mover of any such amendment and the manager of the bill, Mr. Williams.

Ordered further, That final vote on passage of the bill come no later than 10:00 p.m. on Thursday, July 20, 1972.

Mr. MOSS. Mr. President, as I indicated, I am willing to yield back the remainder of my time if Senators on the other side are willing to yield back the remainder of their time.

Mr. TAFT. Mr. President, we would be willing to yield back the remainder of our time and we do so.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Utah to the Taft-Dominick substitute. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Maine (Mr. MUSKIE), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), is absent on official business.

I further announce that if present and voting, the Senator from Louisiana (Mr. ELLENDER), and the Senator from Washington (Mr. MAGNUSON), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. ROTH) is detained on official business, and, if present and voting, would vote "nay."

The result was announced—yeas 4, nays 81, as follows:

[No. 276 Leg.]

YEAS—4

Bible	McIntyre	Moss
Burdick		

NAYS—81

Aiken	Fannin	Packwood
Allen	Fong	Pastore
Allott	Gambrell	Pearson
Bayh	Goldwater	Percy
Beall	Griffin	Proxmire
Bellmon	Gurney	Randolph
Bennett	Hansen	Ribicoff
Bentsen	Hart	Saxbe
Boggs	Hartke	Schweiker
Brock	Hatfield	Scott
Brooke	Hollings	Smith
Buckley	Hruska	Sparkman
Byrd, Harry F., Jr.	Hughes	Spong
	Humphrey	Stafford
Byrd, Robert C.	Inouye	Stennis
Cannon	Jackson	Stevens
Case	Javits	Stevenson
Church	Jordan, Idaho	Symington
Cook	Kennedy	Taft
Cooper	Long	Talmadge
Cotton	Mansfield	Thurmond
Cranston	Mathias	Tower
Curtis	McClellan	Tunney
Dole	McGee	Weicker
Dominick	Miller	Williams
Eagleton	Mondale	Young
Eastland	Montoya	
Ervin	Nelson	

NOT VOTING—15

Anderson	Gravel	Metcalf
Baker	Harris	Mundt
Chiles	Jordan, N.C.	Muskie
Ellender	Magnuson	Pell
Fulbright	McGovern	Roth

So Mr. Moss' amendment to the Taft-Dominick amendment was rejected.

The PRESIDING OFFICER. The Taft-Dominick amendment in the nature of a substitute is still before the Senate, and is open to further amendment.

Mr. BENTSEN. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of my amendment be dispensed with.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. BENTSEN's amendment is as follows:

On page 8 between lines 13 and 14 insert the following new sections:

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 12. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States."

(2) Section 11(c) of such Act is amended by striking out "or any agency of a State or political subdivision of a State, except that such terms shall include the United States Employment Service and the systems of State and local employment services receiving Federal assistance."

(3) Section 16 of such Act is amended by striking the figure "$3,000,000," and inserting in lieu thereof "$5,000,000."

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 13. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

Redesignate section 12 as section 14.

Mr. BENTSEN. Mr. President, the amendment I offer to the substitute would incorporate the amendments to age discrimination in Employment Act which passed the committee unanimously, bringing Federal, State, and local employees within the scope of that act.

It would also make one change in those amendments, raising the yearly authorization level from $3 million to $5 million, still a very modest and minimal amount to implement this legislation.

I am advised by the Labor Department that an equivalent of only 69 staff positions can be provided to administer the legislation in all of the States of the Union. If the full $3 million were authorized, that would allow for less than 200 staff positions.

Moreover, with additional Federal, State, and local government employees to receive the protection of age discrimination laws under this new bill, we shall require more funds to make this legislation do what it purports to do, namely

to make it unlawful "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individuals age."

On March 9 of this year, I introduced S. 3318, a bill to subject Federal, State, and local employees to the present age discrimination law. At that time, I said:

Government is the Nation's largest employer with over 10 million employees in State and local governments and millions more at the Federal level. Moreover, government has the greatest growth rate of any other sector of our society and is the source for much of the growth of private industry. I believe that the Federal, State and local governments should be model employers. And I do not believe that these units of government are justified in asking private employers to do what government would not do for itself.

On May 5, I reintroduced my bill with amendments as an amendment to the Fair Labor Standards Amendment of of 1972. I was joined by the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS), the Senator from Missouri (Mr. EAGLETON), chairman of the Subcommittee on Aging, and the Senator from New York (Mr. JAVITS), the ranking minority members of the Senate Labor and Public Welfare Committee.

Mr. President, the Congress and three presidents have taken note of the problems of age discrimination in government employment.

In 1957, the Congress passed section 302 of the Independent Offices Appropriation Act of 1957, which said, in effect, that no part of any appropriation under any bill could be used to compensate officers or emlpoyees of the Government who establish maximum age for entrance into the Federal Civil Service. This was subsequently codified in section 3307, title V of the United States Code.

On March 14, 1963, President Kennedy, in a memorandum to the heads of agencies, affirmed the policy of the executive branch barring discrimination on the basis of age for employment and advancement.

On February 12, 1964, President Johnson issued Executive Order 11141, which declared that:

It is the policy of the executive branch of the Government that (1) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with employment, advancement, or discharge of employees . . . discriminate against persons because of their age . . .

The Senate version of the Civil Rights Act of 1964 provided that discrimination on the basis of age would be prohibited along with discrimination on other grounds such as race, religion, and national origin, but that provision was knocked out in conference for lack of hard evidence on the subject of age discrimination. Instead a compromise was adopted directing the Secretary of Labor to make a report to the Congress on the subject. The report, which was filed in 1965, did find a substantial age discrimination in employment, almost all of it completely arbitrary.

In 1967, the Age Discrimination in Employment Act passed the Senate without a dissenting vote; the vote in the House was 344 to 13. The law made it unlawful for an employer having more than 25 employees "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age." Certain exceptions were made where age is a bona fide occupational consideration or where there is a bona fide seniority system or bona fide employee benefit plan.

Mr. President, government employees were excluded from coverage under the 1967 act. In my view, that exclusion is unsupportable.

The Nixon administration seems to agree with that view, for on March 23, two weeks after I introduced my bill, the President sent the Congress his message on aging, which said, in part, "especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working." The President goes on to say:

I will soon propose to the Congress that the Age Discrimination in Employment Act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments.

Mr. President, there is ample evidence that age discrimination is broadly practiced in government employment.

Elliot Carlson, writing in the Wall Street Journal on January 20, quotes a number of elderly Federal employees who have been subject to pressures as the result of recent "reduction-in-force" orders issued by Federal agencies. The employees may be transferred repeatedly, be denied their right to "bump" employees with less exyerience, or be subject to veiled hints that their usefulness is at an end.

President Nixon has ordered a 5-percent cut in Federal manpower by July of this year, and indications are that older workers are being asked to bear the brunt of the burden. Mike Causey, writing in the Washington Post on February 11, notes that the Pentagon is alerting older and long-service workers to volunteer for "involuntary separation" that would qualify them for immediate pensions. Joseph Young, in a recent article in the Washington Star, notes that:

In seeking initial appointments, transfers and promotions, older applicants and employees find that regardless of their ability, experience and qualifications, their age is an insurmountable barrier.

And the Carlson article, which appeared in the Wall Street Journal on January 20, notes that HUD and the Interior Department are subjecting some older employees to extensive grilling about their jobs and engaging in a series of subtle or direct pressures encouraging them to retire.

Mr. President, age discrimination practices, whether they relate to the age of hiring, restrictions on promotion, or direct and indirect "encouragements" to retire, are not to be condoned. Many of our citizens are productive at 60 as they were at 25, and measures taken to remove them from the work force are both callous and unrealistic.

A recent report of the Senate Special Committee on Aging declares:

If we are really concerned about some of the long-term and institutionalized forces of inflation, why aren't we making every effort to maintain a high level of labor force participation of "older workers"?

The report goes on to say:

The price the Nation pays for failure to maximize employment opportunities for older workers is increased dependency. We do not see an increase in dependency as a good tool with which to fight inflation. We all have much more to gain through a national effort to raise our productive capacity and simultaneously provide meaningful job opportunities for older people.

Mr. President, some 31 States have some form of age discrimination law but they differ in scope and effectiveness. The Labor Department does not have clear evidence on how various State laws are implemented, but it does concede that some States have only a handful of employees to enforce what is admittedly a very sensitive and complex problem. I am afraid that Senator JAVITS' words spoken during the 1967 debate are still true. At that time, the Senator from New York said,

The experience under State laws has been varied. Unfortunately, most States have not made available sufficient funds or manpower to really make a dent in the problem.

Mr. President, age discrimination is deeply ingrained in the American system. Somehow, in our youth-oriented culture, we have developed the idea that a man or woman over 40 is no longer a good employment risk.

I have no prejudice toward younger workers, but I believe our attitude toward middle-aged and older workers is nothing short of a national scandal.

Indeed, the problem has been magnified during the last 2 or 3 years. From January 1969 to September 1971, unemployment for persons 45 and older jumped 77 percent. Many of these people find themselves in a no-man's land—too young to retire, too old to hire—and they usually remain unemployed for longer periods than their younger counterparts.

Mr. President, I agree with President Nixon that it is time to make the Age Discrimination in Employment Act more comprehensive in its coverage. The committee bill, which incorporates my amendment, would bring Federal employees under the coverage of a law specifically directed at the overall problem and give some focus to other remedies which simply have not done the job. The measures used to protect Federal employees would be substantially similar to those incorporated in the bill which expanded the authority of the Equal Employment Opportunities Commission.

At this time I want to express my appreciation to the distinguished floor manager of the bill (Senator WILLIAMS), and to Senators EAGLETON and JAVITS, all of whom were instrumental in placing the age discrimination amendment in the final draft of Fair Labor Standards Amendments of 1972.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the Sena-

tor from Texas made me a cosponsor of S. 3318, and I am very proud to have been a cosponsor, and I think it is fair to say that I did my very best to see that there were incorporated in this bill provisions against age discrimination. I believe that I speak also for the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), when I say that we have no desire to be parochial about this substitute, though we are opposed to it for substantive reasons. If any Senator wishes to seek to incorporate this proposal as an amendment to the committee substitute, we feel that it would be acceptable and desirable in any minimum wage bill.

If the amendment is acceptable to the authors of the Taft-Dominick substitute, it is acceptable to me, and I hope the Senate will approve it.

Mr. BENTSEN. I appreciate the Senator's statement in that regard.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Ohio for a question.

Mr. TAFT. I believe that this proposal is a perfectly proper one to add to the pending amendment, and so far as I am concerned, I believe I speak for the coauthor of the proposed substitute, we will be willing to accept it. If there is no objection or request for further time, I am prepared to yield back the time for this side at this time.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Colorado.

Mr. DOMINICK. This proposal, I believe, incorporates some of the provisions already in the law prohibiting discrimination on account of age, and I see no objection to adding it here. I think it is fair to point out that we have had an administration proposal along this line. It has been sent to the Congress this week, I believe. I do not think it goes quite as far as that of the Senator from Texas, in that it affects only State and local governments. But his proposal is not antagonistic to anyone as far as I can see, and as far as I am concerned, I would be glad to incorporate it as a part of the substitute and take it to conference if the substitute prevails.

Mr. BENTSEN. I appreciate the support of the distinguished Senator from Colorado, the author of the substitute amendment.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, this expression of dealing with discrimination because of age is certainly a principle we all support. We take every opportunity to strike at any possible discrimination. Here is another opportunity. I certainly support the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from New Jersey.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, if there is no further request for time, I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Texas to the Taft-Dominick substitute amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), is absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), and the Senator from Arkansas (Mr. FULBRIGHT), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is detained on official business, and if present and voting, would vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[No 277 Leg.]

YEAS—86

Aiken	Fannin	Moss
Allen	Fong	Nelson
Allott	Gambrell	Packwood
Bayh	Goldwater	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Percy
Bennett	Hansen	Proxmire
Bentsen	Hart	Randolph
Bible	Hartke	Ribicoff
Boggs	Hatfield	Roth
Brock	Hollings	Saxbe
Brooke	Hruska	Schweiker
Buckley	Hughes	Scott
Burdick	Humphrey	Smith
Byrd, Harry F., Jr.	Inouye	Sparkman
Byrd, Robert C.	Jackson	Spong
Cannon	Javits	Stafford
Case	Jordan, Idaho	Stennis
Church	Kennedy	Stevens
Cook	Long	Stevenson
Cooper	Mansfield	Symington
Cotton	Mathias	Taft
Cranston	McClellan	Talmadge
Dole	McGee	Thurmond
Dominick	McIntyre	Tower
Eagleton	Metcalf	Tunney
Eastland	Miller	Weicker
Ervin	Mondale	Williams
	Montoya	Young

NAYS—0

NOT VOTING—14

Anderson	Fulbright	McGovern
Baker	Gravel	Mundt
Chiles	Harris	Muskie
Curtis	Jordan, N.C.	Pell
Ellender	Magnuson	

So Mr. BENTSEN's amendment to the Taft-Dominick substitute amendment was agreed to.

Mr. SPONG. Mr. President, I send a perfecting amendment to the desk to amendment No. 1204 proposed by the Senator from Colorado (Mr. DOMINICK) to S. 1861, and ask that it be stated.

The PRESIDING OFFICER (Mr. ROTH). The amendment will be stated.

The assistant legislative clerk read as follows:

S. 1861

On page 4, line 9, after the word "employee" insert the following: "in retail or service establishments or seasonal recreational establishments or education institutions".

On page 4, line 14, strike out "80" and insert in lieu thereof "85".

On page 4, line 16, beginning with the word "or" strike out through the word "higher".

On page 4, line 25, strike out "80" and insert in lieu thereof "85".

On page 5, line 2, beginning with the word "or" strike out through the word "higher".

On page 5, line 5, strike out "80" and insert in lieu thereof "85".

On page 5, line 15, before the period, insert a colon and the following: *"Provided,* That such regulations shall not restrict full-time student employment by any employer to a level below that provided for under this section prior to the effective date of the Fair Labor Standards Amendments of 1972".

Mr. SPONG. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. HOLLINGS) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPONG. Mr. President, the purpose of the amendment is to modify the provisions concerning the youth differential wage which appear in the proposed substitute bill. That substitute would change existing law in three ways:

First, it would reduce the differential rate from the present 85 percent of the prevailing minimum wage to 80 percent.

Second, it would extend coverage to all employers of young people in place of the present restriction to retail and service establishments, educational institutions, and seasonal recreational businesses.

Third, the substitute would eliminate the requirement that employers have Labor Department certification before making use of the youth differential provision.

By contrast, my amendment would retain existing law with respect to both the wage differential itself and the scope of coverage. The differential would remain at 85 percent and its application would be limited to retail and service establishments, educational institutions, and seasonal recreational businesses, just as it is now.

