialized manufacturing. Seasonal amusement and recreation establishments

were originally exempted under 13(a)(2), but Congress in 1966 shifted their exemption to 13(a)(3) and clarified the definition of "seasonal." As a result, seasonal amusement parks are still eligible for FLSA exemptions.

Since the Commission's mandate was to determine the effect of removing exemptions now available to employees of conglomerates, this study did not analyze the effectiveness of 13(g),

which denies the minimum wage exemptions contained in 13(a)(2) and 13(a)(6) to the conglomerates described above.

Congress began distinguishing between large and small businesses based on a dollar sales test for eligibility for exemptions in 1961. The addition of section 3(s) and section 13(a)(2) in that year introduced the concept of an "enterprise," a business entity with a common business purpose and annual gross sales exceeding a specific dollar amount, which varied according to the nature of the industry. Later amendments in 1966 and 1974 reduced the sales level and further expanded the Act's coverage. The 1966 Amendments also removed the minimum wage exemption for agricultural establishments with employment of more than 500 man-days in any quarter of the previous year, further cutting back on the eligibility of large businesses for exemptions.

In early 1977, amendments were unsuccessfully proposed to the FLSA to deny the industry exemptions under 13(a) and (b) to conglomerates, leaving them eligible only for the exemptions applicable to employees exempt under 13(a)(1) and 13(a)(7). The House of Representatives Committee on Education and Labor justified those proposed amendments by saying "industry exemptions from the minimum wage and overtime provisions of the Act are generally designed to limit wage costs for businesses operating at relatively low profit levels. The Committee does not believe that large business entities fall within this category" (U.S. House of Representatives 1977).

Although those amendments failed to pass, Congress did include in the law a provision that the Minimum Wage Study Commission, as one of its mandated objectives, analyze the effects of such a denial of exemptions to conglomerates. The mandate limited the Commission's study to conglomerates with more than \$100 million in annual sales rather than the \$10 million limit in section 13(g), which suggests that the

intent of Congress may have been to examine exemptions for big business in general and not just for diversified enterprises. The Commission's findings on conglomerate exemptions in fact do apply to big business in general since the conglomerate firms studied included most large U.S. companies.

The conglomerates initially chosen for the study included most of the largest U.S. firms. The Commission staff matched several Fortune directories and found that the list of 1,839 conglomerates surveyed by Arthur Young and Company contains 768 of the country's 1,000 largest industrial corporations, more than half of the 50 largest financial companies, approximately half of the 50 largest utilities, more than 60 percent of the 50 largest retailers, and more than half of the 50 largest transportation companies.

Functional Definition of Conglomerates

To determine which businesses were under the "common control" of others, the survey relied on the self-identified corporate affiliations, i.e., whether subsidiary, parent, holding company, etc., contained in several commercial reporting services, including Standard & Poor's, Dun & Bradstreet, the Directory of Corporate Affiliations, and Moody's.

As a functional definition of firms with activities "not related for a common business purpose," the Young survey selected businesses with operations in more than one of the "two-digit" categories of the Standard Industrial Classification. The SIC classifies business operations into these categories on the basis of their functional similarity. Most vertically integrated businesses have operations in more than one two-digit SIC category, and firms expanding horizontally must do so into unrelated businesses since antitrust laws discourage such expansion into similar operations.

The two-digit criterion suffers

the drawback of classifying some firms as conglomerates when they are not because activities of vertically integrated firms in different two-digit categories may well be related for "a common business purpose." Conversely, individual two-digit categories may contain activities that are not related.³ Use of the more stringent three-digit SIC categorization as a criterion, however, would have produced such a large number of potential "conglomerates" that the study would have become prohibitively expensive and time-consuming. A three-digit criterion would have forced the Commission to make largely arbitrary decisions on what constitutes a "common business purpose."

To verify annual sales figures reported in the Dun & Bradstreet directory, the source used to determine if firms exceeded the \$100 million mark, sales figures from several other directories were compared with those in D&B for a random sample of firms in the \$80-\$100 million annual sales range. Although the sales figures varied greatly depending on the source, there appeared to be no systematic over- or underreporting; as a result, the D&B figures were considered valid.

Determining Conglomerate Reaction to Exemption Loss

The conglomerate study included a comprehensive review of economic research literature on conglomerate behavior in an attempt to determine how conglomerates and their subunits react when faced with the increased production costs they might incur with the loss of their exemptions. No evidence was found of significant differences in

³For example, the Classification "Chemicals and Allied Products" or "Primary Metal Industries" are likely to include several very distinct operations, which a court might rule are unrelated for a common business purpose should the definitions be challenged.

the competitive power of conglomerate subunits compared with other businesses either in studies of the effect of conglomerate entry on industry concentration rates or in comparisons of the profit rates of conglomerate sub-units with those of other business entities.

Many economists maintain that conglomerates behave like other firms and attempt to maximize profits in each of their subunits. Yet conglomerate sub-units have a potential competitive advantage over other businesses because of their ability to subsidize losses in one unit with profits from another and their ability to engage in business reciprocity, e.g., having one subsidiary of a conglomerate market the products of another.

The "acquisition theories" of conglomerate behavior hold that essentially unrelated firms will merge for three reasons: (1) to avoid antitrust legislation; (2) to reduce risk by diversifying financial assets over other unrelated activities, thereby causing a more stable profit flow; and (3) to diversify out of economic activities based on depletable resources.

The theories of conglomerate behavior and the evidence of merger activity contained in the research literature do not provide any insight into the degree of response of conglomerates to changing economic conditions. Although the direction of conglomerates' responses to higher labor costs appears to be the same as that of other firms, determining the exact amount of factor substitution (hiring more skilled labor or employing more capital-intensive processes), production decreases, and price increases requires further analysis.

Such an analysis ideally would be based on information collected at different times from conglomerate-owned firms at the industry level. The information should include data on total sales, prices, employment, and wages by labor skill class as well as the cost and a-

mount of capital and material inputs.

Unfortunately, adequate information was not available from existing sources such as County Business Patterns, put out by the Census Bureau, Employment and Earnings from the Bureau of Labor Statistics, and figures compiled by the Bureau of Economic Analysis and other public and private data-gathering bodies. Those sources typically describe employment and other pertinent economic data by industry and occupation rather than by type of firm. Moreover, they fail to distinguish hours-worked data by straight time, overtime and industrial organization, as was required for the Commission's study. Their usefulness is further limited because the workers affected by removing conglomerate exemptions are a small fraction of the total work force covered in those sources and are spread thinly across several demographic groups, industries and regions. It was therefore necessary to conduct an original survey to obtain the information.

Survey: Effects of Exemption Removal

To ease the burden on firms responding to the survey, the data re-

quested were limited to information that either was readily available or is periodically provided to the Internal Revenue Service, the Securities and Exchange Commission or other government agencies. The firms were assured that their company information would be kept confidential. Table 7-2 lists the information requested from each firm. Question 12 in Table 7-2 allowed firms to provide information on changes in their operations that would likely result if the exemptions were removed.

A master list of 1,839 conglomerates with sales exceeding \$100 million in 1979 and operating in more than one two-digit SIC category was compiled from 1979 commercial lists of corporate information--Dun & Bradstreet, Standard & Poor's and Moody's. Those sources also furnished data on sales, employment and four-digit SIC codes, the most specific industrial classification. Each of the exemptions listed in Table 7-1 was then given its corresponding four-digit SIC code or codes and, with the assistance of the Department of Labor's Wage and Hour division, matched with the SIC codes on the master list to determine which of the 1,839 conglomerates potentially had operations in ex-

Table 7-2
Summary of Information Collected from Each Survey Respondent

All Operations in Exempt Industry	All Non-supervisory Employees in the Operations in the Previous Column	All Employees Identified in the Previous Columns Which Are Exempt
(1) Value of sales	(2) Number of employees	(7) Number of employees
	(3) Hours worked	(8) Hours worked
	(4) Hours worked in excess of 40 per week	(9) Hours worked in excess of 40 per week
	(5) Total payroll	(10) Total payroll
(6) Types of O/T rates used		(11) Numbers of hours paid at each O/T rate
(12) Planned operational changes upon exemption removal		

Source: Arthur Young and Company (1981), Appendix Survey Instrument B.

empt categories. That procedure narrowed the list to 1,000 conglomerates, which were further reduced to 453 independent firms after removing those that did not qualify for the industrial exemptions or were "out of scope," i.e., they had been incorrectly included in the list because their four-digit SIC numbers were outdated or inaccurate or they did not have operations in the exempt SIC categories. That information was verified by communication with each firm either by telephone or letter. The verification process also eliminated

a small number of additional firms because their annual sales volume was found to be below \$100 million or because they could not be located. More than one third of the firms disqualified were found to be ineligible for the retail and services exemption because their annual sales at the enterprise level exceeded the 1979 statutory ceiling of \$275,000. Several firms were disqualified in the communications industry for not being small enough to qualify for the exemptions.

Table 7-3 gives the result of the

Table 7-3
Derivation of Survey Universe and
Summary of Survey Responses

Description	Number of Firms	Percent of Firms
A. Potential Universe of Conglomerates (Independent firms identified operating in more than one two-digit SIC, with sales in excess of \$100 million)	1,839	100
B. Potential Universe of Conglomerates with Exemptions (Subgroup of line 1 with potential operations in 4-digit SIC)	1,000 (corresponds to 2,512 operations and 614 parents)	54
C. Actual Universe (Line 2, adjusted for firms out-of-scope, not qualified for exemptions and other reasons)	453	24.6
D. Survey Responses:		
Actual universe	453	100.0
Refusals	140	30.9
Respondents	313	69.1
E. Analysis of Respondents		
Total	313	100.0
Not Using Exemptions	190	60.7
Using Exemptions	123	39.3
Incomplete responses	62	19.8
Complete responses	61	19.5

Source: Arthur Young and Company (1981), Chapter IV, various tables.

selection process plus a summary of the responses provided. The decreasing number of firms in parts A, B, and C does not represent simply a reduction in the number of firms at each level of the screening process since additional businesses were added to the list as new information became available. In addition, the 453 final firms are not all parent companies: 25 percent are subsidiaries that were considered separate entities for the survey because they operate independently. Those 453 firms therefore include all U.S. conglomerates suitable for inclusion in the Commission's study, i.e., eligible for exemptions and fitting the size and common control criteria specified in the Commission's mandate.

Part D of Table 7-3 shows that 313 firms (69.1 percent)--a high response rate--participated in the survey and 140 declined. The main reasons cited for declining were lack of time and manpower and the unavailability of the requested information. Confidentiality of the requested information was cited as a reason for refusal in slightly less than 10 percent of the cases. It is likely that many of the firms giving no explanation of their refusals did not participate for similar reasons. But there is evidence that some of them, e.g., the 26 refusals in the retail sector, may have declined because they were not eligible for the exemptions. It seems likely that they would have responded had they been eligible since it would be in their best interest to show the true extent of conglomerate exemption use. The more widespread the use of such exemptions, the less likely Congress is to remove them for fear of increasing unemployment and inflation.

Table 7-4 shows that most of the completed surveys (46 percent) came from firms in the transportation sector, followed by 23 percent from the agriculture sector. Of the firms with exempt employees that submitted incomplete survey instruments, the transportation sector accounted for 35 percent, manu-

faturing 15 percent, agriculture 13 percent, communications and public utilities 10 percent, and services 10 percent. Transportation firms apparently have the greatest potential access to FLSA exemptions since that sector had the highest percentages reporting no exempt employees and refusing to participate. But this access is limited since a transportation subsidiary of a conglomerate is likely to have interstate operations and thus be regulated under safety-related hour laws.

Table 7-5 shows that the 39 completed survey responses from operations eligible for FLSA exemptions cover a total of 13,985 eligible workers. Of these responses, 21 operations actually used the exemptions for 12,887 employees in 1979. The vast majority of these employees are in the service sector. The agriculture sector employed 688 of the exempt employees, and an insignificant number of exempted employees were sprinkled over the retail and wholesale trade industries. In all cases, the conglomerate operations using the FLSA exemptions represent only a small segment of the industry division. For example, responses for conglomerate-owned operations using exemptions in the retail trade sector came only from retail vehicle dealers, only from food dealers in the wholesale trade industry, only from seasonal amusement parks in the service industry, and only from general crop and livestock operations and agricultural services in the agricultural industry. All respondents in the manufacturing sector reported having no workers eligible for the FLSA exemptions.

Table 7-6 makes a crude attempt at quantifying the possible effects of exemption removal. For the operations reporting actual use of the exemptions, the extra labor costs that would be required to bring the operations immediately into compliance with FLSA regulations by paying full time-and-a-half overtime and retaining all workers are computed. With the exception of the

Table 7-4

Distribution of Survey Responses by Industry
(Absolute Number and Percent of Firms)

Industry	Total ¹	Firms with Exempt Employees (Completed Surveys) ²	Firms with Exempt Employees (Uncompleted Surveys) ³	Firms with No Exempt Employees (Total)	Refusals
Agriculture	59 13%	14 23%	8 13%	21 11%	16 11%
Forestry & Fishing	13 3%	3 5%	4 6%	3 2%	3 2%
Transportation	161 36%	28 46%	22 35%	75 39%	36 26%
Manufacturing	73 16%	3 5%	9 15%	43 23%	18 13%
Communications & Public Utilities	23 5%	3 5%	6 10%	3 2%	11 8%
Wholesale Trade	43 9%	4 7%	3 5%	23 12%	13 9%
Retail Trade	37 8%	3 5%	4 6%	4 2%	26 19%
Service	44 10%	3 5%	6 10%	18 9%	17 12%
TOTAL	453 100%	61 100%	62 100%	190 100%	140 100%

¹The totals do not necessarily represent the number of conglomerates contacted since one conglomerate may have operations in more than one SIC category.

²This category corresponds with Part E of Table 7-3.

³This category corresponds with Part E of Table 7-3.

Source: Adapted from Arthur Young and Company (1981) Chapter IV, Exhibit IV.

service industry, the exemption usage presented in the table is restricted to overtime exemptions. Only the service sector, in particular the amusement and recreation industry, makes use of the minimum wage exemptions.

The figures presented in Table 7-6 must be interpreted with considerable caution. The last column of the table should be regarded as the maximum possible increases in labor costs, assuming (1) no change in the number of hours worked, (2) no change in the number and mix of employees, (3) no change in sales (including eventual divestiture), and (4) no changes in other cost components. The increases in the last column also do not include

indirect labor costs such as social security taxes, increases in other payroll taxes, and increases in fringe benefits tied to total earnings. The answers to Question 12 of Table 7-2--planned operational changes upon exemption removal--indicate that in the long run affected firms are likely to reduce overtime hours by hiring additional employees, to hire more part-time labor, and to pass along cost increases to consumers, thus rendering the total cost increases smaller than those presented in the final column of Table 7-6.

The maximum immediate total labor cost increase (excluding the indirect costs mentioned above) for the firms with completed surveys in a standard

Table 7-5
Extent of Exemption Use by Survey Respondents¹

SIC Industrial Categories	Number of Eligible Business Activities ²	Number of Eligible Employees ²	Number of Business Activities Using Exemptions ²	Number of Exempt Employees ²
Agriculture	36	1,616	17	688
01	24	491	9	253
02	9	671	7	344
07	3	454	1	91
Forestry and Fishing	3	19	0	0
08	3	19	0	0
09	0	0	0	0
Retail Trade	3	116	1	17
55	3	116	1	17
59	0	0	0	0
Wholesale Trade	4	110	1	59
50	1	18	0	0
51	3	92	1	59
Service	3	12,124	2	12,123
78	0	0	0	0
79	3	12,124	2	12,123
TOTAL	39	13,985	21	12,887

¹Exclusive of the transportation sector.

²Exclusive of respondents not using the exemptions and exclusive of incomplete or inaccurate responses.

Source: Arthur Young and Company (1981), Chapter V.

two-week pay period in 1979 would be \$166,051, of which \$139,894 or 84 percent would accrue to the service industry. The service industry increase consists of \$47,911 in wage increases for workers paid less than \$2.90 an hour for straight time and \$91,983 for additional overtime payments.

The labor cost increase in agriculture would be small. Much of the land owned by conglomerates is rented to independent farmers and may not satisfy the "common control" criterion, making it not subject to FLSA section 13(g) and not part of the Commission's

mandate. Of the operations that are eligible, 17 of those responding to the survey used the overtime exemption for 688 employees in 1979. Eliminating the overtime exemption for these operations would increase wages by \$19,508 in an average 1979 two-week pay period without any other adjustments.⁴

The cost increase during times of peak activity in the highly seasonal agriculture industry would be much higher.

⁴For more detail, see Chapter V Exhibit V-5 in Arthur Young (1981).

Table 7-6
Summary of Static Labor Cost Increases¹

Industry	Number of Operations Using the Exemption ²	(A) Average Straight Time Hourly Rate ³	(B) Average O/T Rate Without Exemption	(C) Number of O/T Hours for Exempt Employees (Bi-Weekly)	(A)X(C)	(B)X(C)	Increase in O/T Wages
Agriculture	17	\$5.02	\$7.53	7,772	\$39,015	\$58,523	\$19,508
Forestry & Fishing	--	--	--	--	--	--	0
Retail Trade	1	5.92	8.88	170	1,006	1,510	504
Wholesale Trade	1	7.44	11.16	1,652	12,291	18,436	6,145
Services ⁴	2	3.48	5.22	52,864	183,967	275,950	91,983
Total	21	\$3.78	\$5.67	62,458	\$236,279	\$354,419	\$118,140 ⁴

¹Completed Survey for respondents making use of the exemptions. Data are for 1979, when the minimum wage stood at \$2.90/hour. Sales data, which would have permitted a computation of relative labor cost increases, were not sufficiently complete in the survey responses.

²This column corresponds with column 3 of Table 7-5.

³Average wage rate, weighted by overtime hours and regular hours.

⁴The total service cost increase also would include \$47,911 per bi-weekly pay period to reflect increased wages of workers paid less than \$2.90/hour in the period studied. Adding that to the overtime increases for all industries gives the \$166,051 total labor cost increase stated in the text.

Source: Arthur Young and Company (1981), Exhibit V-2.

er than those found in the survey, which examined only costs in an average two-week pay period. Nevertheless, even if those higher costs and the costs of firms that did not respond or submitted incomplete survey instruments are considered, removal of the overtime provision would have little effect on the competitive position of conglomerate firms in agriculture compared to independent farm operations.

Only one completed response was received from the retail trade sector. That one came from a retail vehicle dealer, whose maximum cost increase in a pay period with no other adjustments would be \$504 for 17 employees, an insignificant amount. Two other in-

complete responses came from retail vehicle dealers (Arthur Young 1981, Exhibit V-8).

Two firms provided complete responses in the service industry, both operators of seasonal amusement parks. Their short-run wage increase with exemption removal was calculated to be \$139,894 for a two-week pay period. The increase for seasonal amusement parks with exemption removal therefore could be significant, since labor costs account for 50 percent of total costs in this industry and the two responding firms account for approximately 20 percent of the total market. The two firms controlled eight amusement parks with 18,266 non-supervisory employees in

1979. Minimum wage and overtime exemptions were used for 12,249 of those employees (Arthur Young 1981, Exhibit V-11). The respondents reported that their adjustments to a loss of the exemption would include pass-along pricing and labor-saving investments. The latter could have harmful side effects in the local labor market since amusement parks are often major employers of low-skilled teenagers.

Transportation sector respondents reported that removal of the exemptions from conglomerates would have little effect on them. Although conglomerates control much of the transportation sector through subsidiaries whose employees are exempted from FLSA overtime provisions, those employees have their maximum work hours restricted by other federal laws. In addition, several respondents in that sector reported that their employees receive pay under those other regulations that is at least equal to that required by the FLSA.

Conclusions

The Commission's analysis found that the number of conglomerate firms using the exemptions is so small that the aggregate economic impact of their denial to employees of conglomerates would be insignificant. The Commission study did not find any significant differences in the market power of conglomerate-owned businesses compared with independent businesses or any evidence that conglomerates will move into an industry because exemptions are available there.

Singling out conglomerates for more stringent FLSA regulations in the future would lead to problems with enforcement since the definition of a conglomerate in the 1977 amendments is ambiguous. In addition, since most conglomerates make little use of the exemptions, it would be inefficient to prohibit their use. A better approach

would be to adopt the clear-cut criterion employed for the retail trade exemption, the "sales benchmark," which more precisely limits wage costs for small businesses with low gross annual sales.

Recommendations

The Commission recommends eliminating the conglomerate test for those individual exemptions it has found justified because of the type of job, industry, or worker involved. The Commission also recommends eliminating the conglomerate test for those exemptions designed to protect small businesses. For that purpose, the sales cutoff test at the enterprise level, already present in the retail trade exemption, should continue to be used. Accordingly, section 13(g), which denies the minimum wage exemptions for certain small farm, retail, and service businesses owned by conglomerates meeting specific criteria, should be removed.

Selected References

Arthur Young and Company. "Conglomerate Use of Exemptions to the Fair Labor Standards Act of 1938." In Volume IV, Report of the Minimum Wage Study Commission. Washington, D.C.: Government Printing Office, 1981. Hereafter cited as the Report.

Karro, Jacob I. "The Legislative and Decisional Background of Terms Used in the Definition of 'Conglomerate' in the Fair Labor Standards Amendments of 1977." In Volume IV of this Report.

U.S. Congress. House. Committee on Education and Labor. The Fair Labor Standards Amendments of 1977. House. Report 95-521 to accompany H.R. 3744, 96th Cong., 1st sess., 1977.

Chapter 8

NONCOMPLIANCE WITH THE FAIR LABOR STANDARDS ACT

Mandate J required the Commission to determine the overall level of non-compliance with the FLSA. To meet this mandate, the Commission requested that the Department of Labor's Wage and Hour Division conduct a special survey of over 15,000 randomly selected business establishments to find out to what extent employers are not paying the required minimum wage and time-and-a-half overtime premium.^{1,2} The Commission also analyzed other noncompliance estimates based on the Current Population Survey and reviewed the en-

¹A detailed discussion of the results of the 1979 Noncompliance Survey, including a discussion of the sample, field survey procedures, the sample-drawing procedures, and a copy of the survey instrument, is contained in Sellekaerts and Welch (1981b). A description of the sample design is presented in Sellekaerts (1981). Since the agriculture industry was undersampled, the survey results for this one industry did not meet the Commission's acceptable level of statistical reliability for separate industry reporting. The survey results for agriculture are, however, included within the "all industries" categories reported below, unless otherwise noted.

²Since child labor was not one of the Congressional mandates, the Commission did not design the survey to provide

forcement provisions of the Act.³

Establishment Violations

Violations can be viewed from two general perspectives: the number and percent of establishments violating the law and the number and percent of employees underpaid in violation of the law.

During the final quarter of 1979, 128,000 or 5 percent of the 2.6 million U.S. business establishments subject to the FLSA were estimated to be in violation of the minimum wage provision of the FLSA during the current work-week.^{4,5} Furthermore, 236,000 or 21

accurate estimates of child labor violations. However, child labor violations were reported by field investigators as a by-product of their normal investigative procedures. These findings are not reported in this chapter.

³See Welch (1981b) for an analysis of the enforcement provisions of the Act.

⁴The survey was conducted by the Wage and Hour Division's compliance officers. The field investigations took place between August 1979 and mid-April 1980. For those investigations conducted in calendar year 1979, the "current work-week" specified in the results is the payroll week closed just prior to the compliance officer's first on-site visit

percent of the subject establishments with overtime work violated the overtime requirements of the Act. A total of 343,000 or 13 percent of all establishments violated either the minimum wage or overtime provision or both.

Table 8-1 presents the FLSA violation rates by industry and census region.⁶ The aggregate industry results show that minimum wage violations are the highest in retail trade (12 percent) and the lowest in mining and manufacturing (less than 1 percent). Overtime

to an establishment. For those investigations in 1980, the compliance officers were required to define the "current workweek" as the workweek completed immediately before December 15, 1979. This was necessary to assure comparability of noncompliance estimates in view of the increase in the minimum wage on January 1, 1980, from \$2.90 to \$3.10 an hour. Normal compliance-officer procedures call for an investigation that reviews payroll records for a two-year period, the "investigation period." This procedure was followed in the survey.

⁶Since a small proportion of the reported findings were mailed from the field while administrative settlements or litigations were still pending, the estimates reported in this chapter must be considered upper-bound estimates. Final settlements or court awards may be less than those reported by the field investigators.

The regional sample was selected in such a way that South-non-South comparisons could be made for nine SIC industry divisions. The Standard Bureau of Census definition of "South" is used. It includes: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

violations are heaviest in services, 29 percent, followed by 25 percent in wholesale and 24 percent in retail trade. The retail trade sector of the economy stands out as the primary violator of the minimum wage and overtime provisions of the Act: 24 percent of all establishments in this sector violate either or both of the two monetary provisions of the Act.

Breaking the industry data down by region reveals that 15 percent of the retail establishments in the South violated the minimum wage provision in the current workweek (Table 8-1). The transportation and retail trade sectors had the highest minimum wage establishment violation rates in the non-South. Establishment overtime violations are highest among the South's wholesale trade sector and the non-South's service and retail trade sectors. It is interesting to note that the non-South's total violation rate always exceeds the South's by a slight margin.

There is no clear indication that establishment violation rates have declined because of recent investigations. No consistent pattern emerges as establishment violation rates are compared with the length of time since the last investigation.⁷ The majority of Wage and Hour Division enforcement investigations in the past few years have been initiated by employee complaints to the Division, and the evidence suggests that many FLSA violators are recidivists.⁸ This evidence is consistent with the observation that the present penalties for violations of the FLSA do not act as a significant deterrent to noncompliance.

The establishment violations re-

⁷Sellekaerts and Welch (1981b), Table 5.

⁸It is the Commission's understanding that this evidence is quite consistent with data soon to be reported by GAO regarding repeated violations of the FLSA by firms previously investigated.

Table 8-1

**Percent of Subject Establishments in Violation of
the Minimum Wage and Overtime Provisions of the FLSA,
by Industry and Region in the Current Workweek,
Fourth Quarter 1979**

Industry	Minimum Wage			Overtime ¹			Unduplicated ²		
	Total	South	Non-South	Total	South	Non-South	Total	South	Non-South
All Industries	4.9	4.7	5.0	21.1	19.2	22.1	13.0	12.4	13.3
Mining	0.4	0.4	0.3	8.0	6.8	12.3	5.7	4.9	8.0
Construction	1.0	0.8	1.0	17.5	20.4	16.1	6.9	7.1	6.8
Manufacturing	0.8	1.2	0.7	12.9	12.7	13.0	8.2	9.4	7.7
Transportation and Public Utilities	8.1	0.5	12.4	15.1	7.5	22.3	14.2	4.5	19.6
Wholesale Trade	6.3	2.6	8.1	24.7	30.1	21.8	17.6	16.8	18.0
Retail Trade	11.7	14.7	10.1	24.0	21.7	25.4	23.5	25.5	22.4
Finance, Insurance, and Real Estate	1.2	1.7	0.9	22.5	22.5	22.5	6.5	6.5	6.5
Services	4.2	3.8	4.4	29.3	19.4	34.0	11.7	9.1	12.8

¹Percent of those establishments subject to the overtime provision which utilized overtime hours in the current workweek.

