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Will an Increased Minimum Wage Help the Homeless?

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I. INTRODUCTION

*"The United States is the richest nation on Earth, with the most powerful economy in the world."*¹ To a homeless person or family this makes no sense. Current estimates of the homeless population vary from a low of 250,000² to a high of three million—about one percent of the United States population.³ What is certain, though, is that

1. Remarks by President George Bush, Apollo 11 Anniversary Ceremony at the Air and Space Museum (July 20, 1989) (emphasis added).

2. OFFICE OF POLICY DEV. AND RESEARCH, U.S. DEP'T OF HOUSING AND URBAN DEV., A REPORT TO THE SECRETARY ON THE HOMELESS AND EMERGENCY SHELTERS (May 1984).

3. Magnet, *The Homeless*, FORTUNE, Nov. 23, 1987, at 170, 170-72; see also Alter, Greenberg & Doherty, *The Homeless: Out in the Cold*, NEWSWEEK, Dec. 16, 1985, at 22; Rossi, Wright, Fisher & Willis, *The Urban Homeless: Estimating Composition and Size*, 235

their numbers are growing at an exponential rate.⁴ In addition, homeless people are themselves changing; families and children have replaced hobos and skid row bums.⁵ One cannot walk the streets of any major city without seeing a homeless person sleeping on a steam grate, a family living in a cardboard tent by the river, or even a city of homeless persons living under a bridge.⁶

Reasons abound for the dramatic increase in homelessness in the United States: a reduction in the supply of low-income housing;⁷ the

SCIENCE 1336 (March 13, 1987); Smith, *Homelessness: Not One Problem, but Many*, 10 J. INST. FOR SOCIOECONOMIC STUD. 53 (1985); Whitman, *Shattering the Myths About the Homeless*, U.S. NEWS & WORLD REP., Mar. 20, 1989, at 27, 27-28. For a discussion of the difficulties in estimating the number of homeless as it applies to the 1990 census, see Duncan, *The 1990 Decennial Census*, 23 BUS. ECON. 52 (1988); Wiegard, *Counting the Homeless*, 7 AM. DEMOGRAPHICS 34 (1985); and Williamson, *Up for the Count*, 53 PLANNING 18 (1987).

4. See Galbreath, *Assisting the Homeless: Policies and Resources*, 43 J. HOUSING 211 (1986).

5. See *infra* Section IV for demographic data on the homeless. The National Coalition for the Homeless studies reveal that approximately one-third of the homeless are families with children; one half are single men; and those remaining are single women. Between 20% to 30% of the adults are employed, and about 30% are veterans. NATIONAL COALITION FOR THE HOMELESS, *HOMELESSNESS IN AMERICA: A SUMMARY* 2 (1988).

6. For a moving account of the effects of being homeless, see Coleman, *Diary of a Homeless Man*, NEW YORK, Feb. 21, 1983, at 26.

7. The Reagan Administration's drastic reduction in funding for federally assisted housing resulted in a 78% decrease between 1981 and 1987:

Year	HUD Budget (\$ Billion)
1981	32.0
1982	18.9
1983	14.2
1984	13.4
1985	11.7
1986	10.3
1987	7.1

NATIONAL COALITION FOR THE HOMELESS, *supra* note 5, at 2 (citing figures comparing the Department of Housing and Urban Development ("HUD") allocations from 1981 through 1987).

In addition, the inflationary period of the 1970's, while damaging to the nation's economy as a whole, was a boon for housing speculators. The spiral in housing costs accelerated the trend away from rental construction and home ownership, while the promise of capital gains through refurbishing the old stock of housing led many gentrifiers to buy up SRO's—the single-room occupancy hotels which had been the principal lodging for transient and low-income renters. Smith, *supra* note 3, at 58. One study cited by the General Accounting Office ("GAO") found that one million units, or one-half of the nation's total SRO supply, disappeared during the 1970's. *Id.* For example, urban renewal has swallowed up about one-third of San Diego's SRO's since 1978, and Atlanta has torn down 11 of its 12 SRO's for new office construction. Magnet, *supra* note 3, at 170. What remains is housing that is no longer cheap. In Los Angeles, an SRO that cost \$100 a month in 1980 now costs \$200. *Id.* Now, many residents only live there for two or three weeks a month, until their money runs out, and then move onto the streets or into emergency shelters for the remainder of the month. *Id.* Nationwide, a large number of SRO's were converted to cooperative or condominium apartments intended for affluent residents, while others were demolished in urban renewal schemes.

deinstitutionalization and lack of adequate care for the mentally ill;⁸ cutbacks in welfare spending by the Reagan Administration;⁹ alcohol and substance abuse;¹⁰ and shifts in the economy.¹¹ A corollary to the problem of the growing number of poor and homeless people is the issue of the effect of increasing the minimum wage.

Homeless advocates have long argued that Congress' failure to increase the minimum wage during the 1980's, while inflation was rising, forced many people into poverty, and subsequently, homelessness.¹² These advocates hailed the recent increase in the minimum wage which marked the end of nearly a decade-long stalemate between the Reagan/Bush administrations and Congress.¹³ On November 8, 1989, the Senate approved legislation raising the minimum hourly wage from \$3.35 per hour to \$3.80 per hour effective

Smith, *supra* note 3, at 58. Low-income housing advocates predict that the effects of these trends, although contributing greatly to the present crisis, will have an even greater effect in the future given the long lead time actually required to open a new housing project. See P. SALINS, *THE ECOLOGY OF HOUSING DESTRUCTION* 22 (1980); see also Smith, *supra* note 3, at 60. This crisis exists in the face of the highest rental housing vacancy rate in 20 years—seven percent or 2.3 million units nationwide. Magnet, *supra* note 3, at 170. The problem is that these units are too expensive for low-income residents. See generally Wright & Lam, *Homelessness and the Low-Income Housing Supply*, 17 SOC. POL'Y 48 (Spring 1987).

8. Estimates are that 20% to 25% of the homeless population is mentally disabled. NATIONAL COALITION FOR THE HOMELESS, *supra* note 5, at 3. Between 1955 and 1980, the population of state psychiatric institutions throughout the country decreased from 559,000 to 138,000. Smith, *supra* note 3, at 56; see also Magnet, *supra* note 3, at 172 (reporting that 10 National Institute of Mental Health studies in different areas of the U.S. consistently found nearly one-third of the homeless to be severely mentally ill). Of the 2,000 planned federally supported community mental health centers promised to support these patients, fewer than 800 were actually established. Smith, *supra* note 3, at 56. A task force of the American Psychiatric Association found that "a substantial portion of the homeless [were] mentally ill men and women who in years past would have been long-term residents of state mental hospitals, but who now have no place to live." *Id.* (citing U.S. GEN. ACCOUNTING OFFICE, *HOMELESSNESS: A COMPLEX PROBLEM AND THE FEDERAL RESPONSE* 21 (Apr. 9, 1985)).

9. Since 1981, there has been a \$3.6 billion cut in Aid for Families with Dependent Children ("AFDC") funds, and since 1982, \$6.8 million has been cut from the Food Stamp program. NATIONAL COALITION FOR THE HOMELESS, *supra* note 5, at 3. In over 41 states, the combined value of AFDC and food stamp benefits is below 75% of the poverty level. *Id.* However, the relationship between lowered benefits and homelessness has not been drawn by the federal government: "The effect of budget cuts on the increase in homelessness has not been quantifiably demonstrated." Smith, *supra* note 3, at 57 (citing U.S. GEN. ACCOUNTING OFFICE, *HOMELESSNESS: A COMPLEX PROBLEM AND THE FEDERAL RESPONSE* 23 (APRIL 9, 1985)).

10. Smith, *supra* note 3, at 172.

11. Belcher & Singer, *Homelessness: A Cost of Capitalism*, 18 SOC. POL'Y 44 (Winter 1988); see also Magnet, *The Rich and the Poor*, FORTUNE, June 6, 1988, at 206.

12. See *Minimum Wage Controversy: Pro & Con*, 68 CONG. DIG. 129, 131-60 (May 1989) (containing statements and positions of several Congressmen and Senators concerning the increase in the minimum wage).

13. See *Minimum-Wage Bill Cleared, Ending 10-Year Stalemate*, 47 CONG. Q. 3053 (Nov. 1989).

April 1, 1990, and to \$4.25 per hour effective April 1, 1991.¹⁴ The bill also retained a minimum wage exemption for businesses with annual gross sales under \$500,000 per year.¹⁵

Opponents of the increase argue that increasing the wage will be inflationary and cause unemployment, especially among low-skilled workers and teenagers.¹⁶ Proponents, on the other hand, assert that because the minimum wage has not risen since 1980, while inflation has increased, the real value of the wage has been reduced, forcing many people into poverty.¹⁷

The purpose of this Comment is to explore the effect of the increase in the minimum wage on the homeless. Section II provides background on the minimum wage and details its present inability to support an income above the poverty level. Section III provides demographic data on minimum wage earners and a description of our nation's homeless. Section IV outlines the minimum wage in terms of economic theory and Section V exposes the fallacy behind using the minimum wage as a measure to fight poverty. Section VI summarizes empirical studies and evidence concerning the effects of the minimum wage on employment and other variables, and Section VII reviews the effects of the increased minimum wage on the homeless. Section VIII explores alternatives and measures to utilize in conjunction with the

14. *See id.* Organized labor, the Bush Administration, and House and Senate leaders had already signed off on the compromise before this time. *See id.* The House passed the bill (H.R. 2710) on November 1, 1989. *See id.* Earlier proposals included H.R. 2 (vetoed by Bush), which would have raised the minimum wage to \$4.55 per hour in 1991 and included a 60-day training-wage provision for first jobs at 85% of the minimum wage, and the Bush proposal, which would have raised the minimum wage to \$4.25 per hour by 1992 and included a six-month training wage applicable to all new hires at 80% of the minimum wage. Fair Labor Standards Amendments of 1989, Pub. L. No. 101-157, § 1(a), 103 Stat. 938 (codified at 29 U.S.C. § 201 (1988)).