The only change in existing law under my amendment would be to eliminate the cumbersome Labor Department certification requirement that was intended to guard against abuses of the youth differential but which has actually worked to discourage full-time student

employment. It is clear that unlimited use of youth employment is not desirable, but it is equally clear that bureaucratic redtape should not undermine the program itself.

My amendment attempts to simplify matters by eliminating the precertification requirement and substituting for it authority on the part of the Labor Department to issue such regulations and standards as it feels necessary to prevent abuses. For example, I would think the Labor Department would require some kind of notification procedure. This would promote enforcement by providing for the identification of youth employers but would not stifle the employment opportunities themselves as the present certification procedure does.

In short, my amendment proposes to go to a general standards approach to enforcement instead of the present case-by-case review.

Mr. President, there is a good basis for having a youth differential and that is to create more job opportunities for young people who are without work experience and job skills or who are full-time students. Unemployment among young people today is more than three times that of the overall labor force. Young blacks are especially hard hit with an average unemployment rate over the past 5 years of about 27 percent.

The youth differential, which is now part of the law and which by implication is fully endorsed by the committee, serves a useful purpose. But it serves no purpose to entangle the program in bureaucratic redtape and procedures. All my amendment seeks to do is to allow employers to make maximum use of this worthwhile incentive program while guarding against abuses.

Mr. President, I have discussed this amendment with a wide range of individuals and I have found a surprising consensus on the part of businessmen and young people alike that it is a worthwhile approach to the issue.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 3 minutes.

Mr. TAFT. Mr. President, while I certainly feel that the Senator from Virginia has the same motives that the sponsors of the substitute have, I have some difficulty in accepting the amendment. On balance, I feel I might have to oppose it.

Mr. President, the difficulty, it seems to me, with the measure is that it perpetuates the discrimination between youths seeking employment who are in school or in a student status and youths who are not in that status.

One of the advantages of the youth differential provision which we included in the substitute amendment is that it applies to all youth under the age of 18 and full-time students under the age of 21.

It seems to me that while the purposes of the pending amendment are meritorious, the fact that it has a limited effect would mean that it probably would not go as far as the current provision of the substitute. It leads me to the conclusion that the amendment has no merits over and above those of the substitute. While there are some provisions in it that I think are desirable, on balance I do not feel that I can support it.

Mr. DOMINICK. Mr. President, will the Senator yield me 4 minutes?

Mr. TAFT. Mr. President, I yield 4 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I totally agree with the Senator from Ohio. I think that the amendment, if agreed to, will complicate rather than ease the ability of young people to find jobs.

I would say to my friend, the distinguished Senator from Virginia, that there is one other technical problem with the amendment which I think creates really quite a serious difficulty. The Senator has stricken on pages 4 and 5 of our proposed substitute the words "or whichever is higher," leaving the minimum at a flat 85 percent or whatever the minimum happens to be.

The net result of striking the "or whichever is higher" is that some students who might be hired under this provision could not get less than the present amount they are entitled to get under the minimum wage law.

Our youth differential provision, by requiring that a student under 21 or a youth under 18 be paid 80 percent of the new rates established by this bill, or the present rate, whichever is higher, makes it clear that no youth could receive less than he is making now.

That is why we had the $1.60 as a floor and 80 percent of whatever the minimum might be, and similarly $1.30 as a floor on agricultural labor. For example, the substitute would increase the minimum for nonfarm workers covered prior to 1966 to $1.80 per hour. Eighty-five percent of that comes to $1.53—less than the current $1.60 minimum. And we get into the same problem with agricultural work. So I would say to the Senator from Virginia that I think this is a serious problem.

The basic problem that I see with it—which forces me, reluctantly, to feel that I must oppose it—is exactly as the Senator from Ohio has described. The highest unemployment rates in this country are among our youth. And to the extent that we narrow the areas in which they can be hired at less than the increased minimum wage rates, to that extent we decrease their viability in the labor market.

They cannot get the work experience necessary to move up the ladder. For that reason, I feel the application of the youth differential in our substitute should apply to all types of employment.

I realize that many of the labor unions do not like the youth opportunity provision and they have very strongly opposed the youth opportunity provision that we have tried to include in the substitute. However, the fact of the matter is that it is not those people who are working within the labor unions who are largely the unemployed. It is the youth and particularly the ethnic or minority groups since they have less skills than most union members who have gone through apprenticeship schools and other institutions in the union. They are not going to be hired at the same rate.

It is for that very reason that we adopted an 80 percent, rather than 85-percent differential. For the very reason of trying to simplify the administration of it, we broadened its present application beyond retail service and agriculture, and left it open to whatever fields they might seek jobs.

Because I have high respect for the Senator from Virginia, it is with considerable reluctance I must oppose the amendment because I feel that he has made a technical mistake and has decreased rather than increased the opportunity for youth employment.

Mr. SPONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

Mr. SPONG. Mr. President, I want to say that the substitute measure retains most of what is my understanding of the present law.

I think that we want to encourage youth to find employment in many fields of endeavor. And those fields are spelled out in my amendment retail, service establishments, educational institutions, and seasonal recreation jobs. However, I think that if a young person is employed in certain other types of endeavor, in construction work, for example, they are entitled to the full minimum wage and not 80 percent of that wage.

I want to point out to the Senate that we now have a differential of 85 percent and that the substitute being offered by the Senator from Colorado and the Senator from Ohio reduces that to 80 percent. So on the one hand we would be reducing the differential that could be paid, and on the other, extending it to certain other areas of employment which I think represents discrimination against young people, because these other types of work generally involve full time, and not seasonal, student employment.

I share with the Senator from Colorado his concern about students who need work. In my remarks I pointed out we have a 27 percent unemployment rate among young people in the black community. I also would point out to the committee chairman that if the substitute prevails in its present form we will be reducing the differential rate from 85 percent to 80 percent, and second, in my judgment, we will be encouraging employers in other fields to hire youth in place of adult employees because they can pay them a lower wage for full-time employment.

I think what we want to encourage is seasonal and part-time employment for youth.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPONG. I yield myself 1 additional minute.

I gather that the sponsors of the substitute and the Senator from Virginia are in agreement that certification is a cumbersome procedure. It is one that I believe the Labor Department itself in past years considered doing away with.

What my amendment seeks to do is

And they know that it is the enemy—not the United States—that is responsible for the current actions in Viet Nam.

Public support from a majority of Americans has come through clearly. It has been seen in the thousands of letters and telegrams to the White House and Congress. It has been seen in the Gallup poll indicating that 74% of the American public supports the President's efforts toward building peace. It has been seen in the Harris poll showing that 59% endorse the President's decision to mine the enemy's harbors.

It has also been seen in the low level of protest around the country. Sure, there have been riots and demonstrations, but there always will be regardless of the issue. Those who carry the Viet Cong flag today will carry another banner tomorrow. But you can be sure that their banners will urge the destruction of America, not the improvement of it!

If there is to be a negotiated settlement, the time is now. In the meantime, the President has asked for the support of a unified nation. I believe he deserves that support and I believe, for the most part, he is receiving it.

Today this nation has a new direction. The Peking trip has dramatized that fact. The substantive agreements in Moscow have dramatized that fact.

Hopefully, the world can arrive at a point when its leaders can safely discuss and resolve mutual problems. If so, we will truly be moving toward our nation's goal of a generation of peace.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT ON S. 1991

Mr. ROBERT C. BYRD. Mr. President, I have an addendum to the agreement previously entered with respect to Calendar Order No. 904, S. 1991. I have cleared this request with the distinguished assistant Republican leader.

I ask unanimous consent that time on the bill be limited to 1½ hours instead of 1 hour as previously ordered, and that the additional half hour be under the control of the distinguished Senator from Montana (Mr. METCALF), with the original hour controlled as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I again ask unanimous consent that the Senate stand in recess until the hour of 1:30, and that at 1:30 p.m. the second track business, the minimum wage bill be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 12:50 p.m., the Senate took a recess until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENSON).

ORDER TO HOLD H.R. 14424 AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 14424, to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes, be held at the desk until the Committee on Labor and Public Welfare reports its companion bill on the subject, which should occur within the next few days.

The House bill (H.R. 14424) would then be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the minimum wage bill, which the clerk will read by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.25 an hour, to provide for an 8-hour workday, and for other purposes.

Mr. MOSS. Mr. President, I send to the desk a perfecting amendment to the Taft-Dominick amendment, which I understand is the pending business, and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent that the full reading of the amendment be dispensed with. I will explain it. It is technical, because it amends a statute, and therefore can better be explained.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Moss' amendment to the Taft-Dominick amendment is as follows:

On page 1, before line 1, insert the following:

DEFINITIONS AND APPLICABILITY TO PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States and any State or political subdivision of a State, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' means any individual employed by an employer, including any individual employed in domestic service (other than a babysitter), and in the case of any individual employed by the United States means any individual employed (1) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (2) in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (3) in the United States Postal Service and the Postal Rate Commission, (4) in those units of the government of the District of Columbia having positions in the competitive service, (5) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (6) in the Library of Congress, and in the case of any individual employed by any State or a political subdivision of any State means any employee holding a position comparable to one of the positions enumerated for individuals employed by the United States, except that such term shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.".

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person or persons in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(e) The first sentence of section 3(s) of such Act is amended (A) by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)", (B) by striking the word "employees" the first two times it appears in such sentence, and inserting in lieu thereof the words "any employee".

(f) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section and section 8 shall not apply with respect to the minimum wage rate of any employee in Puerto Rico or the Virgin Islands employed by any employer which is a State or a political subdivision of any State. The minimum wage rate of such an employee shall be determined in accordance with sections 6, 13, and 14 of this Act."

On page 1, line 3, strike out "2" and insert in lieu thereof "3".

On page 1, lines 5 and 6, strike out, "the first year" and insert in lieu thereof "the first six months".

On page 2, beginning with line 3, strike out through line 8, and insert in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standard Amendments of 1972; and

"(2) not less than $2.00 an hour thereafter."

On page 2, between lines 8 and 9, insert the following:

(b) Section 6 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) Every employer who in any workweek employs any employee in domestic service in a household shall pay such employee wages at a rate not less than the wage rate in effect under subsection (b) of this section, unless such employee's compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act.".

On page 2, line 10, strike out "3" and insert in lieu thereof "4".

On page 2, line 18, strike out "4" and insert in lieu thereof "5".

On page 3, line 21, strike out "5" and insert in lieu thereof "6".

Beginning on page 4, line 1, strike out all through page 5, line 15, and insert in lieu thereof the following:

LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

SEC. 7. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended (1) by inserting following the word

tary commitment. If he were forced to end U.S. involvement in the manner prescribed in the amendment, he would be backing out of our national and international responsibilities and jeopardizing his efforts to prevent future conflicts.

If the President had not ordered the mining of North Vietnamese harbors in addition to heavier bombing activity in reaction to the violations by, and increased military actions of, the enemy, and instead withdrew all troops, the United States would be shirking its responsibilities to the world, taking away the support crucially needed by South Vietnam, weakening U.S. leverage at the peace table, and imperiling the political future of South Vietnam—a future we have fought these long years to insure.

President Nixon's decisions in Indochina were made, not to instigate further devastation on the Vietnamese battlefield as the defeatists believe, but to stop North Vietnam's overt invasion. The critics, however, have misconstrued the basis for the mining and bombing; unwittingly, passage of section 12 would bring about the defeat of all past and present U.S. efforts in Southeast Asia.

If Mr. Nixon withdrew from South Vietnam according to the conditions prescribed by the proposed amendment, worldwide credibility of the United States and its position in the international constellation of power would be weakened. Instead, we must hold steadfast. This war will be ended, but to end it with the date-certain prescription of the Mansfield proposal would only be a postponement of war. What we would be taking if we accept this ticket is a raincheck to yet another armed conflict.

EXHIBIT 1

THE DEFEATISTS ARE AT IT AGAIN

(An address by Richard G. Capen, Jr.)

Events of the past few days have moved the world's two great powers a few steps closer to President Nixon's goal of building a generation of peace. The President's statesmanlike leadership during the substantive talks in Moscow can be a source of pride for all Americans.

We now have a major understanding to halt the arms race. We have treaties with the Soviets on conquering pollution and disease. A joint Soviet-United States space effort is planned by 1975. An agreement has been reached to reduce incidents at sea.

Through the spirit of negotiations, an outbreak of war has been averted in the Middle East. The access to Berlin has been reestablished. A treaty involving the use of the world's seabeds has been developed and we have renewed a dialogue with the more than 800 million people of Mainland China.

Regrettably, our desire to negotiate differences has not led to an end of the war in South Viet Nam. But that has not been due to any lack of effort or reasonableness on the part of the Nixon Administration. Rather, our initiatives toward an honorable settlement have been met with only obstinate, negative response from the enemy.

Today it's a new ball game in Viet Nam. It's a new game because the North Vietnamese have made it so, not the United States. The enemy has violated the demilitarized zone. They have rocketed population areas. They have killed more than 20,000 civilians in the past two months alone.

To invade South Viet Nam, the enemy has committed virtually all of its combat forces—12 of 13 divisions. Their goal has been to choke off South Viet Nam's freedom at all cost. The North Vietnamese have undertaken this massive effort in clear violation of international accords and understandings which they themselves agreed to follow.

Despite these facts, the American defeatist are at it again.

They have called The President's decision reckless, foolish and irresponsible. They were convinced that the Moscow talks would be sabotaged, that the Red Chinese would be forced to intercede. To hear these defeatists talk, one would think that the North Vietnamese invasion was our fault instead of the other way around.

Some of these critics, I am convinced, would rather see America defeated than support any responsible means for extricating this country from a long and frustrating war.

In the frantic search for expedient solutions, they have openly supported resolutions which would tie The President's hands as he withdraws from Viet Nam. Yet, several years ago they were giving full approval to decisions that got us into Viet Nam.

Today, they favor resolutions to condemn President Nixon for seeking to stop the enemy's aggression, but they direct not one single word of criticism against the enemy that started that aggression. Some have gone so far as to believe enemy propaganda while deliberately refusing to accept statements by our own government.

Now these defeatists are seeking to cover up their own errors, and the mistakes of earlier administrations, by labeling this battle "Nixon's War." It's a simple matter for them to criticize their country's current military initiatives. After all, they have no responsibility for the consequences of such casual words. Nor would they be accountable for the loss of credibility in our nation's commitments around the globe should we desert South Viet Nam at this, their most critical, moment.

Some critics have built their entire political career on platforms of obstructionism. They have placed their political interest first and their country's interest last. They have expressed moral indignation when it was convenient to do so.

They have generated the impression that there would be no war in the world if the United States were not in Viet Nam. They have naively convinced others that once the last American soldier was out of Viet Nam, that there would be peace in the world. Do they really believe that settling the war in Viet Nam will settle the war in Ireland? Or the war in the Middle East? Or the confrontation in India and Pakistan? Or the dispute along the Chinese-Russian borders?