²Since some establishments violated both the minimum wage and the overtime provision during the current work week, an unduplicated count ensures that such establishments are only counted once.

Source: 1979 Noncompliance Survey

ported by the compliance officers for the two-year investigation period are twice as high as those reported for the current workweek. Two-year establishment violation rates were 10 percent compared to 5 percent for the current workweek. Overtime establishment violation rates were 43 percent compared to 21 percent for the current workweek. But when comparisons are made between data from the current workweek and data from the full investigation period, no change is found in the pattern of violation rates among different industries, regions, or lengths of time since the last investigation.

Employee Violations

Of the 56.4 million employees subject to the FLSA, 677,000 employees, slightly over 1 percent, were underpaid in violation of the minimum wage provision in the current workweek (Table

8-2).³ Two thirds of these underpaid employees were in the retail trade sector while another 23 percent were employed in the service sector. In essence, almost 90 percent of all minimum wage violations occurred in either the retail trade or service sector of the economy.

In the current workweek, slightly over one quarter, 14.3 million, of the employees subject to the overtime pro-

³Since there were 5.2 million employees paid at the minimum wage as determined by the survey, the 677,000 paid in violation of the minimum wage can be expressed as 11.5 percent of those subject employees earning at or below the minimum wage. This is a measure proposed by Ashenfelter and Smith (1979) and critiqued by Sellekaerts and Welch (1981a).

Table 8-2

Number and Percent of Employees Paid in Violation of
the Minimum Wage and Overtime Provisions of the FLSA,
by Industry and Region in the Current Workweek,
Fourth Quarter 1979

Industry	Minimum Wage Violations				Overtime Violations			
	Number of Employees	Percent ¹			Number of Employees	Percent ²		
		Total	South	Non-South		Total	South	Non-South
All Industries	677,271	1.2	1.0	1.3	595,140	4.2	4.7	3.9
Mining	318	0.0	0.1	0.0	12,565	3.1	3.9	2.1
Construction	6,240	0.1	0.1	0.1	58,402	4.9	4.5	5.2
Manufacturing	4,945	0.0	0.0	0.0	87,865	1.5	1.5	1.4
Transportation and Public Utilities	13,567	0.3	0.0	0.4	28,148	3.2	2.5	3.6
Wholesale Trade	30,417	0.9	0.4	1.0	67,286	5.6	7.1	4.8
Retail Trade	440,969	4.0	4.0	4.0	158,934	8.1	9.9	7.2
Finance, Insurance and Real Estate	12,269	0.4	0.3	0.4	28,951	5.3	6.6	4.7
Services	157,405	1.6	0.7	2.0	141,782	7.1	8.1	6.8

¹Employees paid in violation of the minimum wage provision divided by all subject employees (times 100).

²Employees paid in violation of the overtime provision divided by all subject employees who worked overtime (times 100).

Source: 1979 Noncompliance Survey

vision of the FLSA actually worked overtime.¹⁰ Of these employees, almost 600,000 or 4 percent were found to be paid in violation of the overtime provision of the Act. Once again the retail trade and service sectors appear to be the primary offenders. Not only do these two sectors have the highest overtime employee noncompliance rates (8 percent in retail trade and 7 percent

in services), but together they account for one half of all employees underpaid in violation of the overtime provision in the current workweek (Table 8-2).

While no extreme regional differences were uncovered, there was a marked difference by size of establishment. The employee overtime violation rate decreased as the employment size of the establishment increased, changing from a high of 18 percent in small establishments with 1 to 9 employees to a low of 0.2 percent in establishments with 1,000 or more employees.

During the two-year investigation period, a total of 5 million employees were underpaid in violation of the monetary provisions of the Act. For both the minimum wage and overtime violations, about four times as many individuals were underpaid during the two-year period as were underpaid in

¹⁰Survey data were collected on the 56.4 million workers subject to the minimum wage provision, not the overtime provision, of the Act. Since earlier estimates indicate that about 93 percent of those subject to the minimum wage are also subject to the overtime provision (Welch 1981a, Table 1), 52.6 million employees are estimated to be subject to the overtime requirement in the current workweek.

the current workweek. Employee violation rates cannot be estimated for the two-year period since neither the total number of employees subject to the minimum wage provision nor the total number of subject employees working overtime during the whole period is available.

Just over 90 percent of all current workweek employee (as opposed to establishment) violations occurred in establishments for which no record of a previous investigation existed. These establishments had the highest minimum wage employee violation rate, 1.5 percent, suggesting that violators do respond to visits by the Wage and Hour Division compliance officers. This information, coupled with the earlier reported results that establishment violation rates do not appear to vary systematically with the length of time since the last investigation, tentatively suggests that firms may more selectively violate the law after recent investigations.¹¹

Back Wages Owed

Violator cost-savings associated with minimum wage and overtime non-compliance are presented in Table 8-3, which shows the estimated back wages owed employees during the current workweek and during the total investigation period of the Survey.

Overtime underpayments owed (\$11.2 million) make up almost three quarters of all FLSA monetary violations (\$15.1 million), although 15 percent more employees were paid in violation of

the minimum wage provision than the overtime provision in the current workweek (Table 8-2). Noncomplying establishments owed an average of \$48 for overtime violations and \$30 for minimum wage violations during the current workweek while each underpaid employee was owed an average weekly amount of \$19 for an overtime violation and \$6 for a minimum wage violation. Overtime violations also were greater than minimum wage violations over the two-year investigation (Table 8-3).

These findings might suggest to some that enforcement activities should be concentrated on overtime violations. But this conclusion must be tempered with the recognition that minimum wage underpayments may be relatively more important to minimum wage workers than overtime underpayments are to employees who work overtime. If one accepts the notion that the value of an added dollar to an underpaid minimum wage worker is worth more than an extra dollar to an underpaid overtime employee earning considerably more than the minimum wage, minimum wage enforcement should not be abandoned.

Total FLSA underpayments estimated for the full investigation period were \$1.18 million. To put this total in perspective, the Commission estimated the actual amount of back wages that the Department of Labor's Wage and Hour Division uncovered during the same period of time through its normal field investigation procedures.¹² The

¹¹Before drawing hard conclusions from these data, it is necessary to know the standard errors of the estimates. The sample cells are very small with the exception of the "never investigated" category. Since the Employment Standards Administration's Division of Evaluation and Research has not yet supplied the Commission with these needed standard errors, the implications drawn from these particular data must be viewed as tentative.

¹²Estimation of Wage and Hour Division back-wage findings is complicated by the fact that available quarterly reports refer to "investigation period" dollar findings for cases closed during the quarter. Hence, it is necessary to prorate each quarter's reported findings over the previous eight quarters and then sum up all those findings in each of the eight quarters of calendar years 1978 and 1979 that match those of the 1979 Noncompliance Survey.

Table 8-3

**Total Back Wages Due (BW), Back Wages Per Violating Establishment
and Back Wages Per Underpaid Employee Paid in Violation of
the Minimum Wage and Overtime Provisions of the FLSA
in the Current Workweek, Fourth Quarter 1979
and During the Investigation Period**

FLSA Provision	Current Workweek (Fourth Quarter 1979)	The Two-year Investigation Period (1979 - 1980)
Minimum Wage Violations		
Total BW Due	\$3.9 million	\$369 million
BW Per Violating Establishment	\$30	\$1,477
BW Per Underpaid Employee	\$5.70	\$137
Overtime Violations		
Total BW Due	\$11.2 million	\$811 million
BW Per Violating Establishment	\$48	\$1,681
BW Per Underpaid Employee	\$18.90	\$319
Unduplicated Violations¹		
Total BW Due	\$15.1 million	\$1,180 million
BW Per Violating Establishment	\$44	\$1,907
BW Per Underpaid Employee	\$12	\$237

¹Unduplicated refers to the fact that some establishments violate both the minimum wage and overtime provisions just as some employees can be underpaid in violation of both provisions. Adjustments have been made to eliminate such double counting.

Source: 1979 Noncompliance Survey

Commission estimated that the Division found one fifth of the dollar amount of FLSA violations that the 1979 Noncompliance Survey estimated actually occurred during the 1978-79 period.

The Department's FLSA enforcement resources are primarily used to investigate establishments in response to employee complaints. Over the years there has been an increasing tendency to direct some investigations toward areas where there is a high probability of violations. Since annually only about three percent of all establishments subject to the FLSA are investigated, the data above suggest that present Department of Labor resources may be quite effectively allocated.

Earlier discussions of both the establishment and the employee incidence of noncompliance pointed to both the retail trade sector and the service sector of the economy as areas of

relatively high violations. Table 8-4 presents additional evidence that should heighten concerns over noncompliance in these two sectors. The retail trade sector accounted for 43 percent of all back wages owed and the service sector 21 percent. Hence, these two industries together accounted for almost two thirds of all minimum wage and overtime underpayments in the current workweek. If policymakers are more concerned with which sectors contain the most underpaid employees, an even stronger case could be made for allocating enforcement resources toward these two sectors, which contain over seventy percent of all underpaid employees (Table 8-4).

If field investigators act as a deterrent to noncompliance, we would expect that the average back wage owed per noncompliant establishment would be smaller the shorter the

Table 8-4

**Percent Distribution of Back Wages Owed Employees Underpaid
In Violation of Both the Minimum Wage and Overtime Provisions
of the FLSA and the Distribution of All Underpaid Employees
by Industry in the Current Workweek, Fourth Quarter 1979**

Industry	Distribution of Back Wages Owed ²	Distribution of Underpaid Employees ³
All Industries ¹	100.0	100.0
Mining	2.4	1.0
Construction	6.9	5.1
Manufacturing	6.1	7.5
Transportation and Public Utilities	4.7	3.3
Wholesale Trade	10.4	7.8
Retail Trade	43.0	48.0
Finance, Insurance & Real Estate	5.1	3.2
Services	21.4	24.0

¹Excludes agriculture.

²Contains both minimum wage and overtime violations.

³Underpaid employees are an unduplicated count -- i.e., those individuals paid in violation of both the minimum wage and the overtime provision are only counted once.

Source: 1979 Noncompliance Survey

time period since the last Wage and Hour Division investigation. The data are not wholly consistent with this expectation. The Commission is once again left in doubt as to the deterrent effect of existing FLSA enforcement procedures. The absence of effective penalties for either minimum wage or overtime violations may encourage continued noncompliance by establishments that already have been investigated.

The Noncompliance Survey estimated that employers agreed to restore \$631 million or 54 percent of the total back wages owed during the investigation period to 70 percent of the employees found underpaid. Those unfamiliar with the problems associated with the present enforcement procedures are usually amazed at the relatively low ratio of money returned to

money owed.¹³ These survey results, however, are only slightly less than recent Department of Labor collection ratios. The 54 percent figure does suggest a need for new policies to strengthen enforcement of the FLSA.

"3(m)" Violations

Employers are not necessarily in violation of the basic minimum wage provision of the law when they pay subject employees an hourly wage less than the prevailing minimum. This is because section 3(m) of the Act allows an employer to deduct from the

¹³A discussion of these problems, including a detailed analysis of litigation problems under Sections 16 and 17 of the Act, is contained in Welch (1981b).

minimum wage payment the cost of certain food, lodging, and other expenses customarily furnished to employees. The cost of meals furnished restaurant employees is one example of a 3(m) allowance. Violations of the minimum wage provision occur when employers incorrectly compute the amount of such deductions (credits to the employer) or take a credit when none is allowed. An example of a deduction that is not allowed is a charge to the employee for an employer-supplied uniform when the employee's effective wage after such a charge falls below the prevailing minimum wage. Section 3(m) also specifies that in 1979, the year of the Noncompliance Survey, employers of tipped workers could deduct 45 percent of the minimum wage as a tip credit. Hence, employers of tipped employees who paid a wage less than \$1.60 per hour [$\$2.90 - (0.45) \times (\$2.90) = \1.60] were in violation of the minimum wage provision.¹⁴

One unique feature of the 1979 Noncompliance Survey is that for the first time 3(m) minimum wage violations can be distinguished from all other minimum wage violations.¹⁵ Table 8-5 shows that 71 percent of the total number of minimum wage violations arise from 3(m) violations, that is, arise from deductions from the minimum wage which are not permitted under the law. Again, the retail trade and the service sectors appear to be the major violators. Seventy-seven percent of all minimum wage violations in retail trade and almost 81 percent of the violations in the service sector are associated with

¹⁴The tip credit was reduced to 40 percent as of January 1, 1980. The minimum wage was raised to \$3.10 as of January 1, 1980, and further increased to \$3.35 as of January 1, 1981.

¹⁵A detailed discussion of the types and causes of minimum wage and overtime violations is contained in Welch (1981a).

3(m) violations. These two industries account for almost all the 3(m) violations.

There clearly is a major enforcement problem associated with 3(m) violations in the retail and service sectors of the economy. The problem could be solved in several ways ranging from the complete elimination of all 3(m) credits to more precise rules and regulations associated with allowable 3(m) credits. It is essential to ensure that all compliance officers are completely familiar with the detailed regulations and to disseminate these regulations widely to employees as well as employers. It is impossible to determine from the data whether the 3(m) violations reflect ignorance of the law or willful violations.

In order to determine the relative dollar significance of 3(m) minimum wage violations, the average weekly amount owed each employee because of a 3(m) violation was computed and compared to the average amount due employees from all other minimum wage violations in the current workweek. The average weekly back wages owed were about \$2.70 per employee for 3(m) violations and \$12.50 per employee from all other minimum wage violations.

While most current workweek minimum wage violations are 3(m) violations, in dollar terms 3(m) violations represent only one fifth of the average amount owed employees from all other types of minimum wage violations.¹⁶

¹⁶The latter conclusion applies equally to both the retail trade and the service sectors despite the above-average incidence of 3(m) violations reported in these two sectors. The retail trade's 3(m) violation back wages due, \$2.75 per employee, is 21 percent of back wages owed because of other minimum wage violations. In services the average weekly amount owed employees due to 3(m) violations is \$2.65 per employee, 23 percent of the average amount owed for other minimum wage violations.

Table 8-5

Number of All Minimum Wage Violations, "3(m)" Minimum Wage Violations
and Proportion of "3(m)" Violations to All Minimum Wage Violations,
in the Current Workweek, Fourth Quarter 1979

Industry	All Minimum Wage Violations	"(3m)" Minimum Wage Violations	"(3m)" Violations As a Percent of All Minimum Wage Violations
All Industries	677,271	480,238	70.9
Mining	318	0	0.0
Construction	6,240	927	14.9
Manufacturing	4,945	180	3.6
Transportation and Public Utilities	13,567	0	0.0
Wholesale Trade	30,417	8,724	28.7
Retail Trade	440,969	339,664	77.0
Finance, Insurance and Real Estate	12,269	484	3.9
Services	157,405	127,418	80.9

Source: 1979 Noncompliance Survey

Policy conclusions from this analysis might call for little concentration on 3(m) violators if the object is to seek out large back-wage settlements. But if the object is to assist the largest number of underpaid employees, 3(m) enforcement efforts should be strengthened. On the other hand, eliminating "3(m)" credits would achieve both objectives simultaneously. Decision-makers will have to weigh carefully their various objectives and the relative costs and benefits of alternative enforcement efforts.

Demographic Characteristics

Table 8-6 presents information on the demographic characteristics of those workers underpaid in violation of the minimum wage provision of the Act during the current workweek by sex, race and age. These data should be viewed with some caution since the investigators determined these characteristics by looking at the employees and by name identification. This was necessary because Wage and Hour Division proce-

dures do not call for compliance officers to inspect employer information on the race, age, and sex of employees except in cases of suspected child labor violations.

Women suffered almost three fourths of all minimum wage violations, although they represent only slightly more than two fifths of total employment and about two thirds of all low-wage workers. CPS estimates of noncompliance among women in the fully subject sector of the economy are roughly consistent with the Noncompliance Survey findings.

The Noncompliance Survey determined that teenagers, who make up one third of all low-wage workers, accounted for one third of the minimum wage violations; however, they represent only 8 percent of total employment. This finding is also roughly consistent with the CPS-based estimates presented in Table 8-6. These results suggest that teens, like women, suffer a disproportionately large share of minimum wage violations relative to their share

Table 8-6

**Percent of Employees Paid in Violation of the Minimum Wage Provision
of the FLSA and the Average Hourly Wage Received by and
Average Weekly Underpayments Due Employees Paid in
Violation of the Minimum Wage Provision by Sex, Race and
Age in the Current Workweek, Fourth Quarter 1979**

Demographic Characteristics	Distribution of Employees		Average Hourly Wage	Average Weekly Amount Underpaid
	NCS ¹	CPS ²		
Sex				
Female	74.0	68.9	\$2.43	\$4.38
Male	26.0	31.1	\$2.55	\$9.03
Race				
Black	5.4	23.8	\$2.56	\$9.53
Hispanic	3.3	8.6	\$2.69	\$6.49
Other	91.3	67.6	\$2.44	\$5.33
Age				
Under 20 years	34.2	24.7	\$2.65	\$5.64
20-64 years	64.2	67.1	\$2.35	\$5.32
65 years and over	1.6	8.2	\$2.29	\$15.73

¹NCS: Noncompliance Survey.

²CPS: Current Population Survey estimates derived in the manner discussed in Sellekaerts and Welch (1981a). Data are 3-month averages for the fourth quarter of 1979. Data in the remaining two columns are from the Noncompliance Survey.

Source: 1979 Noncompliance Survey and Current Population Survey

of total employment.

Blacks appear to present a different situation. While they form about 10 percent of the employed labor force and about 15 percent of low-wage workers, they account for 5 percent of the minimum wage violations, according to the Noncompliance Survey. This finding is not substantiated by the CPS estimates reported in Table 8-6, which indicate that blacks represented almost one quarter of the underpaid minimum wage employees. These conflicting results may be due in part to measurement error associated with the Noncompliance Survey's procedures, which were based to a large extent on the examination of payroll records. Perhaps not all underpaid employees were correctly classified by race by the compliance officers.

If one examines the average weekly amount underpaid (the last column of Table 8-6) instead of the individuals underpaid, a somewhat different picture emerges. Women, who experienced a disproportionately large extent of noncompliance, were underpaid on average only about half as much as men in the current workweek.¹⁷ Blacks appeared to be underpaid an average weekly amount greater than whites, and those few workers 65 years of age or older who were underpaid, were underpaid the largest average amount of any

¹⁷Differences in hours worked per week between women and men would account for women being underpaid less in the current workweek than men while receiving a lower hourly wage rate.

demographic group.

Conclusions

Five percent of all establishments were estimated to be in violation of the minimum wage provision in the current workweek while 21 percent of the establishments with overtime work were not paying premium payments for overtime hours. Minimum wage noncompliance affected just over 1 percent of those employees subject to the Act. The incidence of overtime violations among employees working overtime was considerably higher, 4.2 percent.

Whether observing minimum wage or overtime violations, establishment or employee violation rates, current workweek or investigation period data, two sectors continually stood out as significant violators of the law--the retail trade and the service sectors. Over half of all the establishments violating the monetary provisions of the FLSA, almost two-thirds of all current workweek underpayments, and over 70 percent of all underpaid employees are in these two sectors of the economy.

The value of back wages owed to those paid in violation of the minimum wage provision represented about 8 percent of the total employment earnings of minimum wage workers. The Department of Labor's recent investigations have detected about one fifth of the dollar amount of FLSA violations.

Females and teenagers experienced a disproportionately high degree of minimum wage violations relative to their employment in the labor force. Illegal minimum wage credits, 3(m) deductions, accounted for more than 70 percent of all minimum wage violations. In dollar terms, such violations on average represented 20 percent of the value of other types of minimum wage violations.

Recommendations

The Commission views the overall level of noncompliance with the Fair Labor Standards Act as unacceptable. It is our view that Congress should

address this issue by attempting to increase the cost of not complying with the Act. To this end, the Commission recommends that Congress consider raising the liquidated damages that may be awarded in successful FLSA litigation. Furthermore, Congress ought to consider increased self-enforcement through, for example, legislation to allow class-action suits by aggrieved employees. Such a possibility would have the dual advantage of sponsoring self-enforcement and simultaneously increasing the cost of noncompliance to violators of the Act. Lastly, the Commission believes that the high incidence of noncompliance within the retail trade and service sectors may provide useful information for the Department of Labor as it considers the best means of allocating FLSA field investigators.

The Commission did not develop reliable data on child labor violations since it is not a part of our mandate to study child labor. But the Commission believes that exploitive child labor is such a pernicious practice that it should always have a high priority in the Department of Labor's enforcement activities.

The Commission notes that the Department of Labor has reported to Congress that over the past four years the number of workers subject to the Fair Labor Standards Act has increased about 16 percent; simultaneously, the number of the Department's FLSA field investigators was reduced 4 percent. This evidence, coupled with the non-compliance findings of the 1979 Noncompliance Survey, leads the Commission to conclude that the noncompliance problem cannot be resolved without concerted effort. It is the Commission's view that changes in the enforcement provisions as recommended above, increases in investigative resources and/or a directing of enforcement resources toward those sectors identified as significant violators will encourage increased compliance with the Fair Labor Standards Act.

Selected References

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Sellekaerts, Brigitte. "The 1979 ESA Noncompliance Survey Design." In Volume III, Report of the Minimum Wage Study Commission. Washington, D.C.: Government Printing Office, 1981. Hereafter cited as the Report.

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III, this Report (a).

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"FLSA Enforcement Policy Issues." In Volume III, this Report (b).

Chapter 9

RECORDED VOTES

This chapter lists the recorded votes of the Commissioners on the recommendations contained in the previous chapters. Only the vote on main motions is shown. Votes on substitute motions or amendments are not shown but may be found in the transcripts of Commission meetings.

Chapter 1

A DEMOGRAPHIC PROFILE OF MINIMUM WAGE WORKERS

Motion: Accept Chapter 1 as written.

Ayes	Noes	Not Voting
Byrum		Wachter
Foreman		Wallace
Robinson		
Schloss		
Willett		
O'Hara		

Chapter 2

THE EMPLOYMENT/UNEMPLOYMENT EFFECTS OF THE MINIMUM WAGE

Motion: The Commission recommends to the Congress that a uniform, national youth differential not be enacted.

Ayes	Noes	Present
Byrum	Robinson	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

Motion: The Commission recommends that the Congress adopt a system that would permit local experimentation with the youth differential.

Ayes	Noes	Present	Not Voting
Robinson	Byrum Foreman Schloss Willett O'Hara	Wachter	Wallace

Motion: Accept Chapter 2 as written.

Ayes	Noes	Not Voting
Byrum Foreman Schloss Willett O'Hara	Robinson (Proxy)	Wachter Wallace

Chapter 3

THE IMPACT OF THE MINIMUM WAGE ON INFLATION

Motion: That 'although this effect was found to be small, this does not imply that certain minimum wage policies adhered to in the future may not be inflationary' be stricken from the chapter as written.

Ayes	Noes	Not Voting
Byrum Foreman Schloss Willett O'Hara	Robinson	Wachter Wallace

Motion: Accept Chapter 3 as written.

Ayes	Noes	Not Voting
Byrum Foreman Schloss Willett O'Hara	Robinson	Wachter Wallace

Chapter 4

THE ECONOMIC CONSEQUENCE OF MINIMUM WAGE INDEXATION

Motion: Recommend to the Congress that it adopt a system for indexation of the minimum wage that would relate the minimum wage to the average wage in the economy, that the adjustment be made not more frequently than annually in order to reduce any exacerbation of the business cycle, and that consideration be given to using a moving average to further reduce exacerbation of the business cycle.

Ayes	Noes	Not Voting
Byrum	Robinson	Wallace
Foreman	Wachter	
Schloss		
Willett		
O'Hara		

Chapter 5

THE EFFECTS OF THE MINIMUM WAGE ON INCOME DISTRIBUTION

Motion: Accept Chapter 5 as written.

Ayes	Noes	Not Voting
Byrum		Wachter
Foreman		Wallace
Robinson		
Schloss		
Willett		
O'Hara		

Chapter 6

EXEMPTIONS FROM THE FAIR LABOR STANDARDS ACT

6(f); 13(a)(15); 3(b)(21) - part-time domestic workers; babysitters and companions; and live-in domestic workers.

Motion: Endorse the recommendation of the Secretary of Labor which is to retain the present exemptions for domestic service workers.

Adopted by Voice Vote

7(b)(3) - employees of independent wholesale or bulk distributors of petroleum products.

Motion: **Eliminate exemption. If it is retained, an additional provision should be added to limit its impact to seasonal overtime.**

Ayes	Noes	Not Voting
Foreman	Byrum	Wachter
Schloss	Robinson	
Wallace		
Willett		
O'Hara		

7(i) - commission sales workers in retail or service establishments.

Motion: **Retain exemption.**

Ayes	Noes	Not Voting
Byrum		Wachter
Foreman		Willett
Robinson		
Schloss		
Wallace		
O'Hara		

7(j) - hospitals and nursing homes.

Motion: **Retain exemption.**

Ayes	Noes	Not Voting
Byrum		Robinson
Foreman		Wachter
Schloss		
Wallace		
Willett		
O'Hara		

7(k) - Federal law enforcement and fire protection employees.

Motion: **Retain exemption and continue efforts to reconcile FLSA provisions with those contained in the General Schedule.**

Adopted by Voice Vote

7(m) - tobacco handling incidental to auction sales.

Motion: **Eliminate exemption.**

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

7(n) - charter activities of local transit employees.

Motion: **Retain exemption.**

Adopted by Voice Vote

13(a)(1) - executives, administrators, and professionals; outside sales workers.

Motion: **The historic relationship both with respect to the salary test and to the upset test should be re-established and maintained in the future.**

Ayes	Noes	Not Voting
Byrum	Robinson	Wachter
Foreman		Wallace
Schloss		
Willett		
O'Hara		

13(a)(2) - small retail trade and service establishments.

Motion: **The exemption should be phased out within a relatively short period of time.**

Ayes	Noes	Not Voting
Foreman	Byrum	
Schloss	Robinson	
Wallace	Wachter	
Willett		
O'Hara		

13(a)(3) - seasonal amusement establishments.

Motion: The exemption should be limited to travelling amusement or recreational establishments.

Ayes	Noes	Not Voting
Byrum	Robinson	Wachter
Foreman		
Schloss		
Wallace		
Willett		
O'Hara		

Motion: Exemption for travelling amusement and recreational establishments should be broadened to include any employee of an agricultural fair or exposition who is employed during a period not to exceed 30 days when the agricultural fair or exposition is opened to the public.

Adopted by Voice Vote

13(a)(4) - custom manufacturing in exempt retail establishments.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Foreman	Byrum	Wachter
Schloss	Robinson	
Wallace		
Willett		
O'Hara		

13(a)(5) - fishing and first processing of seafood.

Motion: Retain exemption.

Ayes	Noes	Not Voting
Byrum		Wachter
Foreman		
Robinson (Proxy)		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(a)(6) - small farm employers.