Under a provision that expires in 1993, teenagers between the ages of 16 and 19 can be paid a training wage for their first three months of employment. 29 U.S.C. § 206. Democrats compromised on their earlier insistence that the training wage only apply to "first-hire workers" (those working their very first job). *See Minimum-Wage Bill Cleared, Ending 10-Year Stalemate*, *supra* note 13, at 3053. The compromise also fell short of President Bush's earlier plan to apply the training wage to all "new hire" workers, regardless of how old they were or how long they had been employed in the past. *See id.* The administration did succeed in taking out a provision that would have set up a minimum-wage review board by 1992 to recommend changes in the minimum wage rate. *See id.* Republicans saw the board as an attempt at backdoor indexing of the minimum wage to future inflation rate increases. *See id.* The training wage can be extended an additional three months if the teenager takes a second job and is still being trained. 29 U.S.C. § 206. Under the compromise, no employee may work more than six months at a subminimum wage in a lifetime, and the entire training-wage provision will have to be specifically reauthorized by Congress in 1993. *Id.*

15. 29 U.S.C. § 206.

16. *See Minimum Wage Controversy: Pro & Con*, *supra* note 12, at 138.

17. *See id.* at 139.

minimum wage in order to cure homelessness. Section IX concludes that the effect of the increased minimum wage on the homeless will be inefficient, if not harmful.

II. BACKGROUND ON THE MINIMUM WAGE

Congress originally set the minimum wage at \$0.25 per hour in 1938,¹⁸ subsequently increasing it to \$1.00 per hour in 1956,¹⁹ \$2.00 per hour in 1974,²⁰ and \$3.35 per hour in 1981.²¹ During the original debate on the Fair Labor Standards Act ("FLSA"), President Franklin D. Roosevelt stated:

Our nation so richly endowed with natural resources and with a capable and industrious population should be able to devise ways and means of insuring to all our ablebody working men and women a fair day's pay for a fair day's work. A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reason of chiseling workers' wages or stretching workers' hours.²²

When signing the bill, President Roosevelt noted, "Except for the Social Security Act, [the FLSA] is the most far-reaching, far-sighted program ever adopted here or in any [other] country."²³

Congress originally limited coverage of the minimum wage to workers engaged in interstate commerce or in the production of goods for interstate commerce.²⁴ Over time, coverage has expanded greatly. Table A²⁵ illustrates this expansion.

In 1985, the minimum wage covered about seventy-three million nonsupervisory workers.²⁶ Major groups not subject to the minimum wage included executive, administrative, and professional personnel,

18. Fair Labor Standards Act of 1938, Pub. L. No. 84-718, § 6, 52 Stat. 1060, 1062 (codified as amended at 29 U.S.C. §§ 201-219 (1988)).

19. Fair Labor Standards Amendments of 1955, Pub. L. No. 75-381, § 3, 69 Stat. 711, 711.

20. Fair Labor Standards Amendments of 1974, Pub. L. No. 93-259, § 2, 88 Stat. 55, 55.

21. Fair Labor Standards Amendments of 1977, Pub. L. No. 95-151, § 2, 91 Stat. 1245, 1245.

22. S. REP. NO. 6, 101st Cong., 1st Sess. 8 (1989) (quoting remarks of President Roosevelt made during the legislative debate of the Fair Labor Standards Act of 1938) [hereinafter S. REP. NO. 6].

23. *Id.*

24. Fair Labor Standards Act of 1938, Pub. L. No. 84-718, § 6, 52 Stat. 1060, 1062 (codified as amended at 29 U.S.C. §§ 201-219 (1988)).

25. R. EHRENBERG & R. SMITH, *MODERN LABOR ECONOMICS: THEORY AND PUBLIC POLICY* 78 (3d ed. 1989).

26. Smith & Vavrichek, *The Minimum Wage: Its Relation to Incomes and Poverty*, MONTHLY LAB. REV., June 1987, at 24. In 1981, when the minimum wage reached \$3.35 an hour, about 80% of all nonsupervisory workers were covered by its provisions. R. EHRENBERG & R. SMITH, *supra* note 25, at 77.

TABLE A: MINIMUM WAGE RATES UNDER THE FAIR LABOR STANDARDS ACT OF 1938, 1938-1981

Effective Date of Minimum Wage Change	Nominal Minimum Wage	Percent of Nonsupervisory Covered*	Minimum Wage Relative to Average Hourly Wages in Manufacturing	
			Before	After
10/24/38	\$0.25	43.4	—	0.403
10/24/39	0.30	47.1	0.398	0.478
10/24/45	0.40	55.4	0.295	0.394
1/25/50	0.75	53.4	0.278	0.521
3/1/56	1.00	53.1	0.385	0.512
9/3/61	1.15	62.1	0.431	0.495
9/3/63	1.25	62.1	0.467	0.508
9/3/64	1.25	62.6	—	—
2/1/67	1.40	75.3	0.441	0.494
2/1/68	1.60	72.6	0.465	0.531
2/1/69	1.60	78.2	—	—
2/1/70	1.60	78.5	—	—
2/1/71	1.60	78.4	—	—
5/1/74	2.00	83.7	0.363	0.454
1/1/75	2.10	83.3	0.423	0.445
1/1/76	2.30	—	0.410	0.449
1/1/78	2.65	—	0.430	0.440
1/1/79	2.90	—	0.402	0.440
1/1/80	3.10	—	40.417	0.445
1/1/81	3.35	—	0.403	0.435

* Excludes executive, administrative, and professional (including teachers in elementary and secondary schools) from the base. Coverage peaked at 87.3% of the nonsupervisory work force in September 1977.

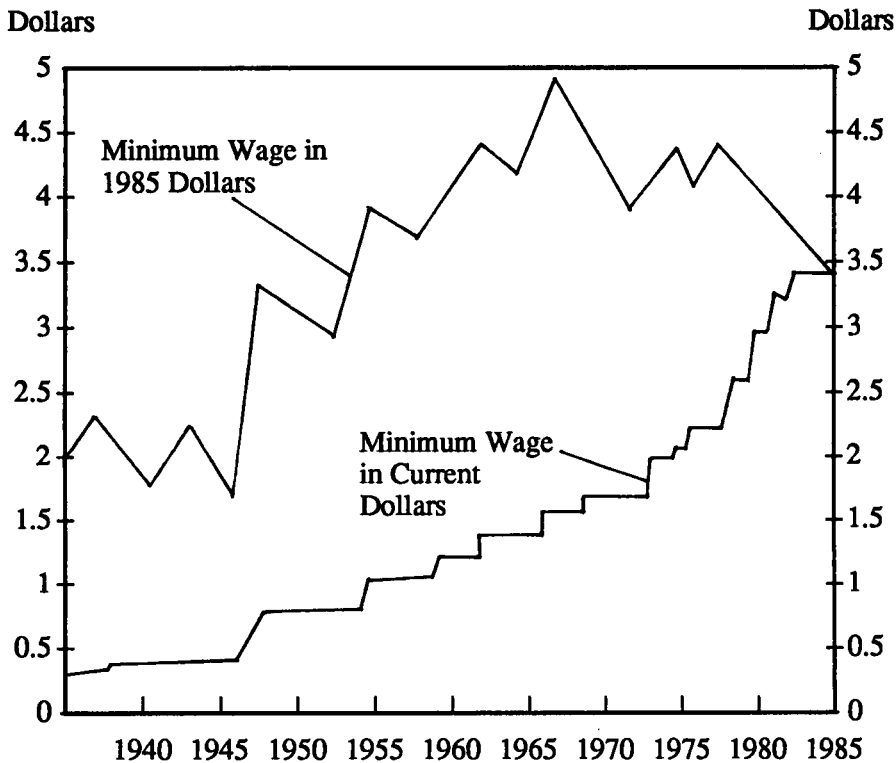
employees in some small firms, and the self-employed.²⁷

One perspective on the minimum wage is obtained by determining the real purchasing power of the wage over time and examining its relation to average wages.

The purchasing power of the minimum wage—that is, its value after taking account of inflation . . . is less today than at any time since the 1950's. In 1985 dollars, the minimum wage was worth just under \$2 per hour when the legislation was enacted in 1938. . . . By 1968, the real value of the wage had reached a high of nearly \$5 per hour, but by 1985, it had declined to \$3.35. In the 5-year period between January 1981—when the minimum wage

27. Smith & Vavrichek, *supra* note 26, at 24.

Graph 1: Minimum Wage Rate in Current and Constant (1985) Dollars, 1938-1985



was set at \$3.35— and January 1986, average prices increased by about 26 percent. To have the same purchasing power it had in 1981, the minimum wage would have to have been about \$4.22 per hour in January 1986. . . . The minimum wage has also fallen as a share of average wages. . . . [Throughout the 1950's and up to the 1970's, the minimum wage was approximately fifty percent of the average wages in private nonagricultural industries. In sharp contrast,] by 1985 the minimum wage had declined to thirty-nine percent of average wages.²⁸

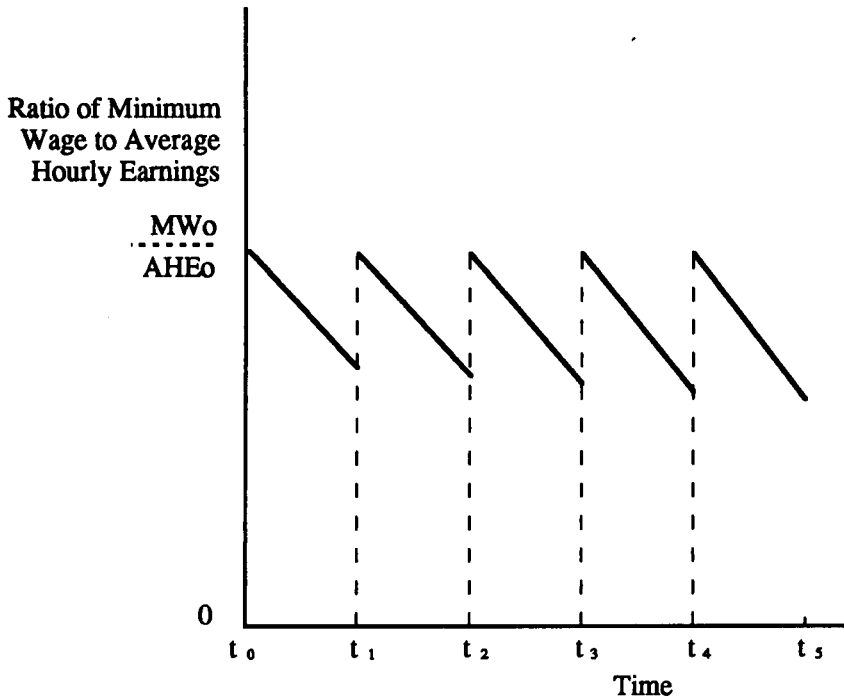
It is important to emphasize that the minimum wage is specified in nominal²⁹ terms and not in terms relative to some other wage or price index. The impact of this appears in the Graph 1³⁰ where time is plotted on the horizontal axis and the value of the minimum wage

28. *Id.* at 25-26.