No, Catholics and Protestants, Arabs and Jews, Hindus and Moslems and Russians and Chinese have battled for hundreds of years. It's not likely to stop soon. This, of course, is regrettable, but, I cannot really believe that restoring peace in Southeast Asia will restore peace in the world.

Because it's a new ball game today in Viet Nam, I believe it is essential to place recent developments in proper perspective. One cannot do so without taking stock of what has occurred in the past three and one-half years.

In my opinion, President Nixon has shown incredible restraint in the face of irresponsible criticism by those who run away from their responsibility for past actions by seeking to saddle others with the consequences of these actions.

Today, from the privacy of Washington law offices, a former Defense Secretary and a former U.S. negotiator in Paris have all the answers for getting America out of Viet Nam—now. But, where were those ready solutions when these former officials were in positions to act? These were the people who got our country into a war they could neither win nor end. That, in a sentence, is the sad legacy President Nixon inherited when he assumed office.

Since January 1969, conditions have changed substantially through President Nixon's leadership and through his Vietnamization program. It was not President Nixon who sent 550,000 Americans to Viet Nam. He has brought 500,000 home.

It was not President Nixon who was in office when as many as 500 Americans were being killed each week. Under his administration, combat deaths have been reduced by more than 95%. And I might add that those low levels have been maintained despite the current intensity of ground combat in South Viet Nam.

When the Nixon Administration took office, American troops were handling ground combat. In fact, there was no authorized plan whatsoever for turning that combat role over to our allies. Today, the South Vietnamese have that responsibility and they are doing amazingly well. Sure, they are not winning every battle, but no one ever predicted they would.

In short, Vietnamization is working. We have provided the equipment. We have helped to train South Vietnamese forces, and we have assisted with air and naval support as necessary. As a result, substantial numbers of Americans have been withdrawn. Do you realize that there are fewer Americans in Viet Nam today than there were Americans in Korea when President Nixon took office in 1969. It took 10 to 15 years for the Koreans to take over their own internal security responsibilities. But the South Vietnamese have been forced to assume that responsibility in less than three years. I think they have come a long way.

Three and one-half years ago, there was no comprehensive peace plan for ending the war in Viet Nam. That, too, has all changed. Through secret initiatives and public talks in Paris, the President has sought every reasonable avenue for ending the conflict through negotiations. But the enemy has balked every step of the way, greeting each peace offer with insult and escalation of the war.

I don't see how anyone can possibly criticize the President for failing to do all that was humanly possible to end the conflict. He has offered every reasonable alternative to Hanoi. Even while negotiating—as frustrating as that was—he proceeded to withdraw thousands and thousands of Americans despite any visible progress in Paris.

Today, not only has the President decided to stand up against the enemy's blatant aggression, but he also has made it clear that the North Vietnamese will have to prove their sincerity to negotiate before such talks are resumed. In the meantime, their war-making capacity is being destroyed. It is being destroyed rapidly and effectively.

Overlooked in the dramatic announcement to mine the harbors of North Viet Nam and to step up our bombing of military and strategic targets has been the significant negotiating move made by this country.

That involves our proposal to withdraw all U.S. forces from Viet Nam within four months after American prisoners of war are released and after an internationally supervised cease fire has begun. There are no commitments for linking our withdrawal to the progress of Vietnamization. There are no commitments linking our agreement to the stability of the South Vietnamese government. In short, it is about the most liberal peace plan anyone—most of all the enemy—could hope to expect.

Fortunately, I feel that most Americans understand what has been accomplished to date and realize what is now at stake. They respect the President's efforts. They recognize that he has taken every possible public and private step to end our involvement.

"establishments" each time it appears, the words "or educational institutions" and by inserting following the word "establishment" each time it appears, the words "or an educational institution", (2) by inserting following the words "Fair Labor Standards Amendments of 1966,", the words "and the Fair Labor Standards Amendments of 1972", and (3) by inserting following the words "prior to such", the word "applicable".

On page 5, line 19, strike out "7" and insert in lieu thereof "8".

On page 5, line 24, strike out "8" and insert in lieu thereof "9".

On page 6, line 17, strike out "9" and insert in lieu thereof "10".

On page 7, line 4, strike out "10" and insert in lieu thereof "11".

On page 7, immediately after line 23, insert the following:

AUTOMATIC INCREASE IN MINIMUM WAGE

SEC. 12. Section 6 of such Act (as amended by sections 2 and 3 of this Act) is further amended by adding at the end thereof the following new subsection:

(g) (1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on June 30 in every second year after 1972, or (ii) any other calendar quarter in which occurs the effective month a general increase in the minimum wage payable under subsections (a) and (b) of this section;

(B) the term "cost-of-living/national productivity computation quarter" means a base quarter, as defined in subparagraph (a) (i), in which the Consumer Price Index and the index established by the Bureau of Labor Statistics to measure the total private output per man-hour (hereinafter referred to as the "Productivity Index") exceed, by not less than 3 percent, such indices in the later of (i) the last prior cost-of-living/national productivity computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general increase in the minimum wage payable under this Act; except that there shall be no cost-of-living/national productivity computation quarter in any calendar year in which a law has been enacted providing a general increase in the minimum wage payable under this Act or in which such an increase becomes effective; and

(C) the Consumer Price Index and the Productivity Index for a base quarter, a cost-of-living/national productivity computation quarter, or any other calendar quarter shall be the arithmetical mean of such indices for the 3 months in such quarter.

(2) (A) The Secretary shall determine in every second year after 1972 (subject to the limitation in paragraph (1) (B) and to subparagraph (D) of this paragraph) whether the base quarter (as defined in paragraph (1) (A) (i)) in such year is a cost-of-living/national productivity computation quarter.

(B) If the Secretary determines that such base quarter is a cost-of-living computation quarter, he shall, effective with the month of January of the next calendar year (subject to subparagraph (D)) as provided in subparagraph (C), increase the amount of the minimum wage payable under this Act by an amount derived by multiplying each such amount by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index and the Productivity Index for such cost-of-living/national productivity computation quarter exceed such indices for the most recent prior calendar quarter which was a base quarter under paragraph (1) (A) (ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1) (B). Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(C) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living/national productivity computation quarter, he shall publish in the Federal Register on or before November 1 of such calendar year a determination that an increase in the minimum wage payable under this Act is required and the percentage thereof. He shall also publish in the Federal Register at that time a revision of the amount of the minimum wage contained in subsections (a) and (b) of this section (as it may have been most recently revised by another law or pursuant to this paragraph); and such revised amount shall be deemed to be the amount appearing in such subsections.

(D) Notwithstanding a determination by the Secretary under subparagraph (A) that a base quarter in any calendar year is a cost-of-living computation quarter (and notwithstanding any publication thereof under subparagraph (C), no increase in the amount of the minimum wage shall take effect pursuant thereto, and such quarter shall be deemed not to be a cost-of-living/national productivity computation quarter, if during the calendar year in which such determination is made a law providing a general increase in the minimum wage under this Act is enacted or becomes effective.

(3) As used in this subsection, the term "general increase in the minimum wage under this Act" means an increase (other than an increase under this subsection) in the amount of the minimum wage payable under subsections (a) and (b) of this section.

On page 8, line 2, strike out "11" and insert in lieu thereof "13".

On page 8, line 15, strike out "12" and insert in lieu thereof "14".

On page 8, line 21, add the following new section:

Sec. 13. Section 13(b) of such Act is amended by adding at the end thereof the following new paragraph:

"and employee who is any workweek is employed in domestic service in a household."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a quorum call, with the understanding that he be recognized upon the calling off of the quorum call and that the time not be charged against either side?

Mr. MOSS. I am glad to yield for that purpose.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. Senators on both sides will now be alerted to the fact that an amendment to the Taft-Dominick amendment has now been offered.

Mr. President, with the understanding that the Senator from Utah not be deprived of his right to the floor, and with the further understanding that the time for the quorum call not be charged against either side, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I request the yeasand nays on my perfecting amendment.

The yeas and nays were ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that my assistants, Mr. Chris Matthews and Mr. Karl Braithwaite, be given the privilege of the floor during the debate on the amendment now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. DOMINICK. Mr. President, I make the same request for a committee staff member to have the privilege of the floor during the pending debate, Mr. Chuck Woodruff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I understand the time is now limited and that I have 30 minutes and the Senator from Colorado has 30 minutes.

The PRESIDING OFFICER. There is a limitation of 1 hour on the amendment, 30 minutes to each side.

Mr. MOSS. Mr. President, my amendment seeks a middle path between the committee bill, S. 1861, and the Taft-Dominick amendment, No. 1204.

I have supported increases in the minimum wage, but I clearly understand the need to be careful about increases during our present economic situation. The Taft-Dominick amendment, however, goes further in changing the committee bill than I am prepared to go at this time.

My amendment would provide for the following changes:

First. For nonagricultural employees covered prior to 1966: $1.80 60 days after enactment; $2 6 months later.

Second. For nonagricultural employees covered by 1966 and 1972 amendments: $1.80 60 days after enactment; $2 1 year later.

Third. For agricultural employees: $1.50 60 days after enactment; $1.70 1 year later.

Fourth. The Moss amendment extends coverage under the act to 1.7 million Federal employees, 3.2 State and local government employees, and 2.1 employees in domestic service not now covered.

Fifth. Changes no existing exemptions.

Sixth. Like S. 1861 as reported, retains the existing 85 percent certification system which applies to full-time students employed in retail and service firms and agriculture, and it includes students employed part time by educational institutions and those employed full time during school vacations by such institutions.

Seventh. Provides for future changes in the minimum wage to be automatically adjusted every 2 years for changes in national productivity and cost-of-living as determined by the Department of Labor and the Cost of Living Index.

The Moss amendment represents a compromise. According to the committee's report—No. 92–842, page 6:

Witnesses before this Committee differed as to how much of an increase should be legislated, but the testimony was overwhelmingly in favor of an increase now.

Why was this testimony in favor of an increase? Let me quote the committee report:

Between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour and April 1972, the consumer price index rose 27%. Between February 1, 1968, the date the $1.60 rate actually became effective for most workers, and

May 1972, the consumer price index rose 21.4%. Thus a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low wage workers to the levels established by Congress in 1966. In addition, average hourly earnings have increased by 34 percent over the same period. Of great significance is the fact that the number of people living in poverty increased between 1969 and 1970, the first increase since such records have been kept.

These facts and figures alone explain the necessity for a minimum wage increase now. Inflation and an increase in the cost of living have eroded the low wage earner's purchasing power. Today's $1.60 buys less than the $1.25 minimum wage in 1966. This fact exists in the face of our Nation's increasing productivity. American low-wage workers have traditionally shared, and rightfully so, in the Nation's rising productivity. These are not second-class citizens—they carry the full responsibilities of good citizenship in this Nation. Their taxes support it, they serve in its armies, and vote in its elections. No single element in America is responsible for our rising productivity. In some way all Americans contribute to it. All Americans, therefore, should benefit from it.

Between 1966 and 1972, productivity rose 10 percent and experts from the Government and business community have projected an average yearly increase of about 3 percent for the decade ahead.

Other workers in the Nation share in this rising productivity through increased wages and fringe benefits.

Their wages have been attuned to the increase in cost of living. This is substantiated by the 34 percent average hourly increase in earnings since 1966. Low wage earners ought rightfully share similar increases.

They ought to share similar increases, but have they?

In the 1971 report on minimum wages by the Secretary of Labor we note that the relationship between average hourly wage and the minimum wage is worse today than it was in 1950.

As the report states:

Minimum wages have been traditionally compared to gross average hourly earnings of production workers in manufacturing for purposes of evaluating the efficacy or desirability of changes in the level of the FLSA minimum or of assessing the effects of legislative changes.

With respect to this comparison, the report concluded that:

The relationship between the minimum wage and average hourly earnings or average hourly compensation varies, depending upon whether account is taken of changes in coverage. Although the minimum wage has been increased substantially, its ratio to earnings has been largely eroded by gains in average hourly earnings between the periods of increases in the minimum wage. Consequently, the ratio of the minimum wage to average hourly earnings or to average hourly compensation per man hour is now lower than it was in 1950, when the 1949 amendments went into effect.

When the 1966 amendments—increasing the minimum wage rate to $1.60 an hour—were enacted, they represented a promise that a full-time worker compensated at the minimum wage rate could at least earn what was considered to be poverty level of income; which at that time was about $3,200 annually for a family of four—$1.60 an hour times 40 hours per week times 50 weeks per year equal $3,200 annually. Since then, increases the price level as reflected in the Consumer Price Index have reflected the bankruptcy of that promise.

Therefore, in light of the rising cost of living and productivity, it is clear to all, including those members of the committee who did not support the majority report, that an increase in the minimum wage is in order.

The question, then, is how much should the minimum wage be increased? The Moss amendment recognizes a need to increase minimum wage and yet guard against inflation and unemployment through a too rapid increase.

The wage increases provided by the amendment were attuned to considerations of correcting and as rapidly as practicable eliminating labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers without substantially curtailing employment or earning power. It is firmly believed that these gradual and belated increases, approximately equivalent to productivity and cost-of-living increases in recent years, can be absorbed by the national economy as easily as all previous increases in the minimum wage rate.

The Moss amendment recognizes the need for compromise between the minority reports. The increase proposed by my colleagues from Ohio and Colorado represents a partial catch-up solution to the problem of increase in minimum wage.

Yet they would implement this increase over a period of years. Meanwhile, increases in the cost of living will eat away any gains made in real wages as a result of this bill.

The Moss amendment recognizes the need for a rational increase and the need to implement that increase with all dispatch to bring relief to the low-wage worker who has struggled under the crushing burden of inflation.

Accordingly, I ask the Senate to adopt the following changes in the rate of implementation of the wage increases—

For nonagricultural employees covered prior to 1966: $1.80 an hour 60 days after enactment; $2, 6 months later.

For nonagricultural employees covered in 1966 and 1972 amendments: $1.80, 60 days after enactment; $2, 1 year later.

For agricultural employees: $1.50 60 days after enactment; $1.70 1 year later.

It seems that every 5 years when Congress is asked to review the minimum wage we have to expend much time and a terrific amount of needless energy determining how great an increase in the minimum wage is justified to "catch up." Catchup is a policy which always keeps us with one foot mired in the past and an unsure fot trying to determine how far to stride in the future.

In the present Fair Labor Standards Act, section 4–D, we read the following:

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act, as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

I am happy that since 1938, when the Fair Labor Standards Act was passed we have had section 4–D so that Congress could increase the minimum wage. The time has come I believe, when we can modify this section. I am proposing as an amendment to amendment No. 1204 providing that the minimum wage be automatically determined every 2 years by a cost-of-living and productivity factor. This would be determined by changes in the cost-of-living index and the productivity index of the Department of Labor.