Motion: Amend exemption to 400 man-days in 1982 and 300 man-days thereafter until otherwise changed by the Congress. Eliminate exemption for local piece rate workers and for children of migrant workers. Retain exemption for employees principally engaged in the range production of livestock.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(a)(7) - regulation, order, or certificate of the Secretary issued under section 14.

Motion: The words 'regardless of age' should be stricken and the words 'attending high school' substituted in section 14(b)(1)(A).

Ayes	Noes	Present	Not Voting
Byrum	Robinson	Foreman	Wachter
Schloss			Wallace
Willett			
O'Hara			

Motion: Accept section of Chapter 6 on certification programs as written.

Adopted by Voice Vote

13(a)(8) - low circulation newspapers.

Motion: Phase out exemption.

Ayes	Noes	Present	Not Voting
Byrum	Robinson	Foreman	Wachter
Schloss			Wallace
Willett			
O'Hara			

13(a)(10) - switchboard operators in small telephone exchanges.

Motion: Eliminate exemption.

Adopted by Voice Vote

13(a)(12) - U.S. seamen on foreign flag vessels.

Motion: Eliminate exemption and recommend that, to the extent it is consistent with international law, U.S. seamen aboard vessels registered under the laws of a foreign nation be treated equally under the FLSA with seamen employed on vessels registered under U.S. laws.

Adopted by Voice Vote

13(b)(1) - drivers, drivers' helpers, mechanics and loaders in establishments regulated by the Department of Transportation under the Motor Carrier Act.

Motion: Retain exemption except as it pertains to mechanics and loaders.

Ayes	Noes	Not Voting
Byrum	Robinson	
Foreman	Wachter (Proxy)	
Schloss	Wallace	
Willett		
O'Hara		

13(b)(2) - employees of common rail carriers subject to Title I of the Interstate Commerce Act.

Motion: Retain exemption.

Adopted by Voice Vote

13(b)(3) - employees of air carriers subject to Railway Labor Act.

Motion: Retain exemption but revise so that it not apply to ground personnel and flight attendants.

Ayes	Noes	Not Voting
Byrum	Robinson	Wachter
Foreman		Wallace
Schloss		
Willett		
O'Hara		

13(b)(5) - outside buyers of poultry, eggs, cream, and milk.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(6) - seamen.

Motion: Retain exemption.

Adopted by Voice Vote

13(b)(9) - certain employees of small town radio and television stations.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum		Robinson
Foreman		Wachter
Schloss		
Wallace		
Willett		
O'Hara		

13(b)(10) - certain employees of automobile, truck, boat, aircraft and farm implement retail sales establishments.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson	Wachter
Foreman		
Schloss		
Wallace		
Willett		
O'Hara		

13(b)(11) - driver or drivers' helper making local deliveries and paid on a trip rate basis.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Wallace (Proxy)	
Foreman		
Robinson		
Schloss		
Wachter (Proxy)		
Willett		
O'Hara		

13(b)(12) - agricultural employees and irrigation workers.

Motion: Retain exemption for agricultural establishments but eliminate for irrigation district workers.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(13) - farmer owned livestock auctions.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(14) - small country elevators.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(15) - processing of maple sap.

Motion: Retain exemption but include under section 13(b)(12).

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(16) - intrastate transportation of farm products or harvest workers.

Motion: Retain exemption but include under section 13(b)(12).

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(17) - taxicab drivers.

Motion: Retain exemption.

Adopted by Voice Vote

13(b)(20) - public law enforcement and fire protection employees in small jurisdictions.

Motion: Eliminate exemption based on the understanding that it is moot due to the National League of Cities et al. v. Usery decision.

Adopted by Voice Vote

13(b)(24) - substitute houseparents in nonprofit educational institutions.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Foreman	Byrum	Wachter
Schloss	Robinson	
Wallace	O'Hara	
Willett		

13(b)(27) - motion picture theaters.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum		Robinson
Foreman		Wachter
Schloss		
Wallace		
Willett		
O'Hara		

13(b)(28) - employees of small logging establishments.

Motion: Retain exemption but include under section 13(b)(12).

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	Wachter
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(b)(29) - concessioners in national parks.

Motion: Phase out exemption by reducing maximum hours from 56 to 48 in the first year, and from 48 to 40 in the second year.

Ayes	Noes	Not Voting
Foreman	Byrum	Wachter
Schloss	Robinson	
Wallace		
Willett		
O'Hara		

13(d) - delivery of newspapers to the consumer.

Motion: Retain exemption.

Ayes	Noes	Not Voting
Byrum		
Foreman		
Robinson (Proxy)		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

13(d) - homeworkers engaged in the making of wreaths.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	
Foreman		
Schloss		
Willett		
O'Hara		

13(h), (i) and (j) - service related workers in cotton gin and sugar processing establishments; cotton ginning employees; sugar beet and cane processing employees.

Motion: Eliminate exemption.

Ayes	Noes	Not Voting
Byrum	Robinson (Proxy)	
Foreman		
Schloss		
Wallace (Proxy)		
Willett		
O'Hara		

Motion: Accept Chapter 6 as written.

Ayes	Noes	Not Voting
Byrum	Robinson	
Foreman		
Schloss		
Willett		
O'Hara		

Chapter 7

USE OF FLSA EXEMPTIONS BY CONGLOMERATES

Motion: Accept Chapter 7 as written.

Adopted by Voice Vote

Chapter 8

NONCOMPLIANCE WITH THE FAIR LABOR STANDARDS ACT

Motion: Accept Chapter 8 as written.

Ayes	Noes	Not Voting
Byrum	Robinson	Wachter
Foreman		Wallace
Schloss		
Willett		
O'Hara		

General

Motion: Final Report will include the vote of each Commissioner as recorded in the transcripts.

Adopted by Voice Vote

Motion: Approve the Commission Report.

Ayes	Noes	Not Voting
Byrum		Robinson
Foreman		
Schloss		
Wachter (Proxy)		
Wallace (Proxy)		
Willett		
O'Hara		

Chapter 10

ADDITIONAL, INDIVIDUAL, MINORITY, AND SUPPLEMENTAL VIEWS OF COMMISSION MEMBERS

Supplemental Views of

Chairman James G. O'Hara

A frequently voiced criticism of the Fair Labor Standards Act is that it largely fails to achieve a redistribution of income from high-income households to low-income households.

Clearly, it is not as effective a tool for income redistribution as a negative income tax or some similar device nor is it as effective in redistributing income as some of its more enthusiastic supporters might have wished. But income redistribution is not now and never has been a principal purpose of the Act.

Much of the legislation of the New Deal era and before was designed to redress the perceived imbalance between the relative economic power of the worker and his employer. The sponsors and supporters of the Fair Labor Standards Act believed that in a completely free market the price of a man's labor would often be less than that required to sustain him in reasonable comfort and dignity. They feared, too, that the "market clearing wage" would leave many workers unable to purchase the output of the industries in which they labored. Hence the Wagner Act, affirming the right of workers to organize and bargain collectively; the Walsh-Healy Act, which required government suppliers to pay "prevailing wages," but not less than the Fair Labor Standards Act wage, to their workers; and

numerous other New Deal enactments. The Agricultural Adjustment Act, similarly motivated, strengthened the position of farmers vis-a-vis agricultural "middle men" by placing a floor under commodity prices.

It was in this spirit that the Fair Labor Standards Act was adopted. Then, as now, it forbade "exploitative" child labor, it regulated hours of work and placed a floor under wages. It did so to achieve a measure of economic and social justice in the workplace and succeeded.

But the critics of the Fair Labor Standards Act have maintained an incessant din of opposition ascribing many of the ills of the last forty years to its operation. That opposition continues. The Commission has been the recipient of a barrage of criticism of the Act alleging that it has been responsible for extensive unemployment, particularly among the less advantaged members of our society and most particularly among minority youth. While the Federal minimum wage is certainly higher than the "market clearing wage" (there would be little point to minimum wage laws if it were not) the evidence suggests that recent changes in the Fair Labor Standards Act have had relatively little impact on national unemployment levels and that the achievement of substantial decreases in unemployment (if they are achievable at all through amendment of the Fair Labor

Standards Act) could be obtained only at the cost of a very large subsidy of employers in the fast food, retail and other low-wage industries by low-wage workers, or taxpayers, or both. (See our chapter on employment and unemployment effects and the study of the University of Michigan ISR found in the Appendix).

In particular, the evidence before us fails to indicate any substantial decrease in unemployment as a result of the highly promoted "youth differential". The Commission has properly recommended that a subminimum wage to a particular age group be rejected. I wholeheartedly join in that recommendation. I believe that the payment of a subminimum wage to a particular age group is so at conflict with the basic purposes of the Act and the requirements of social justice that it ought to be rejected as a policy option even if we thought it would substantially reduce youth unemployment and more so

when, as here, the alleged benefits of a separate and lower wage for youth cannot be demonstrated.

The purpose of the Fair Labor Standards Act was and is to establish a floor below which wages will not fall, a floor which is adequate to support life and a measure of human dignity. It is a laudable legislative effort to ensure a just wage in return for a day's labor. The payment of a just wage does not require a basic redistribution of the goods of this world. The payment of a just wage to all may fall short of what is needed to compensate those who in the past have not received a just wage. That the minimum wage has not brought us to the Earthly Paradise may be a disappointment, but it should not be a surprise. That it has provided a working floor below which wages would have gone in its absence and have not gone because of it, suggests that it has done what it was intended to do. May that be said of each of us.

Concurring Views of Commissioner Jay H. Foreman

In general, and in almost every detail, I am delighted with the report of the Commission. The work of the staff, the provocative contributions of my learned colleagues on the Commission, the way in which the most technically polished contractors sought, with considerable success, to make their findings understandable to a noneconomist like myself, all combined to make my service on the Commission a most instructive and enjoyable experience.

It helps, of course, to have been in the majority on most of the issues on which the Commission had to make decisions. I endorse wholly and enthusiastically the conclusions of the Commission, and it is my hope that the substantial investment of scholars' insights, Commissioners' time, and taxpayers' money that went into this study will be useful to the Congress as it comes to grips with proposed amendments to the Fair Labor Standards Act.

Obviously, if I were in total agreement with everything the Commission said, I would not be writing these views. My divergence from the Commission is not a major one, but it is heartfelt.

I agree in large part with the framework for decision that was con-

structed as a way of looking at the existing statutory exemptions from the coverage of various parts of the Act. And, on the whole, I agree with the application of that framework.

But I cannot bring myself to support -- or even wholly to understand -- the retention of the student differential for high school students. I agree, completely, with the proposed elimination of that differential as it applies to students who are out of high school. For the same reasons that the Commission has recommended against the introduction of the youth subminimum -- because it is ineffective and because it is discriminatory -- the Commission has recommended abolition of the youth differential as it affects students beyond the high school. But the majority then drew the line and urged it be allowed to continue for youths still in high school.

I abstained on this vote. I support the direction in which the recommendation goes, i.e., toward narrowing the exemption, but I do not understand the rationale for preserving that retained portion. I cannot endorse the distinction between high school and other students, nor can I endorse a distinction between students and other youth.

Minority Report of Commissioner S. Warne Robinson

Summary

The minimum wage has always represented a trade-off among higher wages for some workers, fewer job opportunities for others, and higher prices for everyone.

The minimum wage tells employers, in effect, "If you can't afford to hire workers at this rate, you can't hire them." And it tells workers "If you can't find a job paying at least this much, you can't work."

When Congress passed the 1938 Fair Labor Standards Act, it was generally assumed that the benefit to the few whose pay increased from the minimum wage would outweigh the cost to society at large and the suffering of other workers closed out of the job market altogether. But those of us in business who could see first-hand the harm done to employment and prices by a rising wage floor were the first to ask whether the minimum wage may do more harm than good.

When we came to Washington to warn that there was a worm in the minimum wage apple, we were dismissed by those who said our experience in business proved nothing. They told us to come back when we could prove our assertions with scientific evidence. Over the past ten years, scientific evidence needed to assess the costs and benefits of the minimum wage has been accumulating rapidly -- not from business, but from objective economists able to measure employment, inflation, and income with sophisticated computer technology undreamed of in the 1930s. Their findings have shaken the very foundations of the Fair Labor Standards Act. Among other things, they discovered that the vast majority of minimum wage workers were not poor at all but from middle- and upper-income households, families well above anyone's definition of the "poverty level."

In 1977, Congress created the

Minimum Wage Study Commission to review the evidence for and against the minimum wage and to conduct definitive research to determine once and for all whether the Fair Labor Standards Act has accomplished its objectives. The evidence is now in, and the findings of dozens of major economic studies show that the damage done by the minimum wage has been far more severe than even the critics of forty years ago predicted. Indeed, the evidence against the minimum wage is so overwhelming that the only way the Commission's majority was able to recommend that it be retained was to ask us not to base any decisions on the facts. As the majority put it in a report prepared months before all the damning economic evidence was in: "What justice demands will not emerge from a computer."

Had the majority of the Commission based its report and recommendations on the facts provided us by dozens of the nation's leading economic researchers, this minority report would not be necessary. It is not intended to cover every aspect of the research conducted for the Commission; these results are available from the Commission and they should be required reading for every lawmaker, consumer, employer, worker, and serious researcher concerned about the effects of the minimum wage. Instead, this minority report will focus on the overwhelming body of evidence in studies ignored or belittled because they did not square with the Commission majority's preconceived conclusions.

The majority has refused to base its conclusions on the inescapable economic facts uncovered in our studies. But the majority's bold and unsupportable assertions cannot disguise the devastating indictment that the Commission's economic research brings against the minimum wage. Our own studies reveal that:

- Nine out of every ten U.S. families are financially worse off whenever

the minimum wage rises.

- More than 80 percent of families on the lowest rung of the economic ladder suffer from increases in the minimum.
- Half of the 10 percent that do benefit from increases in the minimum are in upper-income brackets.
- Teenagers and college-age youth make up nearly half of all the workers earning the minimum wage.
- Minimum wage earners who are the sole breadwinners for families of two or more represent less than 2.8 percent of the total work force.
- A rising minimum wage broadens the income gap between blacks and whites, leaving black families proportionately further behind than ever.
- Every 10 percent increase in the minimum wage reduces employment opportunities for teenagers by 80,000 to 240,000 or more jobs. Minority youths suffer the most, and young black females are hurt the worst of all.
- Older workers feel the minimum wage crunch even more severely: each 10 percent rise in the minimum wage eliminates 2.9 million jobs for adults.
- The most vulnerable segments of society, low-skilled workers, those with little formal education, young people, and many elderly workers are the most likely to be hurt by increases in the minimum.
- Despite efforts by the Commission majority to characterize employer noncompliance as a serious pro-

blem, more than 98.8 percent of all workers subject to the minimum wage provisions of the Fair Labor Standards Act are paid in full compliance with those provisions.

- More than 70 percent of the Department of Labor's suspected minimum wage violations involve amounts averaging less than \$2.75 per week; the vast majority of all noncompliance is unintentional or "nonwillful."
- Indexing the minimum wage with an automatic escalator in 1974 would have raised consumer prices by nearly 1 percent more than inflation during the next twelve months alone while reducing total employment for low-wage workers by 3.6 percent. Indexing as proposed by the Commission majority would also worsen swings in the business cycle, making the economy increasingly less stable.
- In contrast, freezing the minimum at the 1974 level would have increased jobs for low-wage workers by an average of more than 14 percent during each of the next four years while reducing consumer prices 2.5 percent annually.

Introduction

Four decades ago, during one of the most turbulent periods in our nation's economic history, Congress approved a minimum wage law intended to improve the "general well-being of workers." For the next forty years, economists warned us that the minimum wage law does not accomplish that goal, that it backfires against the working poor by killing jobs and fueling the cruelest, most regressive tax of all -- inflation.

In 1977 Congress amended the Fair Labor Standards Act to require the biggest series of minimum wage increases in history. But at the same

time, Congress created the Minimum Wage Study Commission to reexamine the effects of the minimum wage law and to undertake major new research into its impact on our economy and society. The Commission's research is now complete and the findings of dozens of the nation's leading economists provide a clear road map for future minimum wage policy decisions. Unfortunately, the majority of the Commission's members chose to ignore the overwhelming bulk of the evidence assembled by this panel over the past two years. Indeed, many of the recommendations of the Commission's controlling faction are in direct conflict with the findings of our own economic studies.

Like most businessmen, I have a natural concern about the minimum wage and I have suspicions about the "free lunch" theories of its supporters. When I agreed to serve on this Commission, however, I tried to set aside these doubts and take a fresh, objective look at how the minimum wage actually works. To that end, I approached the vast body of economic evidence the Commission had assembled with an open mind and a desire to consider all the facts uncovered by the expert research sponsored by the Commission and ignored by the Commission majority. Nothing would have pleased me more than to learn that my concerns about the minimum wage were unfounded, that by raising the minimum both my customers and my workers could improve their purchasing power and living standards without paying an offsetting price. But this did not turn out to be true. Not only is there no "free lunch," but the cost of the meal is far higher than anyone has bargained for.

No objective reader can review the findings of the researchers who conducted studies for this Commission without rejecting the main conclusions of the majority report. The glaring discrepancy between the Commission's conclusions and the factual findings presented to it no doubt is the result of

several factors. For one thing, the eight-member Commission itself was heavily weighted with long-time advocates of a continually rising minimum wage. The first chairman of the Commission was a former Congressional committee aide who had worked for the passage of legislative increases in the minimum wage. He was succeeded by a former Congressman who had taken an active role in enacting minimum wage legislation. Other members of the Commission's majority bloc include an AFL-CIO consultant and a union vice-president. Not surprisingly, these Commissioners may have been more inclined to protect their legislative handiwork than to conduct a fundamental examination of the minimum wage's effects on the nation's economy as well as on its poor, elderly, young, and handicapped.

Although these Commissioners should have reviewed the assembled evidence impartially, it seems as if their minds were closed from the beginning to any research findings at odds with their preconceived notions and long-held positions on the minimum wage. It is perhaps significant that even before the Commission had made its recommendations on key issues such as a youth opportunity wage for teenagers at least one member of the Commission majority attempted to rally public opinion against this proposal.

The Commission majority's near-total disregard for facts became apparent as the results of our economic research began taking shape. With the overwhelming bulk of the evidence from these studies showing that the minimum wage hurts far more poor families than it helps, the majority proclaimed the view that Congress did not really expect the Commission to base its recommendations on the facts anyway. When the evidence became inescapable that a rising minimum wage wipes out millions of job opportunities for young people, women, the elderly, and the disadvantaged, the Commission's majority did not even bother to try to refute the facts.

They were simply declared immaterial.

Even before most of the Commission's research was completed, the majority was prepared to take most of the positions it now adopts. A "preliminary" majority report prepared but not released in mid-January declared the willingness of a majority of Commissioners to vote on the basis of their "moral and political" views. That hastily prepared report clearly outlined the main influences shaping the majority's conclusions.

Downplaying the incomplete but still devastating array of economic evidence of the minimum wage's harmful effects, the majority's preliminary position paper declared that "we do have to take into account, as a conscious part of the process of getting from question to answer, the fact that the moral and political premises that underlie a question have more to do with shaping the answer than do the nuggets of fact that merely provide the foundation for the road between."

When I accepted appointment to this Commission, I was not advised that my moral and political beliefs were to be the basis for my recommendations. I am neither a theologian nor a politician. The "nuggets of fact," which cost the taxpayers over \$17 million to collect, are to me much more than a "foundation for the road." They are the road itself.

Perhaps the least constructive aspect of that preliminary report was its preference for rhetorical excess over reasoned analysis. At numerous points, the report engages in energetic but meaningless sloganeering. Statements such as "What justice demands will not emerge from a computer" contribute nothing to an informed discussion of this crucial issue.

Even more disturbing is the fact that these rhetorical flourishes in the preliminary report mask the Commissioners' refusal to face unpleasant facts. While repeatedly disparaging the economic research the Commission was created to conduct, the report frequent-

ly invokes grandiose-sounding if unspecified "moral and social and political" factors to justify whatever position the authors of the report want to take but for which they cannot find factual evidence. Thus a discussion of a youth differential wage in the majority's "preliminary report" concluded with this observation: "When all these facts and caveats and reservations have been examined, there remain the social and moral and political questions, on which the undersigned Commission members have to take a stand." Perhaps the majority's inclination to seek refuge in statements about moral imperatives may say something about the quality of their factual case.

The factual record presented to the Commission but essentially ignored by the majority's report conclusively demolishes many commonly-held beliefs about the minimum wage. Increases in the minimum wage do not leave most low-income workers better off than before as the research findings demonstrated. Rather, sharply reduced employment opportunities, offsetting reductions in public-assistance transfer payments, and higher inflation combine to make almost all workers worse off after each new minimum wage increase, especially the lowest-skilled workers most in need of assistance.

The Fair Labor Standards Act clearly included among its goals the prevention of large-scale unemployment, yet the Commission's research shows that minimum wage increases substantially reduce employment opportunities, cause would-be workers to drop out of the work force and cost many others their jobs.

Although the Commission report discusses at great length the historical events leading up to the Fair Labor Standards Act, it fails to analyze the purposes that Federal wage-hour laws were intended to achieve. I had urged the Commission to review the arguments and assumptions in favor of a constantly rising minimum wage in light of the

Commission's own research evidence. Yet the majority refused to determine whether the arguments often made to support minimum wage legislation continue to have any validity.

The Commission received substantial expert testimony on the harmful effects that the minimum wage has on teenagers, low-income families, unskilled workers and some minority group members. But it has repeatedly insisted that Congress gave no thought to the minimum wage's effect on these segments of the population when passing and revising minimum wage laws.

According to this questionable view, the Fair Labor Standards Act's plain statement of purposes amounts to mere hyperbole, and the assumptions and rationales expressed by the framers and supporters of those laws do not merit serious study or review. This approach, which maintains that Congress was motivated solely by a desire to equalize bargaining power between employers and workers, fails to examine even that premise to see if it remains as valid today as it was during the Great Depression era that gave birth to Federal minimum wage laws.

Another fundamental weakness was the Commission majority's consistent refusal to examine the practices, policies and priorities of the Department of Labor in administering the Fair Labor Standards Act. This reluctance may in part stem from the awkward position in which the Commission found itself of having to depend on the Department for its funds. A truly independent Commission would have had greater success, and interest, in obtaining needed information and asking long-overdue questions when dealing with the Department of Labor.

The Commission also refused to hold public hearings to provide an interchange of ideas and information with affected employer and worker groups, once again demonstrating its lack of interest in the effects its recommendations would have on the nation's economy.

The great body of economic evidence is generally given short shrift by the Commission's majority, but it is set out in the accompanying volumes. Unfortunately, the conclusions in the Commission's majority report bear little relation to the evidence that has been gathered at such great effort and expense.

I find this cynical disregard for the conscientious, painstaking findings of our economic research both embarrassing and appalling. Clearly this willingness by the Commission's majority to enshrine personal preference in place of the hard facts means that the majority report will consistently fail to answer the questions Congress asked in creating the Commission. If Congress intended this Commission to vote on the basis of its opinions rather than the evidence, this Commission should have been retitled the Minimum Wage Opinion Commission. It could have then reached its conclusions three years ago and avoided the time and trouble of undertaking extensive--and expensive--economic research.

In short, the Commission's majority has based its report, in many cases, on a total disregard for the evidence. It fails to confront essential questions and, unfortunately, performs no service to the Congress, the Nation, working men and women, or the unemployed. It is unfortunate that such an unsatisfactory and undistinguished piece of work as the majority's statement of its conclusions makes such little use of millions of dollars of economic research. It is my firm conviction that the Commissioners responsible for this report owe an apology to everyone interested in a thorough, objective analysis of minimum wage issues.

Demographics of the Minimum Wage Work Force

For more than 40 years a primary justification for the minimum wage has been to provide an income floor for families at the bottom of the economic

ladder.

The Fair Labor Standards Act specifically spells out that a primary purpose of the minimum wage is the attaining of a "minimum standard of living necessary for health, efficiency and general well-being of workers." Many supporters of the minimum wage argue that it should provide enough income to support a family of four. Former Secretary of Labor Ray Marshall not long ago reaffirmed this principle to Congress in a statement characterizing the minimum wage as a mechanism to enable low-income workers "to provide their families with a standard of living approaching the nonfarm poverty level." Despite attempts by the Commission majority to de-emphasize this point in the face of the evidence that the minimum wage ends up hurting rather than helping most workers, much of the remaining support for the Federal pay floor clearly stems from the mistaken belief that the minimum wage is an effective device for providing families with a nationally-fixed minimum income.

For that reason, it is extremely important in assessing the minimum wage to determine if it is actually serving this purpose.

Our research findings make clear that the adverse consequences of a rising minimum wage (higher prices and reduced job opportunities) fall disproportionately onto the poor and disadvantaged. If these same low-income families do not reap the major share of the benefits of the minimum wage, there is little justification for increasing or even continuing to maintain this floor.

Any objective examination of the minimum wage needs to ask some fundamental questions on this point. Do a sizable number of families depend on a rising minimum wage to remain above the poverty level? Or do the majority of minimum wage earners come from middle- and upper-income households? How many are "singles" with no dependents, or teenagers, students and other part-time workers?

The Commission's research clearly provides answers to these questions. Specifically, the research found:

- Almost half of all minimum wage workers in 1978 come from families with incomes over \$12,000, and nearly a quarter of the total are from households in the \$20,000 and up income bracket.
- Only one minimum wage earner in ten comes from a family whose income is below the poverty level.
- More than three-quarters of all minimum wage workers come from families earning at least one and one half times the poverty level income.
- Teenagers account for by far the largest segment of the minimum wage earning population, over 30 percent of the total.
- Seventy percent of younger teenage workers, those aged 16-17, are employed at or below the minimum wage.
- College-age youths aged 20-24 constitute the next largest group of minimum wage workers. About 45 percent of these are students who report that their "major activity" is attending school.
- Together, youths in these two age groups make up almost half of all those working at or below minimum wage levels.
- In contrast, less than 7.7 percent of all "prime age" workers between 24 and 65 are minimum wage earners.
- Some 54 percent of those earning the minimum wage or less work part time.

- More than half of the minimum wage work force are single individuals who have never been married.
- Only one of every four household heads working at the minimum wage can claim any dependents, much less a family of four.
- Minimum wage earners who are the sole breadwinners for a family of two or more represent less than 2.8 percent of the work force.

These basic findings clearly and conclusively dispel the myth that the minimum wage should be set at a level to support a four-member household. It is one thing to subscribe to the proposition that the breadwinner in every household should earn enough to support his or her family. But it's quite another to argue that every worker should be paid enough to support a family of four.

Whatever other benefits or drawbacks may be ascribed to the minimum wage, the Commission's demographic studies show clearly that as a mechanism for redistributing wealth, it is a disaster.

Like Robin Hood in reverse, the minimum wage steals from the poor through inflation and diminished employment opportunities, and squanders most of its benefits on less needy segments of the population. The Commission's economic staff has told us that there are not more minimum wage workers at low-income levels than in other income classes and that minimum wage workers are not more likely than other workers to be in low-income families.