29. Nominal means in current dollars.

30. Smith & Vavrichek, *supra* note 26, at 25.

Graph 2: Time Profile of the Minimum Wage Relative to Average Hourly Earnings



relative to hourly earnings in manufacturing is plotted on the vertical axis.

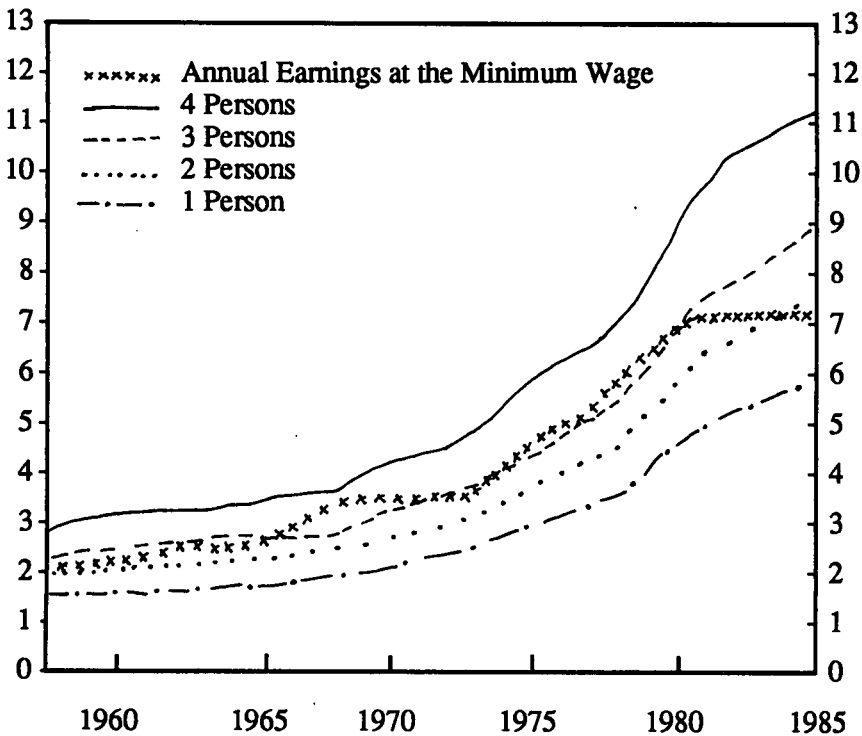
The historic movement of the minimum wage is depicted in Graph 2.³¹

Congress initially specifies the nominal level of the minimum wage (MW_o), which, given the level of average hourly earnings that prevail in the economy (AHE_o), leads to an initial value of the minimum wage relative to average hourly earnings (MW_o/AHE_o). Over time this relative value declines as average hourly earnings increase as a result of inflation or productivity growth. The reduced relative value of the minimum wage creates pressure on Congress to legislate an increase in the nominal minimum wage. . . . After the passage of time (point t) Congress returns the relative value of the minimum wage approximately to its initial level. This process is repeated and the . . . time profile of relative minimum wage values illustrated in [Graph 2] emerges. Although it varies from peak to peak, the value of the minimum wage relative to average hourly earnings in manufacturing after each legislated change has typically been in the range of 0.45 to 0.50 in

31. R. EHRENBERG & R. SMITH, *supra* note 25, at 78.

Graph 3: Poverty Thresholds of Income and Annual Earnings at the Minimum Wage, 1959-1985

[Income in Thousands of Dollars]



recent years.³²

Another perspective in analyzing the minimum wage is its relation to the poverty thresholds published by the Bureau of the Census. These thresholds reflect the subsistence-level consumption requirements of families based on their size and composition. Graph 3³³ illustrates this relationship. During most of the 1960's and 1970's, a person working full time, year round, at the minimum wage would have received an income roughly equal to the poverty threshold for a family of three. During the 1980's, "full time, year round earnings at the minimum wage have declined relative to the poverty thresholds."³⁴ This is a result of inflation and a fixed minimum wage.³⁵ For

32. *Id.* at 78-79.

33. Smith & Vavrichuk, *supra* note 26, at 26 (basing calculations on data from SOCIAL SECURITY ADMINISTRATION, SOCIAL SECURITY BULLETIN, 1984-85 ANNUAL STATISTICAL SUPPLEMENT 68, 70 (1985); and Department of Commerce, Bureau of the Census (unpublished data)).

34. *Id.* at 27.

35. *Id.*

example, in 1985, a person working full time at the minimum wage earned about \$7,000.³⁶ As Graph 3 indicates, this income level is well below the poverty threshold for a family of three.³⁷

III. DEMOGRAPHICS

In analyzing the effects of increasing the minimum wage on the homeless, it is useful to identify first how many workers earn the minimum wage, whether their numbers are increasing or decreasing, what gender, ethnic, and educational backgrounds they come from, and what jobs they hold.

A. Minimum Wage Earners

In March 1985, approximately five million workers—roughly ten percent of all hourly wage earners—were paid at or below the federal minimum wage.³⁸ This represents a decrease of one million workers from approximately six million whose income was at or below the minimum wage in 1984 and a 2.8 million decrease from the 7.8 million workers whose income was at or below the minimum wage in 1981. Thus, while the minimum wage has remained constant, the number of workers whose earnings are either at or below minimum wage has declined considerably.

Generally, workers earning the minimum wage or less are young.³⁹ In 1986, approximately thirty-seven percent of minimum wage earners were teenagers, and an additional twenty-three percent were between twenty and twenty-four years of age.⁴⁰ Percentages declined as workers increased in age, to a low of four percent of workers age thirty-five to fifty-four, but then rose to fourteen percent for workers sixty-five and older.⁴¹

Gender and education also appear to be critical factors in mini-

36. *Id.*

37. *Id.*

38. *Id.* at 27. There are a number of exceptions to the minimum wage coverage provisions of the FLSA. Uncovered workers, include those employees engaged in outside sales work, employees of low volume retail trade and service firms, and employees of seasonal amusement establishments. Mellor, *Workers at the Minimum Wage or Less: Who They Are and What Jobs They Hold*, MONTHLY LAB. REV., July 1987, at 34, 38 (citation omitted).

Roughly seven percent (about 3.7 million workers) reported being paid exactly \$3.35 per hour, and three percent (about 1.5 million workers) reported earning less than that amount. Smith & Vavrich, *supra* note 26, at 27.

39. Mellor & Haugen, *Hourly Paid Workers: Who They Are and What They Earn*, MONTHLY LAB. REV., Feb. 1986, at 20, 23.

40. Mellor, *supra* note 38, at 34. In 1984, approximately 60% of workers earning the minimum wage or less were under the age of 25, one-third of whom were teenagers. Mellor & Haugen, *supra* note 39, at 23.

41. Mellor, *supra* note 38, at 34. In 1984, persons 65 and over represented only three

imum wage demographics. In 1986, approximately twelve percent of women paid hourly earned the minimum wage or below—roughly double the proportion among working men.⁴² Blacks and Hispanics accounted for a slightly higher percentage of minimum wage workers than non-Hispanic whites—about ten percent versus eight and one-half percent.⁴³ The highest percentage of minimum wage workers was found among the under-educated.⁴⁴ High school dropouts accounted for nearly forty percent of minimum wage workers over age twenty-five, while those with a college degree accounted for a mere two percent of minimum wage workers.⁴⁵

Minimum wage workers are generally not the primary wage earners in a family. In 1985, about seventy percent of those earning the minimum wage lived in households where at least one other family member held a job.⁴⁶ In 1986, just under two percent of husbands and seven percent of wives earned the prevailing minimum wage or less.⁴⁷ Among women raising families by themselves, the proportion of minimum wage workers was about ten percent.⁴⁸ Other family members, primarily sons and daughters, were more likely to earn the minimum wage, with dependents accounting for just over half of all minimum wage employees.⁴⁹ Consequently, minimum wage is not correlative with poverty. In 1985, most workers paid at or below the minimum wage were not poor: only 18.5% came from families whose income was below the poverty threshold; 11.6% had incomes between 100% and 150% of the poverty line; and the remaining 69.8% had incomes well above the poverty line.⁵⁰

Moreover, many poor workers are not covered by the minimum

percent of the total number of minimum wage earners; however, nearly 20% of this population earned at or below the minimum wage. Mellor & Haugen, *supra* note 39, at 24.

42. Mellor, *supra* note 38, at 34. In 1984, nearly 15% of all women who were paid hourly rates earned the minimum wage or less, double the percentage of hourly-paid working men. Mellor & Haugen, *supra* note 39, at 24.