My feelings for this nave been expressed in my earlier comments, but in further support, I wish to read the comment of Marten Estey in his article "Wages and Wage Policy 1962–1971." In discussing wage guideposts, Mr. Estey notes:

One solution to this problem would be some form of cost-of-living clause that would provide for wage adjustments related or tied to the rise in the Consumer Price Index and thus protect the worker against the erosion of his real wage.

Equally important from the policy standpoint is that cost-of-living adjustments make it possible to avoid, or to minimize, the tendency to try to compensate for past inflation by the use of "catch-up" wage increases when contracts are renewed. So long as wage decisions reflect past problems, they are less responsive to current economic conditions than they might be.

With some form of cost-of-living clause, workers would be compensated—more or less fully—for price rises on a current basis and, therefore, would have less need to "catch up" at contract renewal time. Perhaps most significant of all, when inflation does begin to recede, wages determined by collective bargaining might respond more quickly, there being less need either to correct for previous errors or to try to anticipate future price changes." [1]

The cost of living index is used successfully in evaluating civil service increases, and it is time that we applied it to minimum wage increases as well.

Mr. President, in hopes that we might find a compromise solution in the area of extension of coverage, I offer the following suggestions.

While the Taft-Dominick amendment has recognized the need to increase the minimum wage, it does not extend the coverage of the bill. When the Fair Labor Standards Act was enacted in 1938, its objective was clearly seen—the elimination of "labor conditions detrimental

[1] Estey, Marten, "Wages and Wage Policy, 1962–1971," in Economic Policy and Inflation in the Sixties, p. 193.

to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers." Congress has consistently seen that the minimum wage is imposed to protect fair-minded employers from the undercutting competition of those employers who would exploit the Nation's poor, young, or ill trained, by hiring at substandard rates.

In spite of this recognition, Congress has consented to leave some employees without coverage—to open the door to those who would exploit these workers. As a consequence, these low-wage workers who are without bargaining power have been impeded from working their way out of poverty.

Who are these workers who are uncovered? Let me quote from the committee report:

At the present time, about 40 percent of the Nation's wage and salary workers in the civilian labor force are outside the coverage of the Act. The law presently covers only 45.5 million of the 75 million wage and salary workers in the United States. A substantial number of these 75 million are beyond the scope of the Act's practical, possible, or needed coverage. Almost 13 million, for instance, are executive, administrative, or professional personnel, for whom the minimum wage provisions of the Act would have little relevance. But of the remainder—some 62 million—who might be brought within the wage and hour guarantees, over 16 million are not in fact covered.

In extending coverage of the Fair Labor Standards Act, to individuals employed in domestic service, Congress will correct a glaring inequity which has existed well over three decades since the act was passed in 1938.

Workers in this industry are paid very low wages. Of these 2.1 million workers, 1,101,000 earn less than $1.80 an hour, and 1,119,000 earn less than $2 an hour. In 1969, 80 percent had total cash incomes less than $2,000 while 57 percent had less than $1,000.

One might say that these low wages are due to the part-time nature of much domestic employment. As the Census Bureau has pointed out, however, in 1969 approximately 340,000 women employed full time, year round, as private household workers had average earnings of only $1,926 for the year. Many of these women are heads of households, and yet we expect them to support their families at a salary which is $2,000 below the poverty level.

These people have no centralized body to bargain for them. They do not enjoy the benefits of regular work, have no fringe benefits, no unions to protect them or Federal Government laws to guard them. After 34 years, it is time they were extended the coverage of the Fair Labor Standards Act.

In the last 10 years, Congress has been asked to review minimum wage legislation twice. In both instances, in 1961 and again in 1966, Congress felt compelled to extend coverage of the act to employees not previously protected by the Fair Labor Standards Act. Today 16 million employees still remain unprotected by this vitally important legislation. Of that number, 1,726,000 are Federal employees and over 3 million are employed by State and local governments across the Nation.

That Congress should so long deny these workers the protection of the Fair Labor Standards Act seems incredible. Workers who make our governments run have not yet been accorded the same benefits and protections as workers in private industry.

The most compelling argument for extending coverage to public servants is a moral one. Government should be willing to abide by the same rules it dictates to private industry.

And yet some individuals maintain that this extension of coverage will break the budgets from the town hall to Capitol Hill. This is not so. According to the estimates supplied the comittee, this increase in the minimum wage would increase the total wage bill for the affected governments by only one-half of 1 percent.

TREND OF MINIMUM WAGE INCREASES 1949–66

Minimum wage increases enacted by Congress since 1949 have matched increases in the productivity and the cost-of-living almost identically.

In 1949, Congress legislated a 75 cents an hour minimum. Seventeen years later, in 1966, we passed a $1.60 minimum. This 1966 hike constituted a 113-percent increase over the 1949 level, a percentage which was justified by a 77 percent in productivity and 36-percent increase in the cost-of-living during that period.

	Increase in productivity (index of output per man hour)	Increase in cost-of-living (consumer price)	Combined increase in productivity and cost-of-living	Increase in minimum wage
1949	$55.3	$71.4	.....	$0.75
1955	69.9	80.5	.....	1.00
1961	80.9	89.6	.....	1.25
1966	98.10	97.2	.....	1.60
Total percent	77	36	113	113

The Moss perfecting amendment would simply continue this trend. Since the last minimum wage increase became fully effective, the cost of living has risen by over 20 percent and productivity by over 9 percent. There is no justification for delaying implementation of the $2 minimum, which constitutes a 25-percent increase, for the 14 months provided in the Taft-Dominick proposal.

My perfecting amendment would make the increase effective 8 months after enactment.

In addition, I have provided for an automatic adjustment, every 2 years, in the minimum wage. This adjustment would be based upon cost of living and productivity, the same standard which has justified previous minimum wage hikes.

I believe, therefore, that the modifications of the Taft-Dominick amendment would provide these benefits, would extend the coverage, and, by first boosting the minimum wage to where we have caught up with inflation and productivity, would place it in a position where automatically hereafter changes in productivity and the cost of living would be reflected in an automatic change in the minimum wage.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. I yield myself 10 minutes in opposition to the proposed amendment.

Mr. President, I have just done some computations, and I am talking without a prepared text, just off the top of my head, because I did not know that this matter was coming up.

So far as I know, the amendment proposed by the Senator from Utah has not been checked out with the manager of the bill or the ranking member of the committee, Senator JAVITS, nor with Senator TAFT, or myself. So it comes somewhat as a surprise to us.

I will say, however, that it varies very substantially from our substitute. Among other things, it extends coverage, which we do not seek to do in our substitute, to Federal employees, State and local employees, and domestics.

I spoke about the subject of the coverage of domestics before this time, when the Senator from Utah was not in the Chamber. I cannot think of a more guaranteed way to enmesh every housewife in the country in Federal bureaucracy than by trying to cover domestics. Enforcement would be difficult. I recall sitting in committee when we were talking about this matter once before, and many members of the committee on both sides of the aisle commented on the fact that they felt that few housewives, including their own would hire domestics if they had to file the extensive records required by the wage and hour law.

If we have the domestic employee under the minimum wage criteria, we immediately are going to have every housewife in the country, every time she has a cleaning woman, subjected to questions by the Labor Department as to whether or not she is meeting the requirements, as to what is the added value of whatever services are provided by the housewife in supplying a room and meals, or various pieces of equipment to the cleaning woman or laundress, or whoever it may be. In my opinion, it is going to be a bureaucratic mess and will require another whole corps of Federal employees just to determine whether a housewife can have someone in either to cook dinner on an occasional night or to do a week's cleaning. So I have great difficulty on that particular phase of it.

Going beyond that, to the merits, once again the Senator from Utah is apparently trying to accelerate the rather extraordinary inflationary push which would be given by the committee bill. It is of interest to me that, although he retains our figures with respect to nonagricultural employees covered prior to 1966, he accelerates the raise to $2 by 6 months, so that it would be effective 6 months after the raise to $1.80.

Second, he accelerates, in like manner, those who were first covered by the 1966 amendments, and those who will be covered under this proposal, beyond what we did, by saying that it will be $1.80 and $2 instead of our $1.70, $1.80, and $2. The only thing he does not accelerate is the figure for agricultural workers. I find this quite significant. I am not quite sure why he would accelerate everyone else under his proposal and not

the agricultural workers. I presume this is because he is in agreement with us that there are now enough problems on the farms in finding labor to be able to take care of the crops at almost any price, and that the proposals put in by the committee bill are unrealistic insofar as keeping small farms alive is concerned.

Going beyond that, the extension of coverage, it seems to me, is one of the more significant things in this amendment. It is very similar to the committee bill, the only difference being that it does not cover the committee provision which refers to the size of an enterprise and the employees that would be covered therein. Other than that, he incorporates most of the Federal employees, the State and local government employees, and the domestics, whom the committee bill also covers. At a time when the chairman of the Cost of Living Council and the chairman of the Price Control Council have stated that the proposed committee bill, with its extension of coverage and its very sharply accelerated rates, would not seem a very difficult situation insofar as their role is concerned in trying to stabilize prices, I cannot see how adding this enormous number of additional people to the coverage and accelerating it is going to change the situation.

From a very brief conversation I have had with the distinguished chairman of our committee, Senator WILLIAMS, I gather that, also, is not very happy with this proposal. I am strictly against it, and among other things I point out item No. 7. This provides for an automatic change in the minimum wage every 2 years, based on national productivity and cost of living.

I ask this question of the Senator from Utah: Let us suppose the cost of living should go down—a very interesting kind of concept. Do I correctly understand that the Senator would then reduce the minimum wage, under those circumstances, or is this applicable only when it goes up?

Mr. MOSS. I am happy to respond to the Senator from Colorado.

Of course, it works both ways. If the cost of living should drop drastically, there would be a reduction in the minimum wage requirement.

Mr. DOMINICK. I am happy to hear the Senator from Utah say that. Almost all the proposals I have heard to date have been strictly an upward push. Very few times have I seen it work in reverse—that when the cost of living goes down, the minimum wage goes down. I am not sure, really, that if the cost of living goes down, there is a need for reducing the minimum wage. It is interesting to me that the Senator puts it both ways. I am happy to see that he is flexible on this.

But it seems quite clear to me that it is going to be difficult to compute. No one is going to know what his minimum wage standards are going to be, except that every 2 years there will have to be a recomputation.

Furthermore, as I understand the thrust of the amendment—although I have not seen the full amendment—it would be, substantially, to take out of the jurisdiction of our committee the opportunity to review the Fair Labor Stadards Act to see what coverage should or should not be included as time goes by and to determine whether or not an increase is in order.

The question of productivity is a particularly good one, it is very difficult, however, under all the indices we have now to determine what national productivity actually is. I have some figures from the speech I made yesterday indicating that national productivity has only gone up 10 percent since 1966, while the cost of living has increased 28 percent. I am not convinced that the national productvity test has ever been tied down sufficiently so that we can find an index on which we could rely. It reminds me of the situation when we were trying to provide aid for universities in the higher educational field. We kept trying to find out which ones were actually in financial trouble as opposed to others and we could not find any common accounting ground in any university anywhere in the country on which we could rely. The net result was, we put a study and research program into the higher education bill, which was passed, providing for a system and a study to be made to be able to determine that.

I should like to get a comment from the Senator from Utah on that point. He has a very good productivity factor in here. My question is, How does he arrive at that factor?

Mr. MOSS. I will be happy to answer that. The President has guidelines which he is using for this very purpose, exactly the same cost-of-living figures in the index. It is published in the Federal Register. The average is 3.1 percent per year since 1948.

Mr. DOMINICK. I understand those figures, but it seems unlikely that they are accurate when we take into account that the Labor Department at the present time has declared it an unfair labor practice for a worker on piecework of any kind of exceed a quota which has been established by a union. Consequently, we do not have that worker's productivity in any way shown by the national figure. I understand that the Senator is using the index as an arbitrary matter. What I am saying is that I am not sure it is accurate and I never will be sure it is accurate as long as it is considered to be an unfair labor practice to be able to earn as much money as one can. This is a settled case in the National Labor Relations Board. I think it is wrong. I have been protesting it.

Moreover, I think to tie the minimum wage inflexibly to the Consumer Price Index would lock us into an inflationary spiral, because I think it has been demonstrated that minimum wage increases exert strong inflationary pressure.

Mr. TAFT. Mr. President, will the Senator from Colorado yield at that point?

Mr. DOMINICK. I yield.

Mr. TAFT. I would like to comment on the productivity question. Andrew Biemiller of the AFL–CIO testified before the Labor and Public Welfare Committee regarding productivity and stated that productivity in many instances, basically is subject to the control of the employer and not up to the employee at all. Particular work practices which are involved or contracted for under a labor-management agreement. Often the assignment of work in relationship to productivity is something that is determined solely by the individuals in the industry involved. As the Senator from Colorado has pointed out we have rather specific figures for factory production but in the matter of service figures, we have very few figures on which to rely.

Mr. DOMINICK. The Senator is totally correct. I have got to apologize to him. I believe that under our agreement, he had charge of the time. What I did was just to take it over and I apologize to him. I appreciate his comments.

Mr. President, in connection with this discussion it is worthwhile to point out, however, that on the index, whether right or wrong, on the national productivity, over the last decade, the national productivity is considered to have increased 10 percent. The consumer price index, however, increased 28 percent. This is a much more reliable figure. The committee bill has recommended a 37.5 percent increase in the minimum wage. I do not think it is difficult to determine, under item 7 of the proposed amendment, with those figures in front of us, on the productivity index, right or wrong, as to what percent increase there should be in the minimum wage under the concept as developed by the Senator from Utah.

Mr. President, I reserve the remainder of my time, such as I have. I am strongly opposed to the amendment.

Mr. MOSS. Mr. President, the Senator from Colorado is concerned about the extension to cover domestic employees, saying that this would burden the housewives in keeping records. I suggest that it would be no more of a requirement to keep records than is done now by housewives who employ domestics, in order to arrive at the correct social security contribution on the wages they pay domestics. There is no reason to believe that anything further would be required by way of recordkeeping. If there is a violation, they may be called in, just as any person would be who violates the law, to explain what their practice was. I emphasize that there is no great recordkeeping that would be necessary.

The Senator also objected to my amendment, saying that it would push inflation by shortening the effective time of the increased minimum. But I would point out that we already have experienced an increase in the cost of living, which is over 20 percent since last we dealt with the minimum wage, and productivity in that same time has jumped 9 percent. So this constitutes about a 29-percent increase in the period of time we are dealing with.

We are really just catching up. Then we would move on to the automatic adjustment based on the productivity and the cost of living. Since we can do this for adjusting civil service pensions, I do not see why we cannot do it for adjusting the minimum wage.