Employment at the minimum wage has been described as a springboard from which beginning workers can enter the labor market with little or no experience; it also is said to help women re-enter the work force with job skills grown rusty during years of child-rearing. But as the Commission's studies indicate, this springboard can

become a stumbling block for many of these individuals if the minimum wage rate increases too quickly.

The Commission's majority not only ignores this important economic reality but also perpetuates the myth that there is some sort of minimum wage "caste system" in this country to which low-income individuals are permanently assigned. While the Commission failed to assemble any data on the work experience and skills of minimum wage earners in comparison to those earning higher incomes, there is some strong evidence in the demographic data assembled by the Commission's own staff to show that the minimum wage serves primarily as an entry-level salary for beginning workers. Even the most perfunctory examination of minimum wage workers in different age brackets reveals that the proportion of individuals earning the minimum drops steadily as workers become older and, presumably, more experienced. For example, among young teenagers aged 16-17, the group most likely to be seeking employment for the first time, 70 percent of all workers earn the minimum wage or less. Among older teens, who are more likely to have work experience, the proportion of minimum wage workers drops off sharply to 38 percent. It falls further to 17.4 percent among workers in their early 20s, and drops below 7.7 percent for individuals in their "prime" working years between the ages of 25 to 64.

The Commission's studies on long-range demographic trends provide even more persuasive evidence that the minimum wage is an entry-level salary from which most workers graduate as they gain experience in the employment market. These studies show that more than 45 percent of all working males between 16 and 19 earned the minimum wage or less in 1966. By 1976, when this group was between 26 and 29 years old, less than 10 percent were still earning the minimum wage despite several increases in the minimum during that period.

Contrary to the inferences cast by

the Commission majority, the long-term studies show that the strong trend of workers to "graduate" from the minimum wage cuts across racial lines. Black workers tend to rise above minimum wage levels in roughly the same proportion as whites.

If, as former Secretary of Labor Marshall maintained, the purpose of the minimum wage is to help the working poor support their families at or near the poverty level, the logical question is: How many families are protected from poverty by the minimum wage? The Commission's research indicates that the vast majority of the nation's minimum wage earners are either single individuals with no family at all to support or members of households with several wage earners, including at least one well above the minimum wage levels.

Fewer than 2.4 million minimum wage earners, 2.8 percent of the total work force, are responsible for the sole support of households with more than one member. But even this figure greatly exaggerates the proportion of families who depend on the minimum wage to remain above the poverty line. While the Commission's research clearly shows that better than 97 percent of the nation's labor force does not rely on the minimum wage as a poverty shield, it does not follow that the remaining 2.8 percent are protected from poverty by the minimum wage. The data assembled by the Commission simply does not address this central issue. We do not know, for example, how many of these 2.4 million workers earning wages equal to or below the legal minimum who are in one-earner families are in occupations covered by the Fair Labor Standards Act. Since "uncovered" individuals are not affected directly by changes in the minimum wage--or even by the existence of the pay floor--they cannot logically be counted among those whose families are protected from poverty by the minimum wage.

Slightly more than 20 percent of all the 10.6 million workers identified

by the Commission as "minimum wage earners" fall into this "uncovered" category. If a similar proportion of household heads are not covered by the provisions of the Act, the number of minimum wage earning "sole breadwinners" drops to less than 1.9 million. Moreover, the Commission's findings do not show how many of these individuals are in jobs that provide them with additional earnings above and beyond the minimum wage level.

In defining the "minimum wage worker," the Commission has taken the broadest possible definition. It includes over one million individuals who also receive tip income. Although technically these workers may be paid the minimum wage by their employers, their earnings exceed minimum wage levels, often by substantial margins. The nation's waiters, waitresses, bartenders, taxi drivers and other relatively high earning tipped employees should not be included in any discussion of individuals protected from poverty by the minimum wage. As a group, tipped employees represent just over 20 percent of all nonsupervisory workers covered by the minimum wage in private non-farm establishments. If a similar proportion of household heads fall into this category, the number of individuals supporting a household on an actual minimum wage income falls under 1.5 million.

These are not the only areas where the Commission majority's ringing assertions go far beyond the available evidence. The Commission's data do not indicate how many dependents these minimum wage workers are supporting. This is a critical missing link in any examination of whether the minimum wage serves as a poverty shield since the "poverty level" hinges on family size. Obviously, a two-member family requires a considerably lower income to remain above the poverty line than a four-member family does. For example, in 1978 a full-time worker supporting a family of seven or more would have had to earn \$5.29 per hour to maintain a

standard of living above one commonly used poverty line figure. But a worker supporting a family of two would need an hourly wage of only \$2.04 to achieve that same standard of living. Put another way, a two-member household supported by one minimum wage worker earns an income 30 percent above the "non-farm poverty level" goal advanced by former Secretary of Labor Marshall. Such individuals may be in danger of falling into poverty if they lose their jobs because of a rising minimum wage, but they hardly appear in danger of sinking below the poverty line if the wage level does not increase.

The Commission's research does not reveal how many of the 1.5 million actual minimum wage-earning "sole breadwinners" have only two members in their families. But Census Bureau figures show that 39 percent of all U.S. families have only two members. Presumably an equal, if not greater, proportion of the families supported by one minimum wage earner would also fit this description.

Advocates of ever-higher minimum wage rates traditionally argue that an escalating minimum wage is needed to help families of low-wage workers remain above the poverty level.

But a close, objective look at the segment of the population actually subject to changes in the minimum wage reveals that the number of families that conceivably may depend on the minimum wage to remain above poverty can be counted in the thousands, rather than the millions. There appears to be less than 1 percent of the work force actually supporting a family of more than two on the minimum wage.

With the vast majority of minimum wage workers concentrated among teenagers, students, and other single individuals with no dependents, it should not be surprising that most independent economic studies openly refute claims that the minimum wage serves as a basic safeguard against poverty. Not surprisingly, then, an independent study

on poverty and the minimum wage conducted by the American Enterprise Institute has concluded that it is "most inaccurate" to view the minimum wage as an effective means of dealing with poverty. After a careful review of all the evidence, the AEI study found that "the minimum wage laws affect poverty, even among working adults, hardly at all." This is entirely consistent with the findings of the Commission's own research, which the majority's conclusions ignore.

The Minimum Wage and Employment

One of the most serious issues addressed by the Commission is the question of how the minimum wage affects the employment of low-wage workers. For the millions of Americans out of work, this is hardly a theoretical topic.

The real question is not whether the minimum wage chokes off employment opportunities. The evidence before the Commission is overwhelming and uncontested on this point: every study of this issue, every shred of economic evidence collected by the Commission, indicates that the minimum does indeed reduce employment levels. The real question is how many jobs are wiped out by the minimum wage.

An underlying purpose of the minimum wage, according to Section 2 of the Fair Labor Standards Act, is to increase pay levels "without substantially curtailing employment." No less than eight teams of outside economists were contracted to study this area in addition to the Commission's own staff research. The following results of those studies cannot fail to impress any observer with an open mind.

- For every 10 percent increase in the minimum wage, employment opportunities for teenagers drop by 80,000 to 240,000 jobs.
- The effects of this "disemployment" on earnings is proportion-

ately greater for minority teenagers, with young black females suffering the most severe impact of all.

- A youth "subminimum wage" could raise total teenage employment levels by "at least" 2.5 percent and create job opportunities for as many as 450,000 unemployed teens.
- Far more adults than teenagers lose employment opportunities when the minimum wage rises, although the percentage job loss is twice as great among teenagers. One study conducted for the Commission found that a 10 percent minimum wage increase would wipe out at least 2.7 million jobs for adults.
- Freezing the minimum wage in 1974 would have increased employment for low-wage workers by an average of more than 14 percent during each of the next four years while lowering prices about 2.5 percent annually.
- Research into the long-run effects of the minimum wage has found that benefits are reduced and costs are increased substantially over time.
- One study measuring "long-run" minimum wage employment effects found that the resulting job losses were twice as great for females as for males.
- Another major study performed for the Commission concluded that over the long run, every one percent rise in the effective wage to low-paid workers wipes out between 319,000 and 1.2 million jobs.

The Commission majority consistently attempts to ignore or downplay the devastating impact of the minimum wage on employment opportunities.

Although a rising national pay floor will increase the earnings of some workers, those wage gains come at the expense of jobs for other workers, generally those most in need of work. As a result, the very groups who are the intended beneficiaries of a minimum wage increase become its chief victims.

Advocates of a rising minimum wage typically argue that the resulting increases in unemployment are "manageable." But the research conducted for the Commission emphatically proves otherwise. Despite the Commission majority's reluctance to face up to the issue, its own studies convincingly demonstrate that increases in the Federal minimum wage over the past four years alone have wiped out employment opportunities for millions of Americans.

Employment vs. Unemployment. In times like these when the national unemployment levels are uncomfortably high and the jobless rate among teenagers is well into the double-digit range, it is more appropriate than ever to examine the impact of the minimum wage on the labor market.

Certainly some of our current unemployment is a direct result of work force reductions by employers attempting to offset increased labor costs from a rising minimum wage. But the unemployment figures alone do not begin to measure the harm created by minimum wage restraints on job opportunities.

The problem is one of definition. Being "out of work" is not the same as being "unemployed." The official statistics on unemployment include only those jobless individuals who are actively seeking work. They do not count the millions of "discouraged workers" who drop from the labor market entirely as a result of the minimum wage. As a research paper by the Commission's own economic staff acknowledges, "unemployment increases understate employment losses if some individuals respond to reduced employment opportunities by dropping from the labor force altogether."

Commenting on the Commission's research, eminent economist Jacob Mincer said that for every one worker officially counted as unemployed, at least two simply drop out of the job market as "discouraged workers." The Commission's own economic research also found that, among teenagers who suffer employment setbacks because of increases in the minimum, an even greater proportion fall into the category of "discouraged workers" who never show up as statistics on the unemployment rolls. This means that official unemployment statistics significantly underestimate how many workers have lost jobs, or the opportunity for jobs, because of increases in the minimum wage. As a research paper by the Commission's economists correctly notes, "the employment effects are more likely to be more accurate than the unemployment effects as an indication of the impact of the minimum wage."

Rather than attempt to minimize this grave economic and social problem, the Commission ought to have concentrated on revealing the true dimensions of the workers and would-be workers who have lost their jobs or the opportunity to find work as a result of the minimum wage. It is a major failing of the Commission's majority report that it fails to give adequate attention to that crucial issue.

The Teenage Problem

Since teenagers and college-age youths between 20 and 24 represent almost half of the entire minimum wage work force, it is not surprising that most of the economic research so far has focused on how the pay floor affects employment opportunities for young people. The Commission's own staff economists performed an extensive review of virtually all major research in this area over the past decade. Every study reviewed found reduced employment for teenagers as a result of increases in the minimum wage. And the vast majority of those studies indicated

that employment losses triggered by the minimum wage affect every teenage demographic segment: males as well as females, blacks as well as whites. The most recent of these studies, however, show a disproportionate impact on females and racial minorities.

Earlier research found that every 10 percent increase in the minimum wage reduces the total employment of teenagers between 1 percent and 2.5 percent. With the total teenage work force now exceeding 8 million, those findings indicate that such an increase in the wage floor would wipe out between 80,000 and 240,000 jobs for young people. Considering that the Federal minimum wage rate has risen more than 45 percent in the past four years, the recent effects on youth employment alone have been devastating.

The new studies conducted for the Commission in this area, however, suggest that the effects of the minimum wage on teenage joblessness may be even more severe than these figures indicate. A study conducted for the Commission by Harvard University economists David A. Wise and Robert Meyer found that among non-student youths aged 16 to 24, a 10 percent minimum wage hike would reduce employment 2.1 percent. For college-age 20-24 year olds, the job loss would be 1.9 percent, while for teenagers, the employment loss would be 3.6 percent. Another study conducted for the Commission by economists John Abowd of the University of Chicago and Mark Killingsworth of Rutgers found even more alarming employment losses among young workers. They calculated that a 10 percent rise in the minimum wage reduces teenage employment 6.5 percent. This means that every 10 percent increase in the minimum wage eliminates at least half a million teenage jobs.

A Youth Opportunity Wage

Michigan State economist Daniel Hamermesh similarly concluded in his report to the Commission that the mini-

mum wage causes "substantial disemployment among young workers" and agreed that the true impact on teenage jobs is even greater than previous studies have indicated. One solution explored in detail by Hamermesh is a "youth differential" for teenagers. The theory behind such a reduced youth wage is that it would encourage employers to create new jobs for unemployed teenagers.

Hamermesh's study not only confirms this theory but shows that a youth differential equal to 75 percent of the regular hourly pay floor would raise teenage employment 3 percent. Put another way, Hamermesh found that lowering the minimum wage 25 percent for teenagers would create a quarter of a million more jobs for young people.

If anything, these projections may be too low. After reviewing Hamermesh's study, the Commission's economists suggested that his estimates are conservative, noting that "a reasonable prediction might be that teenage employment would increase 1.5 percent to 3 percent in response to a 15 percent differential and 2.5 percent to 5 percent in response to a 25 percent differential." Under these more "reasonable" projections, a youth subminimum would create new employment opportunities for as many as 450,000 teenagers.

Critics of the "youth differential" approach often contend that most of these new jobs for teenagers would come at the expense of adult employment, but estimates developed by the Commission's staff do not support that assertion. Although a teenage differential might result in some substitution of younger workers for adults, the evidence strongly suggests that a youth differential would lead to teenage employment at least three times as great as any reduction in employment of workers over 19 years old. The Commission's staff analysis also found that as many as nine new jobs may be created for teenagers for every one worker over age 19 affected.

Adult Employment Effects

Most discussions of minimum wage disemployment center on job losses for teenagers, but the painful and generally overlooked truth is that most of the employment reductions caused by a rising pay floor affect adults.

Economist John Pettengill of the University of Virginia, another researcher who shed new light on this issue in a study for the Commission, found that the workers hurt most by minimum wage increases are not teenagers at all, but the elderly, the handicapped and the low-skilled of all ages who are least able to improve their output in response to rising pay scales.

Examining nearly every imaginable combination of disemployment effects from a hypothetical minimum wage covering all workers, Pettengill concluded that "even for the most optimistic" assumptions, such a minimum wage "ultimately drives 0.3 percent of the work force out of the labor market for each percentage point" it increases above the effective wage. Using assumptions described as somewhat more pessimistic but still "plausible," the study finds that "a gruesome 1.4 percent of the work force will ultimately be disemployed in order to achieve a 1 percent increase in the effective minimum wage."

When these cold percentages are translated into human terms, they show that a 1 percent rise in the effective minimum wage could eliminate 309,000 jobs. In the worst case, it would wipe out employment opportunities for more than 1.4 million Americans.

Effect on Low-Wage Workers. University of Chicago economist James J. Heckman focused his research on a single group, textile workers in South Carolina, chosen to represent the type of low-skilled labor market where the Federal minimum wage is likely to have the greatest impact.

He found that a 1 percent "real" increase in the minimum wage produced sharp initial cutbacks in employment for textile workers ranging from 0.45 per-

cent to 3.39 percent, with black male workers suffering the most severe effects.

The findings of this study are even more disturbing in their long-term implications. Measuring the total disemployment effect resulting from all minimum wage increases between 1948 and 1971, the study found that female workers are hit twice as hard as males: total long and short-run disemployment from minimum wage hikes registered at 1.09 percent for white male workers and 2.05 percent for white female workers. Among blacks, the disemployment gap between the sexes was even more pronounced: employment among black men dropped 0.68 percent, but among black women it fell 1.82 percent.

"Small" Disemployment Effects? Of all the studies conducted for the Commission, only one team of economists, Abowd and Killingsworth, concluded from their research that the employment losses from a rising minimum wage are manageable. The underlying figures flatly contradict their conclusion, however. The study conducted by Professors Abowd and Killingsworth found that every 10 percent rise in the Federal minimum wage reduced adult employment between 2.7 percent and 3.1 percent. It also found even greater reduction in employment, estimated at between a 6.5 percent and 7.6 percent.

Other economists called in by the Commission to evaluate the Abowd and Killingsworth study characterized these minimum wage-related job losses as "huge" and even "disastrous."

Referring to the study's projected 3 percent drop in adult employment in response to a 10 percent rise in the minimum wage, University of Connecticut economist Peter S. Barth warned the Commission that, given a national jobless level of 6 percent, "this change would raise the unemployment rate by close to 50 percent!" He also noted, although the Commission has paid his warnings little heed, that "an increase of 3 percentage points in the national

unemployment rate would be regarded as economically and politically disastrous."

In its eagerness to sidestep the enormous problem that minimum wage increases create for low-skilled workers, the Commission majority takes refuge in generalities. It fails to assess the drastic personal, social and economic consequences on the nation's workers. One example should suffice. In 1979, when the minimum hourly wage stood at \$2.90, total U.S. employment was 97.03 million, including 8.07 million teenagers and 88.96 million adults. At the same time, nearly 6 million U.S. workers (5.8 percent of the total labor force) were unemployed. What would the national employment picture have looked like had the minimum wage been 10 percent lower in 1979, \$2.61 per hour instead of \$2.90? Using Abowd and Killingsworth's figures, teenage employment would have been higher by at least 525,000 and possibly by as many as 614,000 jobs. For those 19 years old and over, their projections indicate that if the minimum wage had been \$2.61 instead of \$2.90 in 1979, there would have been between 2.4 and 2.8 million more jobs.

Even under the most conservative possible reading of the disemployment effects ascribed to the minimum wage by Abowd and Killingsworth, literally millions of jobs were eliminated in 1979 alone because of an unrealistically high minimum wage rate.

Similarly, University of Michigan economist George E. Johnson found what he termed "huge" disemployment effects using a less conservative and possibly more realistic assumption about the minimum wage's disemployment effects. Johnson found that total U.S. employment would have been about 3.4 million greater if the minimum wage had been 10 percent lower in 1979. He noted that "If we make the further assumption that the aggregate labor force did not change in response to the increased employment (i.e., that there is no dis-

guised unemployment), ... the aggregate unemployment rate would have been 2.5 percent instead of 5.8 percent" during 1979.

Johnson pointedly told the Commission that with the hourly minimum wage set at \$2.61 instead of \$2.90, "the U.S. would have satisfied the primary goal of the (Humphrey-Hawkins) Full Employment and Balanced Growth Act."

Of course, the minimum wage was not reduced by 10 percent in 1979, in fact today it stands more than 15 percent higher than it was just 18 months ago. And the nation's unemployment rate is no longer 5.8 percent; it now stands well over 7 percent, more than 25 percent higher than in 1979.

Long-Term Employment Effects. All the Commission's studies find serious short-run employment consequences from a rising minimum wage floor. There is mounting evidence that the minimum wage's long-range effects are even more severe, however. This is particularly true in light of the research findings, as in the Pettengill study, for example, which show that short-term analyses significantly downplay the true disemployment consequences of a rising minimum wage. As Pettengill noted, "any attempt to understand the impact of the minimum wage which does not take account of the variety of labor quality and does not consider the long-run effects is likely to systematically exaggerate the benefits and understate the costs of a minimum wage."

While acknowledging that the minimum wage may "help some workers in the short run," he found that the minimum wage's long-run effect "is almost certainly negative using almost anybody's criteria." Clearly, the findings of that study contain a major warning that the Commission majority ignored.

Pettengill focused on how a "real" increase in the minimum wage will affect employment over the next 5 to 10 years in a hypothetical full-coverage situation (one in which the minimum wage covers

all workers). He found that a 1 percent increase in the "effective" wage of the lowest paid workers (for example, from 50 percent to 50.5 percent of the median wage) would cause "between .31 percent and 1.21 percent of the [current] labor force to be excluded from the labor force in the long run." This means that at a minimum, over 300,000 jobs would be wiped out by such a wage increase. If his higher estimate of long-run employment loss holds true, more than 1.2 million workers may end up being shut out of the labor force by such an increase. Even working under the questionable assumption that individuals receiving an increase in the minimum wage will raise their productivity by putting out more effort, the Pettengill report concludes that its findings "do not offer any support for a minimum wage." Workers with a low level of productivity can be expected to increase their effort in response to a minimum wage increase only marginally, and his analysis finds that amount "not nearly enough to compensate such low-wage workers for the forced increase in the unpleasantness of their work experience." Pettengill also notes that the most "deserving" low-quality workers, those who are already working at the limits of their ability, will find it hardest to upgrade and will thus be forced out of the labor market.

Impact of the Present Minimum Wage. Pettengill's research concludes that over the long term a minimum wage roughly equivalent to the present level may reduce total U.S. employment as much as 3.24 percent (over 3.1 million jobs), while at the same time cutting the nation's total output 0.47 percent. Particularly hurt by these cutbacks will be the elderly, the handicapped, the low-skilled, and other disadvantaged individuals who are unable to improve their output.

Freezing the Minimum Wage. The bulk of the evidence before the Commission suggested that a moratorium on further increases in the minimum wage

would lead to a substantial increase in employment opportunities throughout the country.

University of Arizona economists James C. Cox and Ronald L. Oaxaca tested this hypothesis for the Commission in a study measuring the effects of a hypothetical minimum wage freeze from 1974 through 1978. They found that a freeze at the 1974 level of \$2.00 an hour would have raised overall employment an average of 1.43 percent a year from 1975 through 1978. Total employment would have risen even higher in several key sectors of the economy. Among service industries, such a freeze would have produced employment gains averaging 3.11 percent for each of the four years from 1975 through 1978. In the trade sector, the average yearly increase would have been 5.81 percent. And in agriculture the overall annual gain in employment would have averaged more than 11 percent.

Such a freeze would have produced considerably more jobs for low-wage workers, according to the Cox and Oaxaca figures. In the service sector, for example, total employment of low-wage workers would have increased almost 10 percent a year faster than it actually did. In the transportation, communications, and utilities industries, employment gains for low-wage workers would have exceeded 20 percent annually. And in manufacturing, agriculture and trade, the yearly average employment increase among low-wage workers would have exceeded 17 percent.

This is, of course, a hypothetical description. These employment gains never materialized since the minimum wage was not frozen in 1974. Instead, it grew more than 32 percent during the four year period studied by Cox and Oaxaca. And the national unemployment rate, which stood at 5.6 percent in 1974, rose to an average of 7.3 percent during the 1975-78 period, an increase of more than 30 percent. Yet despite the Commission's mandate to assess the minimum wage's impact on

employment and joblessness, the one-sided view in the majority's conclusions slight these important findings.

Minimum Wage Side Effects. Several of the research studies performed for the Commission found that, besides depressing employment, the minimum wage also creates less obvious undesirable effects in the labor market.

Research conducted by Dr. Daniel Hamermesh found that a rising minimum wage "induces rigidity into the labor market" while at the same time making it more difficult for less-skilled or disadvantaged job seekers to find employment. Other studies have previously found that, as even an elementary appreciation of the free-market system would suggest, competition for minimum wage jobs increases as the wage floor goes up. Commenting on these findings, Edward Lazear of the University of Chicago and Frederick Miller of Johns Hopkins University predicted that some marginal workers as a result will be forced into lower-paying jobs in industries not covered by the minimum wage. Others simply become unemployed, adding to the nation's jobless rate. And still others become so discouraged about their employment prospects that they drop out of the labor force altogether.

In their report to the Commission, Lazear and Miller note that "a less publicized but equally well understood effect of the minimum wage is that it allocates the wrong people to jobs." For example, a minimum wage rate increase may well encourage students to drop out of school and join the labor force. Obviously, if that job could be done equally well by an equally productive non-student worker, society would be better off keeping the student in school and allowing the other worker to do the job.

Conclusion

Since antiquity, physicians have taken an oath affirming that regardless of whatever good they may do, their first obligation is to "do no harm." The

architects of the minimum wage would do well to take a similar vow.

The overwhelming mass of evidence before the Commission proves that the minimum wage reduces employment and job opportunities for millions of Americans. There is no question that the minimum wage strikes hardest at the very workers it was intended to help.

Some economists predict that increases in the minimum wipe out "only" a few million jobs. Others have found the effect to be substantially greater. But it hardly matters which of these findings is closest to the mark. Unfortunately, the Commission majority paid little heed to the evidence before it or to the clear failure of the Fair Labor Standards Act to achieve the goal of raising wages "without substantially curtailing employment."

The Youth Differential Question

Minimum Wage Increases Reduce Job Opportunities. Economists constantly recite the fact that minimum wage increases result in job losses. From 1977 to 1981, the minimum wage has increased 46 percent. Part of the justification for such a huge increase was the perceived need to keep the minimum moving upward at the same pace as inflation. What proponents of those large increases chose to ignore was that the increases added to the business operator's inflationary burden. Faced with rising labor costs, what did business do? The first option was to raise prices to cover increased costs, and prices do go up when the minimum wage goes up. But price increases cover only a small portion of an employer's increased costs.

The service industries are generally labor intensive, and the capacity of service employers to reduce cost by substituting capital for labor is very limited. The service industries are generally highly competitive and decentralized, so their ability to pass the full burden of cost increases to the consumer is also very limited. But in-

creases in the minimum wage make it more and more economical for employers to spend large sums of money to replace people. And that is true even in service industries, which cannot be automated to any great extent. Last year, the National Restaurant Association asked its members how they accommodated the 1980 increases: 71 percent of these food-service operators reduced the number of employee hours worked, 48 percent reduced staff, 21 percent reduced operating hours and 28 percent added labor-saving equipment. Nearly 30 percent of the employers decreased the number of teenagers employed in their establishments.

A recent study by Chase Econometrics found that a ten percent increase in the minimum wage costs the equivalent of some 112,000 forty-hour full-time jobs in the food-service industry alone. In his studies for the Commission, Michigan State University economist Daniel Hamermesh estimates that a 10 percent increase results in at least a one percent drop in youth employment.

These findings, however, should be viewed as rock-bottom minimums. Other research performed for the Commission indicates that the true effect of a rising minimum wage on teenage employment is far more severe. Economists John Abowd and Mark Killingsworth, for example, found that a 10 percent rise in the minimum wage would cut employment of young people by 6.5 percent--a loss of nearly 500,000 teenage jobs.

A separate team of researchers, Harvard University economists David A. Wise and Robert Meyer found that such a 10 percent hike in the wage floor would slice employment opportunities even more sharply for young people who are not in school. They found that among 20 to 24 year-old non-students, a 10 percent rise in the minimum would reduce employment by 1.9 percent. But for non-student teenagers, the job loss would reach 6.9 percent.

Considering that the minimum wage

has increased not 10 percent, but nearly 46 percent over the past four years, it's little wonder that millions of young people cannot find work today.

Youth Differential: What Can It Do? A youth differential would not restore all the jobs lost from recent minimum wage increases. It could not guarantee every teenager a job. But it has the potential to expand youth employment and allow more youth to build the work experience and background they will need to advance in their adult careers.

One bill now being considered by Congress would permit an employer to pay 75 percent or 85 percent of the minimum wage to employees under the age of 20 for a six-month period. Stiff financial penalties are provided for employers caught substituting younger workers for older ones to take continual advantage of the differential. Other bills would entirely exempt employees under the age of 18 from the minimum wage provisions (Section 6) of the Fair Labor Standards Act.