43. Mellor, *supra* note 38, at 35. In 1984, nearly 14% of the black population earned the minimum wage, compared to 11% for both Hispanics and non-Hispanic whites. Mellor & Haugen, *supra* note 39, at 24.

44. Mellor, *supra* note 38, at 35. In 1984, there was a direct correlation between educational level and earnings; the likelihood that a person earned at or below minimum wage diminished with increased schooling. *Id.* For example, among hourly paid workers 25 and older with less than four years of high school, 10% were low wage earners, compared with six percent who finished four years of high school, and less than four percent of those with four years or more of college. Mellor & Haugen, *supra* note 39, at 24.

45. Mellor, *supra* note 38, at 35.

46. Smith & Vavrichek, *supra* note 26, at 27.

47. Mellor, *supra* note 38, at 34.

48. *Id.*

49. *Id.*

50. Smith & Vavrichek, *supra* note 26, at 27.

wage. In 1984, the Bureau of the Census reported that 70.4 million people worked at least fifty weeks, primarily on full-time schedules; nearly 2.1 million of these workers were poor.⁵¹ An examination of workers classified as poor reveals that 800,000 were employed in occupations not covered by the FLSA and, therefore, were unaffected by any change in the minimum wage.⁵² Another 200,000 poor workers worked only part-time for at least six weeks of the year.⁵³ Consequently, the remaining 1.1 million workers who earned the minimum wage and were poor translates into a poverty rate of only 1.8%.⁵⁴

Among major occupational groups, the number of workers who earned salaries at or below minimum wage was as high as twenty-five percent for service workers overall, and fifty-three percent for private household workers.⁵⁵ Just over half of all employees earning the minimum wage are employed in service jobs.⁵⁶ More detailed occupational data illustrates that twenty-nine percent of the 4.5 million hourly workers employed in food service jobs earn the minimum wage or less, with about half of those working at stated hourly rates below the minimum wage.⁵⁷ Retail and personal service salesworkers also had a high incidence of minimum wage earnings—16.5% in 1986.⁵⁸

The proportion of workers earning salaries at or below the minimum wage was highest in private households (forty-eight percent).⁵⁹ Other major industrial groups having high percentages of minimum wage earners include retail trade (twenty-two percent), entertainment and recreation (nineteen percent), and agriculture (eighteen percent).⁶⁰ Conversely, in many industries, such as mining, construction, durable goods manufacturing, transportation, communications, and health care,⁶¹ the proportion of workers with hourly rates at or below the minimum wage did not exceed two percent.⁶²

51. *Id.* at 29 (citing BUREAU OF THE CENSUS, CONSUMER INDEX SERIES P-60, No. 149, CURRENT POPULATION REPORTS 27 (Aug. 1985)).

52. *Id.*

53. *Id.*

54. *Id.*

55. Mellor, *supra* note 38, at 37.

56. *Id.* In 1984, nearly half of all minimum wage earners held service-related jobs. Mellor & Haugen, *supra* note 39, at 25.

57. Mellor, *supra* note 38, at 37. In 1984, the figure was the same. Mellor & Haugen, *supra* note 39, at 25.

58. Mellor, *supra* note 38, at 37. In 1984, nearly one out of every four retail sales workers earned the minimum wage or less, although it should be noted that many of these employees earned tips or commissions that supplemented their earnings. Mellor & Haugen, *supra* note 39, at 25.

59. Mellor, *supra* note 38, at 37.

60. *Id.*

61. *Id.*

62. *Id.*

B. *The Homeless*

1. GENERAL CHARACTERISTICS

Although homeless people can be classified into many categories,⁶³ the homeless have been defined to include anyone whose primary nighttime residence is a public or private shelter, an emergency lodging house, a commercial hotel or motel, or any other public space.⁶⁴ According to the United States Conference of Mayors, forty-six percent of America's homeless are single men, thirty-six percent are families with children, fourteen percent are single women, and four percent are unaccompanied youth.⁶⁵ As a group, the homeless are growing younger; currently, one out of every four homeless persons is a child.⁶⁶ A twenty-seven city survey showed that fifty-one percent of the homeless population is black, thirty-five percent is white, and fourteen percent are members of other races or ethnic groups.⁶⁷ An average of forty-four percent of the homeless population are substance abusers; twenty-five percent are severely mentally ill, and twenty-six percent are veterans.⁶⁸

A similar study of Chicago's homeless⁶⁹ found that the demographic characteristics of the literal homeless⁷⁰ contrasted sharply

63. See, e.g., J. ERICKSON & K. WILHELM, *HOUSING THE HOMELESS* 11 (1986) (delineating nine categories of homeless: (1) single male; (2) deinstitutionalized mentally ill; (3) runaway youth; (4) foreclosed or evicted families and individuals; (5) battered women; (6) disaster victims; (7) mentally ill with low incomes; (8) illegal immigrants; and (9) the chemically dependant).

64. NATIONAL COALITION FOR THE HOMELESS, *supra* note 5, at 1 (reporting that "public parks, transportation terminals, cars, abandoned buildings and aqueducts are among the likely places for homeless people to live").

65. U.S. CONF. OF MAYORS, *A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICAN CITIES*: 1989, at 2 (Dec. 1989).

66. *Id.*

67. *Id.* The proportion of minority homeless ranges from 25% in Portland, Oregon, to 90% in New York City. Magnet, *supra* note 3, at 172. A study of new arrivals to the New York City shelter system yielded similar data. Hopper, Susser & Conover, *Economies of Makeshift: Deindustrialization and Homelessness in New York City*, 14 *URB. ANTHROPOLOGY* 183, 205 (1985). The majority of men entering the New York City shelters were black (although blacks constituted only 24% of the city's population as a whole), and close to one-half of the new entrants were under 30. *Id.* at 205.

68. U.S. CONF. OF MAYORS, *supra* note 65, at 2.

69. Rossi, Wright, Fisher & Willis, *The Urban Homeless: Estimating Composition and Size*, 235 *SCIENCE* 1336 (Mar. 13, 1987). The study consisted of two complementary samples: a sample of persons spending the night in shelters provided for homeless persons (the shelter survey), and a sample consisting of homeless persons encountered between the hours of midnight and six a.m. in a search of non-dwelling units places on the streets of Chicago (the street survey). *Id.* at 1337.

70. Rossi, Wright, Fisher & Willis classified a person as literal homeless "if that person was a resident of a shelter for homeless persons or was encountered in the study's block searches and found not to rent or own a conventional housing unit and was not a member of a

with those of the general adult population.⁷¹ Homelessness was predominately a male condition: approximately three-quarters of the homeless were men compared to forty-six percent male in the Chicago adult population.⁷²

2. EMPLOYMENT CHARACTERISTICS

In 1989, the United States Conference of Mayors estimated that twenty-four percent of the homeless held full- or part-time jobs and predicted that this figure would rise.⁷³ These homeless represent a growing number of working poor that are trapped between jobs that pay too little and housing that costs too much.⁷⁴

A number of other recent surveys reveal the typical employment opportunities for the homeless.⁷⁵ In Phoenix, Arizona, twenty percent of the homeless interviewed reported that they derived a substantial portion of their daily subsistence from salvaging.⁷⁶ Eighty-four

household renting or owning a conventional dwelling unit." *Id.* Conventional housing units included apartments, houses, rooms in hotels or other structures, and mobile homes. *Id.*

71. *Id.*

72. *Id.* Although the modal homeless person was a black male high school graduate in his middle thirties, the percentage of homeless women in the Chicago study reflects a significant increase over the percentage of the homeless women in the late 1950's. *Compare id.* (In 1985, 24% of the homeless were women.) with D. BOGUE, SKID ROW IN AMERICAN CITIES 8 (1963) (In 1960, virtually all the homeless people were men.).

Blacks and Native Americans constituted considerably more than their share of the homeless, while Hispanics and non-Hispanic whites were proportionately underrepresented. Rossi, Wright, Fisher & Willis, *supra* note 69, at 1337. The average age of 40 for the homeless in Chicago was similar to that of the general adult population, but there were proportionately fewer homeless of the very young (under 25) and the old (over 65). The educational level of the homeless was similar to that of the general population. *Id.*

73. U.S. CONF. OF MAYORS, *supra* note 65, at 2.

74. The *Washington Post* reports that, contrary to the perception that homeless people are totally dependent on charity, a majority of the homeless men in District of Columbia shelters work full- or part-time. Wash. Post, Dec. 4, 1987, at B1, col. 2. However, they have turned to public shelters as a last resort because they are unable to afford private housing. *Id.* The *Post* concludes that the District may be on the cutting edge of a new phenomenon: shelters serving as public housing for single men who work and don't earn enough money to afford a place of their own. *Id.* The *Post* also reports that in 1987, 83% of the 7,100 people who stayed in northern Virginia's homeless shelters held jobs, most working full-time, but were unable to afford a place to sleep at night. Wash. Post, Aug. 19, 1988, at D1, col. 2. For other narrative accounts of the working homeless, see Schwas, *Jersey Housing Pinch Leaves Wage Earners Out in the Cold*, (Newark) Star-Ledger, Mar. 12, 1989, at D2, col. 2; Washburn, *Families Forced Out by High Rent, Low Pay*, Hackensack (N.J.) Record, Feb. 19, 1989, at D1, col. 1; and Abrams, *The Working Homeless: Despite Jobs, They Still Need Shelter*, L.A. Times, Dec. 27, 1987, at C3, col. 3.