One thing being said is that domestics really do not need a minimum wage. I

have pointed out by the figures I cited that many of these domestics are drawing an incredibly small annual salary in this field. That means that these people are living in poverty and they must therefore try to get help somewhere else, from part of the welfare system. So, if we are bent on reforming the welfare system, as we say we are, then one of the best ways we can do it is to make sure that those who work for a living at least draw a wage which will keep them above the poverty level. If they drop into the poverty level then they are going to have to have some supplemental income in order to exist. I do not think the time will come when we will allow our people to go hungry or not be properly clothed or housed in this country.

I think, therefore, that this amendment offers a reasonable compromise with the committee bill and that proposed by the Senators from Ohio and Colorado. I suggest that it answers the principal objectives that we need; First, to extend the coverage; second, to catch up on the minimum wage now with productivity and cost of living; and, third, put it into a regularized basis so that automatically it can be adjusted hereafter, based on the figures published and utilized elsewhere in fixing salaries in this country.

I reserve the remainder of my time.

Mr. TAFT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. COTTON). The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, with regard to the productivity point, I have the information distributed by the Senator from Utah, and I have a lot of questions about its applicability to the actual situation involved here.

I invite the attention of the Senator from Utah to the statement in the minority views on page 129, along this line:

> Proponents of the Committee approach argue that inflation can be avoided and profits maintained if productivity is increased. This euphoric view, i.e., that minimum wage increases accelerate productivity gains, is at variance with past trends in low-wage industries. The gain in productivity, output per manhour in the private nonfarm economy, was only 3.8 percent between 1967 and 1970, far below the long term trend. Low productivity has been particularly true of low-wage trade and services, whose productivity gains lag substantially behind those of the economy as a whole although these are the industries most directly affected and therefore the most stimulated by wage increases.

I would like to comment on a couple of other aspects of the amendment offered by the Senator from Utah. He puts back the provision relating to students and youth, the 85 percent provision. The estimate is that this system has not worked. There have not been applications for certificates for youth in any number indicating any real or substantial impact in this area. Meanwhile our youth employment problem has increased drastically.

The attempt which we are making in the substitute bill which the amendment of the Senator from Utah would change is to encourage the employment of youth. That would be completely negated by the amendment of the Senator from Utah.

I would also like to comment on the domestics issue, because the Senator from Utah indicates that he does not think there is much recordkeeping involved.

I have in my hand three separate bulletins under the Fair Labor Standards Act. One is 52 pages long. Another is not quite as long. It only covers 13 pages. Another one is about six or seven pages. I can see every housewife in the country getting out that bulletin and deciding what she has to do or what she does not have to do under these circumstances.

The Senator has not mentioned the principal argument against the domestic provision which I discussed yesterday. The committee position purports to be based upon the commerce clause. I believe it completely violates the Constitution. I cannot conceive of any activity of any sort in American life today that would be covered by the commerce clause, and subject to Federal regulation if the committee's interpretation were adopted. I do not believe it would receive such support. However, even beyond the constitutional question, we also have personal experience with respect to social security coverage. We have the record which indicates that social security coverage of domestics has been accomplished in a very sporadic manner and is characterized by its evasion as much as by its observance.

Mr. President, to compound that by putting in overtime requirements and minimum wage requirements covering every housewife in America would be a great tragedy.

The committee bill also attempts to cover Federal employees. This amendment would attempt to put the Federal employees back under the bill again.

The PRESIDING OFFICER (Mr. COTTON). The time of the Senator has expired.

Mr. TAFT. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for an additional 2 minutes.

Mr. TAFT. Mr. President, the coverage of Federal employees, it seems to me, is about the most self-defeating aspect that we could imagine.

I cannot think of any Federal employees who are not paid more than the minimum wage except for military and prisoners working in prison industries. As to the practice of paying overtime, overtime payment procedures for Federal employees in many cases have been worked out. In this connection, we would have to search through a whole gamut of laws to realize what the effect of putting this provision in the bill would be.

It is foolish to say that without reviewing the other laws that exist, all of a sudden we will come in and blanket this whole area.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from Utah has 16 minutes remaining.

Mr. MOSS. Mr. President, I thank the Chair.

Mr. President, it seems that what we are doing here—and I am surprised to hear some of the arguments being made by those in opposition—is saying that the figures are not reliable and we could not say for sure what the productivity amounts to.

Surely the drafters of the Taft-Dominick amendment must have relied on some figures or some reports. I do not think that discussing the figures published by the Department of Labor and other Federal departments and saying that they are not letter-perfect is an answer to trying to gear the minimum wage to the amount of productivity and cost of living increases.

The purpose of the minimum wage is simply to say that any citizen who works for a living is entitled to be paid an amount of money which will enable him to support himself under the present cost of living existing in this country.

My amendment has a second provision to it, that if productivity in general goes up so that labor is more productive, then he shares in the benefit that comes to all of us in our society as a whole because of the higher productivity.

The matter of student and youth differential has also been referred to. They say that students have been denied jobs because the minimum wage was getting too high. That matter has always concerned me. I wondered just how effective it was. I have had inquiries from my constituents and elsewhere expressing the fear that if the minimum wage went up for students, they would not be employed.

I wrote to the Department of Labor. I was sent a report which was published in 1970. The report was entitled, "Youth Employment and Minimum Wages."

That report concludes that while the minimum wage has been increased and coverage extended during the period that has witnessed unemployment of teenagers, no direct relationship has been proved.

Thus the report finds that there has been no decrease in employment or lack of employment by reason of the minimum wage set for young people. That is the reason I thought we should return to the 85 percent and not drop to the 80 percent as proposed in the amendment to which my amendment is a clarification or a modification.

I think the case is rather clear here. We are talking about an extension of coverage to those who have been denied the protection of the minimum wage law. We are talking about catching up so that those who are being paid only the minimum wage now may be brought up to compensate for the rise in the cost of living and the rise in the productivity to the point where they were in 1966 when we last acted on the matter.

The third thing is of great importance. It seems to me that we can get on a regularized basis and apply the cost of living and the productivity to the minimum wage as an automatic factor so that the Congress every 4 years or every 6 years

will not have to fight about this, but will be in a position once again to work this matter out and try to catch up to the appropriate amount.

I think we ought to catch up in a reasonably short time and not make a long delay between action by Congress and the time when the increase will finally take effect. These people are in need of this kind of protection now and it should be extended to them now. If we can do that and then go to the automatic system we will have solved one of the very difficult problems presented now in this matter of wages and prices.

I point out again that using the productivity index and the cost of living index is what the President did in phase 2 in determining the kinds of regulations to be placed on the wages of employees. He used this very formula we are called upon to use in this amendment.

Mr. President, I reserve the remainder of my time. If my colleagues are prepared to yield back the remainder of their time I am prepared to yield back the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield to me for 4 minutes?

Mr. TAFT. I am glad to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I wish to go back for a moment and talk about this proposed extension of coverage to domestics. It sounds great. Here, we have low paid people and they are going to be paid more and everyone is going to be in glory and feel good about it because they are doing something for them. However, the fact of the matter is we have yet to find that raising the minimum wage for low income people has any effect whatever in being of assistance to them. It in fact has the opposite effect—unemployment and welfare, because there are people who cannot find other jobs.

Mr. President, I hold in my hand a study entitled "The Employment Effect of Minimum Wage Rates," written by Professor John M. Peterson and Charles T. Stewart, Jr.

They come to this conclusion: and obviously domestic workers would be included.

Both theory and fact suggest that minimum rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.

Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants. Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, non-whites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be denied. The evidence provides more basis for the claim that while they help some workers they harm those who are the least well off.

I think this is extremely pertinent in connection with the extended coverage which the Senator from Utah proposes. The only alternative for these people, if their jobs are eliminated, is welfare. In addition, the only possible basis for the Federal Government extending minimum wage coverage to this group is that they are in interstate commerce.

The basis upon which the committee said that these particular workers, the domestic workers, are in interstate commerce is that vacuum cleaners and laundry equipment are made in only a few States, and move in interstate commerce. So, they argue, if anyone is using a vacuum cleaner, regardless of what he is doing, he is in interstate commerce. All I can say is, if we extend the Commerce Clause of the Constitution to that extent we are really vitiating any restrictions on the Federal Government at all. We are saying that the Federal Government has power whenever it wants to do something to do it without regard to the rights of others, and whether something is actually in commerce or not. I cannot think of anything less likely to affect interstate commerce than someone coming in to do some laundering for a housewife.

With that plus the recordkeeping involved my guess is that Congress will have every housewife in the country on its neck saying, "What are you trying to do to us?" In addition, it will not be helping the domestic workers because they will not be able to get jobs and they will have to go elsewhere.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Ohio has 5 minutes remaining and the Senator from Utah has 10 minutes remaining.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Utah yield to me for 1 minute?

Mr. MOSS. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the principal parties. It is an addendum to the agreement with respect to the program for tomorrow.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ADDENDUM TO UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 9:40 a.m. tomorrow, the Senate proceed to the consideration of S. 1861, the so-called Minimum Wage bill; that the distinguished junior Senator from Florida (Mr. CHILES) be recognized at that time for the purpose of calling up an amendment to the Taft-Dominick substitute; that time on the amendment by Mr. CHILES be limited to 20 minutes, to be equally divided between the distinguished author of the amendment, the Senator from Florida (Mr. CHILES), and the distinguished authors of the substitute, the Senator from Ohio (Mr. TAFT) and the Senator from Colorado (Mr. DOMINICK), whichever is the case; and that the vote on that amendment occur, if it is a yea and nay rollcall vote, at 11 o'clock a.m., just immediately preceding the vote which under the order of yesterday was to have occurred at 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears no objection, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for 30 seconds further?

Mr. MOSS. I yield.

Mr. ROBERT C. BYRD. I want to be sure I have the proper understanding of my own request, and that is that at the hour of 10 o'clock tomorrow morning the amendment by Mr. CHILES will be temporarily laid aside and time will then begin running on the substitute by Senators TAFT and DOMINICK, as previously agreed to.

The PRESIDING OFFICER. It is so understood and, without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Presiding Officer, and I thank the Senator from Utah for yielding.

The unanimous consent agreement reads as follows:

Ordered, That, during the further consideration of S. 1861, a bill to amend the Fair Labor Standards Act of 1938, as amended, on Thursday, July 20, 1972, at 9:40 a.m. the Senate proceed to consider an amendment by the Senator from Florida, Mr. Chiles, with debate thereon limited to 20 minutes, to be equally divided and controlled by the Senator from Florida, Mr. Chiles, and the Senator from Colorado, Mr. Dominick: *Provided further,* That at 10:00 a.m. the Senate will proceed to the consideration of the Taft-Dominick substitute amendment, No. 1204, with a vote on the Chiles amendment coming at 11:00 a.m., to be followed by a vote on the Taft-Dominick substitute amendment. The time on the Taft-Dominick substitute amendment will be equally divided and controlled by the Senator from Ohio, Mr. Taft, and the manager of the bill, Mr. Williams, and no further amendments to the Taft-Dominick substitute amendment be in order on Thursday, July 20, 1972, but a tabling motion, however, would be in order.

Ordered further, That after the vote on the Taft-Dominick substitute amendment, No. 1204, if defeated, the Senator from Vermont, Mr. Stafford, be recognized to call up an amendment.

Ordered further, That after the vote on the Taft-Dominick substitute amendment, debate on the bill be limited to 4 hours, to be equally divided and controlled by the Senator from New York, Mr. Javits, and the manager of the bill, Mr. Williams, and that the Senators in charge of the time on debate on the bill may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Ordered further, That debate on any amendment to the bill on Thursday, July 20, 1972, be limited to 1 hour, to be equally divided and controlled by the proponent of the amendment and the manager of the bill, Mr. Williams, if he is in opposition to the amendment, otherwise that time will be under the control of the Minority Leader or his designee: *Provided further,* That time on any amendment to an amendment, debatable motion or appeal be limited to ½ hour, to be equally divided and controlled by the

mover of any such amendment and the manager of the bill, Mr. Williams.

Ordered further, That final vote on passage of the bill come no later than 10:00 p.m. on Thursday, July 20, 1972.

Mr. MOSS. Mr. President, as I indicated, I am willing to yield back the remainder of my time if Senators on the other side are willing to yield back the remainder of their time.

Mr. TAFT. Mr. President, we would be willing to yield back the remainder of our time and we do so.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Utah to the Taft-Dominick substitute. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Maine (Mr. MUSKIE), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), is absent on official business.

I further announce that if present and voting, the Senator from Louisiana (Mr. ELLENDER), and the Senator from Washington (Mr. MAGNUSON), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. ROTH) is detained on official business, and, if present and voting, would vote "nay."

The result was announced—yeas 4, nays 81, as follows:

[No. 276 Leg.]

YEAS—4

Bible	McIntyre	Moss
Burdick		

NAYS—81

Aiken	Fannin	Packwood
Allen	Fong	Pastore
Allott	Gambrell	Pearson
Bayh	Goldwater	Percy
Beall	Griffin	Proxmire
Bellmon	Gurney	Randolph
Bennett	Hansen	Ribicoff
Bentsen	Hart	Saxbe
Boggs	Hartke	Schweiker
Brock	Hatfield	Scott
Brooke	Hollings	Smith
Buckley	Hruska	Sparkman
Byrd, Harry F., Jr.	Hughes	Spong
Byrd, Robert C.	Humphrey	Stafford
Cannon	Inouye	Stennis
Case	Jackson	Stevens
Church	Javits	Stevenson
Cook	Jordan, Idaho	Symington
Cooper	Kennedy	Taft
Cotton	Long	Talmadge
Cranston	Mansfield	Thurmond
Curtis	Mathias	Tower
Dole	McClellan	Tunney
Dominick	McGee	Weicker
Eagleton	Miller	Williams
Eastland	Mondale	Young
Ervin	Montoya	
	Nelson	

NOT VOTING—15

Anderson	Gravel	Metcalf
Baker	Harris	Mundt
Chiles	Jordan, N.C.	Muskie
Ellender	Magnuson	Pell
Fulbright	McGovern	Roth

So Mr. MOSS' amendment to the Taft-Dominick amendment was rejected.

The PRESIDING OFFICER. The Taft-Dominick amendment in the nature of a substitute is still before the Senate, and is open to further amendment.

Mr. BENTSEN. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of my amendment be dispensed with.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. BENTSEN's amendment is as follows:

On page 8 between lines 13 and 14 insert the following new sections:

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 12. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States."

(2) Section 11(c) of such Act is amended by striking out "or any agency of a State or political subdivision of a State, except that such terms shall include the United States Employment Service and the systems of State and local employment services receiving Federal assistance."

(3) Section 16 of such Act is amended by striking the figure "$3,000,000," and inserting in lieu thereof "$5,000,000."

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 13. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

Redesignate section 12 as section 14.