But where will the jobs come from? In service industries, there are plenty of jobs to be done, many that no longer exist because the minimum wage has made their cost prohibitive. Service station attendants, grocery store bag boys, soda fountain workers, carhops, all manner of errand-runners and clerks have been greatly reduced in number or eliminated entirely because of the higher minimum wage. In some cases, business managers or owners have taken over those tasks when they can no longer afford to hire someone else to do them.

Customers themselves now do much of the work formerly done by employees--pumping gas, carrying groceries, preparing and serving salads. Since we have grown accustomed to the self-service salad bar, gas station or retail store, we tend to forget that they represent jobs once performed by others. In most cases, the employees in question were young and were building

their work experience and skills. These are the types of jobs that have been reduced or eliminated by the increased labor costs involved in the minimum wage, and some of them could be revived under a youth differential.

Substitution. The major argument advanced against the youth differential is substitution--employers might replace adults with teenagers or fire teenagers after six months to replace them with other teenagers. But the penalty provisions of proposed youth differential legislation address these concerns more than adequately. And even if no legal penalties existed, few employers could run their businesses in this way.

These jobs are primarily entry-level positions, the types traditionally held by younger workers and having less appeal to older workers with more experience who can command better jobs and better pay.

In addition, a youth differential would create new positions and expand total employment, not just fill existing positions. It would provide job opportunities that have not existed before for anyone, teens or adults.

Maintaining a higher level of service will make service industries healthier and more competitive. If business could stretch its labor cost budget to encompass more employees, it would do so because more staff means more service, and more service means more business. Service employers, therefore, would have a big incentive with a youth differential to create new job openings rather than keeping the same complement of employees and reducing the total wage bill.

The retention of capable, experienced employees is a high priority of any business. Most employers are acutely aware of the high cost of employee turnover. It is foolish and costly to discharge any group of employees, whether adults or youth, simply to take advantage of the youth differential. Employers creating this type of "revolving door" employment would find training

costs (measured in both money and time) multiplying while their trained employees moved on to work for competitors. All these factors, expansion in entry-level job categories, the need for more employees, and the need to retain trained, experienced employees would keep employers from substituting younger workers for adults, or firing younger workers to take continual advantage of the differential.

Dr. Hamermesh's findings add considerable support for this position. His research indicates that almost nine out of every ten jobs created for young people as a result of a youth differential would not come at the expense of workers over 19 years old.

Specifically, Hamermesh found that a special youth opportunity wage set at 75 percent of the basic adult rate would raise teenage employment levels about 3 percent nationwide. The Commission's staff economists suggest that even this estimate may be overly conservative, and that a 75 percent youth wage could raise teen employment overall by as much as 5 percent and create as many as 450,000 new job opportunities for the nation's youth.

But even on the basis of Hamermesh's conservative estimates, it is ironic that those most opposed to the loss of even one adult job to a youth differential are generally the same individuals and organizations who supported the 1977 amendments to the FLSA which, according to then-Labor Secretary Marshall, eliminated 90,000 jobs. The Commission's work shows that a youth differential would result in a substantial net gain in total employment, yet the majority of the Commission voted for continued employment reduction rather than job creation.

The goal of a youth differential is to make more young people into productive citizens able to advance to jobs paying more than the minimum, either by moving up the career ladder or gaining the experience to start businesses of their own. The youth differ-

ential would not create any permanent underclass or tie people to low-skilled, low-paying jobs for the rest of their lifetimes. Indeed, by depriving younger workers of the necessary work experience, accelerating minimum wage increases have had the effect of sentencing them to less productive, less remunerative jobs as they grow older. Much of the criticism leveled at the youth differential is unjustified when viewed in the light of the demonstrable harmful effects of the minimum wage without a youth differential.

How Many Jobs? Beyond the estimates from the Commission, no one knows exactly how many jobs would be created by a differential. So many factors affect business's ability to create jobs--taxes, interest rates, the general state of the economy--that any accurate prediction is impossible. Some advocate an "experimental" youth differential program, yet any youth differential is experimental, since so little is known about the extent of its potential job-creation effects.

Economists agree, however, that minimum wage increases eliminate jobs, and that this loss is concentrated in entry-level, or less-skilled employment. They also argue that a youth differential would increase teenage employment. Ten states currently use some form of youth differential or exemption. And a recent study from the Center for Human Resource Research at Ohio State University shows that teenagers are willing to accept jobs paying less than minimum wage in order to have the opportunity to work. This evidence amply justifies at least an experimental youth differential wage under the Fair Labor Standards Act.

The Minimum Wage And Inflation

Every bit of the Commission's empirical research found that minimum wage increases inevitably lead to higher wages and prices throughout the nation's economy. The Commission staff estimated that wages were pushed up a

full 0.6 percent each year by minimum wage increases during the period examined. Their research also found that, depending on the stage of the business cycle, the annual inflationary impact of minimum wage increases could climb even higher and add a full percentage point--during some extended periods. Other researchers have found even greater inflationary effects.

Nevertheless, the Commission majority attempts to dismiss this sizable inflationary effect as insignificant. Unless double-digit inflation is to be made a permanent feature of our economy, we can ill afford to ignore--as the Commission majority urges--a major element of this economic threat to our national well-being.

The Commission majority downplayed the minimum wage's substantial role in fueling inflation. Yet the Commission's own evidence shows that constantly rising minimum wage hikes have robbed the national wage structure of balance and flexibility. Government-mandated wage rates lose any sensitivity to demand for labor, as all wage adjustments work in only one direction--upward. Boosting the minimum wage rate in a futile attempt to keep pace with prices ends up eliminating any downward wage adjustments necessary to maintain equilibrium in the job market. As a result, these constant wage increases end up being monetized, bringing ever-increasing price levels.

Inflation has not historically been the normal state of things in the American economy. Traditionally, prices have fluctuated, going up during periods of economic expansion and declining during periods of contraction. For example, consumer prices in 1940 were about 18 percent lower than they were in 1800. Between 1800 and 1850, prices declined by 50 percent, rose to previous levels after the Civil War, fell again 43 percent by 1884, and stayed relatively stable until well after the turn of the century. Following World War I, prices again rose to the 1800 level, then de-

clined by 15 percent during the 1920s. The drop in the 1920s took place despite a significant economic expansion occurring then--a situation that most economists would have us believe causes rising rather than declining prices.

Like prices, wages naturally tend to fluctuate up and down in response to market forces. Just as government attempts to prevent wage increases are generally ineffective or worse, so too are government attempts to mandate wage increases. The minimum wage rate by its nature attempts to raise "real" wages by raising nominal wage rates on the theory that some particular wage level will ensure a full-time worker an adequate standard of living. But the Commission majority totally fails to examine a fundamental issue that lies at the heart of the minimum wage debate: is it possible to make wage earners better off by legislating higher pay rates?

The minimum wage cannot be viewed as an isolated wage unrelated to other wages. It sets a rigid regulatory floor on wage levels and blocks the economy's ability to adjust prices to market conditions during periods of economic weakness. As rigid and unrealistic government-set wage rates rob the economy of its ability to restore balance to the wage structure, wage rates can move only upward. The economy becomes locked in a constant upward spiral of inflation. Unable to make any adjustment in wage rates, the economic realities exact a hard toll in rampant inflation, plummeting productivity, climbing unemployment rates, and an overall reduction in economic growth.

As should be evident to any observer familiar with the process of production, labor compensation accounts for a major share of the total cost of production: over two thirds in the private sector and about one half of all government expenditures. Trying to identify the causes of inflation without paying serious attention to the costs of labor neglects the largest element of product input. By contrast, energy,

which the Commission majority might prefer to identify as the main scapegoat for our persistent inflation, makes up only 12 percent of the market basket of goods purchased by business. It is both shortsighted and unrealistic to attempt, as the Commission majority does, to exonerate the minimum wage as a major source of inflation, unless it is committed to maintaining, and indeed increasing, the devastating inflation rates of recent years.

It is also essential in examining the inflationary effect of the minimum wage not to focus solely on the initial price impact of the minimum wage or to treat each minimum wage increase in recent years in isolation. The minimum wage increases adopted in 1977 mandated annual increases for each of the following four years. The Commission majority ought to have examined more fully how this massive series of linked increases helped establish an inflationary psychology, with a resulting impact on wage and price strategy and business decisions over this term. At a time when prices were already advancing at a fast pace, the 46 percent increase set in minimum wage legislation clearly worked counter to other Federal policies to contain inflation. These issues should have been more fully and forthrightly addressed by the Commission.

Productivity. The Commission report attempts to minimize the inflationary effect of the minimum wage by claiming that higher wage rates help bring about productivity increases. The sorry spectacle of the nation's stagnant productivity in recent years strongly suggests otherwise. Although the minimum wage has increased 46 percent since 1978, productivity has declined since 1977. The Commission also ignores the fact that productivity in industries with the largest numbers of minimum wage earners such as the retail food-service and lodging industries have suffered a productivity decline even sharper than the overall rate. As higher wage costs force higher prices in these

industries, demand for their goods and services also declines, resulting in lower than optimum output levels. Consequently, this inefficiency means less output per employee due to less than optimum demand levels: in other words, lower productivity.

The "Ripple Effect" of the Minimum Wage. While minimum wage increases may temporarily narrow the gap between low-wage workers and those at higher pay levels, the minimum wage increases enacted in 1977 appear to have been followed by higher wage workers regaining the pay differential that their higher job skills demand. The resulting "ripple effect" has caused a very significant degree of wage inflation.

A number of studies have shown the dramatic "ripple effect" of wage increases in certain industries. Over 20 years ago a Bureau of Labor Statistics study reported that increased labor costs from the minimum wage for the northern sawmill industry were about 25 percent greater than the cost of merely bringing lower-paid workers up to the new minimum wage level. A survey conducted by the American Retail Federation on the effect of minimum wage increases between 1974 and 1976 revealed that pay increases for workers above the minimum wage ranged from one half to twice the dollar cost per employee more than the cost of raising the minimum wage to the newly mandated rate.

Any personnel officer knows that a wage system must be externally competitive and internally consistent. The internal mechanisms of any wage structure do not permit employers to give pay increases to new employees while older, more experienced, and productive workers remain at the same pay level. So minimum wage increases inevitably force an overall upward shift in industry wage structures.

The Commission majority's conclusion that the minimum wage "ripple effect" may disappear over a period of time totally ignores evidence indicating the minimum wage has had a significant

long-lasting ratcheting effect on wages, which prevents them from falling as they have historically done during weak labor markets. In its attempt to act as a wage floor, the minimum wage ends up acting more like an escalator. Workers with greater skill and experience will still seek to maintain a constant differential between themselves and minimum wage workers. As a result, all labor costs go up without leaving minimum wage workers better off than before. Indeed, as the Commission's own evidence proves, most families with minimum wage earners end up worse off following minimum wage hikes.

Wages: Over Two Thirds of Business Cost. Wage rates play a crucial role in transmitting inflation through the economy, even though the Commission majority fails to acknowledge this fundamental fact. Instead, it relies on the misleading statement that unit labor costs account for only one third of business costs. Yet Department of Commerce figures for the years under discussion show that employee compensation makes up over 75 percent of national income, as compared with well under 10 percent for corporate profits. And the Commission majority's position once again fails to pay adequate attention to the widely disparate effects that wage increases have on particular industries. As experience and the evidence both show, the industries most willing to hire those most in need of work are precisely those most adversely affected by minimum wage increases.

Minimum wage hikes also have special effects on some industries that affect all consumers and taxpayers. Although the Commission majority declined my suggestion that we consider the subject in depth, minimum wage increases clearly add heavily to many costs of government. For instance, a large share of hospital and nursing home costs are borne by the Federal government through Medicaid, Medicare, and other Federal programs. Minimum wage increases have helped raise the costs of

these services above their anticipated levels and thereby drained off Federal funds that could otherwise be devoted to other facets of medical care.

The University of Michigan survey, which indicated that only one third of minimum wage employers reported raising prices in response to changes in the minimum wage, runs counter to other studies. For example, an extensive survey conducted by the National Restaurant Association of that industry found significantly different results. That study identified a wide variety of major actions taken by restaurants to adjust to incremental changes in the minimum wage. These included reductions in hours, staff, hours worked per employee, switching to self-service, adding new equipment, and hiring students at the special 85 percent of the minimum wage rate provided in current law. Contrary to the ISR study, the survey also found that 95 percent of the restaurants responding had been forced to raise menu prices in order to accommodate the 1978 increase in the minimum wage.

The questionnaire drew 1,489 responses. The following table describes actions taken by respondents in order to accommodate just the 1978 increase in the minimum wage. Virtually all of the respondents indicated that they have raised menu prices as a result of the January 1978 minimum wage increase. In addition, 78 percent report that they have reduced employee hours worked, and a large proportion, 65 percent, have reduced staff.

Indexation: A Prescription For Disaster

One of the Commission majority's most far-reaching and least supportable recommendations calls for automatic annual increases in the minimum wage rate according to changes in a vaguely defined--and as yet non-existent--index of farm and nonfarm average hourly earnings. The fundamental question the Commission majority has refused to face is: What will we accomplish if we

Response	Total Responses	Yes	No	% Yes
Reduced Hours Worked	1,301	1,016	285	78
Reduced Staff	1,237	789	448	64
Reduced Operating Hours	1,128	373	755	33
Added Self-Service	1,007	308	699	30
Hired Students at 85%	922	244	678	26
Increased Menu Prices	1,441	1,371	70	95
Added Labor-Saving Equipment	1,077	558	519	52

index the minimum wage?

The Commission's majority subscribes to the mistaken view that an indexed minimum wage can maintain a "real floor" for wages and guarantee "real purchasing power." Even those who are not economists can see that an indexed minimum wage will not achieve those goals, in fact, it will only frustrate them by making inflation even harder to control. Significantly, the two economists on the Commission opposed the majority position; their statements against indexing offer eloquent testimony to the faulty analysis and unsupportable conclusions in the majority position.

The majority not only failed to examine the arguments against indexation, but also in many instances showed an amazing disregard for the economic consequences of its recommendation. Indeed, the Commission majority's recommendation that the minimum wage be averaged to some vaguely defined new measure of average hourly earnings runs counter to even the economic findings on which the Commission claims to rely.

Indexing is by nature inflationary. It should not be necessary to recite the many instances where indexing has helped cripple the economy: the approaching insolvency of the Social Security system offers one instructive example. Some of the nation's most extensively indexed industries stand on the brink of similar misfortune. However well-intentioned, passing a law or ne-

gotiating a contract to index wages or benefits does not repeal the hard economic facts of life or provide a secure shelter for the intended beneficiaries.

After a terrible decade of high inflation and economic stagnation, our country finally seems determined to restore needed economic stability. A firm national consensus now identifies inflation as the most serious threat to our economic well-being. A start has been made to facing the realities: the Federal government has begun to assemble a co-ordinated policy designed to come to grips with inflation.

Indexing, however, starts with the premise that inflation is a fixed and permanent part of the economy. It means a refusal to deal with the underlying causes of inflation, choosing to focus instead on adjusting economic arrangements to accommodate inflation. At a time when the nation should be united to fight inflation, the Commission recommendation of indexing advises surrender to it. Now is absolutely the worst conceivable time to be building inflationary forces deeper into the heart of our economy. Yet that's essentially what the majority recommendation for indexing the minimum wage would unavoidably do.

We have to recognize that there is a difference between inflation and particular price increases. Pure inflation, that is, the increase in prices due to overexpansion of the supply of money and credit, is one thing. If an index

measured only this factor, and if everyone were equally covered by that index, the result would be that everyone would stay even. But that theoretical ideal has never been realized in practice. The majority recommendation would bring us no closer to that impossible goal.

The root problem is that every index measures not just that "pure" inflation but all kinds of other price increases as well, no matter what their cause. These are all changes in the cost of living, of course, but they are not all due to excessive monetary growth.

Price increases result from all kinds of other factors such as increased demand. When the supply of beef or oil or anything else is not adequate to meet demand, prices inescapably rise. That's how the price mechanism performs its rationing function, by forcing necessary adjustments. We find ourselves driving less, buying more fuel-efficient cars, eating more chicken and less hamburger--whatever it takes to adjust to the new supply-demand relation. There's really no way to escape the fact.

But there is no index that adequately distinguishes inflation-caused price increases from those caused by supply shocks. Because the index measures all cost-of-living increases, it ends up protecting income from more than just inflation: it also tries to protect income from scarcity-caused price increases. The unavoidable result is that there is now more money but no more goods than before, so even more inflation results.

Indexing against scarcity-caused shortages does not expand the supply of scarce goods. Since that is the only way to maintain real purchasing power in such situations, it's obvious that an index offers no protection against those price increases. The index offers only a false sense of security because the basic economic condition remains and catches up with us eventually. It should be clear from any objective read-

ing of the economic record that indexation will necessarily overcompensate for inflation, thereby cranking inflation deeper into the economy. It will make the economy more unstable, not less.

There are other major problems with indexing, of course. Indexation never applies equally to everyone, so in the short run those with generous indexes end up doing better than those without such lavish provisions. The result is that anything short of a universal index will always end up redistributing income in some unintended way.

The Commission's research has amply demonstrated that the minimum wage is an extremely poor and even counter-productive device for redistributing income. The added wages from minimum wage increases end up scattered through all income levels, and the less well-off seem to end up bearing the brunt of the increased inflation and reduced employment that those minimum wage increases bring. An indexed minimum wage will magnify and speed up these unfortunate effects as it ratchets inflation more broadly through the economy. This will mean those with the lowest job skills will face even worse employment prospects than at present; small business will be hurt harder, and labor-intensive industries like the retail and service trades will be forced to pass on their increased costs to consumers. Everyone eventually winds up worse off due to stepped up inflation including those who thought they were being protected by an index.

The Commission majority maintains that minimum wage indexation is especially desirable during periods of unexpectedly high inflation. Yet economic experts have convincingly shown that indexing is most harmful precisely in such periods.

An indexed minimum wage also does the economy another disservice by removing the likelihood of periodic Congressional review and attention to this major economic factor. Although the Commission paper at one point praises

this as "legislative efficiency," a more fitting term would be "Congressional abdication of responsibility." Those who argue for an automatically indexed minimum wage betray a strange lack of confidence in the ability of Congress to judge what is best for the nation and act accordingly.

The majority endorses indexing the minimum wage as somehow being more efficient than transfer payments in raising or maintaining the real income of the low-wage sector. But without reliable estimates of such transfer payments or other in-kind income for low-wage workers, the Commission majority cannot assess to what extent indexing the minimum wage would add to the real income security of low-wage workers. In-kind transfer payments such as those from many government benefit programs are only one of the major sources of income that are not shown in any available index, including the vaguely outlined one the Commission majority recommends. As the Commission's own research record makes clear, minimum wage increases actually deliver little benefit to low-wage families, in part precisely because of the impact such wage increases have on transfer payments and other in-kind income.

Indexing the minimum wage to average hourly earnings, whether or not farm workers are included, is neither a measure of pure inflation nor a measure of all cost-of-living increases. It will not guarantee the Commission's stated goal of maintaining the purchasing power of a given minimum wage level, and, because it is not a price index, it cannot accurately protect the minimum wage worker from pure inflation.

The Commission's own economic staff has criticized average hourly earnings as a particularly inappropriate index. It has several unique drawbacks beyond those it shares with every other proposed index. As the Commission's own study recognizes, it is very likely to worsen swings in the business cycle.

It would be irresponsible to overlook the great damage this type of index could do to the economy, particularly in the difficult economic times that may lie ahead. This particular index will also cause distortions and displacements between different sectors of the economy with different productivity rates, a factor that an average hourly earnings figure ignores. As a result, some industries will be drastically harmed, most likely those now offering the largest employment opportunities for those most in need of work.

The overwhelming lesson from all available evidence including the Commission's own research is that Federal attempts to set wages in defiance of marketplace realities inevitably create inefficiency in the labor market and, in particular, deny employment to specific segments of the labor market suffering above-average rates of unemployment historically. Yet the Commission majority showed no sign of considering this clear finding of its own research or of other independent studies such as Professor Belton M. Fleisher's *Minimum Wage Regulation in Retail Trade*, published this year by the American Enterprise Institute. This study by an acknowledged expert in the field convincingly documents the overwhelming impact that minimum wage increases have on this vitally important segment of the economy. More than any other area, retail and service trades offer the greatest employment opportunities for new workers in search of valuable job experience. Youth, the elderly, and women returning to the job market all find major employment opportunities in the retail and service trades. The Commission's recommendation would, if adopted, greatly reduce these opportunities. Yet the devastating impact that indexing would have on particular industries such as retail and service trade is all but overlooked in the Commission's report.

At a time when economic recovery is the leading national goal, and con-

trolling inflation a central element in that fight, indexing the minimum wage would undermine the nation's return to economic health.

Exemptions

The studies conducted for the Commission document all too painfully the effects of a rising minimum wage on employment opportunities for low-wage workers and on the prices that consumers must pay for goods and services.

Over the years, Congress has recognized these harmful effects and has attempted to soften the minimum wage blow for particularly vulnerable groups of workers and industries. Specific exemptions were enacted to stimulate the employment of full-time students, to protect the jobs of workers in the nation's smallest businesses, and to ensure the survival of thousands of family farms across the country. Still other exemptions were approved to target the benefits of the Fair Labor Standards Act to low-wage workers by excluding higher-paid executive and management employees from the Federal overtime regulations. Although there is no accurate estimate of the number of American jobs that have been preserved over the years by these exemptions, they certainly run well into the millions.

Over the past 15 years, many of these exemptions have been eroded considerably by inflation and, as a result, no longer provide the protection originally intended by Congress. Others have fallen into disuse because the Department of Labor's enforcement practices make it difficult for employers to avail themselves of the protections intended by Congress. This safety net of exemptions in the Act needs to be updated and strengthened to provide the protection to workers and businesses that Congress intended.

In examining the area of exemptions, however, the Commission's majority chose to concentrate on the hole rather than the doughnut. Starting from the concept that minimum wage

coverage should be universal--a position that Congress has quite wisely never adopted--the Commission majority recommended abolishing numerous Fair Labor Standards Act exemptions, often with little or no understanding of the Congressional intent in establishing those provisions. In far too many cases, the majority made no serious attempt to evaluate the economic impact of removing these protections from the law. Indeed, in some cases, the Commission's majority simply turned its back on the economic evidence in its drive to eliminate as many exemptions as possible.

If the Commission has sound reasons for recommending that the laws be changed or abolished, it has a responsibility to spell them out. If the Commission's only reason for recommending a change in the law is that it cannot think of a reason for not changing it, it should remain silent.

But in reaching decisions according to some abstract notion that the exemptions Congress has created should automatically be suspect, the Commission majority appears willing to set itself above Congress through a series of recommendations that totally ignore the intent of the law.

Executive, Administrative, and Professional Employees

Perhaps in no other section of the Commission's report did the majority display such a total disregard for the available evidence as in its recommendation on the longstanding exemption in section 13(a)(1) of the Fair Labor Standards Act for executive, administrative, and professional workers. Approximately 13 million managers, administrators and professional workers qualify for this "white collar" exemption from Federal wage and hour laws, created by Congress in recognition of the special nature of the work done by these individuals and the perquisites they enjoy: higher pay, greater fringe benefits, job security, and potential for advancement, to name only a few. The

ill-considered recommendation of the Commission's majority would effectively eliminate this important exemption.

Weekly salary level is one element of the Department of Labor definition of which workers qualify for this exemption. A recent attempt by the Department of Labor to raise this salary test substantially has been blocked by the Administration because of its serious inflationary effects and its potential for disrupting vital labor-intensive industries including the retail and service trades. Earlier attempts by the Department of Labor to push through an inflationary increase in this salary test were scuttled by the Carter Administration on the advice of its own economic advisers and inflation fighters. The Reagan Administration, likewise, has directed the Department of Labor to reexamine the proposed new salary levels.

A study by the Commission's economic staff makes a thorough and devastating case against the Department of Labor's analysis of the effect of this increase, pointing out serious flaws in methodology and assumptions. The Commission study proves that the inflationary impact of the Department of Labor's salary test increase would be at least ten times greater than the level estimated by the Department. Instead of adding about \$50 million in extra costs, the Commission staff study concludes that the true cost would be in the neighborhood of a half billion dollars.

In the face of this new evidence, an objective Commission would have only one choice: strong opposition to the Department of Labor's proposed salary test increase. Yet without the slightest factual underpinning or serious discussion, the Commission majority instead chose to recommend immediate adoption of "white collar" salary tests far greater than the levels already rejected as inflationary by two Administrations, the Council of Economic Advisers, and the Council on Wage and Price Stability.

It should also be noted that, at the time it took this position, the Com-

mission's majority had not received--and had not asked for--any estimate of the economic consequences of this apparent spur-of-the-moment recommendation. An examination of the transcript of the lone Commission meeting at which this major feature of the Fair Labor Standards Act was discussed reveals only the most cursory and cavalier discussion of the issue and an irresponsible disregard for the effect its recommendations would have on the nation's workers and economy. Subsequent cost estimates prepared by the Commission's economic staff show that the majority's ill-advised recommendation would cost businesses and consumers nearly \$2 billion annually. The Congress clearly deserves better advice than the hasty and unsupportable conclusion advanced by the Commission majority.

Full-time Student Certification

The Commission majority's recommendation that the student certification program be drastically redrawn to include only high-school students would cripple the main wage differential program now administered by the Department of Labor and deprive large numbers of college students of needed employment opportunities. The recommendation, which bears no sign of careful study or concern for the economic harm it would cause, simply flies in the face of the evidence before the Commission. An extensive study by a research team headed by Professor Richard B. Freeman found that the most important users of the full-time student certification program were institutions of higher education. If the Commission recommendation were adopted, colleges and their students seeking employment would be gravely harmed.

The Commission's research also makes clear that there is no shortage of students willing to work at the currently applicable wage differential, and the program is in fact enjoying growing use and popularity with universities and retail and service trade employers. De-

spite numerous Department of Labor restrictions and onerous paperwork, the continued and growing participation of workers and employers in this program marks it as one that should not be undone by the Commission's cavalier recommendation. The full-time student certification program came into being in 1961 because of a well-considered Congressional concern that the broad expansion of the minimum wage coverage enacted that year would cause grave dislocations in the retail and service sector. The student certification program was designed to increase student employment in the retail and service industries.

When the 1966 Fair Labor Standards Act amendments extended coverage to institutions of higher education, the full-time student certification was also broadened to remove age restrictions, which the Commission majority would now reimpose. As the research findings submitted to the Commission show, the student certification program has expanded employment opportunities in participating establishments between 10 and 13 percent, with a negligible reduction in hours worked by non-students. Yet the Commission's discussion of this area took little notice of these findings, which proved the full-time student certification program to be highly successful.

Unfortunately, if the Commission's recommendation is followed, many untold thousands of college-age students could lose the opportunity to support their studies with earnings from part-time work. Student populations are more transient than other workers, resulting in greater administrative expenses for their employers, due to additional time required to schedule, supervise, and train these workers. Therefore, an 85% differential wage is fully justified for such employees. It is significant that both of the professional economists appointed to the Commission opposed the majority recommendation and urged retention of the current student certifica-

tion program.