75. See generally J. MOMENI, 1 HOMELESSNESS IN THE UNITED STATES: STATE SURVEYS (1989).

76. Hopper, Susser & Conover, *supra* note 67, at 211 (citing *Homelessness in America: Hearing Before the U.S. Cong. Subcommittee on Housing and Community Dev.*, Dec. 15, 1983 (testimony of L. Stark)).

percent of the homeless in Austin, Texas, work at hourly-paid jobs.⁷⁷ Most of these jobs were short-term and obtained through the day-labor market; a minority (twenty-five percent) were full-time; and nearly half of those who worked supplemented their wages by selling cans, scrap, newspaper, or blood.⁷⁸

In Los Angeles, twenty percent of the homeless reported work to be their principle source of income, six percent listed blood banks, and three percent listed panhandling.⁷⁹ One-third of the sheltered homeless in New Orleans currently work,⁸⁰ and in St. Louis, one out of every six work, the majority having held their most recent job for less than a week.⁸¹

A study of the homeless in South Florida⁸² concluded that a dual labor market exists. The first (primary labor market) was characterized by a formal system of wage and salary earnings. The second (secondary labor market), in which many homeless persons are forced to participate,⁸³ is characterized by wages below the minimum wage, paid in cash, so that taxes and insurance premium payments were avoided.⁸⁴

A recent District of Columbia study⁸⁵ found that:

eighty-five percent of those in the street sample reported being currently unemployed. Nearly all of the unemployed respondents (ninety-nine percent) reported that they had worked for pay at some point in their lives. More than half (fifty-three percent) responded that it had been two or more years since they last worked for pay at a steady job lasting three or more months. Forty-one percent had not worked steadily for the last year. A sizable group (twenty-five percent) had been chronically unem-

77. *Id.* (citing D. BAUMANN, C. BEAUVAIS, C. GRIGSBY & D. SCHULKITZ, *THE AUSTIN HOMELESS* 125, 130, 139 (1985)).

78. *Id.*

79. *Id.* at 212.

80. *Id.*

81. *Id.*

82. BARRY UNIVERSITY, *THE SOUTH FLORIDA HOMELESSNESS STUDIES OF 1989: A SUMMARY OF KEY FINDINGS* (Apr. 1989).

83. *Id.* A *New York Times* article depicted the life of a homeless worker in Miami. Schmalz, *Belying Popular Stereotypes, Many of Homeless Have Jobs*, *N.Y. Times*, Dec. 19, 1988, at A1, col. 4. It described the labor pool that awoke before dawn to wait for the van that would carry them to a variety of menial jobs. *Id.* at A14, col. 4. The labor brokers charge the employers \$5.35 an hour and while paying the minimum wage, deduct transportation and meal fees reducing the value of the wage to below the minimum wage. *Id.*

84. BARRY UNIVERSITY, *supra* note 82, at 29. This is consistent with economic theory suggesting that an increase in the cost of labor would spur the creation or expansion of a blackmarket for labor. *Id.*

85. K. DOCKETT, *FINAL REPORT: STREET HOMELESS PEOPLE IN THE DISTRICT OF COLUMBIA* (Mar. 1989).

ployed for six years or more. Of those surveyed, 77.6% reported that they were currently looking for work. Various reasons were given for their unemployment. The primary reason was the inability to find work, followed by health problems and layoffs.⁸⁶

The study also investigated the work histories of the unemployed homeless and found that labor (thirty-six percent) was the type of work street homeless persons most often performed, followed by service work (twenty-seven percent), crafts (twenty percent), operative (five percent), professional (four percent), and sales (two percent).⁸⁷

In terms of vocational training, the District of Columbia study found that twenty-nine percent of the respondents had completed some type of vocational training.⁸⁸

IV. ECONOMIC ANALYSIS OF THE MINIMUM WAGE AND EMPLOYMENT: A THEORETICAL APPROACH

A. *A Model with Complete Coverage*

Any examination of the relationship between the minimum wage and employment begins with the classical aggregate supply and demand model in a competitive labor market.⁸⁹ Graph 4⁹⁰ illustrates the reciprocal relationship between these factors.

86. *Id.* at 32.

87. *Id.* Similar employment characteristics appear in earlier data on the Chicago homeless. Rossi, Wright, Fisher & Willis, *supra* note 69, at 1338. Employment was almost entirely in the private sector—government workers and the self-employed consisted of less than three percent of the working homeless population. *Id.* Of private sector jobs, 34% consisted of work in service industries, especially in restaurants, and another 31% worked as unskilled laborers. *Id.* Common among unskilled labor were jobs such as dishwasher, waiter, or short-order cook in restaurants, porter or janitor offices, freight handler, industrial laborer, and hospital and nursing home laborer. *Id.*

88. K. DOCKETT, *supra* note 85, at 34. Types of vocational training included:

the entire gamut of occupational titles, however; close to two thirds reported training in crafts and kindred related vocations. The particular crafts included electricians, brick masonry, brick laying, interior decorating, wood crafting, machinist, mechanic, carpentry, painting, radio and television repair, baker and cook, and heating and air conditioning specialists. The remaining one third mentioned occupational categories evenly divided among professional (surgical assistant, engineering, and technical illustration), operative (welding), and service work (cosmetology, janitor, barber, and shoe repair).

89. See E. BROWNING & J. BROWNING, MICROECONOMIC THEORY AND APPLICATIONS 507 (2d ed. 1986); R. EHRENBURG & R. SMITH, *supra* note 25, at 13; C. MCCONNELL, ECONOMICS 463 (8th ed. 1981); M. SPENCER, CONTEMPORARY ECONOMICS 545 (4th ed. 1980). A competitive labor market, in contrast to a monopolistic or monopsonistic market, assumes that the large number of employers hiring labor and the equally large number of employees selling their labor precludes a single employee or employer from influencing the wage rate. See *id.* at 31. It also assumes that there is perfect information concerning prices between buyers and sellers. *Id.*

90. Adopted from M. SPENCER, *supra* note 89, at 545.

The curves labeled S and D represent the supply and the demand for workers in a competitive labor market. The upward-sloping supply curve⁹¹ indicates that more units of labor will be supplied at a higher wage than at a lower one.⁹² The downward-sloping demand curve⁹³ indicates that a larger quantity of labor will be demanded at a lower wage than at a higher one.⁹⁴ If no minimum wage is imposed, the equilibrium price at which labor will be bought and sold will be W; the equilibrium quantity will be N.⁹⁵ In a competitive market, the equilibrium wage (W) and the resulting quantity of labor (N) are determined by the intersection of the supply and demand curves for labor.⁹⁶ If a minimum wage is imposed above the equilibrium wage, in accordance with the law of demand employers will hire fewer workers.⁹⁷ The reduction in employment caused by the increased minimum wage is referred to as the disemployment effect.⁹⁸ Thus, at minimum wage 1, the reduction is JE; at minimum wage 2, the reduction is LE. In theory, the higher the minimum wage is above the equilibrium wage, the greater the resulting reduction in employment.⁹⁹ In addition, at the higher minimum wage, the number of workers looking for work is increased to JK at minimum wage 1, and to LM at minimum wage 2. This is termed the unemployment effect

91. The aggregate supply curve for labor indicates the quantity of labor services that will be supplied by all persons at various wage levels. E. BROWNING & J. BROWNING, *supra* note 89, at 477.

92. See C. McCONNELL, *supra* note 89, at 59.

93. The aggregate demand curve for labor reflects the marginal productivity of labor to the economy as a whole. E. BROWNING & J. BROWNING, *supra* note 89, at 477.

94. See C. McCONNELL, *supra* note 89, at 53.

95. R. EHRENBERG & R. SMITH, *supra* note 25, at 79.

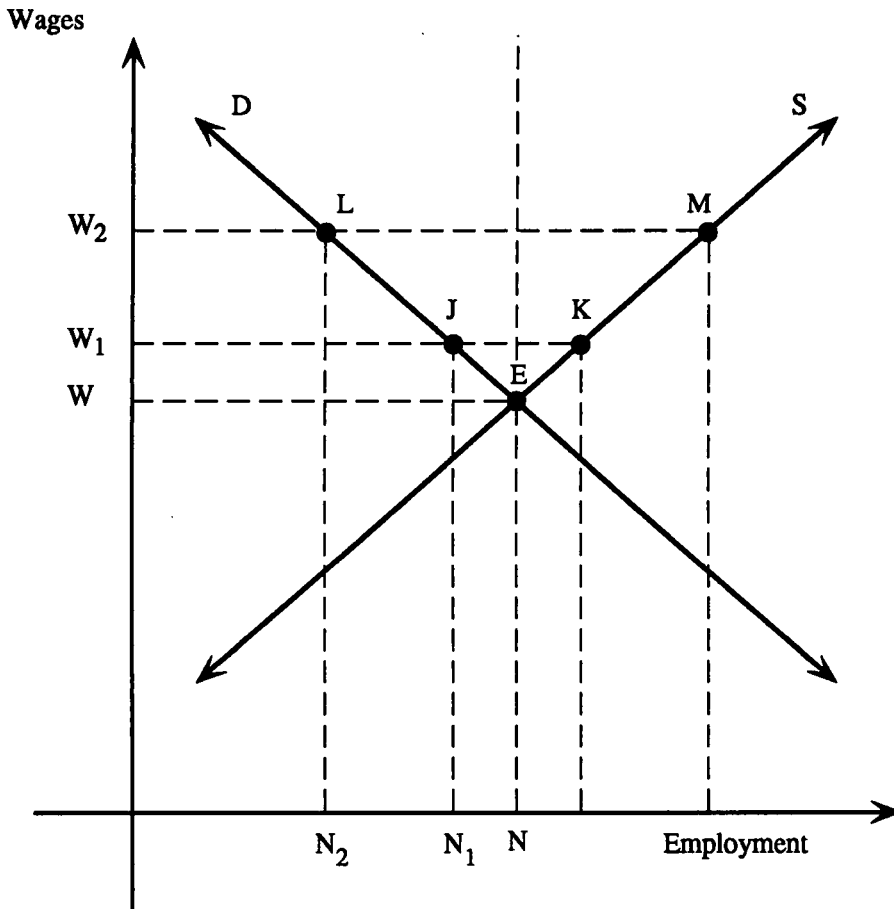
96. M. SPENCER, *supra* note 89, at 32. This is referred to as the free interaction of supply and demand. *Id.*

97. E. BROWNING & J. BROWNING, *supra* note 89, at 506. This predictable result is often overlooked or discounted in the debate over minimum wage increases. *Id.* The legislated minimum wage will affect employment in the sectors it covers only if it is above the equilibrium wage. D. HAMERMESH & A. REES, *THE ECONOMICS OF WORK AND PAY* 126 (4th ed. 1988).