Mr. BENTSEN. Mr. President, the amendment I offer to the substitute would incorporate the amendments to age discrimination in Employment Act which passed the committee unanimously, bringing Federal, State, and local employees within the scope of that act.

It would also make one change in those amendments, raising the yearly authorization level from $3 million to $5 million, still a very modest and minimal amount to implement this legislation.

I am advised by the Labor Department that an equivalent of only 69 staff positions can be provided to administer the legislation in all of the States of the Union. If the full $3 million were authorized, that would allow for less than 200 staff positions.

Moreover, with additional Federal, State, and local government employees to receive the protection of age discrimination laws under this new bill, we shall require more funds to make this legislation do what it purports to do, namely

to make it unlawful "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individuals age."

On March 9 of this year, I introduced S. 3318, a bill to subject Federal, State, and local employees to the present age discrimination law. At that time, I said:

Government is the Nation's largest employer with over 10 million employees in State and local governments and millions more at the Federal level. Moreover, government has the greatest growth rate of any other sector of our society and is the source for much of the growth of private industry. I believe that the Federal, State and local governments should be model employers. And I do not believe that these units of government are justified in asking private employers to do what government would not do for itself.

On May 5, I reintroduced my bill with amendments as an amendment to the Fair Labor Standards Amendment of of 1972. I was joined by the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS), the Senator from Missouri (Mr. EAGLETON), chairman of the Subcommittee on Aging, and the Senator from New York (Mr. JAVITS), the ranking minority members of the Senate Labor and Public Welfare Committee.

Mr. President, the Congress and three presidents have taken note of the problems of age discrimination in government employment.

In 1957, the Congress passed section 302 of the Independent Offices Appropriation Act of 1957, which said, in effect, that no part of any appropriation under any bill could be used to compensate officers or emlpoyees of the Government who establish maximum age for entrance into the Federal Civil Service. This was subsequently codified in section 3307, title V of the United States Code.

On March 14, 1963, President Kennedy, in a memorandum to the heads of agencies, affirmed the policy of the executive branch barring discrimination on the basis of age for employment and advancement.

On February 12, 1964, President Johnson issued Executive Order 11141, which declared that:

It is the policy of the executive branch of the Government that (1) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with employment, advancement, or discharge of employees . . . discriminate against persons because of their age . . .

The Senate version of the Civil Rights Act of 1964 provided that discrimination on the basis of age would be prohibited along with discrimination on other grounds such as race, religion, and national origin, but that provision was knocked out in conference for lack of hard evidence on the subject of age discrimination. Instead a compromise was adopted directing the Secretary of Labor to make a report to the Congress on the subject. The report, which was filed in 1965, did find a substantial age discrimination in employment, almost all of it completely arbitrary.

In 1967, the Age Discrimination in Employment Act passed the Senate without a dissenting vote; the vote in the House was 344 to 13. The law made it unlawful for an employer having more than 25 employees "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age." Certain exceptions were made where age is a bona fide occupational consideration or where there is a bona fide seniority system or bona fide employee benefit plan.

Mr. President, government employees were excluded from coverage under the 1967 act. In my view, that exclusion is unsupportable.

The Nixon administration seems to agree with that view, for on March 23, two weeks after I introduced my bill, the President sent the Congress his message on aging, which said, in part, "especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working." The President goes on to say:

I will soon propose to the Congress that the Age Discrimination in Employment Act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments.

Mr. President, there is ample evidence that age discrimination is broadly practiced in government employment.

Elliot Carlson, writing in the Wall Street Journal on January 20, quotes a number of elderly Federal employees who have been subject to pressures as the result of recent "reduction-in-force" orders issued by Federal agencies. The employees may be transferred repeatedly, be denied their right to "bump" employees with less exyerience, or be subject to veiled hints that their usefulness is at an end.

President Nixon has ordered a 5-percent cut in Federal manpower by July of this year, and indications are that older workers are being asked to bear the brunt of the burden. Mike Causey, writing in the Washington Post on February 11, notes that the Pentagon is alerting older and long-service workers to volunteer for "involuntary separation" that would qualify them for immediate pensions. Joseph Young, in a recent article in the Washington Star, notes that:

In seeking initial appointments, transfers and promotions, older applicants and employees find that regardless of their ability, experience and qualifications, their age is an insurmountable barrier.

And the Carlson article, which appeared in the Wall Street Journal on January 20, notes that HUD and the Interior Department are subjecting some older employees to extensive grilling about their jobs and engaging in a series of subtle or direct pressures encouraging them to retire.

Mr. President, age discrimination practices, whether they relate to the age of hiring, restrictions on promotion, or direct and indirect "encouragements" to retire, are not to be condoned. Many of our citizens are productive at 60 as they were at 25, and measures taken to remove them from the work force are both callous and unrealistic.

A recent report of the Senate Special Committee on Aging declares:

If we are really concerned about some of the long-term and institutionalized forces of inflation, why aren't we making every effort to maintain a high level of labor force participation of "older workers"?

The report goes on to say:

The price the Nation pays for failure to maximize employment opportunities for older workers is increased dependency. We do not see an increase in dependency as a good tool with which to fight inflation. We all have much more to gain through a national effort to raise our productive capacity and simultaneously provide meaningful job opportunities for older people.

Mr. President, some 31 States have some form of age discrimination law but they differ in scope and effectiveness. The Labor Department does not have clear evidence on how various State laws are implemented, but it does concede that some States have only a handful of employees to enforce what is admittedly a very sensitive and complex problem. I am afraid that Senator JAVITS' words spoken during the 1967 debate are still true. At that time, the Senator from New York said,

The experience under State laws has been varied. Unfortunately, most States have not made available sufficient funds or manpower to really make a dent in the problem.

Mr. President, age discrimination is deeply ingrained in the American system. Somehow, in our youth-oriented culture, we have developed the idea that a man or woman over 40 is no longer a good employment risk.

I have no prejudice toward younger workers, but I believe our attitude toward middle-aged and older workers is nothing short of a national scandal.

Indeed, the problem has been magnified during the last 2 or 3 years. From January 1969 to September 1971, unemployment for persons 45 and older jumped 77 percent. Many of these people find themselves in a no-man's land—too young to retire, too old to hire—and they usually remain unemployed for longer periods than their younger counterparts.

Mr. President, I agree with President Nixon that it is time to make the Age Discrimination in Employment Act more comprehensive in its coverage. The committee bill, which incorporates my amendment, would bring Federal employees under the coverage of a law specifically directed at the overall problem and give some focus to other remedies which simply have not done the job. The measures used to protect Federal employees would be substantially similar to those incorporated in the bill which expanded the authority of the Equal Employment Opportunities Commission.

At this time I want to express my appreciation to the distinguished floor manager of the bill (Senator WILLIAMS), and to Senators EAGLETON and JAVITS, all of whom were instrumental in placing the age discrimination amendment in the final draft of Fair Labor Standards Amendments of 1972.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the Sena-

tor from Texas made me a cosponsor of S. 3318, and I am very proud to have been a cosponsor, and I think it is fair to say that I did my very best to see that there were incorporated in this bill provisions against age discrimination. I believe that I speak also for the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), when I say that we have no desire to be parochial about this substitute, though we are opposed to it for substantive reasons. If any Senator wishes to seek to incorporate this proposal as an amendment to the committee substitute, we feel that it would be acceptable and desirable in any minimum wage bill.

If the amendment is acceptable to the authors of the Taft-Dominick substitute, it is acceptable to me, and I hope the Senate will approve it.

Mr. BENTSEN. I appreciate the Senator's statement in that regard.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Ohio for a question.

Mr. TAFT. I believe that this proposal is a perfectly proper one to add to the pending amendment, and so far as I am concerned, I believe I speak for the coauthor of the proposed substitute, we will be willing to accept it. If there is no objection or request for further time, I am prepared to yield back the time for this side at this time.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Colorado.

Mr. DOMINICK. This proposal, I believe, incorporates some of the provisions already in the law prohibiting discrimination on account of age, and I see no objection to adding it here. I think it is fair to point out that we have had an administration proposal along this line. It has been sent to the Congress this week, I believe. I do not think it goes quite as far as that of the Senator from Texas, in that it affects only State and local governments. But his proposal is not antagonistic to anyone as far as I can see, and as far as I am concerned, I would be glad to incorporate it as a part of the substitute and take it to conference if the substitute prevails.

Mr. BENTSEN. I appreciate the support of the distinguished Senator from Colorado, the author of the substitute amendment.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, this expression of dealing with discrimination because of age is certainly a principle we all support. We take every opportunity to strike at any possible discrimination. Here is another opportunity. I certainly support the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from New Jersey.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, if there is no further request for time, I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Texas to the Taft-Dominick substitute amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), is absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), and the Senator from Arkansas (Mr. FULBRIGHT), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) is detained on official business, and if present and voting, would vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[No 277 Leg.]

YEAS—86

Aiken	Fannin	Moss
Allen	Fong	Nelson
Allott	Gambrell	Packwood
Bayh	Goldwater	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Percy
Bennett	Hansen	Proxmire
Bentsen	Hart	Randolph
Bible	Hartke	Ribicoff
Boggs	Hatfield	Roth
Brock	Hollings	Saxbe
Brooke	Hruska	Schweiker
Buckley	Hughes	Scott
Burdick	Humphrey	Smith
Byrd, Harry F., Jr.	Inouye	Sparkman
	Jackson	Spong
Byrd, Robert C.	Javits	Stafford
Cannon	Jordan, Idaho	Stennis
Case	Kennedy	Stevens
Church	Long	Stevenson
Cook	Mansfield	Symington
Cooper	Mathias	Taft
Cotton	McClellan	Talmadge
Cranston	McGee	Thurmond
Dole	McIntyre	Tower
Dominick	Metcalf	Tunney
Eagleton	Miller	Weicker
Eastland	Mondale	Williams
Ervin	Montoya	Young

NAYS—0

NOT VOTING—14

Anderson	Fulbright	McGovern
Baker	Gravel	Mundt
Chiles	Harris	Muskie
Curtis	Jordan, N.C.	Pell
Ellender	Magnuson	

So Mr. BENTSEN's amendment to the Taft-Dominick substitute amendment was agreed to.

Mr. SPONG. Mr. President, I send a perfecting amendment to the desk to amendment No. 1204 proposed by the Senator from Colorado (Mr. DOMINICK) to S. 1861, and ask that it be stated.

The PRESIDING OFFICER (Mr. ROTH). The amendment will be stated.

The assistant legislative clerk read as follows:

S. 1861

On page 4, line 9, after the word "employee" insert the following: "in retail or service establishments or seasonal recreational establishments or education institutions".

On page 4, line 14, strike out "80" and insert in lieu thereof "85".

On page 4, line 16, beginning with the word "or" strike out through the word "higher".

On page 4, line 25, strike out "80" and insert in lieu thereof "85".

On page 5, line 2, beginning with the word "or" strike out through the word "higher".

On page 5, line 5, strike out "80" and insert in lieu thereof "85".

On page 5, line 15, before the period, insert a colon and the following: *"Provided,* That such regulations shall not restrict full-time student employment by any employer to a level below that provided for under this section prior to the effective date of the Fair Labor Standards Amendments of 1972".

Mr. SPONG. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. HOLLINGS) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPONG. Mr. President, the purpose of the amendment is to modify the provisions concerning the youth differential wage which appear in the proposed substitute bill. That substitute would change existing law in three ways:

First, it would reduce the differential rate from the present 85 percent of the prevailing minimum wage to 80 percent.

Second, it would extend coverage to all employers of young people in place of the present restriction to retail and service establishments, educational institutions, and seasonal recreational businesses.

Third, the substitute would eliminate the requirement that employers have Labor Department certification before making use of the youth differential provision.

By contrast, my amendment would retain existing law with respect to both the wage differential itself and the scope of coverage. The differential would remain at 85 percent and its application would be limited to retail and service establishments, educational institutions, and seasonal recreational businesses, just as it is now.

The only change in existing law under my amendment would be to eliminate the cumbersome Labor Department certification requirement that was intended to guard against abuses of the youth differential but which has actually worked to discourage full-time student

employment. It is clear that unlimited use of youth employment is not desirable, but it is equally clear that bureaucratic redtape should not undermine the program itself.

My amendment attempts to simplify matters by eliminating the precertification requirement and substituting for it authority on the part of the Labor Department to issue such regulations and standards as it feels necessary to prevent abuses. For example, I would think the Labor Department would require some kind of notification procedure. This would promote enforcement by providing for the identification of youth employers but would not stifle the employment opportunities themselves as the present certification procedure does.

In short, my amendment proposes to go to a general standards approach to enforcement instead of the present case-by-case review.

Mr. President, there is a good basis for having a youth differential and that is to create more job opportunities for young people who are without work experience and job skills or who are full-time students. Unemployment among young people today is more than three times that of the overall labor force. Young blacks are especially hard hit with an average unemployment rate over the past 5 years of about 27 percent.

The youth differential, which is now part of the law and which by implication is fully endorsed by the committee, serves a useful purpose. But it serves no purpose to entangle the program in bureaucratic redtape and procedures. All my amendment seeks to do is to allow employers to make maximum use of this worthwhile incentive program while guarding against abuses.

Mr. President, I have discussed this amendment with a wide range of individuals and I have found a surprising consensus on the part of businessmen and young people alike that it is a worthwhile approach to the issue.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 3 minutes.

Mr. TAFT. Mr. President, while I certainly feel that the Senator from Virginia has the same motives that the sponsors of the substitute have, I have some difficulty in accepting the amendment. On balance, I feel I might have to oppose it.

Mr. President, the difficulty, it seems to me, with the measure is that it perpetuates the discrimination between youths seeking employment who are in school or in a student status and youths who are not in that status.

One of the advantages of the youth differential provision which we included in the substitute amendment is that it applies to all youth under the age of 18 and full-time students under the age of 21.

It seems to me that while the purposes of the pending amendment are meritorious, the fact that it has a limited effect would mean that it probably would not go as far as the current provision of the substitute. It leads me to the conclusion that the amendment has no merits over and above those of the substitute. While there are some provisions in it that I think are desirable, on balance I do not feel that I can support it.

Mr. DOMINICK. Mr. President, will the Senator yield me 4 minutes?

Mr. TAFT. Mr. President, I yield 4 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I totally agree with the Senator from Ohio. I think that the amendment, if agreed to, will complicate rather than ease the ability of young people to find jobs.

I would say to my friend, the distinguished Senator from Virginia, that there is one other technical problem with the amendment which I think creates really quite a serious difficulty. The Senator has stricken on pages 4 and 5 of our proposed substitute the words "or whichever is higher," leaving the minimum at a flat 85 percent or whatever the minimum happens to be.

The net result of striking the "or whichever is higher" is that some students who might be hired under this provision could not get less than the present amount they are entitled to get under the minimum wage law.