As a staff economic paper presented to the Commission pointed out, the willingness of students to take part in the full-time student certification program is readily understandable if the minimum wage is analyzed in light of reasonable income expectations. By converting the OMB poverty level income into hourly equivalent salaries for full-time workers, it becomes apparent that an hourly wage of \$1.82 in 1980 would have kept a single worker with no dependents out of poverty. Even with one dependent, the hourly equivalent of the OMB poverty level was only \$2.41, far below the 85 percent differential paid under the full-time student certification program. Students can likewise be expected to seek employment in those industries offering a large number of opportunities for part-time employment that can accommodate their academic pursuits.

Jobs in Small Businesses

For hundreds of thousands of companies and the millions of workers they employ, one of the most important features of the Fair Labor Standards Act is the provision exempting the nation's smallest retail and service businesses from the Federal minimum wage. Many small businesses in this country are able to survive and provide jobs because they can offer their customers a higher, often more personal degree of service than their much larger competitors. Clearly, a rising minimum wage puts these small businesses at a particularly severe disadvantage. In many cases, the only way such firms can cope with increased wage rates is to reduce employment and service levels, the one competitive edge they have over larger enterprises.

Contrary to the Commission majority's philosophy, Congress has long recognized this by excluding truly small business firms from minimum wage requirements. The problem is defining what constitutes a small business.

Prior to the Fair Labor Standards Act amendments of 1966, the annual dollar volume test for determining whether a firm qualifies as an exempt small business was set at \$1 million annually. Today, after inflation, a comparable small business cutoff point would be in the neighborhood of \$3 million in gross annual sales. But rather than rising with inflation, the volume test has fallen sharply over the past 15 years. Today, the volume test level stands at \$325,000 for retail enterprises. Small-business leaders feel that the volume test should be raised to at least \$2 million to protect employment opportunities.

The Commission majority's recommendation to abolish this important provision would strike at the small and medium-sized retail and service firms already greatly burdened by inflation. The recommendation runs directly counter to the recent Congressional recognition that the current sales volume test is inadequate and needs to be raised to a more realistic figure. As leading advocates of small-business interests such as the National Federation of Independent Business have told the Commission, this exemption is essential to ease the economic pressures on small employers. By recommending abolition of the exemption, rather than its expansion, the Commission majority turns its back on the nation's small businesses.

Saving the Small Family Farm

The Commission has collected no clear evidence and announced no sound reasoning that would call for any major changes in the present FLSA agricultural exemptions. This is particularly true with regard to section 13(a)(6), which exempts small family farms and local hand harvesters paid on a piece-rate basis. Removal of this exemption would eliminate one of the few advantages now enjoyed by small family farmers in dealing with the Department of Labor. It should be noted that these farmers rarely employ migrants, but removal or restriction of this exemption as

the Commission recommends would in all likelihood make wider use of migrant labor more common.

Many agricultural exemptions deal with jobs that are highly seasonal or casual, where there are no accountants, bookkeepers, or labor attorneys. It is difficult for these small employers to keep up with Federal regulations. Local workers paid on a piece-rate basis normally have no difficulty earning more than the minimum wage since they are paid the same piece-rate as others in the same kind of employment in their area. Given the nature of this employment, it is even questionable whether compliance could be enforced if these exemptions were removed or modified in any material way.

Amusement and Recreational Workers

Eliminating or modifying the minimum wage exemptions approved by Congress would also have a devastating impact on employment in dozens of key industries outside of the retail and agricultural sectors.

To discuss the implications for workers in every one of these industries would expand the scope of this minority report to encyclopedic proportions. Instead, I will limit my discussion to one specific industry in this category, which offers a particularly strong example of the Commission majority's disregard for the intent and purposes expressed by Congress in establishing wage-hour law exemptions for specific industries and groups of workers.

Section 13(a)(3) provides minimum wage and overtime exemptions for seasonal amusement or recreational establishments, organized camps, and religious or non-profit educational conference centers. A majority of the Commission has voted to recommend that the exemption for seasonal amusement or recreational establishments be limited to employers who operate so-called "traveling" amusement establishments. Such employers constitute a very small percentage of the total number of seasonal

amusement or recreational establishments that are currently utilizing the exemption; the overwhelming majority of employers covered by the exemption are establishments that operate at fixed locations.

The exemption has been utilized to provide thousands of seasonal jobs for youngsters without any significant effect on employment opportunities for older workers and has helped to keep the cost of recreation within the reach of millions of American families. There is no justifiable basis for the Commission's decision to distinguish between establishments operating at fixed locations and those that travel about the country or to deny the exemption to establishments that operate at fixed locations. The limitation on section 13(a)(3) proposed by the Commission should be rejected.

The reasons why Congress created the section 13(a)(3) exemption have been accurately and succinctly summarized in the November 13, 1980, report to the Commission by Arthur Young and Company entitled "Conglomerate Use of the Exemptions to the Fair Labor Standards Act of 1938":

This exemption was allowed because it was felt that certain recreational parks presented a very special situation based on their seasonal nature. Congress thought the exemption would allow these parks to make thousands of jobs available to young people every summer--jobs that would not be filled because of their unsuitability or lack of attraction to older workers and which, in many instances, might not exist. At the same time, this exemption also makes it economically feasible for these parks to offer literally millions of families first-class recreation at a reasonable price.

These reasons continue to be valid today. A wide range of seasonal estab-

lishments are covered by the exemption,--those operating swimming pools, beaches, local tourist attractions, travelling carnivals, amusement parks, and so-called permanent theme parks such as Hershey Park, King's Dominion, and Six Flags Over Texas. The great majority of these establishments are small, often family-owned and operated. As noted in the Commission's Staff Working Paper No. 14, there were some 7,000 establishments throughout the United States that were covered by the exemption. These establishments hired almost 200,000 employees in the peak employment week of operation during the period of May 1975 to April 1976. (The number of employees hired during more recent years is substantially higher.) The staff report also found that approximately 80 percent of the employees hired were high-school and college-age youths employed on a seasonal basis, i.e., on weekends during the Spring and Fall and more or less full time during the Summer. According to the staff report, over 70 percent of the employees working during the peak-week period were hired by establishments located in metropolitan areas, where youth unemployment is a particularly severe problem. Larger establishments, those with annual receipts in excess of \$250,000, constituted 20 percent of all employers covered by the exemption and hired more than two thirds of all the employees during the peak work period. The overwhelming number of these establishments operate at fixed locations.

There is little question that the Section 13(a)(3) exemption has contributed significantly to the very sizeable number of job opportunities this industry has made available to high-school and college-age youths. In many cases, these jobs are the first real employment opportunities these youngsters have had. I am aware that other members of the Commission are concerned about the effect that the hiring of youngsters at subminimum wage rates may have on

displacing job opportunities for older workers. But the Commission has failed to appreciate the nature of the job opportunities created by these seasonal amusement and recreational establishments and the critical fact that the jobs provided to these youngsters do not displace employment opportunities for older workers. The types of jobs involved, assisting in the operation of rides, providing food and beverage service, handling cleanup operations, acting as lifeguards, etc., are not only suited to the interests and abilities of younger people but are developed for young people as a means of creating and maintaining a wholesome, youthful ambiance that will attract families to these establishments. In great measure, older workers are either uninterested or unsuited for such jobs.

It should be noted in passing that many jobs in these establishments are of a more sedentary nature and are suited to the employment needs of senior citizens, who are able to supplement their retirement incomes by working during the warm months of these parks' operating seasons. In its written submission to the Commission, the International Association of Amusement Parks and Attractions indicated that in 1976 approximately 5,000 senior citizens were employed by members of that association.

The inevitable effect of removing the exemption for seasonal amusement or recreational establishments operating in fixed locations will be to encourage these establishments to make capital expenditures to mechanize many of the functions that are presently performed by these workers, to reduce the number of seasonal employees they hire, to reduce the amount of overtime that such employees may work, and in the long run to increase the prices that are charged to the millions of low- and middle-income American families that visit these establishments each year. I can see no offsetting benefits to the American economy by the narrowing of the exemption, and none have been identi-

fied by the Commission.

My views in this regard are totally in accord with the views expressed during the debate in the House of Representatives on September 15, 1977, by those members of Congress who opposed a restriction on the section 13(a)(3) exemption precluding seasonal amusement or recreational establishments affiliated with "conglomerates" from utilizing the exemption. A substantial majority of the House of Representatives voted to reject that restriction essentially for the reasons I have articulated and reaffirmed the continued desirability of making the exemption available to all seasonal amusement and recreational establishments that meet the criteria for the exemption. The studies performed for the Commission and the data that have been developed only confirm the continued desirability of the present exemption contained in section 13(a)(3). The limitation on the exemption recommended by a majority of the Commission should be rejected.

Conclusions

The Commission's majority has cavalierly recommended eliminating many exemptions in the Fair Labor Standards Act. Enactment of the majority's recommendations would imperil the jobs of millions of American workers. In many instances, the Commission's recommendations have been made without proper regard for the intent of Congress in establishing these exemptions or for the economic consequences that would follow their elimination. In some instances, the Commission has ignored the findings of its own economic research.

There may be room for improvement in the safety net of exemption provisions in the Act, but, if so, the way lies in the direction opposite to that taken by the majority of Commissioners. These minimum wage exemptions should be updated and, where necessary, strengthened to provide the level of employment protection originally intended by Congress.

The Minimum Wage And Income Distribution

As with any government economic policy, the minimum wage benefits some and harms others. The underlying assumption of most minimum wage advocates is that more people are helped than hurt by a rising minimum wage. The advocates also assume that the bulk of these benefits go to those who need them the most--that the minimum wage effectively redistributes income from the "rich" to the "poor."

In signing the 1977 minimum wage amendments into law, President Carter hailed this record-breaking, four-stage increase as assurance that "those from low-income families should be treated fairly" with "an income which would at least bear the necessities of life." More recently, Senator Edward Kennedy described the minimum wage as "essential to the very poorest of our workers," emphasizing that "full-time workers should get wages that keep them out of poverty."

If the minimum wage is truly an effective weapon in the war on poverty, it should be expected to put proportionately more cash in the wallets of the poor than the rich, to narrow the income gap between black and white families, and to leave most low-income families better off than before. But the Commission's economic research shows that the minimum wage achieves none of these objectives. In fact, the following findings of the Commission's research demonstrate that increases in the minimum actually work to frustrate every one of these goals.

- Nine out of every ten U.S. families are economically worse off when the minimum wage rises.
- Even among the poorest fifth of the population, the overwhelming majority of families are hurt rather than helped by the minimum wage.
- Of the small minority who do bene-

fit at all from increases in the minimum wage, half are in upper-income brackets.

- Over 37 percent of the wage increases from a 50¢ rise in the hourly rate would go to households with a pre-tax income between \$22,000 and \$65,000.
- Less than one third of the increase would go to families with pre-tax earnings of about \$10,000 or less.
- Among families on the lowest half of the earnings ladder, a substantial 22 percent boost in the wage rate would raise average income only 2.3 percent. But the bigger tax burden resulting from that minimum wage increase would slice the total gain for lower-income families to 0.07 percentage point.
- The larger the increase in the minimum wage, the smaller the share of the benefits that go to lower income families.
- A rising minimum wage broadens the income gap between the races, leaving black families proportionately further behind than ever.

The Research Findings

The effect of a rising minimum wage on poverty and the distribution of income is one of the most important issues addressed by this Commission. No fewer than three major economic studies were conducted for the Commission to determine how effectively the national pay floor transfers income from the rich to the poor.

The factual results of those three extensive research studies are remarkably similar and in stark contrast not only to common assumptions about the minimum wage but also to the conclusions of the Commission's majority. They dispel the myth that the minimum wage is an effective tool for helping low

income families.

- University of Virginia economists William R. Johnson and Edgar K. Browning concluded that "the minimum wage law does not affect the distribution of household disposable income among income classes to any appreciable degree."
- Researchers Linda P. Datcher and Glenn C. Loury from the University of Michigan told the Commission that "an increase in the level of the minimum is not an egalitarian policy from the point of view of equalizing the distribution of family income."
- A third team of economists, Jere R. Behrman, Paul Taubman, and Robin Sickles from the University of Pennsylvania concluded from their research that the minimum wage "appears to be a poor policy with effects that have often been misunderstood or misrepresented."

Three separate teams of prominent economists, working independently of each other, reached virtually the same conclusion: the minimum wage does not bring a larger income share to the working poor.

The Minimum Wage Fallacy

For many years, the minimum wage has been assumed somehow to automatically translate into higher income for the working poor. But as economists Behrman, Taubman and Sickles concluded in their study: "Our results suggest that this goal generally is not met and indeed that the [minimum wage] system often harms the groups who are intended beneficiaries."

The basic fallacy underlying the assumption that the minimum wage redistributes income from the rich to the poor is the major but generally overlooked fact that most minimum wage earners come from upper-income house-

holds. Johnson and Browning, for example, found that 50.5 percent of all workers earning the minimum wage or less come from families in the upper half of the income distribution spectrum.

The implications of these figures are clear enough even to non-economists: the minimum wage channels more money to upper-income groups than it does to lower-income families. In fact, the Commission's research indicates that nearly a fourth of all minimum wage workers are in families with incomes between \$20,000 and \$50,000, and more than three fourths are from households with earnings 50 percent or more above the poverty level.

On the other side, low-income households receive such a small share of their support from low-wage earnings that even a huge increase in the minimum wage will have little effect on their financial condition. Economists Johnson and Browning found that families in the lowest tenth of the income distribution receive 60 times more income from government transfer programs (welfare, food stamps, housing subsidies, and the like) than they would from a steep 22 percent increase in the minimum wage.

That study also analyzed how the extra income generated by such a minimum wage increase would be distributed among various family income groups. It found, for example, that such a stiff boost in the hourly wage rate would add only 0.5 percent to the nation's total disposable income. Those economists announced they were surprised "by the modest size of the addition to income produced by a 22 percent increase in the minimum wage." Their most "striking" research finding, however, was that added earnings produced by this hypothetical hike in the minimum would be spread almost evenly among wealthy and poor families. Their research showed that families in the lowest 10 percent of the income distribution would receive \$574 million in wage increases as a result of a 22 percent jump in the

minimum wage. But families in the top 10 percent would pocket almost as much: \$528 million. Similarly, families in the bottom 30 percent (those with pre-tax incomes averaging \$9,974 or less) would collect only 32.16 percent of the dollar benefits from such a minimum wage increase, while families whose income placed them in the top 40 percent (\$22,036 to \$64,675) would receive 37.47 percent of the total gain. As the University of Virginia research team emphasized, "the striking result here is how evenly the increase is spread across" the population. Finding that "about half the total benefit goes to the top half of the distribution," these economists concluded that raising the minimum wage "is not a policy that concentrates its benefits on low-income households."

Rich vs. Poor

Datcher and Loury reported similar findings in their studies, concluding that "high-income families gain relatively more from a rise in the minimum than low-income families." They divided all U.S. families into five income groups ranging from the lowest to the highest and then tested the effect of a hypothetical 20 percent minimum wage increase on each group.

If the minimum wage acted to bring lower-income workers a bigger slice of the economic pie, low-income segments would have to gain relatively more from such an increase than the more affluent groups. But the University of Michigan economists found that just the opposite happens. In terms of relative gains, families whose incomes were in the top fifth of all households registered earnings increases twice as large as families in the bottom 20 percent of the income range.

Significantly, Datcher and Loury found such a two-to-one tilt favoring the well-to-do among black and white families alike. They reported that a simulated 20 percent increase in the minimum wage raised the earnings of

black families in the lowest fifth of the actual distribution by 1.9 percent and raised the average family earnings of those in the highest fifth by 3.8 percent.

These findings indicate that as an income redistribution mechanism, the minimum wage may be worse than ineffective. The record of this Commission's research clearly shows that in many respects the minimum wage may be counterproductive as a device for achieving a more even distribution of the nation's wealth.

Blacks Lose Ground When the Minimum Rises

Even though the minimum wage system spreads its benefits indiscriminately among the rich and poor, the Commission's research indicates that the system is considerably more selective when it comes to other variables such as age and race. Since nearly half of all minimum wage earners are teenagers or college-age youths 16-24 years old, it is logical to expect that these students and other young workers would stand to gain the most from a hike in the hourly pay rate.

The research conducted for the Commission by University of Michigan economists Linda P. Datcher and Glen C. Loury not only confirmed these suspicions, but also found that a large share of the real benefits from a rising wage floor go to teenagers and college-age youths.

Terming their results "striking," the Michigan research team found that "increases in the minimum have a positive overall effect on the earnings of younger workers, and little or no effect" on the aggregate earnings of prime-age workers over age 24.

The research findings of Datcher and Loury also provide fresh evidence that the minimum wage has an unequal effect on different racial groupings. Contrary to the assumptions of some minimum wage advocates, minority groups derive relatively less from mini-

mum wage increases. Since white workers outnumber blacks in the work force by a wide margin, white families can reasonably be expected to gain more from a rise in the minimum in absolute terms (total dollars) than black workers. The Datcher and Loury study, however, found that blacks are short-changed by minimum wage increases in relative terms as well. As they put it, "white families uniformly gain relatively more than black families from the increase in the minimum... this is true among 'poor' and 'rich' families alike." Instead of closing the income gap between blacks and whites, the Commission's researchers found "an increase in the minimum wage leads to an increase in inequality in family earnings both within and between the races."

When examining the supposed "benefits" of minimum wage increases, it is necessary to recall that most measures of those "benefits" tend to focus on the earnings gains of those workers who actually receive higher wages than their job skills or experience would otherwise command in the marketplace. These studies ignore the negative effects on workers who lose their jobs altogether, have their work-hours reduced or who find employment opportunities closed to them as a result of a minimum wage increase. Knowing that some teenagers will draw larger paychecks because of a 22 percent minimum wage increase is scant consolation to the worker who loses his job because of that increase.

The Commission majority pays little heed to the evidence in its own studies that these negative employment effects strike the hardest at the most disadvantaged segments of the population. But the unemployment rate among black teenage workers, twice that of white youths, is a persistent and painful reminder of this grave problem.

In addition to the well-known example of black teenagers, research conducted for the Commission indicates that increases in the minimum wage harm

rather than help a number of other particularly vulnerable segments of the population. The study by University of Pennsylvania economists Jere R. Behrman, Paul Taubman and Robin Sickles found that an especially disadvantaged group, black female workers, ends up financially worse off as a result of increases in the wage floor. In fact, their research found that the proportion of young and prime-age black women below the poverty line increases when the minimum wage rises. Behrman, Taubman and Sickles found similar effects among many older workers, particularly males approaching normal retirement age. Another particularly vulnerable portion of the labor force, prime-age women with lower than average education levels, also fares poorly under the minimum wage. According to the Pennsylvania economists, the share of the Gross National Product earned by these women declines as the minimum wage increases.

Even among workers who are not especially vulnerable to shifting economic realities, the negative employment effects of a rising minimum wage can be staggering. The Commission's research indicates that these pressures alone can more than wipe out all the gross earnings benefits from a minimum wage increase.

Employment Effect

Although nobody can forecast precisely how many workers will lose their jobs, have their work hours reduced or be closed out of the job market because of a rising minimum wage, virtually all economists agree that these negative employment effects are painfully real.

Faced with a jump in labor costs as a result of a minimum wage hike, the typical employer has two basic options. He can pass on that additional cost to consumers through higher prices, or he can offset the increase by reducing his payroll by hiring fewer new workers, reducing the hours of existing employees, or laying off some individuals altogether.

In most cases, a minimum wage increase results in a combination of the two--higher prices and lower employment. How much of the resulting labor cost increase is actually offset by reduced employment depends on what economists call the "elasticity" of the labor market. When firms are unable to offset any of their rising labor costs through reduced employment, the market has "zero elasticity."

One particularly extensive piece of research, that of University of Virginia economists Johnson and Browning, studied the relation between the minimum wage and this "elasticity" factor in considerable detail and found that the benefits of a minimum wage rise can actually turn into losses for all income groups, depending on the nature of the labor market. In an effort to measure the effect of the minimum wage on employment, they tested several "scenarios." One made the assumption that every 10 percent increase in the minimum wage will force employers to reduce employment levels only 2 percent. Another assumed that employers would respond to such an increase by cutting jobs or employee work hours by 5 percent. A third assumed business would reduce employment 10 percent when the minimum wage rises by an equal percentage.

Their findings indicate that the total loss to the nation in "real" disposable income mounts rapidly as these negative employment effects increase. Their research also shows that the losses to lower-income families are even greater than those suffered by more affluent households. If, for example, employers respond to a 22 percent increase in the hourly minimum by reducing employment levels by only a fifth of that, 4.4 percent, the total national income would fall by more than \$946 million.

On the other hand, if employers balance off a somewhat greater proportion of their increased payroll costs by cutting jobs or employee work hours 11

percent, the "gains" to the lowest 30 percent of all U.S. households would plunge by 75 percent. And the total loss in income for all U.S. families would approach \$2.5 billion.

An even worse scenario would result if employers reduced employment by the same percentage that the minimum wage increased. In this case, a 50¢ an hour rise in the minimum would cut the nation's total income by more than \$5 billion, and every family income group from the lowest to the highest would "lose."

The implications of these findings are significant to any discussion of national minimum wage policy. Not only does the minimum wage not carve up the national income "pie" equitably, but it can actually shrink the total size of the "pie" for everyone.

Taxes and Public Assistance

One particularly ironic but incapable conclusion of the research conducted for the Commission is that the bigger the increase in the minimum wage, the smaller the share of the earnings gain that filters down to the nation's poorest families.

Johnson and Browning tested the foreseeable effect of two different hypothetical minimum wage increases, one raising the hourly rate by 50¢ and another adding \$1.00 to the pay floor. Under the first scenario, households in the lowest 10 percent of the income distribution would realize 10.15 percent of the resulting earnings increase. But if the minimum wage were to climb by \$1.00, these same families would receive only 8.4 percent of the gain.

One reason for this is that progressively rising tax rates and declining welfare benefits and other government "transfers" tend to eat away at minimum wage earnings gains for the working poor.

Johnson and Browning summarized the effect of a minimum wage increase on the working poor by concluding: "Any gains in wages achieved by a

change in the minimum wage are dissipated by the tax and transfer system." In effect, the minimum wage deck is stacked against low-income families before the game even begins. In addition to suffering "tax-bracket creep," which reduces the earnings gains of all families, the poor stand to lose Medicaid benefits, housing subsidies, fuel assistance, and other forms of public aid as well. Under the food-stamp program alone, these counterbalancing effects can be considerable. A worker whose income rises \$100 as a result of a minimum wage hike, for example, stands to lose \$25.00 in food stamps.

The result of these losses is to swell the number of low-income families who are economically worse off as the minimum wage rises. After taking such tax and transfer implications into consideration, Johnson and Browning estimate the proportion of the nation's lowest income families hurt by minimum wage hike climbs to 84.5 percent.

Net Gains Are Negligible

This important study also found that the effect of rising tax rates and reduced transfer benefits is to slice the total net earnings gain from a minimum wage increase for the poorest tenth of the nation's families by 56 percent.

For families on the bottom half of the income ladder, the reduction is even more dramatic. These families stand to lose nearly 70 percent of their increased minimum wage earnings to taxes and benefit reductions. As a result, even a large increase in the minimum wage rate would raise the share of the total U.S. disposable income received by these lower income families by only 0.07 percentage points.

This "tiny net effect is perhaps the most striking feature of the results," Johnson and Browning said, particularly since the basic assumptions of their study were intentionally "quite favorable to finding a significant redistribution effect." If anything, the earning gains for middle- and low-in-

come families from a 50¢ an hour minimum wage hike appear even smaller when presented in dollars rather than percentages. After tax and transfer payments are taken into account, the income of the average family on the lower half of the economic ladder would rise only \$1.59 per week as a result of a 22 percent minimum wage hike, according to an analysis of the Johnson and Browning research. For the nation's poorest families, those in the lowest tenth of the income distribution the average gain would be even less: only \$1.53.

Costs versus Benefits

Ultimately, any income redistribution scheme represents a trade-off between costs and benefits. The question that needs to be answered is what does it cost society to provide the nation's poorest families with \$1.53 a week in minimum wage benefits? As Johnson and Browning point out, this depends on the number of low-income workers who lose their jobs, or have their work hours reduced, or cannot find employment at all because they have been priced out of the job market by a rising minimum wage.

If, for example, employers reduce employment levels by only one fifth of the percentage increase in the minimum wage, Johnson and Browning conclude that "each dollar of added disposable income for the lower income classes costs the upper income classes \$1.98." Although such a nearly \$2.00 for \$1.00 trade-off hardly appears to be cost effective, the ratio of costs to benefits is even less favorable if the negative effects on employment of a minimum wage increase are more severe. Suppose that employers attempt to counterbalance part of their extra minimum wage labor costs through higher prices and the rest by reducing employment levels by a percentage only half as great as the rate of the minimum wage increase. Under these conditions, Johnson and Browning found that every \$1.00 in-

crease in income to families in the bottom 30 percent of the distribution would cost the remaining 70 percent of the nation's families \$9.10.

More "Losers" than "Gainers"

One way to examine the income distribution effects of the minimum wage is to compare the number of families in each income group that gain from an increase in the hourly minimum wage rate with the number of families that lose ground economically as a result of a higher minimum wage. For every dollar that a worker receives as a result of a minimum wage increase, someone must pay a dollar. Ultimately those additional wage costs must be borne by the general public through higher prices, reduced employment, or both. The question is who gains and who loses from a boost in the wage floor.

The research undertaken by Johnson and Browning examined this issue in considerable detail. It found that for every family that gains as a result of the minimum wage, nine actually end up worse off. Even more importantly, they found that far more households in every income bracket are harmed by the minimum wage than are helped. Specifically, the University of Virginia researchers found that among families in the lowest tenth of the nation's income distribution, those with net incomes averaging only \$3,283 per year, "83 percent are worse off as a result of the increase in the minimum wage."

Moreover, they found that among all households on the bottom half of the income ladder, less than 15 percent gain anything from a minimum wage increase, while over 85 percent suffer economic losses. Although an even larger proportion, 87 percent, of upper-income families loses ground when the pay floor rises, this is hardly any consolation to the vast majority of the nation's working poor who find themselves pushed even deeper into poverty as a result of a rising minimum wage.

Conclusions

As a mechanism for sharing the nation's wealth, the minimum wage has failed virtually every test. As a weapon in the war on poverty, the minimum wage is not merely ineffective, it is counterproductive. The Commission's majority has refused to face up to the overwhelming evidence on this score. For the vast majority of American families--black and white, rich and poor, young and old alike--minimum wage increases hurt rather than help. And the small fraction of low-income families receiving any benefit at all from these increases find their gains cut by more than half as a result of rising taxes and reduced transfer payments.

As a method of redistributing income, the minimum wage can be likened to sprinkling money down from the roof of the Empire State Building in the hope that most of it will somehow wind up in the pockets of the working poor.