98. E. BROWNING & J. BROWNING, *supra* note 89, at 506.

99. *Id.* This analysis assumes that all wages are covered by the minimum wage. In fact they are not. See *id.* at 508; *infra* notes 114-27 and accompanying text. One effect of increasing the minimum wage is that work in the covered sector becomes relatively more attractive than nonmarket activity or work in the uncovered sector. See E. BROWNING & J. BROWNING, *supra* note 89, at 506. This may increase labor force participation in the covered sector, causing labor to flow out of the uncovered sector and tending to raise wages in the uncovered sector. See *id.* Another possible effect is that an excess supply of labor is added to the uncovered sector caused by a reduced demand for labor in the covered sector, resulting in lower wages in the uncovered sector. See *id.* Which result occurs depends primarily on the elasticity of demand for labor in the covered sector. I. RIMA, *LABOR MARKETS, WAGES, AND EMPLOYMENT* 321 (1981).

Graph 4: Effect of the Minimum Wage in a Competitive Labor Market



of increasing the minimum wage.¹⁰⁰ In reality, however, the labor market consists of two sectors, one covered by the minimum wage law and the other not covered. The significance of the two sectors is explored in the next Subsection.

B. A Model with Incomplete Coverage: The Dual Labor Market

Although minimum wage coverage has increased over time, so that today approximately eighty-seven percent of all nonsupervisory

100. E. BROWNING & J. BROWNING, *supra* note 89, at 506. Official unemployment statistics may not accurately reflect this unemployment since some workers unable to find jobs at the higher wage rate may stop looking for work. Since the government records as unemployed only those who are actively seeking employment but unable to find it, workers who have dropped out of the labor force are not counted. R. EHRENBURG & R. SMITH, *supra* note 25, at 80 n.22; see also I. RIMA, *supra* note 99, at 46.

workers in the private sector are covered,¹⁰¹ many homeless workers still find themselves in jobs not covered or exempted by the wage.¹⁰² Therefore, it is important to analyze a model with incomplete coverage.

A model with incomplete coverage, developed by Ehrenberg and Smith,¹⁰³ is represented in Graph 5.¹⁰⁴ Assume that wages in both the covered sector and the uncovered sector are the same, W_0 .¹⁰⁵ At W_0 , total employment is broken down into E_{co} in the covered sector plus E_{uo} in the uncovered sector. If a minimum wage of W_1 is imposed on the covered sector, all unskilled workers will prefer to work there.¹⁰⁶ However, the increase in wages from W_0 to W_1 reduces the demand for employment, and covered-sector employment will fall from E_{co} to E_{c1} .¹⁰⁷ Some workers who previously had, or would have found, jobs in the covered sector must now seek work in the uncovered sector.¹⁰⁸ Thus, to E_{uo} workers formerly working in the uncovered sector are added E_{co} less E_{c1} , other workers seeking jobs there.¹⁰⁹ As a result, the increased supply of workers in the sector drives down the wage from W_1 to W_2 .¹¹⁰

The overall effect of an increased minimum wage in a dual labor market is to produce both winners and losers.¹¹¹ The winners are those covered-sector workers who keep their jobs after the imposition

101. R. EHRENBURG & R. SMITH, *supra* note 25, at 82.

102. See *supra* notes 74-84 and accompanying text.

103. This is the analysis developed in R. EHRENBURG & R. SMITH, *supra* note 25, at 82. See also Welch, *Minimum Wage Legislation in the United States*, 12 ECON. INQUIRY 285 (1974). For a more complete but complex analysis, see Jones, *Minimum Wage Legislation in a Dual Labor Market*, 31 EUR. ECON. REV. 1229 (1987).

104. R. EHRENBURG & R. SMITH, *supra* note 25, at 83.

105. *Id.* at 82. Four underlying assumptions are involved in assuming that wages are the same in both sectors: (1) prices are constant (real = money wages); (2) the market for unskilled labor is characterized by a vertical supply curve; (3) this labor market has a covered and an uncovered sector; and (4) unskilled workers move in and out of sectors seeking jobs where the wages are highest. *Id.*

106. *Id.*

107. *Id.*

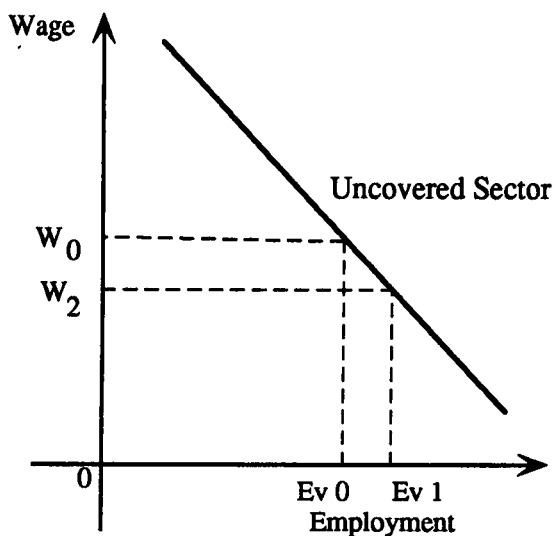
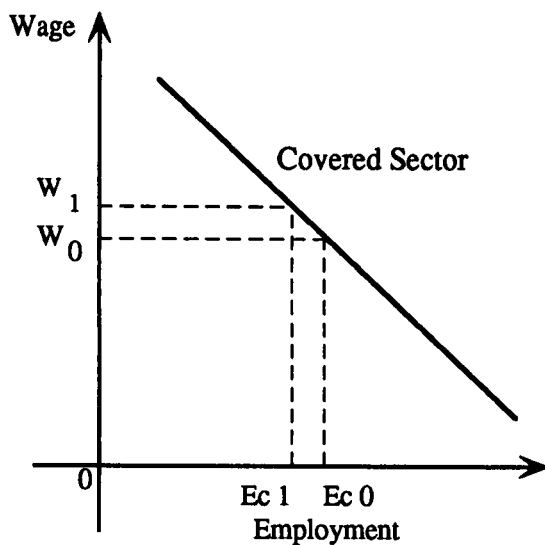
108. *Id.* at 83. Alternatively, some workers forced out of minimum wage jobs may prefer to remain unemployed until a job in the covered sector becomes available. See I. RIMA, *supra* note 99, at 321.

109. R. EHRENBURG & R. SMITH, *supra* note 25, at 83. This assumes that there are sufficient jobs available in the uncovered sector to accommodate the influx of displaced workers from the covered sector.

110. *Id.* An alternative hypothesis is that the higher wage rate in the covered sector may cause the wage rate in the uncovered sector to rise as workers flow out of the uncovered sector. I. RIMA, *supra* note 99, at 321.

111. R. EHRENBURG & R. SMITH, *supra* note 25, at 83; see also Welch, *supra* note 103, at 285.

Graph 5: Minimum Wage Effects: Incomplete Coverage



of the higher minimum wage.¹¹² The losers are of two types: low-skilled workers who lose their jobs in the covered sector and are now paid lower wages in the uncovered sector,¹¹³ and low-skilled workers in the uncovered sector who keep their jobs but now find their real

112. R. EHRENBURG & R. SMITH, *supra* note 25, at 83.

113. *Id.*

wages depressed by the increased supply of labor to that sector.¹¹⁴ Even in this model, where there is no effect on overall employment, any net gain in welfare depends upon the difference between winners and losers.

C. *Marginal Productivity, Elasticity, and Substitution*

1. MARGINAL PRODUCTIVITY THEORY

The relationship between the minimum wage and employment illustrated by the supply and demand model must be taken a step further and analyzed in terms of the marginal product of labor ("MPL")—the additional output that can be produced by a firm when it employs one additional unit of labor, with capital held constant.¹¹⁵ Employers hire resources on the basis of the contribution those resources will make towards output.¹¹⁶ The additional revenue secured by using one more unit of labor is called the marginal revenue of labor (MR_L) and the additional cost of one additional unit of labor is the marginal cost (MC_L).¹¹⁷ If an employer wants to increase his wealth, he will hire only those resources whose value to his operation is expected to exceed their additional cost.¹¹⁸ Similarly, if a firm's marginal revenue is less than its marginal cost, the firm loses money on the last unit of labor hired, and would increase its profits by reducing employment.¹¹⁹

In practical terms, an increase in the legal minimum wage will raise the marginal cost of some employees to their employers.¹²⁰ Thus, workers whose marginal productivity is below their marginal cost often will be laid off or not replaced, and some employers will hire new workers.¹²¹

114. *Id.*

115. P. HEYNE, *THE ECONOMIC WAY OF THINKING* 170 (2d ed. 1976); see R. EHRENBURG & R. SMITH, *supra* note 25, at 56; I RIMA, *supra* note 99, at 111 (stating that "as increasing quantities of labor are applied to a fixed factor of production, the resulting additions to output will eventually decrease"); see also L. REYNOLDS, *LABOR ECONOMICS AND LABOR RELATIONS* 90 (6th ed. 1974) (same). This principle is referred to as the law of diminishing returns. *Id.*

116. P. HEYNE, *supra* note 115, at 170.

117. L. REYNOLDS, *supra* note 115, at 91.

118. See *id.*

119. R. EHRENBURG & R. SMITH, *supra* note 25, at 58. For a discussion of the objections to the marginal productivity theory of demand, see G. BLOOM & H. NORTHRUP, *ECONOMICS OF LABOR RELATIONS* 349, 352 (9th ed. 1981) (suggesting that the theory does not accurately reflect the way businessmen think; the labor market functions differently than the ordinary product market and firms do not maximize profits); see also Cain, *The Challenge of Segmented Labor Market Theories to Orthodox Theory*, 14 J. ECON. LIT. 1215 (1976).