Our youth differential provision, by requiring that a student under 21 or a youth under 18 be paid 80 percent of the new rates established by this bill, or the present rate, whichever is higher, makes it clear that no youth could receive less than he is making now.

That is why we had the $1.60 as a floor and 80 percent of whatever the minimum might be, and similarly $1.30 as a floor on agricultural labor. For example, the substitute would increase the minimum for nonfarm workers covered prior to 1966 to $1.80 per hour. Eighty-five percent of that comes to $1.53—less than the current $1.60 minimum. And we get into the same problem with agricultural work. So I would say to the Senator from Virginia that I think this is a serious problem.

The basic problem that I see with it—which forces me, reluctantly, to feel that I must oppose it—is exactly as the Senator from Ohio has described. The highest unemployment rates in this country are among our youth. And to the extent that we narrow the areas in which they can be hired at less than the increased minimum wage rates, to that extent we decrease their viability in the labor market.

They cannot get the work experience necessary to move up the ladder. For that reason, I feel the application of the youth differential in our substitute should apply to all types of employment.

I realize that many of the labor unions do not like the youth opportunity provision and they have very strongly opposed the youth opportunity provision that we have tried to include in the substitute. However, the fact of the matter is that it is not those people who are working within the labor unions who are largely the unemployed. It is the youth and particularly the ethnic or minority groups since they have less skills than most union members who have gone through apprenticeship schools and other institutions in the union. They are not going to be hired at the same rate.

It is for that very reason that we adopted an 80 percent, rather than 85-percent differential. For the very reason of trying to simplify the administration of it, we broadened its present application beyond retail service and agriculture, and left it open to whatever fields they might seek jobs.

Because I have high respect for the Senator from Virginia, it is with considerable reluctance I must oppose the amendment because I feel that he has made a technical mistake and has decreased rather than increased the opportunity for youth employment.

Mr. SPONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

Mr. SPONG. Mr. President, I want to say that the substitute measure retains most of what is my understanding of the present law.

I think that we want to encourage youth to find employment in many fields of endeavor. And those fields are spelled out in my amendment retail, service establishments, educational institutions, and seasonal recreation jobs. However, I think that if a young person is employed in certain other types of endeavor, in construction work, for example, they are entitled to the full minimum wage and not 80 percent of that wage.

I want to point out to the Senate that we now have a differential of 85 percent and that the substitute being offered by the Senator from Colorado and the Senator from Ohio reduces that to 80 percent. So on the one hand we would be reducing the differential that could be paid, and on the other, extending it to certain other areas of employment which I think represents discrimination against young people, because these other types of work generally involve full time, and not seasonal, student employment.

I share with the Senator from Colorado his concern about students who need work. In my remarks I pointed out we have a 27 percent unemployment rate among young people in the black community. I also would point out to the committee chairman that if the substitute prevails in its present form we will be reducing the differential rate from 85 percent to 80 percent, and second, in my judgment, we will be encouraging employers in other fields to hire youth in place of adult employees because they can pay them a lower wage for full-time employment.

I think what we want to encourage is seasonal and part-time employment for youth.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPONG. I yield myself 1 additional minute.

I gather that the sponsors of the substitute and the Senator from Virginia are in agreement that certification is a cumbersome procedure. It is one that I believe the Labor Department itself in past years considered doing away with.

What my amendment seeks to do is

SGT. GARY L. RIVERS

The Clerk called the bill (H.R. 12638) for the relief of Sgt. Gary L. Rivers, U.S. Marine Corps, retired.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SEAVIEW ELECTRIC CO.

The Clerk called House Resolution 943, to refer the bill (H.R. 3462) entitled "A bill for the relief of Seaview Electric Co.," to the Chief Commissioner of the Court of Claims.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ELMER ERICKSON

The Clerk called the bill (S. 889) to restore the postal service seniority of Elmer Erickson.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RITA ROSELLA VALLERIANI

The Clerk called the bill (S. 2704) for the relief of Rita Rosella Valleriani.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

WILLIAM JOHN WEST

The Clerk called the bill (S. 2575) for the relief of William John West.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

WALTER EDUARD KOENIG

The Clerk called the bill (H.R. 14173) for the relief of Walter Eduard Koenig.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALL. Mr. Speaker, in accordance with the rules for the Private Calendar, I question the eligibility of this bill for consideration today. It has not been filed for 3 legislative days. I request it be deferred without prejudice until the next call of the Private Calendar.

The SPEAKER. That rule, the Chair will advise the gentleman, does not relate to bills on the Private Calendar; it relates to bills on the Consent Calendar.

Mr. HALL. Well, then, Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7378, COMMISSION ON REVISION OF THE JUDICIAL CIRCUITS OF THE UNITED STATES

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7378) to establish a Commission on Revision of the Judicial Circuits of the United States, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. CELLER, BROOKS, HUNGATE, MIKVA, MCCULLOCH, HUTCHINSON, and MCCLORY.

APPOINTMENT OF CONFEREES ON H.R. 15586, PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1973

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15586) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purpose", with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and appoints the following conferees: Messrs. EVINS of Tennessee, BOLAND, WHITTEN, SLACK, PASSMAN, MAHON, RHODES, DAVIS of Wisconsin, ROBISON of New York, and BOW.

MOTION TO REQUEST CONFERENCE ON H.R. 7130, FAIR LABOR STANDARDS AMENDMENTS OF 1972

Mr. PERKINS. Mr. Speaker, upon direction of the Committee on Education and Labor, I move to take from the Speaker's desk the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

POINT OF ORDER

Mr. ERLENBORN. Mr. Speaker, I make a point of order against the motion.

The SPEAKER. The gentleman will state his point of order.

Mr. ERLENBORN. Mr. Speaker, the motion to request a conference is not in order until a motion to disagree to the Senate amendments has been made and disposed of. I should like to be heard on the point of order.

The SPEAKER. The Chair will hear the gentleman on the point of order.

Mr. ERLENBORN. Mr. Speaker, Jefferson's Manual, section 535, on page 265, states:

> The motion to ask a conference is distinct from motions to agree or disagree to amendments of the other House and is not in order until the House has disposed of the preferential motions to agree, recede, or insist.

The SPEAKER. Will the gentleman restate his point of order?

Mr. ERLENBORN. Mr. Speaker, I make the point of order against the motion since it includes as a part of the motion that the House ask for a conference with the Senate on the grounds that that part of the motion is not in order until the motion to disagree with the Senate amendments has been disposed of.

I refer in that point of order to section 535 of the precedents, Jefferson's Manual, and I will repeat:

> The motion to ask a conference is distinct from motions to agree or disagree to amendments of the other House and is not in order until the House has disposed of the preferential motions to agree, recede, or insist.

The SPEAKER. The rule which the gentleman is talking about has been superseded by clause 1 of rule XX which provides a procedure for sending bills to conference. The Chair overrules the point of order.

The question is on the motion of the gentleman from Kentucky.

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ERLENBORN. Is there time to debate the motion offered by the gentleman from Kentucky?

The SPEAKER. It is under the 1-hour rule. The gentleman from Kentucky controls the time. The gentleman from Kentucky is recognized.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Speaker, I oppose the motion of the gentleman from Kentucky on the grounds that the gentleman from Ken-

tucky has informed me, and he has informed the House last week when I reserved the point of order and directed the question to him, that it is his intention to recommend to the Speaker the appointment of 10 conferees on the part of the House. The 10 conferees on the part of the House that the gentleman from Kentucky will recommend will consist of six from the majority party and four from the minority party. The gentleman is recommending six managers on the part of the House who oppose the position of the House as revealed by the vote of the House on the adoption of the substitute bill during the consideration of the bill in the House.

The precedents are clear, I think, in this case. Section 536 of Jefferson's Manual states that the Speaker appoints the managers of the House, selecting them so as to represent the attitude of the majority and the minority of the House on the disagreements in issue; and while it is usual to represent the party divisions of the House, the representation of the opinions as to the pending differences is rather the more important consideration.

Again from volume 5 of the precedents, section 6336, it states that—

> In the selection of the managers the two large political parties are usually represented. Also care is taken that there shall be a representation of the two opinions which almost always exist on subjects of importance. Of course the majority party and the prevailing opinion have the majority of the managers.

Mr. Speaker, I know it is the prerogative of the Speaker to appoint the conferees. It has been the practice for the Speaker to follow the recommendations of the chairman of the committee in requesting the appointment of the conference and conferees. If the Chair should follow the recommendations of the gentleman from Kentucky, the majority of the managers on the part of the House would be those who have taken a position contrary to that of the majority of the House.

Mr. Speaker, it has been the practice all too often in this House for conferees to be appointed who will agree in conference to those matters that the House has insisted upon that they disagree even when motions to instruct the conferees have been made. All too often the conferees will disregard those instructions. They are not legally bound, I understand, but all too often the conferees will disregard the instructions of the House and will agree to matters that the House does not care to have them agree to.

I maintain that the only way we may protect the prerogatives of this House is to have a majority of the managers on the part of the House those who sustain and support the position of the House. Therefore, Mr. Speaker, I am asking that the House turn down this motion, vote "no" on the motion, and I will ask for a rollcall vote.

If we refuse to send the bill to conference at this time then we may receive assurances in the future that when the *bill does go to conference a majority* of the managers will fight for the position the House had taken, and that is the only way that we can have an assurance that the House will be properly represented in conference.

Mr. PERKINS. Mr. Speaker, I yield myself 3 minutes.

First, Mr. Speaker, the argument of the gentleman from Illinois (Mr. ERLENBORN) in my judgment is farfetched and not to the point. The conferees that I have suggested to the Speaker were suggested in accordance with the rules of the Committee on Education and Labor which direct that members of the subcommittee having jurisdiction over a bill shall have preference when conferees are selected. The sole purpose of the conference is to compromise or to work out the differences between the bills of the respective bodies. I regret to see the gentleman from Illinois suggesting action that would tie the hands of the conferees in working out the differences. And that is all we intend to do. To suggest to the Speaker that the conferees are not eligible is an absurd statement in my view.

I do not think we need to discuss this issue any further, Mr. Speaker. We ought to get along with this conference, and work out a compromise between the House and the Senate, and that is all we intend to do.

Mr. RUTH. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield 5 minutes to the distinguished gentleman from North Carolina (Mr. RUTH).

Mr. RUTH. Mr. Speaker, this is not a new dilemma to the House of Representatives, for if the Members will recall we made an effort to instruct conferees in the higher education bill, and none other than the distinguished Speaker of the House himself said that he could not force the conferees to follow the will of the House.

It seems to me it is time we took a step in the right direction to see that the position of the House is upheld more strongly in the conference, and I see no reason that we should be represented in the conference by conferees who did not vote the will of the House. I strongly urge that we follow the suggestion of the gentleman from Illinois (Mr. ERLENBORN) and get a little teeth in the position of the House when we go to conference.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, the position of the House, as I understand it to be, is the vote of the House on its last and final vote on a proposition that is before it.

If the House position is to be measured on every vote on every amendment that is offered to the bill before its final passage, then it might be very difficult to find in this House enough Members to represent a majority on all of the amendments that were offered and who voted upon them.

It so happened that only 78 Members of this House voted against the House position on this bill. I think the vote was something like 330 to 78.

Now on the proposed list of conferees, every person who has been suggested by the seniority rule as being a member of the conference is, and has been, in support of the House position on a rollcall vote except one. That is one of the Members on the minority side who has voted against the whole bill—if he is named to the conference—he voted against the complete bill as it came up, so he therefore is definitely against the House position and, yet, on the minority side I understand he is to be named as one of the conferees.

It has always been my position to go to a conference to measure what can be best for the total good—the question of whether or not the legislation does greater good than it does harm in each section of the bill, and to say that our position is totally right is to say that the Senate position is totally wrong. To say that the Senate position is totally right is to say that our position is totally wrong.

I have never come back to this House from a conference where there have not been charges that were approved by the House in the final vote on the conference.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman.

Mr. GERALD R. FORD. Mr. Speaker, in light of the gentleman's recent statement, which he just made, I am a little confused.

I have here in my hand a UPI discussion of the pending matter, and I will quote from this UPI statement, which includes a quotation from my distinguished friend, the gentleman from Pennsylvania.

Let me read it to you.

Mr. DENT. I will give it to you if you do not want to read it.

Mr. GERALD R. FORD. This reads as follows:

> "A conference with the Senate would not take more than 20 minutes," Dent said recently. "We'll take the Senate bill entirely."

Now how do you reconcile that quotation with the statement that the gentleman just made?

Mr. DENT. All I can say to the gentleman is that it is the usual newspaper reporting.

This reporter or somebody in the crowd came up and said to me, "We understand PHIL BURTON is going to move to go ahead and accept the Senate provision." I said, "If that is the case, the conference won't take more than 20 minutes, and we will have to accept the Senate position."

If there is anything wrong with that statement, it is only because it was reported in such a context.

You know I am not going to buy the Senate position, as it is. You know me better than that. You know how I have fought for many years to make the minimum wage bill a reasonable approach.

The SPEAKER. The time of the gentleman has expired.

Mr. PERKINS. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. DENT. The record shows that the minimum wage bill has always been and will always be controversial. But, if you will note over the last year since I have been handling it, a great majority of this House—the greater majority by 75 percent to 90 percent, has supported the

final product that we have been able to come before this House with. That speaks well for our position in conference. I would not go to a conference blindfolded or handcuffed any more than the gentleman from Illinois would, because he has protested that very position on the floor.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman.

Mr. GERALD R. FORD. Does the gentleman go to conference feeling a personal obligation to uphold the views of the House as the bill was passed by the House?

Mr. DENT. Wherein the views of the House in comparison with the views of the Senate are inferior to what the Senate is doing for people covered by the act, I will not oppose it.

Wherein they are favor of and do good for the people covered by the bill, I will uphold it. That is why you are sending me to conference and I will not go under any other condition.

Mr. GERALD R. FORD. Let me ask the gentleman one further question.

The record shows that the gentleman voted one way when we had the bill before the House and a majority of the Members in the House on both sides of the aisle voted differently, and the final version of the bill reflected a view different than the bill did as reported by the Committee on Education and Labor.

I ask the gentleman again, does he not feel a personal obligation, despite his personal conviction, to uphold the views of the House when he as the head of the managers on the part of the House meet with managers of the other body?

Mr. DENT. If I remember right, you go to conference to work out the disagreeing points in the bill between the House and the Senate. If I were to say to you that I would go to any conference tied down to a single position, then I would not be telling you the truth. I might say to you that I have served on conferences with the very persons who are demanding that I take a position without any elbow room to move toward what I think is better for the greater number of people, and then have gone into that conference and have tried to put in amendments to the conference report after they were defeated soundly on the floor. They have never been tied to the position of the House and the majority. They have always tried to put their view into the bill.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. GERALD R. FORD. Mr. Speaker, would the distinguished chairman of the Committee on Education and Labor yield to the gentleman from Pennsylvania 5 additional minutes?