Minimum Wage Noncompliance

In a perfect world, noncompliance with the Fair Labor Standards Act would not exist. The regulations laid down by Department of Labor administrators would be understood by employees and employers alike. And businesses and workers subject to those requirements could be confident that the ground rules that apply today would remain in effect tomorrow. Unfortunately, we don't live in a perfect world. Bureaucratic interpretations of the Act's provisions governing overtime pay, tip credits, meal allowances, and other complex issues can and do change dramatically without any warning to either employers or workers.

In assessing the subject of compliance with the Fair Labor Standards Act, it is necessary to confront several key questions:

- Is the FLSA violation rate excessively high? Or is it surprisingly low, in view of highly technical rules that are inconsistently en-

forced?

- Is noncompliance an increasing problem? Or is it actually on the decline despite the difficulty in keeping up with shifting regulatory interpretations?
- Is most of the noncompliance the work of renegade employers willing to risk \$10,000-per-violation fines and prison sentences in order to swindle low-wage workers? Or are most violations inadvertent infractions of highly technical, constantly changing guidelines?
- Is the Department of Labor focusing its enforcement resources on "willful" violators? Or are Federal wage and hour regulators spending excessive amounts of time on cases of unintentional underpayments averaging pennies a day?

In some respects, the findings of the Commission's majority are encouraging. They indicate that the vast majority of the nation's businesses are in total compliance with the provisions of the Act and that the overwhelming majority of workers covered by the law receive every cent due them. But in other respects, they raise disturbing questions concerning the tendency of the Department of Labor's Wage and Hour Division to squander enforcement resources on highly technical, inadvertent, and often trivial infractions.

Specifically, the Commission's research indicates:

- The vast majority of employers, over 95 percent of all firms, are in complete compliance with all provisions of Federal minimum wage requirements.
- 98.8 percent of all covered workers are paid wages in total compliance with the minimum wage law.

- These figures overstate the true level of noncompliance because they represent only Department of Labor charges, not actual violations.
- There is not a disproportionately high incidence of noncompliance affecting women, teenagers, or blacks. In fact, if the Department of Labor's own survey results can be trusted, women experience substantially lower dollar losses from suspected minimum wage violations than do men.
- Nearly three out of four cases of noncompliance do not involve outright hourly wage underpayments at all. Instead, they represent miscalculations of highly technical FLSA exemptions such as employer credits for tips, meals, lodging, and uniforms.
- Over 70 percent of the suspected incidents of minimum wage noncompliance uncovered by the survey involved amounts averaging less than 55¢ per day.
- The overwhelming majority of all FLSA noncompliance is unintentional; only a small fraction of these violations are found to be deliberate or "willful."

The Noncompliance Problem

For many employers, particularly small-business men, the ground rules developed by the Department of Labor for enforcing the Fair Labor Standards Act are the most complex and frustrating set of Federal regulations in effect today. Compliance with the Act requires far more than simply ensuring that all workers are paid a minimum hourly rate. The Department has issued more than 800 pages of regulations governing the minimum wage law already, and the pile continues to grow. Most of these rules are difficult to understand, many

are inconsistent with other government regulations, and a good number of them are not even followed by the Department. Others are arguably illegal, yet they remain on the books.

To add to the confusion, the Wage and Hour Division has issued hundreds of "opinion letters" refining or changing these regulations. Employers are required to comply with these refinements and changes in the law even though, in many cases, there has been no public distribution of these opinions.

Even the Department's own enforcement staff finds it next to impossible to keep track of these constantly shifting minimum wage ground rules. Indeed, it is not at all uncommon for Department of Labor field agents in different parts of the country to make different and often opposing interpretations of enforcement policies based on the same Federal regulations.

From this viewpoint, the high level of compliance with Federal wage and hour regulations by employers throughout the country is not just reassuring; it is an amazing testimony to the good-faith efforts of employers and the already more-than-adequate enforcement powers of the Department of Labor.

Department of Labor Estimates

When the Department of Labor designed its compliance survey for the Commission, it expected to find at least 10 percent of all businesses in violation of at least one provision of minimum wage regulations. With over 800 pages of inconsistently administered rules to choose from, an employer noncompliance rate of one in ten would not be surprising.

But after checking thousands of businesses across the country, the Department found evidence of noncompliance among only 4.9 percent of the companies surveyed. Among all workers subject to the minimum wage, they found that only 1.2 percent experienced any underpayment at all. Noncompliance with Federal overtime requirements was

even smaller, only 1.1 percent of all covered workers. Nevertheless, there is ample evidence that even these remarkably low estimates of noncompliance with FLSA provisions are substantially overstated.

"Biased" Survey Findings

In its rush to complete the Department's survey of noncompliance for the Commission, the Wage and Hour Division reported all alleged or suspected underpayments, not just the number of actual violations. Since it is likely that a substantial number of these charges ultimately were found to be groundless, the survey results do not give any definite measure of noncompliance. But we can conclude with certainty that the level is lower than the Department of Labor survey figures would indicate. The Commission's own staff report on noncompliance has recognized that the Department of Labor's methodology has "created an upward bias to the noncompliance estimates" contained in the survey. At best, the projected 1.2 percent minimum wage noncompliance rate must be considered the "upper bound," according to the Commission's own data.

Reliability Problems

Even if the survey results were not biased to reflect an unrealistically high noncompliance rate, the findings would be questionable because the Department of Labor's sample was far too small to draw statistically reliable conclusions on many issues.

One limitation lies in the 10 percent establishment minimum wage noncompliance rate that the Department of Labor expected. Even though the survey was biased to show an unreasonably large number of violations, Department officials found only half as much noncompliance as they had predicted. Because of the Division's original overestimate of establishment noncompliance, too few businesses were checked to assure statistical reliability for many survey results. Because the Department of

Labor took no corrective steps such as enlarging the survey sample when this flaw was discovered, many real doubts must inevitably attach to the numbers so confidently advanced by the Commission majority. To date, the survey also suffers from a perhaps even more serious reliability problem: the Commission's inability to obtain necessary supporting statistical error data from the Division of Evaluation and Research within the Department's Employment Standards Administration.

Noncompliance Is Declining

Although the built-in biases and statistical reliability problems raise questions about the usefulness of the Department of Labor data, some of the survey results are quite revealing. From the Commission majority's call to action, one would assume that the rate of FLSA noncompliance has increased measurably in recent years. But, to the contrary, the survey results show no indication that noncompliance is on the upswing. In fact, there are signs of downturn in overall noncompliance. Both the new survey and a similar study performed by the Department some 15 years ago show that more than 95 percent of all employers are in full compliance with all Federal minimum wage provisions. But a comparison of the two sets of survey results indicates that the establishment overtime pay violation rate has dropped almost 50 percent since 1965.

Women, Teens, and Blacks

If most noncompliance with minimum wage law reflected deliberate attempts by employers to shortchange low-wage workers, one would expect teenagers to be particularly prime targets for this type of abuse. Young workers, presumably, would be less knowledgeable about the provisions of the Fair Labor Standards Act and therefore more vulnerable to deliberate underpayments. Yet the survey results indicate otherwise.

A third of the minimum wage viola-

tions found by the survey involved teenagers; this is entirely in line with the fact that teenagers account for a third of all low-wage workers. In other words, teenagers do not experience a disproportionate number of instances of noncompliance with wage and hour laws.

Similarly, women do not, as some Commissioners have incorrectly suggested, suffer disproportionately from minimum wage violations. Women represent two thirds of all low-wage workers, and they are involved in about two thirds of all minimum wage underpayments, according to Current Population Survey estimates. Indeed, there is some evidence that women may actually shoulder a disproportionately small burden of minimum wage noncompliance. The Labor Department survey found that underpayments to women workers average 50 percent less than those reported for men. Although women account for two of every three low-wage workers, less than 58 percent of the total dollar amount of all minimum wage underpayments involved women workers.

Some members of the Commission have chosen to create the spectre of a vast noncompliance problem which discriminates against young people and women. The evidence clearly shows that neither group is disproportionately affected by minimum wage noncompliance.

While teenagers and women are not disproportionately affected by minimum wage noncompliance, it is difficult to draw any conclusions at all from the conflicting data regarding racial minorities. Although black workers account for 15 percent of the low-wage work force, one set of figures assembled by the Commission indicates that they are involved in almost 24 percent of non-compliance incidents. But another set of figures leads to the opposite conclusion, indicating that black workers are considerably less likely to be affected by minimum wage noncompliance.

This evidence suggests that only 5 percent of all suspected minimum wage violations involve black workers, which

would mean that black workers are three times less likely to be affected by noncompliance than are white workers.

The conflicting data should caution against drawing any hard and fast conclusions at all about noncompliance by race, except perhaps that the research tools used by both the Commission and the Department of Labor to measure noncompliance leave much to be desired.

Industry Compliance Levels

The Commission majority urges stepped-up enforcement efforts against certain industries, notably the retail and service trades. Unfortunately, this recommendation does not stand critical scrutiny. The Commission majority has mistakenly jumped to the conclusion that industries evidencing higher levels of noncompliance are somehow less diligent in their compliance efforts. The problem with such reasoning is that the industries with the highest noncompliance levels are the ones that employ the highest number of minimum wage workers.

The retail and service industries, for example, both show higher than average rates of employee noncompliance, 4 percent and 1.6 percent respectively. But these are the very industries that offer the largest number of employment opportunities for minimum wage workers. Since the retail trades alone provide jobs for almost 40 percent of all minimum wage workers, it would be surprising indeed if a smaller than average number of noncompliance cases involved this sector.

But there is another important factor contributing to higher than average noncompliance levels for many of these industries--the incredibly complex Wage and Hour Division ground rules affecting food-service operators. A more detailed breakdown of noncompliance rates among the various segments within the very broad category of retailing bears this out dramatically.

Although the minimum-wage employee noncompliance rate of 4 percent

in retail trade is higher than the average for all industries, data compiled by the Commission shows that when "eating and drinking places" are considered separately, retailing's noncompliance rate drops below the 1.2 percent national average. Indeed, for almost every retail segment other than food service the rate is substantially below the national norm. Among apparel store operators, for example, the rate is 0.5 percent. For hardware and building-material dealers, it is only 0.2 percent and among general merchandise retailers the noncompliance level falls to 0.1 percent. In fact, data collected by the Commission indicate that over 80 percent of all suspected retail industry noncompliance is concentrated in the category of eating and drinking places. Not coincidentally, this is the industry that faces the most inconsistent and bewildering array of FLSA regulations.

Minimum Wage Credits

In addition to the regular hourly wage and overtime requirements that employers are expected to comply with, restaurant operators encounter a number of other far more complex rules governing tip income received by employees, uniform cleaning expenses, meals, and lodging furnished to workers. Although these tip credits, meal and lodging allowances, and other credits provided under Section 3(m) of the Fair Labor Standards Act are absolutely essential--without them hundreds of thousands of jobs would be lost--they do make it vastly more difficult to calculate accurately the wages due to employees.

Just how difficult is dramatized by the Commission's finding that over 72 percent of all incidents of minimum wage noncompliance are miscalculations associated with these highly technical 3(m) provisions.

The average employee underpayment involved in these 3(m) rule infractions, which accounted for seven out of every ten minimum wage violations found by the Department of Labor, was

a paltry amount: less than 55¢ per day. Clearly, most of these cases involve totally inadvertent noncompliance, if they are violations at all. Few rational employers would risk a \$10,000 fine for each violation in order to cut their labor costs \$2.72 per week. It is also likely that, as often as not, inadvertent miscalculations of these 3(m) provisions result in workers being overpaid rather than underpaid. Neither the Department of Labor nor the Commission's study, however, attempted to measure these overpayments.

Shifting Ground Rules

Although the 3(m) rules and other provisions of the Fair Labor Standards Act are complex, they are not the biggest compliance problem. Shifting bureaucratic interpretations and enforcement policies are at the root of much noncompliance.

Every U.S. industry has its own horror stories in this regard. But since the restaurant industry is in the thickest section of the wage-and-hour regulatory jungle, a brief illustration of how changing enforcement policies affect these businesses is perhaps the most appropriate. Minimum wage law provides that if a food-service operator "furnishes" meals to his employees, he can take a meal credit against the cash wage to cover the cost of the food and preparation. The law attaches no conditions to the taking of this meal credit. Recently, however, the Department of Labor adopted a new policy to "clarify" the meal credit in a way that changes the law completely. Through an enforcement "opinion" Department bureaucrats now maintain that an employer cannot take a meal credit without first getting permission from his employees and that he must keep records of the cost of every meal eaten by each worker.

The Department began serious enforcement of this apparently illegal regulation last year without notifying the industry. Hundreds, perhaps thou-

sands, of food-service establishments had not learned of the policy enforcement change and were cited for violations of the minimum wage law.

A second example involves the provision of the law exempting managers and administrators from wage and hour laws and allows them to be paid by salary. Department of Labor rules establishing who is an exempt manager provide that certain supervisors, particularly those being paid \$250 or more weekly, can work with their hands in production and sales more than 50 percent of the time and still be exempt. Under these regulations, it is reasonable to assume that a restaurant manager, assistant manager, or division head such as a chief chef could qualify for the exemption and be paid a salary. But last year the Department suddenly decided that in the restaurant business only one person, the top manager, is qualified for this exemption.

Again, many food-service operators were caught unaware by this abrupt and unfair shift in regulatory policy. When an exemption for a management person is disallowed during an audit, the Department recomputes that employee's wages, with the result that the worker gets 15 to 20 percent more money than either the company expected to pay or the worker expected to receive. Sometimes the assistant manager in such a case winds up getting more pay than the top manager.

Enforcement Implications

No legitimate businessman can condone deliberate violations of the minimum wage law. The unscrupulous employer who intentionally underpays his workers not only cheats his employees but also gains an unfair advantage over the vast majority of competing businesses in full compliance with the law.

The Commission's staff attempted to secure information from the Department on the proportion of FLSA violations that are deliberate or "willful." But thus far Department of Labor offi-

cials have been unable or unwilling to provide such a breakdown. All available statistics show that willful violations make up only a small fraction of reported violations.

Although the Commission was unable to obtain specific figures on the proportion of willful violations, some data on the dollar amounts involved was made available. Unpublished Wage and Hour Division reports of the dollar settlements of noncompliance cases during the 1980 Fiscal Year, found that deliberate or "willful" violations represent only 5.9 percent of the total. Given the likelihood that willful cases have a higher settlement rate and involve larger dollar amounts than nonwillful violations, the proportion of minimum wage violations involving deliberate noncompliance is likely to be well below that 5.9 percent figure.

During my service on the Commission, I repeatedly urged that our investigation of the area of noncompliance examine how effectively the Department of Labor has used its existing enforcement powers. Without undertaking such a basic inquiry, the Commission majority recommends expanded enforcement powers. Such a step would have to be based on faith since the Commission has refused to examine the effectiveness even of existing enforcement techniques.

Conclusions

The implications of the data compiled by the Commission are remarkably

clear. Rather than directing the bulk of its enforcement muscle toward the overwhelming majority of employers who are not engaged in any willful noncompliance with minimum wage rules, the Department of Labor would be better advised to concentrate on the tiny fraction deliberately violating the law. Rather than squandering its resources on inadvertent, technical infractions of their regulations, Department officials should target enforcement toward the handful of unscrupulous firms that are intentionally shortchanging their employees. Rather than creating noncompliance by constantly shifting their bureaucratic interpretations and enforcement "opinions," Federal wage-and-hour regulators need to develop a set of rules that can be understood and depended on by employers and workers alike.

The Department of Labor does not need more power or tax money to secure more effective compliance with the Fair Labor Standards Act. Federal wage-and-hour regulators have more than enough power to enforce the minimum wage law. Any failure to do so reflects an unwise application of existing authority, rather than any lack of enforcement tools. Until the wisdom and effectiveness of the Department of Labor's existing enforcement policies and practices are critically examined, any steps to increase the arsenal of wage-hour enforcement tools would be ill-advised.

Supplemental Views of Commissioner Clara Schloss

Noncompliance

I concur in the Commission's finding that the overall level of non-compliance with the Fair Labor Standards Act is unacceptable. I am also in agreement with the Commission's recommendation that a concerted effort must be made to increase the cost to employers of violating the basic standards in the Act.

I was disturbed by the comments of one of the econometricians who prepared a paper for the Commission when he suggested that violations of the law are so widespread today and penalties for violations so minimal or nonexistent, that marginal employers may well consider that violating the law is a low-risk activity.

If the Commission's report does nothing else, it should serve as a reminder of what the Fair Labor Standards Act was intended to do and the economic climate during which it was enacted. The FLSA was enacted during a period after the Great Depression when some 8 million men and women were still unemployed and many of those who were employed lived in fear of wage cuts or being replaced by the large army of unemployed.

It was the goal of the framers of this legislation that by setting "a floor under wages" and "a ceiling over hours" in addition to providing "a break for children" that detrimental labor conditions and unfair methods of competition based on such conditions would be eliminated.

The economic climate today is also one that threatens the low-wage unemployed. In March 1981, there were 7.8 million unemployed. Of these, 6 million were 20 years of age and older and 1.8 million were teenagers, aged 16-19.

It is certainly not far-fetched to suggest that marginal employers who are currently paying the bare legal minimum or less would look to the large

pool of unemployed as a means of cutting costs. It is also safe to suggest that the high level of noncompliance with the basic standards of the Act which turned up in the Commission's study of noncompliance, reflects not only the light penalties for violators which exist but that unemployed workers who prefer work to welfare are accepting substandard wages.

It is my view that this Act which has been on the books for 42 years has proven its worth today, as it did in its earliest years. It has prevented the downward spiralling of wages and perhaps a serious recession during an extended period of stagflation.

It has nonetheless become a target for attack on the mistaken notion that it is inflationary, and that it restricts job opportunities especially for young people. In fact the academic studies prepared under contract with the Commission have shown the direct aggregate wage inflation impact to be three tenths of one percent for a given 10 percent increase in the minimum wage. They have also concluded that such panaceas as the "youth subminimum" would have little or no effect on the high rates of youth unemployment and that the price of any decrease in youth unemployment would probably be increases in adult unemployment.

I believe that it would be a significant admission of failure for the U.S. to weaken the Fair Labor Standards Act. While most civilized nations have some form of basic wage and hour standards, the U.S. would be signalling to the world that we do not believe that we can survive in a climate of economic and social justice.

I do not expect we will take this route. I would expect instead that we will turn our attention to the unacceptable levels of noncompliance with this law.

With severely limited resources, the Labor Department must do all in its power to use its investigatory staff most effectively.

The 1979 Noncompliance Study points the way. It was found that over half of all establishments violating the minimum wage provisions of the law during the week surveyed in 1979 and almost two thirds of the establishments violating the overtime provisions were in the retail and service industries. Furthermore, 70 percent of all underpaid employees were in these two industries.

In addition, the 1979 Noncompliance Study shows that regional differences in violations are not nearly as significant now as industry differences. The South which has long been targeted as the major violating area was found to have been responsible for about one quarter of the workers paid in violation of the minimum wage provisions of the Act and slightly more than one third of the employees paid in violation of the overtime provision of the Act. In a similar study of noncompliance in 1965, the South accounted for almost two thirds of the employees paid in violation of the minimum wage provisions of the Act and almost half of the employees who were paid in violation of the overtime requirements.

Lacking specific information about actual violations, the Labor Department might find it more productive to base its distribution of compliance officers on the regional distribution of the work force and to program saturation-type investigations in the retail and service industries across the country. These industries must be brought into compliance if the law is to serve its vital

function.

The Noncompliance Study highlights another problem area which has received less attention than it has merited. The 1979 study yields information for the first time on the widespread violations of section 3(m) of the Act. Section 3(m) provides that the "wage" paid to an employee may include the reasonable cost (as determined by the Secretary of Labor) to the employer of furnishing board, lodging, or other facilities, if they are customarily furnished to employees. This section of the Act also spells out the rules regarding the conditions under which tips may be counted--up to 40 percent of the minimum wage, as of January 1, 1980 (45 percent in 1979).

Violations of this section of the Act were found to be so prevalent that the Commission report suggests that consideration might be given to eliminating these deductions from the basic minimum wage.

Under the present law, for example, the minimum wage for a "tipped employee" is \$2.01 and hour instead of \$3.35 provided that the employee receives tips amounting to at least \$1.34 and hour for each hour worked.

If the Congress is persuaded that provisions in the law allowing deductions from the minimum wage cannot be effectively enforced and that, as presently drafted, are either being misinterpreted or knowingly violated, then Congress should consider revising or eliminating section 3(m) of the Act.

Minority and Supplemental Statements of Commissioner Michael L. Wachter

My comments in this statement have been restricted to four major topic areas - employment effects, the youth subminimum, inflation effects and indexation. The Minimum Wage Study Commission voted on most of the major mandates on March 26 and 27, 1981. The final report was not reviewed by the Commission until April 9, 1981. Comments by individual Commissioners had to be completed by April 20, 1981. As a result of these severe time limitations, I have not attempted to cover other areas, nor have I been as complete as I had intended in dealing with the four topics.

In general, I support the empirical evidence presented in our report. The evidence is based on the Commission's own staff papers, supported outside research and the general literature on minimum wages. I believe, however, that there are some major discrepancies between the weight of our evidence and the voting outcome of the Commission.

The Effects of Minimum Wage Policy on Employment

The Framework for Analyzing Employment Effects. In evaluating minimum wage policies, it is important to take account of the fact that the nation's collection of social and labor market programs are interrelated. For example, the benefit levels of transfer programs (such as Aid to Families with Dependent Children [AFDC] and food stamps), minimum wages, and even public service employment, are not legislated independently of each other. Policy innovations and initiatives are likely to have effects on many programs at the same time.

The consequences of a particular minimum wage policy will depend upon factors such as the level of transfer payments and the number of public service jobs available. For example, it is widely believed and supported by the Commission's findings that the higher the minimum wage, given the prevailing

market wage, the greater the disemployment effects, especially among youth. To the extent that public service jobs, which do not reflect market forces, are readily available, a high minimum wage is likely to cause less unemployment among these groups. Hence, in evaluating the impact of any particular program, it is necessary to look at the whole spectrum of labor supply and demand programs.

Minimum wages are beneficial in that they increase the wages for workers who previously earned less than the minimum wage. The costs, however, operating on the labor demand side of the market are in terms of those who lose their jobs. According to the provisions of the Fair Labor Standards Act itself, the size of the displacement effect depends upon three factors: the size of the minimum wage relative to the market wage, the degree of compliance with the law, and the size of the exempt and noncovered sector. Policies acting on these three issues help determine the number of people who lose their jobs.

In this sense, prevailing estimates of the number of workers who are displaced by the minimum wage depend on the current level of compliance as well as the relative level of the minimum wage and the size of the exempt or noncovered sector. To the extent that the Commission recommends fuller compliance, which seems a relatively obvious recommendation, as well as a reduction in the size of the exempt sector, the degree of disemployment is likely to be larger. I place greater emphasis on the importance of the interrelationship among the various aspects of the minimum wage policy than did the overall Commission. In particular, the Commission's discussion of the exemptions, see for example, exemption 13(a)(2), was conducted with virtually no reference to the issue of employment effects.

Labor-demand-oriented policies, such as public service employment and

manpower training have played important roles in determining the impact of minimum wages. In particular, training programs have attempted to provide the lowest skilled workers with additional skills so that they could earn a wage above the minimum wage. Many of the public service job programs, for example, those under the Comprehensive Employment and Training Act, have provided a hiring or employment safety valve for structurally unemployed workers. Whether or not one agrees with the usefulness of public service employment programs, they clearly affect the impact of minimum wages.

The labor-supply-oriented policies, such as the array of transfer payment programs, have perhaps been more important than public service employment in determining the impact of the FLSA. For example, during much of the 1960s, AFDC payments were increased relative to market wages. The food stamps program which began in the late 1960s and increased rapidly in the early 1970s provided a further, and quantitatively important, source of income-in-kind to low wage workers and those on welfare. These policies decreased the cost of being unemployed and diminished the hardship for those who lost their jobs. In the current jargon, the "safety net" was being raised relative to market wages, making it less costly to be out of work.

My own viewpoint, although this may not be shared by others, is that minimum wages have fewer adverse effects when viewed in this broader context. For example, a minimum wage fixed at or near the poverty line or approximately equal to the transfer payments available to the unemployed or those on welfare has less of a disemployment effect than a minimum wage set above the level of transfer payments. In this context, it is difficult to estimate separately or identify specific quantitative effects of the various programs. That is, with a safety net set approximately equal to the annual

income to be earned working at the minimum wage, the disemployment effects attributed to minimum wage policies may be due instead to the transfer programs.

The need to take account of the interrelationships among programs is greater when the political climate is changing. Given current or expected near-term initiatives on the part of President Reagan's Administration and the new Congress, one should at least acknowledge that the quantitative impact of minimum wages will be different than in the past. The current Fair Labor Standards Act was established during a period of expanding social and economic welfare programs geared to the labor market. If these programs are to either be cut back or reduced in growth, the adverse impact of minimum wages will be increased.

In other words, the employment problems created by the minimum wage policy tend to be offset by an expansion of jobs in the public sector and moderated by transfer payments to those who are not employed. If public service employment is to be curtailed and if social welfare programs are to be reduced in growth, then minimum wages are likely to have a larger negative effect on those who lose their jobs in the private sector. That is, even if the minimum wage is kept unchanged relative to market wages elsewhere, those who lost private sector jobs in the 1980s will suffer more than those who lost private sector jobs in the 1970s. These kinds of factors must be addressed, whether or not one agrees with the initiatives of the current Administration and Congress.

The Role of Exemptions. I viewed the Commission's mandate as evaluating the effects of minimum wage policies whether or not we agreed with the normative aspect of the policies. In my view, the Commission frequently voted on normative issues where it had little evidence. This was especially the case in the area of exemptions.

The normative position of the Commission was that the application of the FLSA should be standardized across the economy, that too many exemptions made noncompliance easier, and that the law was meant to be general and to cover most if not all of the economy. Although I do not necessarily disagree with those views, it is important to indicate that the position taken with respect to specific exemptions will have an impact on other relevant issues such as the disemployment effect. Ignoring that interrelationship, I believe weakened the report.

A case in point is the Commission's debate and decision with respect to exemption 13(a)(2).¹ This is one of the largest remaining exemptions in terms of the number of employees affected. To the extent that one is concerned with the disemployment effect of minimum wages and, in particular, with the number of youth (especially minority youth) who are unemployed, removing exemptions must be done with some caution. In general, prior to 1967 minimum wages had a much smaller disemployment effect than would be true today. With much of the retail and service sectors not covered by minimum wages, there were plenty of jobs available for those workers whose skill level did not earn them a wage above the minimum wage. Extending coverage to most of the retail and service sectors ended this fallback employment possibility for those individuals whose wages and skill levels were below the minimum

¹Section 13(a)(2) exempts from the minimum wage and overtime provisions approximately one million retail trade and service establishments employing about 4.2 million workers. This is the major remaining non-agricultural exemption. The exempted firms are mostly small employers with total annual sales less than \$325,000. After December 31, 1981 enterprises with annual sales less than \$362,500 remain exempt.

wage. If exemption 13(a)(2) is ended, it will further close one of the remaining significant exempt sectors of the economy.