120. P. HEYNE, *supra* note 115, at 170.

121. *Id.* at 171. Two groups are characterized by marginal productivities so low that they

2. ELASTICITY OF DEMAND

The law of demand predicts that employers will respond to wage increases above the equilibrium wage by hiring less labor. The degree of employer responsiveness to wage changes can vary considerably from industry to industry and between different wage ranges.¹²² This responsiveness is measured by the elasticity of demand for labor.¹²³ The demand for some labor is such that employers are relatively responsive to wage changes, i.e., modest price changes give rise to considerable changes in the quantity of labor demanded. The demand for this labor is elastic.¹²⁴ For other types of labor, employers are relatively unresponsive to wage changes, i.e., substantial wage changes result in modest changes in the quantity of labor demanded. In such cases demand is inelastic.¹²⁵ For example, if a two percent

will be severely hurt by increases in the minimum wage: teenagers and unskilled workers. See *The Real Cost of a Higher Minimum Wage*, BUS. WEEK, July 27, 1987, at 64. On the basis of this analysis, opponents of the minimum wage conclude that legally set wage floors cause unemployment, and that the workers who become unemployed are those whose productivities are not high enough to earn the legal minimum. See *Minimum Wage Myths*, NATION'S BUS., June 1987, at 35. As a result, they either remain permanently unemployed or seek work in low-wage marginal industries not covered by the minimum wage law, thereby depressing wages in those industries still further. *Id.* at 36. This conclusion, however, is not uniformly accepted. See Hawkins, *Increasing the Minimum Wage Makes Good Economic Policy*, PERSONNEL J., July 1987, at 12.

Conversely, proponents of the use of the minimum wage as a means of alleviating poverty assert that the market for labor is not as competitive as the supply and demand model assumes. See C. McCONNELL, *supra* note 89, at 615. Instead, they claim that there is a high degree of employer monopsony—monopolistic power—in the hiring of resources. *Id.* As a result, employers are able to exploit low-skilled workers by paying them less than their productivities warrant. *Id.* Further, although increasing the minimum wage raises both consumer purchasing power and production costs, low-income workers spend their increased wages quickly. Hawkins, *supra*, at 15. This creates amplified increases in consumption and income which more than offset the rise in production costs, thereby stimulating a higher, rather than lower, level of employment. *Id.* In addition, enforced higher wages encourage employers to develop better ways of utilizing their resources. C. McCONNELL, *supra* note 89, at 615. This shock effect leads to improvements in efficiency which further offset any increase in production costs. *Id.* The debate between the two views and its particular application to the homeless is the central theme of this Comment.

122. L. REYNOLDS, *supra* note 115, at 93. For empirical evidence on wage elasticities of demand, see R. EHRENBURG & R. SMITH, *supra* note 25, at 99-102.

123. R. EHRENBURG & R. SMITH, *supra* note 25, at 99. The degree of elasticity or inelasticity is measured by the elasticity coefficient, or *Ed*, represented in this formula:

$$Ed = \frac{\text{percentage change in employment}}{\text{percentage change in wage rate}}$$

Id.

124. See *id.* at 100.

125. *Id.*

increase in wage results in a four percent decrease in the quantity of labor demanded, the demand is elastic, with a coefficient of two. Similarly, if a given percentage change in wage is accompanied by a relatively smaller change in the quantity demanded—for example, a two percent increase in wage resulting in a one percent decrease in quantity demanded—demand is inelastic.¹²⁶

The concept of elasticity predicts that the higher the elasticity coefficient for labor is, the greater the impact an imposition of a minimum wage above the equilibrium wage will have on employment.¹²⁷ If demand is elastic, aggregate earnings¹²⁸ will decline when the wage rate increases because the decrease in employment is greater than the increase in wage.¹²⁹ Conversely, if demand is inelastic, aggregate earnings will increase when the wage rate is increased.¹³⁰ Graph 6¹³¹ illustrates this concept.

The flatter of the two demand curves (D1) has a greater elasticity than the steeper curve (D2).¹³² Starting at any wage (W), any wage change (to W') will yield greater responses in employment with demand curve D1 than on D2 (compare E1 less E'1 with E2 less E'2).¹³³

3. SUBSTITUTION

As the price of labor increases, firms have an incentive to substitute other, relatively cheaper, inputs.¹³⁴ In the short run, capital is

126. *Id.* Where the percentage change in price equals the percentage change in quantity demanded, the demand is said to be unit elastic. In the extreme situation where demand is either completely unresponsive or completely responsive to price changes, the demand is said to be perfectly inelastic or perfectly elastic. Labor economists usually focus on whether the absolute value of the elasticity of demand is greater than or less than one (an elasticity coefficient of greater than one being elastic and a coefficient of less than one being inelastic). *Id.*

127. The factors that influence elasticity can be summarized by the four Hicks-Marshall Laws of Derived Demand. J. HICKS, *THE THEORY OF WAGES* 241 (2d ed. 1966) (incorporating A. MARSHALL, *PRINCIPLES OF ECONOMICS* 518 (8th ed. 1923)). These laws assert that, other things being equal, the elasticity of demand for labor is high under the following conditions: (1) when the price elasticity of demand for the product being produced is high; (2) when other factors of production can be easily substituted for labor; (3) when the supply of other factors of production is highly elastic; and (4) when the cost of employing labor is a large share of the total cost of production. J. HICKS, *supra*; A. MARSHALL, *supra*.

128. Aggregate earnings are defined as the wage rate multiplied by the employment level. R. EHRENBERG & R. SMITH, *supra* note 25, at 100.

129. *Id.*

130. *Id.*

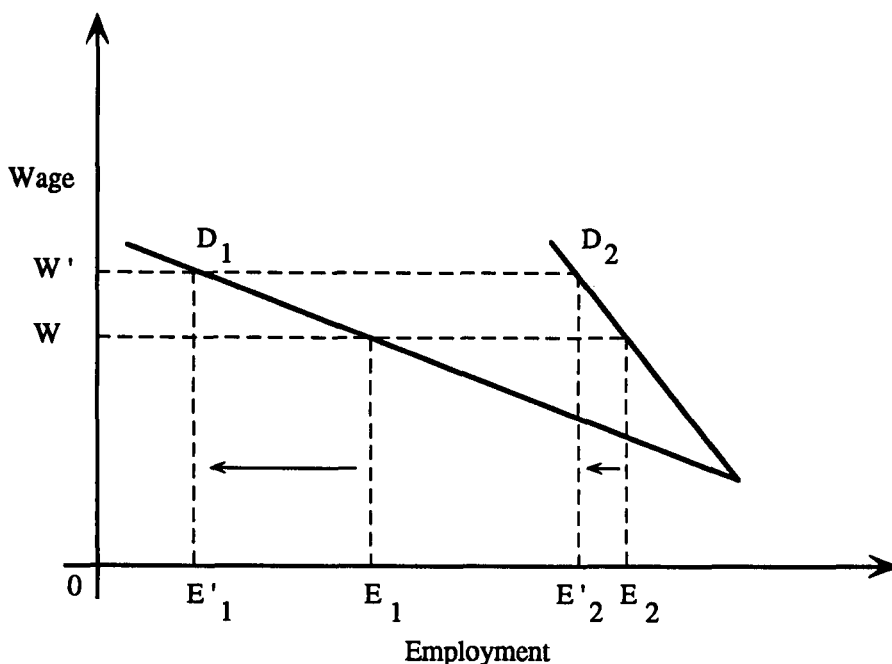
131. *Id.* at 101.

132. *Id.* at 100.

133. *Id.*

134. *Id.* at 103. These other inputs include capital and different qualities of labor. *Id.* at 104.

Graph 6: Relative Demand Elasticities



fixed and cannot be substituted for labor.¹³⁵ In the long run,¹³⁶ however, substitution is possible.¹³⁷ The substitutability of capital and labor is measured by the elasticity of substitution, which is defined as "the percentage change in the capital/labor ratio [caused] by a 1 percent change in the ratio of wages to capital costs."¹³⁸

In the production function (labor plus capital), labor can be substituted for by capital or different kinds of labor.¹³⁹ The input combination chosen is that which will produce the desired output at the lowest cost.¹⁴⁰ Given the cost of capital, r , and the wage rate, w , a

135. D. HAMERMESH & A. REES, *supra* note 97, at 112.

136. In this analysis, "long run" is defined as the "period of time that is sufficient to allow a firm to adjust both labor and the amount of capital services to new market conditions." *Id.*

137. *Id.*

138. R. EHRENBURG & R. SMITH, *supra* note 25, at 123.

139. L. REYNOLDS, *supra* note 115, at 257. *But see* D. HAMERMESH & A. REES, *supra* note 97, at 115 (providing examples of situations in which substitution is difficult or impossible to make, e.g., a labor-intensive industry).

In addition to a choice between labor and capital, firms also face the choice between domestic and foreign production. The increased wage could cause firms to shift production overseas in search of cheaper labor, thus causing obvious employment effects. *Id.* at 116.

140. *See* D. HAMERMESH & A. REES, *supra* note 97, at 114. This conclusion about the demand for labor is premised on three assumptions: (1) that the firm's behavior is governed by the object of maximizing its profits; (2) that the firm alters its capital-labor mix in response to changes in the relative prices of labor and capital; and (3) that the wage at which labor is

firm will minimize the cost of a given level of output by combining the factors so that the marginal product of capital equals the marginal product of labor.¹⁴¹

A firm's equilibrium input of labor and capital is thus represented by

$$\left(\frac{MP_l}{MP_k} = \frac{w}{r} \right)^{142}$$

The imposition of a minimum wage changes the relationship between the marginal product of labor and the wage rate and is represented by

$$\left(\frac{MP_l}{w} < \frac{MP_k}{r} \right)^{143}$$

Thus, the marginal product of an additional dollar's worth of labor becomes less than the marginal product of an additional dollar's worth of capital. Employers react to this change by substituting capital for labor until equilibrium is attained, $MP_l = MP_k$.¹⁴⁴ Therefore, the elasticity of demand is greatly determined by a firm's ability to substitute capital for labor. If this substitution is easily made, an increase in w will have a dramatic effect on employment. Conversely, if the substitution is difficult or impossible to make, an

employed is given to the firm, i.e., that the firm is a price-taker in its factor market. *See id.* at 119.