Mr. PERKINS. I yield the gentleman as much time as the gentleman from Pennsylvania requests.

Mr. GERALD R. FORD. Would the gentleman from Pennsylvania yield to me?

Mr. DENT. Yes, surely.

Mr. GERALD R. FORD. There were several very, very critical issues that were debated and voted on when the House considered this important legislation. One of them was the amount; whether it should be $2 or $1.80. In the Anderson of Illinois amendment to the Erlenborn substitute, the gentleman voted against the Anderson of Illinois amendment. The majority of the House voted for the Anderson of Illinois amendment. That is a critical point, and is an important difference between the House version and the Senate version.

Does the gentleman from Pennsylvania have an obligation as a manager on the part of the House to strongly represent the views of the House on this critical point?

Mr. DENT. The question is this: Am I going to support what you call the Anderson of Illinois view of the escalation of the increase in pay, or am I going to support the Senate view?

I was hoping that in the conference we could strike a middle ground more in keeping with the needs of the moment than either of those views, in my position. I would say to the gentleman that were he in my position he would have voted the same as I did because my subcommittee voted to support the view that I presented to the floor of the House. The full committee of the House Labor and Education Committee voted to support the view that I had taken. The committee rejected the substitute in committee and so, therefore, my position was just as strong then as it must be now to support that which we believe to be the greater good for the greater number.

I see neither the position of the House as represented by the Erlenborn substitute or the position of the Senate as doing the greater good for the greater number of people.

Mr. GERALD R. FORD. Would the gentleman yield?

Mr. DENT. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Under no circumstances am I challenging the integrity or the sincerity or the personal views of the gentleman from Pennsylvania, but when a person is apopinted as a manager on the part of the House, he has the greater obligation over and above his own personal convictions and feelings.

All I can ask from the gentleman from Pennsylvania is that he go to that conference, whether it is on the Anderson of Illinois amendment or on the Erlenborn substitute, which includes the youth differential and the elimination of some of the other broadening of coverage; that he go there in good conscience with that higher obligation than his own personal conviction, because he is one of 10 that must represent a majority of the views of 435 Members of this body.

Now, I know he is an honorable man, and I know he knows he has a responsibility over and above his own personal feeling, and I only urge that he assume that responsibility in the high and fine way that I know he will.

Mr. DENT. I thank the gentleman for his very complimentary remarks, but I might say that it is my understanding that the chairman of the full committee is going to assume the responsibility of the managership of the conference, so I will probably be only in the position of a supporting cast in this matter.

I would hope that the gentleman from Michigan will not feel any different about my actions after the conference than he has intimated that he feels before.

Mr. RUTH. Mr. Speaker, will the gentleman yield?

Mr. DENT. Yes, I yield to the gentleman.

Mr. RUTH. Mr. Speaker, my good friend, the gentleman from Pennsylvania, has made the point on two occasions about how solidly this bill came out of the committee and how there were only 78 people who voted against the bill. By this same token, does not the gentleman feel it is a little unfair to have conferees stacked with people who voted against the Erlenborn amendment?

Mr. DENT. My dear friend.

Mr. RUTH. I get scared when the gentleman starts that way.

Mr. DENT. The gentleman from North Carolina has not served here as long as I have, and when the committee goes back to demanding conferees on other than the basis of seniority, the only way we can get a majority of those who did not vote in favor of the Erlenborn amendment as it appeared in the final bill as it came before the House is to have an election and get new Members, because there are no members on either side of the committee, outside of the gentleman's side, who voted against the position of the House. The position of the House was the Dent bill as amended by the substitute, so in the committee we are at liberty to confer with the Senate to try to get the best bill we can, and I cannot do any more than that.

Mr. RUTH. If the gentleman will yield further, I think he made my point very well for me, that the Erlenborn amendment is the thing we are talking about, and it is the House position, and that is why I am urging people to support the Erlenborn position, because we do not have to get conferees from the Education and Labor Committee, and if we do we are stuck. We are trying to get a vote in such a way as to get those people—is the gentleman from Pennsylvania cutting off his friend from North Carolina?

Mr. DENT. I have only a minute remaining.

Mr. RUTH. The gentleman yielded and now he is cutting me off.

Mr. DENT. I might say to the gentleman we can sing together but we cannot shout together.

I will say in all kindness we will do the best we can so we get the best bill for the country.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, there is one thing that needs to be said at this point in time. There is no Erlenborn amendment pending at the present. The motion before the House is a motion by the chairman of the House Committee on Education and Labor to take the House-passed bill from the Speaker's table and to ask for a conference with the Senate. If we do that, here is the position the

House is going to be left with and find itself in.

We are going to have a situation somewhat similar to the conference on the higher education bill. If we pass this motion, if we ask for a conference, the House having passed its minimum wage bill prior to the passage of the Senate bill, the conference report papers will, when the conference has been completed, go to the Senate for action, and the House will be left with the situation of having an up or a down vote on the conference report.

We will not have an opportunity, should there be some item of disagreement in the conference report, for the House in any way to work its will on the conference report. We cannot move to recommit the conference report with instructions. And the House having passed the bill first, I feel it incumbent upon the Senate to ask for the conference with the House and let the House have a chance to work at least in a limited way its will.

This is the reason I have decided since this debate has begun that we must reject the motion by the gentleman from Kentucky, because at least the House is entitled to have more than an up or a down vote on whatever the conference report might in the final analysis turn out to be especially in view of the fact that a majority of the conferees to be recommended did not support the House position when this bill passed the House.

I know when they are going to conference somebody is going to have to make some sort of compromise with regard to the money in the bill and with regard to the exemptions involved in the bill. I urge this House to vote down the motion offered by the gentleman from Kentucky so this House can have at least some opportunity to work its will on at least a portion of the conference report.

Mr. PERKINS. Mr. Speaker, let me make an observation. I can assure the membership of this House when this bill comes back there will be changes, and I would hope that the Members would not go off on tangents here, and that they will let us work out a compromise that will meet with the approval of the majority of the Members of this House.

After making that statement, Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ERLENBORN. The vote is on the question of the adoption of the motion offered by the gentleman from Kentucky to send the bill to conference?

The SPEAKER. The gentleman is correct.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 190, nays 198, not voting 44, as follows:

[Roll No. 290]

YEAS—190

Abourezk	Gaydos	Murphy, Ill.
Abzug	Giaimo	Murphy, N.Y.
Adams	Gibbons	Nix
Addabbo	Gonzalez	Obey
Anderson, Calif.	Grasso	O'Hara
Annunzio	Gray	O'Konski
Ashley	Green, Oreg.	O'Neill
Aspin	Green, Pa.	Patten
Aspinall	Griffiths	Pepper
Badillo	Gude	Perkins
Barrett	Halpern	Peyser
Begich	Hamilton	Pike
Bell	Hanley	Podell
Bergland	Hanna	Price, Ill.
Bevill	Hathaway	Pryor, Ark.
Biaggi	Hawkins	Pucinski
Biester	Hays	Randall
Bingham	Hechler, W. Va.	Rangel
Boggs	Heckler, Mass.	Rees
Boland	Helstoski	Reid
Bolling	Hicks, Mass.	Reuss
Brademas	Hicks, Wash.	Riegle
Brasco	Hillis	Rodino
Brooks	Holifield	Roe
Burke, Mass.	Horton	Roncalio
Burlison, Mo.	Howard	Rooney, Pa.
Burton	Hungate	Rosenthal
Byrne, Pa.	Ichord	Rostenkowski
Carey, N.Y.	Jacobs	Roush
Carney	Johnson, Calif.	Roy
Celler	Jones, Ala.	Roybal
Chisholm	Karth	Runnels
Clark	Kastenmeier	St Germain
Collins, Ill.	Kee	Sarbanes
Conte	Kluczynski	Saylor
Conyers	Koch	Selberling
Corman	Kyros	Shipley
Cotter	Leggett	Sisk
Culver	Lent	Slack
Danielson	Link	Staggers
Davis, S.C.	Long, Md.	Stanton, James V.
Delaney	McCloskey	Steed
Dellums	McCormack	Steele
Denholm	McDade	Stokes
Dent	McFall	Stratton
Diggs	McKay	Sullivan
Dingell	McKinney	Teague, Tex.
Donohue	Macdonald, Mass.	Thompson, N.J.
Dow	Madden	Tiernan
Drinan	Mailliard	Udall
Dulski	Matsunaga	Ullman
Dwyer	Mazzoli	Van Deerlin
Eckhardt	Melcher	Vanik
Edwards, Calif.	Metcalfe	Vigorito
Ellberg	Mikva	Waldie
Evans, Colo.	Mills, Ark.	Whalen
Evins, Tenn.	Minish	Wilson, Charles H.
Fascell	Mink	Wolff
Flood	Mitchell	Wright
Foley	Mollohan	Yates
Ford, William D.	Monagan	Yatron
Fraser	Moorhead	Young, Tex.
Garmatz	Morgan	Zablocki
	Moss	

NAYS—198

Abbitt	Chappell	Ford, Gerald R.
Abernethy	Clancy	Forsythe
Anderson, Ill.	Clausen, Don H.	Fountain
Andrews, Ala.	Clawson, Del	Frelinghuysen
Andrews, N. Dak.	Cleveland	Frenzel
Archer	Collier	Frey
Arends	Collins, Tex.	Fuqua
Baker	Colmer	Galifianakis
Baring	Conable	Gettys
Belcher	Conover	Goldwater
Bennett	Coughlin	Goodling
Betts	Crane	Griffin
Blackburn	Curlin	Gross
Bow	Daniel, Va.	Grover
Bray	Davis, Wis.	Gubser
Brinkley	de la Garza	Haley
Brotzman	Dellenback	Hall
Brown, Mich.	Dennis	Hammer-schmidt
Brown, Ohio	Derwinski	Harsha
Broyhill, N.C.	Devine	Harvey
Broyhill, Va.	Dickinson	Hastings
Buchanan	Dorn	Heinz
Burke, Fla.	Downing	Henderson
Burleson, Tex.	Duncan	Hogan
Byrnes, Wis.	du Pont	Hosmer
Byron	Edwards, Ala.	Hull
Cabell	Erlenborn	Hunt
Camp	Esch	Johnson, Pa.
Carlson	Eshleman	Jonas
Carter	Findley	Jones, N.C.
Casey, Tex.	Fish	Kazen
Cederberg	Fisher	Keating
Chamberlain	Flowers	Keith
Kemp	Pickle	Stanton, J. William
King	Pirnie	Steiger, Ariz.
Kuykendall	Poage	Stephens
Kyl	Poff	Stubblefield
Landgrebe	Powell	Talcott
Latta	Preyer, N.C.	Taylor
Lennon	Price, Tex.	Teague, Calif.
Lloyd	Purcell	Terry
Lujan	Quie	Thompson, Ga.
McClory	Quillen	Thomson, Wis.
McCollister	Railsback	Thone
McCulloch	Rhodes	Veysey
McEwen	Robinson, Va.	Waggonner
McKevitt	Robison, N.Y.	Wampler
Mahon	Rogers	Ware
Mallary	Rousselot	Whalley
Mann	Ruppe	White
Martin	Ruth	Whitehurst
Mathias, Calif.	Satterfield	Whitten
Mathis, Ga.	Scherle	Widnall
Mayne	Schmitz	Wiggins
Michel	Schneebeli	Williams
Miller, Ohio	Schwengel	Wilson, Bob
Mills, Md.	Scott	Winn
Mizell	Sebelius	Wyatt
Montgomery	Shoup	Wydler
Mosher	Shriver	Wylie
Myers	Sikes	Wyman
Natcher	Skubitz	Young, Fla.
Nelsen	Smith, Calif.	Zion
Nichols	Smith, N.Y.	Zwach
Passman	Snyder	
Pelly	Spence	
Pettis	Springer	

NOT VOTING—44

Alexander	Hagan	Minshall
Anderson, Tenn.	Hansen, Idaho	Nedzi
Ashbrook	Hansen, Wash.	Patman
Blanton	Harrington	Rarick
Blatnik	Hébert	Roberts
Broomfield	Hutchinson	Rooney, N.Y.
Caffery	Jarman	Ryan
Clay	Jones, Tenn.	Sandman
Daniels, N.J.	Landrum	Scheuer
Davis, Ga.	Long, La.	Smith, Iowa
Dowdy	McClure	Steiger, Wis.
Edmondson	McDonald, Mich.	Stuckey
Flynt	McMillan	Symington
Fulton	Meeds	Vander Jagt
Gallagher	Miller, Calif.	

So the motion was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Hébert against.

Mr. Ryan for, with Mr. Hagan against.

Mr. Fulton for, with Mr. Dowdy against.

Mr. Daniels of New Jersey for, with Mr. Jones of Tennessee against.

Mr. Blanton for, with Mr. Ashbrook against.

Mr. Blatnik for, with Mr. McClure against.

Mrs. Hansen of Washington for, with Mr. Vander Jagt against.

Mr. Harrington for, with Mr. Steiger of Wisconsin against.

Mr. Nedzi for, with Mr. Hansen of Idaho against.

Mr. Meeds for, with Mr. Flynt against.

Mr. Anderson of Tennessee for, with Mr. Hutchinson against.

Mr. Symington for, with Mr. Roberts against.

Mr. Smith of Iowa for, with Mr. Stuckey against.

Mr. Edmondson for, with Mr. Jarman against.

Mr. Clay for, with Mr. McMillan against.

Until further notice:

Mr. Alexander with Mr. Minshall.

Mr. Miller of California with Mr. McDonald of Michigan.

Mr. Caffery with Mr. Landrum.

Mr. Gallagher with Mr. Broomfield.

Mr. Scheuer with Mr. Davis of Georgia.

Mr. Patman with Mr. Rarick.

Mr. SAYLOR changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:
Director of Personnel
5 E 56 Hqs

EXTENSION

NO. OLC 71-2121

DATE 3 JAN 1972

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. STATINTL /OLC 7 D 35 Hqs				We foresee no unfavorable impact from the pending legislation with respect to the raise in minimum wage. However, the legislation is in conflict with the present law and CSC regulations for federal employees which limits overtime to one and one-half times the minimum rate of GS-10. We understand OGC is also pointing this out and suggesting that it be brought to the attention of appropriate members of the House Civil Service Committee. We concur with this action. HBF
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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

STATINTL

FROM:	EXTENSION	NO.
[redacted] OLC 7D35		OLC 71-2121 DATE 22 Dec. 1971

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. OGC	12/22/71			Attached is a bill (H. R. 7130) amending the Fair Labor Standards Act of 1938. Of interest to us is that the bill carries amendments which include Federal employment under the minimum wage and overtime provisions of the Act as amended. May we have your views on the impact of the pending legislation and your recommendations.
2. JSW	12/28/71		JSW	
3. OLC				
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