The key problem facing the Commission was not to determine a normative position on exemptions, but rather to indicate the possible economic effects of ending particular exemptions. My vote against removing exemption 13(a)(2) was related to the fact that the Commission did not deal adequately with the potential adverse effects on employment of removing this exemption, nor did it deal with the overall interrelationship between the size of the exempt and uncovered sectors and the potential corresponding loss of jobs for any given level of the minimum wage.

Youth Subminimum Wage

An important task that confronted the Minimum Wage Study Commission was the collection of evidence on the potential effects of a youth subminimum wage. The idea is that the minimum wage for youth would be below that for other workers either permanently or for a short period of time. The debate over the youth subminimum wage was sparked by the large increases in youth unemployment rates for young workers ages 16-19 and 20-24 relative to older workers. This increase in relative unemployment rates began to appear in the late 1950s, early 1960s and peaked in the mid-1970s. Since the mid-1970s, relative unemployment rates have remained unchanged. Obviously, however, youths are still faced with unfavorable labor market conditions.

One problem in evaluating a youth subminimum wage is that this country has no direct evidence on youth subminimum wages. (At an early stage, the Commission, I believe incorrectly, ruled out evidence on European experimentation with such programs as being irrelevant). Hence, our evidence on the youth subminimum wage issue is obtained from studies interpreting the data from the employment and unem-

ployment effects of the overall minimum wage policy. Although the studies have been excellent in abstracting the relevant evidence that does exist, it must be recognized that the evidence on the quantitative trade-off between youth jobs created and existing adult jobs is indirect and must be viewed with some caution.

The major argument against the youth subminimum is that it could result in a decrease in adult employment. Almost certainly this would be the case. It is not true, however, that the number of youth jobs created would simply be offset by the number of adult jobs lost. Most of the empirical evidence cited or sponsored by the Commission suggests that the number of youth jobs created would be significantly greater than the number of adult jobs lost. In part this is due to the expansion or scale effect. In other words, since a youth subminimum wage would produce a lower average minimum wage across all demographic groups, overall employment would increase.

The question is whether the youth subminimum wage is a desirable approach to solving the youth unemployment problem. To analyze this issue, it is important to understand why youth unemployment rates have increased over the past two decades.

In my research,² I have argued that the deterioration in the youth labor market is in large part due to the demographic transition associated with the entrance of the baby boom cohort into the labor market. The large increase in the number of young workers caused the wages of young workers to decrease relative to older workers, and their relative unemployment rates to increase. These adverse labor market conditions also were a factor in the unprecedented increase in participation

²For a discussion of these issues see, for example, Wachter (1976) and Wachter and Kim (Forthcoming 1981).

rates of younger females; a development that caused a further overflooding of the youth labor market.

Young people tend to be disproportionately employed in the retail and service sectors of the economy. As the lowest wage work force, they are also disproportionately affected by minimum wage changes. Hence, almost all of the empirical work finds that the 16 to 24 age group is most adversely affected by minimum wage changes.

In a textbook competitive labor market, a large increase in the supply of one factor of production, for example, the large increase in the number of young workers associated with the baby boom, need not cause any increase in the relative or absolute unemployment rate. If the new workers are substantially the same as older workers, in terms of labor market attributes such as skill, the labor market should treat new and old workers in an identical fashion. However, if the new groups are essentially different, then the market response will be a decrease in relative wages for the group that increased in size. Unemployment rates, however, can still remain unchanged if relative wages change enough to dampen the supply while increasing the demand for the workers who are in excess supply.

In fact, the relative wages of young workers have dropped dramatically during the 1960s and 1970s. Whereas the 16 to 24 year old worker earned approximately 55 percent of the wages of the 45 to 54 year old group in the mid 1950s, the young worker only earns approximately 40 percent of the wage of that older group today. On the other hand, relative unemployment rates for young workers have also increased. This suggests that relative wage changes, although large, have not been large enough to offset the huge increase in the relative supply of younger workers.

The inability of relative wages to take account of the influx of young workers is due to a large number of

factors. These include imperfect labor market information, the increasing willingness of young workers to combine school and part-time work and the increase in government transfer payments to those who are out of work. Minimum wage policy, and especially the increase in coverage in 1967, can also be viewed as a cause of the inability of relative wages to change enough to prevent an increase in the youth unemployment rates.

One of the arguments frequently mentioned in the Minimum Wage Study Commission deliberations is that the purpose of minimum wages is to provide a floor and to provide protection for workers from competition that would drive wages beneath either some poverty level or low wage floor. In a sense, the introduction of the baby boom into the labor market posed such a threat to the established work force.

The extension of coverage of the minimum wage in 1967 can be viewed in this context as an attempt to deal with the problems caused by the baby boom cohort. In this sense, the extension of the minimum wage to those sectors that traditionally hire young workers prevented the increased supply of youth from driving down wages in the lowest wage sectors of the economy.

With this background, I believe that it is useful to view the youth subminimum as a proposal to undo some of the adverse effects on youth created by the extension of minimum wage coverage to the retail and service sectors in 1967. The question is whether a youth subminimum poses a useful way of dealing with the problem.

My view is that the youth subminimum wage is not an attractive solution to the youth unemployment problem. First, the demographic swing that created the overflooding of the youth labor market is about to swing in the opposite direction. The baby boom cohort has completely entered the labor market so that youth unemployment rates have peaked and youth relative

wages have ceased to decline. As we move into the 1980s, the baby boom cohort will be replaced by the 16 to 24 year olds in the baby bust cohort. Increasingly, the surplus of youth will be replaced by a shortage of youth.

This demographic turnover, however, will take time. In this sense, a youth subminimum wage might be useful for approximately the next five years since there will still be a surplus of young workers during this time. It should be recognized, however, that the current youth problem is at the trough and should shortly begin to improve.

I believe that if we wait, we will begin to see a decrease in youth unemployment relative to adult unemployment over the next several years and a recovery in their relative wages. A youth subminimum might have been useful in 1967 or even in 1977 but its value in 1981 is limited by the changing demographics.

A second reason why I believe that the youth subminimum wage is not a desirable solution to the youth labor market problem is that it creates an artificial barrier in competition among demographic groups. It is unclear to me why one demographic group should work at a lower minimum wage than another group.

If the problem of youth unemployment were in part created by the extension of minimum wages to the retail and service sectors in 1967, perhaps the efficient way of adjusting this problem is to extend the exemptions so that a larger percentage of that sector remains uncovered or exempt. In this sense, youth and adults will be able to compete equally for the jobs that exist in those sectors. It is in this respect that I view exemption 13(a)(2) as being relevant to the youth subminimum issue. If one is concerned with youth unemployment, then abolishing the exemption for 13(a)(2) would seem to be detrimental.

Although I do not support a national youth subminimum policy I did

propose an amendment, which was voted down by the Minimum Wage Study Commission, to allow local experimentation with such a policy. Given how little we know about the youth vs. adult job trade-off issue, a rigid stance on the issue of local experimentation seems difficult to justify.

Particularly troublesome are the inner-city labor market conditions for minority youths. These conditions are unlikely to improve as rapidly as the overall demographic easing of the surplus of youth workers. Some proposals, for example, the minimum wage aspect of free enterprise zones, although highly controversial, offer some promise. I do not have a strong impression that this approach would be successful, but I would be very reluctant to rule out such experimentation.

The labor market conditions of disadvantaged minority workers is the basis for my third concern with the youth subminimum wage. Although overall youth unemployment rates are high, the major area of social distress concerns the problem of unemployed youth from poor families. Many of these are white, although a disproportionate number are minorities. It is unclear, however, whether a youth subminimum would help this group or whether it would help youth from wealthier families.

One possibility of a youth subminimum wage is that it could cause the displacement of minority adults from low income families by youth from wealthier families who can work at a wage below the minimum wage applicable to poverty adults. Given the large percentage of minimum wage workers who come from nonpoor families, one must be particularly concerned with the income distribution effects on any changes in the minimum wage laws. A national youth subminimum could have adverse effects in the sense of hurting adults from low income families while helping youth from higher income families. It is, of course, not clear that this would be the case,

but it is a potentially very costly outcome that cannot be ruled out.

Given the diversity of the youth working population and the fact that the problem group is a relatively small percentage of the overall youth population, measures to improve the situation of youth should be selective. There are many ways of attacking the problem of minority youth, and local experimentation with a youth subminimum or job tax credit might be valuable.

Student Certification. Relevant to the issue of the youth subminimum is the question of the student certification program. The Commission voted to limit the certification program to high school students. The empirical evidence, on the other hand, suggested a positive if limited role for the certification program as it currently exists. I am in favor of retaining the current program.

The Inflationary Effects of Minimum Wages

The Historical Record. The Minimum Wage Study Commission report stresses the fact that minimum wages have not been inflationary in the historical context. The fact that the Commission has focused on the past or the historical period is extremely important. I agree with the majority report on the point that minimum wages, over the past few decades, have contributed little to the current high level of inflation. I do not believe, however, that the report sufficiently stressed the fact that minimum wages may or may not be inflationary depending upon the specific context. Much depends upon whether any given increase in the minimum wage rate is greater or less than wage increases elsewhere in the economy and particularly in the labor market for low skilled workers.

As examination of the historical data suggests several times in the post-war years when minimum wage increases may have contributed to the inflation rate of that period. In 1950 and 1956, minimum wages were increas-

ed substantially in relative terms. In 1956, for example, the minimum wage level was increased from 75¢ to \$1.00.³ In 1962, and especially in 1967 when the service and retail sectors were substantially brought under the coverage of the minimum wage laws, the impact may have been inflationary. In 1950 and 1956 the inflationary effect would have been due to the large increase in the overall minimum wage. Any inflationary impact, however, would have been diluted by the large number of low wage workers who were not covered by the minimum wage provisions of the FLSA. In 1962 and 1967 the inflationary impact would be due to the increase in the minimum wage coverage and would be located largely in those newly covered sectors. In both cases, however, the inflationary impact was due to an increase in the relative minimum wage, either in the nation as a whole (as in the former case) or in a few major sectors (as in the latter case).⁴

In the historical context, it appeared in 1977 that the minimum wage increases mandated for 1978 through 1981 would also be inflationary.⁵ There was a great deal of concern, much of it among Democratic economists, that the overall increase in wages forecast for the 1978 to 1981 period was small compared to the four-step increase in the minimum wage from \$2.30 to \$3.35. If those forecasts were correct the relative minimum wage would have increased and those increases would have added to the inflationary pressure.

³See, for example, Gordon (1981).

⁴For a discussion of the point that an increase in relative wages can be a source of cost-push inflation, see Wachter (1974).

⁵See, for example, U.S. Congress, House (1977), U.S. Congress, Senate, (1977).

The minimum wage increases, however, were overtaken by events: in particular, the revolution in Iran, the huge increase in oil prices, and the expansionary monetary and fiscal policy of the late 1970s. These events led to a higher rate of inflation than had been anticipated in 1977. As a result, the minimum wage increases that appeared to be relatively large in 1977 turned out, after the fact, to track overall wages fairly closely.

An Increase in the Price Level vs. an Increase in the Inflation Rate. The Commission report makes a distinction between a once-and-for-all increase in the price level vs. an increase in the inflation rate. In the former case, an increase in the minimum wage may cause a rise in the inflation rate for one year, but after that year, the inflation rate would return to its old level. According to this view, it would require a continuing increase in the minimum wage, both in relative and absolute terms, to generate a continuing higher level of inflation.

This distinction, however, is somewhat artificial and may be too optimistic, at least in theory. Whether or not an increase in the relative minimum wage generates a single increase in the price level or an increase in the inflation rate itself depends upon its impact on inflationary expectations.

A widely accepted example of a once-and-for-all price hike generating an increase in the inflation rate is the oil price increases of 1973-74 and 1979. If any increase in prices or wages in the economy is validated by, for example, an increase in the money supply growth rate, the increase in the inflation rate in that first period becomes built into inflationary expectations (or to what some refer to as the "core" rate of inflation). In this case, a once-and-for-all increase in the relative minimum wage can lead not only to a one period increase in the price level but also to a permanently higher rate of inflation. To an extent, it can be argued that the

monetary and fiscal authorities are responsible for the subsequent inflation after the first period. This may or may not be the case, but is largely definitional.

My own research on this issue suggests that, in fact, the ongoing inflationary effects of minimum wages have been quantitatively small over the past decade. It is important, however, to recognize that minimum wage increases can be inflationary if they are large enough. Much depends on the size of the increase in the minimum wage relative to overall wage trends in the economy.

Spillover Effects. An additional factor is that the greater the increase in the relative minimum wage, the greater the inflationary impact; that is, any inflationary impact is going to be highly nonlinear. The reason for this is straightforward. The inflationary effect of minimum wages can be broken down into a direct and into a spillover impact. The direct effect is the increase in the wages of those who were earning a wage below the new minimum wage. Increases in the mandated minimum will obviously lead to an increase in their wage rate.

It is unknown, however, how much of this increase will spill over and affect the wages of higher skilled workers. Some argue that any increase in the minimum for low skilled workers will spill over into the entire wage structure as management attempts to maintain a given set of wage differentials. If this were the case, any increase in the minimum wage could be inflationary. There does not appear to be, however, much evidence to support this viewpoint. The spillover effect appears small. An exception to this would occur if the relative minimum wage were increased a great deal. The larger the increase in the relative minimum wage, the greater the number of workers directly affected by the minimum wage increase. Moreover, the distortions in the relative wage structure of the firm

would be that much greater. Hence, as the minimum wage is increased relative to wages elsewhere, the inflationary impact of that increase grows in a highly nonlinear inflationary manner.

Productivity Effects. It is argued in one section of the Minimum Wage Study Commission report that productivity increases generated by increases in the minimum wage will reduce any inflation effect of the minimum wage increase. This statement is misleading. An increase in productivity is most frequently associated with a given labor force producing more output. This can occur either because management is "shocked" into organizing their workers more efficiently or providing more capital or because the workers themselves are "shocked" into performing more productively. There is almost no evidence to suggest that this type of shock effect occurs.

Rather, the increase in productivity is due to a more mundane and less healthy effect, namely, that an increase in the relative minimum wage will lead to a displacement of less-skilled workers. One result will be an increase in the ratio of relatively skilled to unskilled workers. Since average productivity is a weighted average of the productivity of skilled and unskilled workers, a decrease in the percentage of unskilled workers will lead to an observed increase in average productivity. In this case, the skilled and the unskilled workers still have their original productivity, but the overall average increases because there are a greater percentage of skilled workers.

A second productivity impact results from the disemployment effect of the increase in the minimum wage. As indicated in the Commission report, an increase in the minimum wage will lead to the displacement of lower skilled workers. Since the capital stock will not shrink, the remaining workers are working with more capital (and more skilled workers) with the result that their productivity will be higher. That

is, by laying off workers, the firm is moving to the left along its demand curve for labor, thus generating an increase in productivity.

The above two cases of induced productivity increases are quite small and will have virtually no impact on inflation. In any case, they are solely due to the displacement of low wage workers and should not be viewed as an encouraging sign.

Indexation of the Minimum Wage

The General Problem of Indexation. The Minimum Wage Study Commission has voted in favor of indexing the minimum wage to a wage in the overall economy. The Commission was firmly in favor of indexing and the only real question it debated was what index should be used. The Commission decided to index on a general wage rate rather than a price index, such as the Consumer Price Index. The appropriate wage rate to be used as an index, however, was not specified.

The lack of a decision on the appropriate index may seem unimportant, but it is the heart of the problem. There is no perfect index, as all available indexes have serious weaknesses. The Congress has had numerous encounters with indexing government programs, for example, Social Security and AFDC. In virtually all cases, indexation has created significant problems.

Although it was originally thought that an index would simply parallel general wage or price developments, in fact, there is no single concept of a wage or price that can be captured by an index. This problem arises because various wage series move very differently from each other as do the various price indexes.

In the 1960s and early 1970s, it was generally thought that most wage and price series would move together hence, the choice of an index was not an important issue. As indicated by the crucial divergence in wage and price

series in the 1970s, however, it became clear that this was not the case. It is now obvious, for example, that indexing Social Security on the Consumer Price Index has actually overcompensated Social Security recipients for cost-of-living changes. This overpayment is being funded by increased taxes on today's wage earners.

Indexing minimum wages means surrendering control not only of the minimum wage level or floor but also of the cost of the minimum wage policy to employers and the number of workers who may be displaced. This is not a decision to be surrendered casually to an index number with unknown properties.

Although there are costs in fixing the minimum wage on a regular interval, I believe that the national interest would be better served if Congress were to continue to set the wage floor at some desired level -- given the knowledge that uncertain economic events may mean that objectives may not be perfectly satisfied. Since uncertain events and their differing impacts on the various indexes create even more problems and uncertainty, a predictable minimum wage is not one of the results of an indexed minimum wage. Moreover, once the choice of an index is made, no matter how poor the choice turns out to be, it is very difficult to change that index. One group or another may benefit if the indexed minimum increases more or less than that intended by Congress. Just as Social Security recipients are a lobby in favor of maintaining the CPI index, minimum wage employees or employers may form such a lobby to fight in order to maintain whatever particular index might be in use.

Characteristics of Current Cost-of-Living Adjustments (COLA). Since one of the arguments for indexing the minimum wage is that many other workers enjoy such "protection," a review of the facts would be useful. In determining whether cost-of-living protection is

necessary for minimum wage workers, the following factors are relevant:

1. Only a very small percentage of American workers have their wages geared to a wage or price index. Specifically, about 8.5 million out of a total labor force of approximately 100 million have cost-of-living escalator provisions. Hence, there is no pressing equity issue at stake to justify providing a COLA for minimum wage workers.
2. The workers with COLA contracts are in the unionized sector of the economy. Most minimum wage workers are in sectors where their co-workers are not unionized and do not have COLA provisions.
3. COLA provisions might be useful in union contracts where the wages of specific jobs in specific companies are fixed by the contract and might not otherwise vary. Although the minimum wage itself is fixed by statute, it does not fix any particular wage rate. Hence, if the FLSA ever created too low a minimum wage, market forces would automatically cause the minimum wage to increase.
4. Few union contracts provide 100 percent protection against inflation. Most escalator provisions call for a one cent increase in hourly wages for a given point increase in the CPI. The most frequently specified CPI point change is 0.3 (43 percent of adjustment formula provisions); that is, a one cent increase in hourly wages is granted for every 0.3 point increase in the CPI. The second most popular formula calls for a one cent increase in wages for every 0.4 point increase in the CPI.

The amount of inflation protection thus depends upon the wage level of the industry. In 1980, an adjustment factor of a one cent increase for every 0.4 change in the CPI would have resulted in 100 percent inflation protec-

tion for workers earning approximately \$13,500. The 0.3 formula provides 100 percent inflation protection for workers with earnings of approximately \$18,000.

Problems with the Consumer Price Index. Although the Minimum Wage Study Commission advocated the adoption of a wage index, virtually all COLA provisions as well as all government programs are indexed on prices. As a result, it is likely that if indexation of the minimum wage were approved, it would be based on a price index. My discussion will therefore be based largely on the problems with price indexes, especially the CPI. The problems of indexing are sufficiently pervasive as to affect both prices and wages. In the last section, I briefly discuss possible wage indexes and their particular pitfalls.

The CPI, which is frequently identified as the nation's official inflation rate, is the basis for all major cost of living clauses in labor union contracts. It is perceived by most users to be a measure of the cost of living. Changes in the CPI and changes in the cost of living, however, are nonetheless far from identical.

The CPI is designed to measure price changes for a fixed market basket of goods. Individuals are viewed as maintaining an unchanged consumption pattern in percentage terms. Since the CPI compares all current price changes to the fixed market basket, it measures changes in the cost of living as consumers chose to live in some past base period, not as they choose to live today. Certainly a constant market basket does not guarantee that one's standard of living will remain unchanged. As time passes, individual tastes and preferences change in response to the development of new goods and services, technologies, and prices. Consumers adjust their expenditures in response to their changing tastes in such a way as to maximize their satisfaction.

Ideally, a cost-of-living index

would measure the increased cost of maintaining a given standard of living (level of satisfaction). The CPI would be such a measure only if (1) product quality remained constant, (2) relative prices did not change (i.e., all prices increased at the same rate), (3) people's tastes remained constant, and (4) all people had the same tastes.

When prices change relative to each other, consumers substitute towards less expensive goods. Thus, consumers have the opportunity to escape part of the burden of inflation by buying substitutes for the goods whose prices are increasing most rapidly. The CPI ignores this possibility (by using fixed expenditure weights) and therefore exaggerates the welfare loss from inflation.

The weights used in the CPI are based on the expenditure pattern of 1972-1974. As a result, the CPI market basket predates the dramatic increases in energy costs and in the rate of interest. That is, individuals are assumed to have maintained their percentage consumption of items such as gasoline even though gasoline prices have increased dramatically and the actual percentage consumption of gasoline has declined.

There is virtually universal agreement (even within the BLS) that the major conceptual flaw in the CPI is the housing component. As BLS publications explain, the CPI is not a cost-of-living index, but rather is an index of current purchase prices which draws no distinction between durable and non-durable goods. Housing is a durable good. Nonetheless, while housing lasts for many years, it is treated just like hot dogs which are instantly consumed. It would be more natural to include only the flow of services from housing rather than the stock of housing in the index. Rental units, of course, are treated in flow-of-service terms.

Over the past twenty years, the home ownership component has increased much more rapidly than other com-

ponents of the CPI. Since the end of 1959, the home ownership subindex has increased 286 percent compared with a 167 percent increase for all other items and a 190 percent rise in the CPI as a whole. A very different story would result if the BLS used any one of the current alternative measures of the home ownership component.

An alternative price index to the CPI is the Personal Consumption Expenditure Deflator (PCE). This index differs from the CPI in a number of ways. Most important, the PCE deflator counts only currently produced consumer goods and services. That is, unlike the fixed weight CPI index, the PCE (like all GNP deflators) uses current period weights.

The choice of the CPI vs. the PCE as an index is a matter of considerable importance. For example, from 1977 to 1980 the CPI averaged approximately 1.5 percentage points higher than the PCE. Of the 2.9 percent difference between the two inflation rates in 1978, the difference in weighting schemes accounted for approximately one half the total. Of this 1.4 percent, energy was the major item.⁶ Indexing minimum wages on the CPI would yield very different results than from indexing minimum wages on the PCE.

Problems with Indexing the Minimum Wage on a Wage Index. Although wage and price indexes have many of the same problems, there are several differences that should be highlighted. First, all of the traditional potential indexes have serious flaws. It is frequently suggested that since minimum wages have varied with manufacturing wages of production workers (at a ratio close to 50 percent) manufacturing wages should be used as an index. One major problem is that manufacturing wages are largely dependent on a few union wage settlements, namely those in the steel

⁶For an excellent review of these issues, see Binder (1980).

and automobile industries. Although these settlements can be representative of general wage trends, this need not be the case. For example, in the last few years, manufacturing wages, especially those in high wage unionized industries, have made relatively large wage gains compared to wages in the rest of the economy. Given the high unemployment rates in the low skilled markets relevant to minimum wages, indexing on manufacturing wages would have exacerbated an already troublesome problem.

An index that would more closely reflect the labor market conditions in the low-wage sector would be an average of wages within the sector. The problem here, however, is that any such index would be sensitive to the minimum wage itself. This could prove to be unstable. An initial wage increase in the low-wage sector would generate an increase in the minimum wage which would in turn directly effect some low wage workers and have a spillover effect on others. The result would be a further rise in the average wage in the low-wage sector and increase the potential of an inflationary spiral.

A third possibility is to index on average hourly earnings for the overall economy. The problems with this wage series are also relevant to the alternative choices as well. A major problem is that the earnings series is an average hourly (or weekly) earnings series and not a wage rate series. As a result it will fluctuate for reasons independent of factors that should cause the minimum wage rate to change. These factors include demographic shifts in the labor force, for example, the entrance of the baby bust cohort into the labor force over the next decade should impart a systematic upward bias to an earnings series, compositional shifts among occupations and industries, and changes in overtime hours. A few of these factors can be partially controlled for by adjustments devised by the Bureau of Labor Statistics. Others, however,

cannot be controlled, and hence could cause a quantitatively large deviation of earnings from wages for an extended period of time.

As was true for an index based on earnings in manufacturing, the average hourly earnings series for the overall economy does not reflect conditions in the labor market relevant to minimum wage workers. Given the changes that occur in relative wages and employment among sectors, a minimum wage indexed on an average wage will be insensitive to new problems that may occur in the low-skilled, minimum wage sector. I believe that Congress should maintain the flexibility to alter the relationship between minimum wages and average wages in the overall economy. The desired minimum wage rate should depend upon unemployment rates among low-wage workers, the inflation rate and other economic factors. If the minimum wage is indexed, Congress is likely to find that the minimum wage is further from its desired level than if it retained its current flexibility. Furthermore, as is generally the case with indexation, changing the index even after it proves to be a problem may pose major political problems.

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Minority and Supplemental Views of Commissioner Phyllis Ann Wallace

Youth Differential

I have examined all of the pertinent data made available to the Commission in order to determine whether a subminimum wage paid to youth would help to reduce the extraordinarily high rates of unemployment among minority youth. About a decade ago, as a part of a research project, I interviewed unemployed black teenage females in New York City and noted that the difficulties they experienced in finding a job were associated with deficiencies in skills, education, lack of knowledge of how to search for a job, and racial discrimination. Employers in this predominantly white collar labor market were also interviewed, and they revealed very negative perceptions about the productivity of these young women. Some of these employers were unwilling to employ minority youth even if their compensation had been fully subsidized.

Findings from a number of economic studies indicate that increasing the minimum wage reduces teenage employment. Also a minimum wage increase may induce labor force withdrawal of some youth. Given that there is apparently a segmented youth labor market (along racial and/or central city versus suburban lines), a subminimum wage for youth would not enhance employment opportunities for minority youth and would probably have adverse consequences for other groups, particularly minimum wage adult workers.

Full-Time Student Certification Program

I support the retention of the exemption of provision 14(b) of the Fair Labor Standards Act. This provision permits employment of full-time students at subminimum wages by certificated retail trade, service, agricultural employers and by private colleges and universities. Since an overwhelming proportion of such full-time students are presently employed by the institutions of higher education, I do not support the restriction of the eligible student population only to individuals who are enrolled in high school. It is not likely that students at these private institutions displace either low wage adults or non-student youth.

Minimum Wage Indexation

More time was needed to examine the practical issues of indexing the minimum wage. Most of the suggested indexes as presently constructed have major flaws. The impact of cost-of-living adjustments in collective bargaining contracts, the role of specific economic oversight agencies (Council of Economic Advisers or some Congressional committee) as well as opportunities for major modifications over time were given short shrift. In an inflationary environment, the maintenance of a real floor to wages must be consistent with other economic objectives. I, therefore, support the position stated by Commissioner Wachter and would not support, at this time, indexation of the minimum wage.

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