141. *Id.* at 114.

142. *Id.*

143. *Id.*

144. L. REYNOLDS, *supra* note 115, at 108. Moreover, output itself will fall because higher production costs lead to higher product prices and reduced sales. *Id.* "Unemployment may show up particularly in the demise of marginal producers who cannot survive at the new wage level." *Id.* These predictions are not uniform and have been attacked by the critics of marginal productivity theory. For instance, according to the efficiency-wage hypothesis, workers may express their satisfaction with wage increases by expanding their effort and reducing their propensity to leave the firm and impose turnover costs on their employers. *See* Yellen, *Efficiency Wage Models of Unemployment*, 74 AM. ECON. REV. 200 (1984); *see also* Raff & Summers, *Did Henry Ford Pay Efficiency Wages?*, 5 J. LAB. ECON. 102 (1987). Additionally, advocates of the minimum wage argue that every firm operates with some slack or inefficiency in the productive use of labor which can be reduced when the firm is threatened by higher labor costs (shock effect). C. MCCONNELL, *supra* note 89, at 615. This argument, however, can be criticized on two grounds. First, "increases in the minimum wage have come quite often, and although they are not regular, they are not unexpected." D. HAMERMESH & A. REES, *supra* note 97, at 148. Second, "[empirical] . . . evidence that the minimum wage does reduce employment indicates that if the shock effect exists, it is outweighed by the more conventional effects induced by a downward-sloping labor demand curve." *Id.*

increase in w will little effect on employment, assuming that output remains constant.

D. *Welfare Economics*

Since the imposition of a minimum wage is intended to benefit society, the concept of welfare economics must be analyzed. This branch of economics is concerned with the development of principles for maximizing society's satisfaction, i.e., its social welfare.¹⁴⁵ The goal of the theory is Pareto optimality,¹⁴⁶ a condition which exists where no change can be implemented that will make someone better off without making someone else worse off.¹⁴⁷ This concept leads to two important principles: (1) any social action that benefits at least one person without harming someone else will clearly increase social welfare, and therefore should be undertaken; and (2) the effect on social welfare of any action that benefits some while harming others cannot be determined because we cannot compare satisfactions and dissatisfactions among people.¹⁴⁸ The first principle involves a useful, but obvious guide to social policy. The second, however, is more interesting because any conclusion concerning the net gain or loss in social welfare attributable to a particular minimum wage policy is incapable of verification because of the inherent uncertainty in the second principle. Therefore, it is important to realize the limitations on any conclusion when one attempts to put a value on another's utility. One can, however, attempt to predict whether the benefits will out-weigh the costs for a particular group, i.e., the homeless. This is achieved by observing characteristics of the study group (the homeless) and comparing them to other previously studied groups.

The minimum wage has thus far been shown to be incapable of providing adequate financial support to wage earners in today's economic conditions.¹⁴⁹ These wage earners, however, have been shown as primarily not poor or not the primary wage earner in the family.¹⁵⁰ Additionally, a great number of poor are not minimum wage earners, and therefore are unaffected by any change in the minimum wage.¹⁵¹

The homeless have been shown to be of a spectrum of character-

145. M. SPENCER, *supra* note 89, at 486.

146. The concept "Pareto optimality" is named after the Italian economist, Vilfredo Pareto (1848-1923), who first systematically formulated this theory. See E. BROWNING & J. BROWNING, *supra* note 89, at 148 n.2.

147. *Id.* at 569.

148. M. SPENCER, *supra* note 89, at 488.

149. See *supra* notes 28-32 and accompanying text.

150. See *supra* notes 46-49 and accompanying text.

151. See *supra* notes 50-54 and accompanying text.

istics.¹⁵² In terms of employment, many homeless people work either full- or part-time.¹⁵³ Many of these jobs, however, are not covered by the minimum wage law.¹⁵⁴ By combining the general characteristics of minimum wage earners with those of working homeless, the result is one group that is either not poor or not covered by the minimum wage at all and a second group that works at minimum wage jobs and are poor. Assuming that the goals of the minimum wage increase are to improve social welfare and to reduce poverty, the minimum wage will only have a direct effect on the second group. The remaining portion of this Comment will disprove the argument that minimum wage increases have helped both minimum wage earners and the overall economy.

V. THE FALLACY OF THE MINIMUM WAGE

Proponents of increasing the minimum wage put forward the following argument: Each time the minimum wage has been raised total employment has continued to grow. Therefore, those who claim that increasing the minimum wage causes unemployment are simply not correct.¹⁵⁵

The premise of this argument is factually correct. The data contained in Tables B¹⁵⁶ and C¹⁵⁷ illustrate that following the majority of minimum wage increases, aggregate employment levels increased and unemployment levels decreased.

The misconception of the argument lies in its conclusion. Employment growth is affected by a number of factors beside the minimum wage.¹⁵⁸ These include economic conditions, compliance, and coverage.¹⁵⁹ In many areas, most notably domestic service, compliance is considerably less than complete.¹⁶⁰ Because coverage was originally limited to certain industries,¹⁶¹ aggregate data is misleading.¹⁶² Higher wages in the covered sector force workers to shift to

152. See *supra* notes 63-72 and accompanying text.

153. See *supra* notes 73-78 and accompanying text.

154. See *supra* notes 73-78 and accompanying text.

155. See S. REP. NO. 6, *supra* note 22, at 24-25.

156. *Id.* at 11 (All figures are for civilian, nonagricultural labor.).

157. *Id.* at 23.

158. L. REYNOLDS, *supra* note 115, at 109; R. EHRENBERG & R. SMITH, *supra* note 25, at 81.

159. Ashenfelter & Smith, *Compliance with the Minimum Wage Law*, 87 J. POL. ECON. 333 (1979).

160. *Id.* at 350.

161. R. EHRENBERG & R. SMITH, *supra* note 25, at 81.

162. *Id.*

TABLE B: HISTORICAL IMPACT OF MINIMUM WAGE INCREASES

Year	Impact Minimum Wage	Increase (percent)	Unemployment (percent)	Youth Unemployment (percent)(thousands)	Total Employment
1977	\$2.30	0	7.1	17.8	88,734
1978	2.65	15	6.1	16.4	92,661
1979	2.90	9.4	5.8	16.1	95,477
1980	3.10	6.9	7.1	17.8	95,938
1981	3.35	8.1	7.6	19.6	97,030
1982	3.35	0	9.7	23.2	96,125

the uncovered sector and earn a lower wage.¹⁶³ Employment may increase but total income decreases.¹⁶⁴ In addition to these factors, overall economic conditions, most notably economic prosperity, often

TABLE C: UNEMPLOYMENT AND MINIMUM WAGE INCREASES

Year	Increase in Minimum Wage (percent)	Unemployment (percent) Before	After
1949	87	5.9	5.3
1955	33	4.4	4.1
1961	15	6.7	5.5
1966	30	3.8	3.6
1974	25	5.6	7.6
1977	10	7.1	6.1
1982	0	7.6	9.7

mask the negative effects of an increased minimum wage.¹⁶⁵

If these factors are considered, "changes in one or more of them obscure the negative relationship between wages and the demand for labor."¹⁶⁶ Furthermore, the impact of changes in the minimum wage is often felt only after a time lag.¹⁶⁷ The substitution effect—switching from labor to capital—caused by the increased price of labor takes time. The installation of equipment as a result of an increase in labor costs often does not occur until a year or more after the effective date

163. See *supra* notes 101-14 and accompanying text.

164. See *supra* notes 101-14 and accompanying text..

165. R. EHRENBERG & R. SMITH, *supra* note 25, at 81. Indeed, Congress normally only increases the minimum wage in times of prosperity such that this often masks the effects of the increase. See *id.*

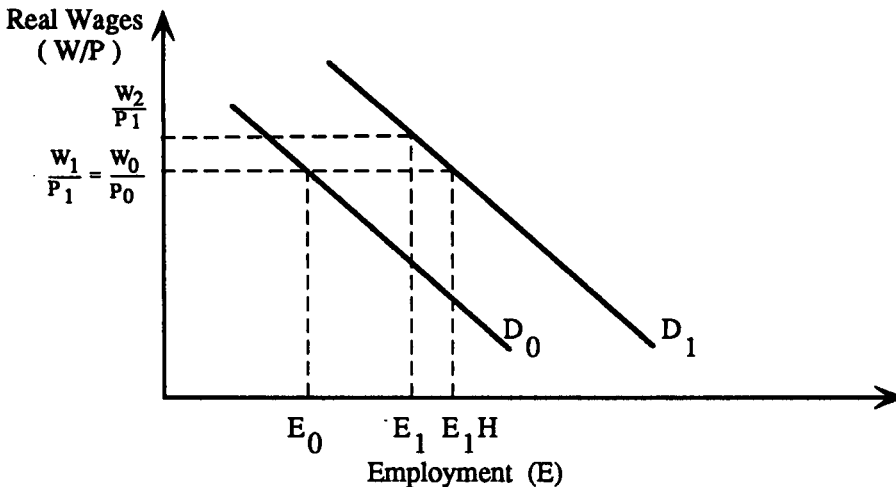
166. *Id.* at 79.

167. *Id.*

of the change in the wage.¹⁶⁸ Moreover, the impact of the new wage often is delayed because economic conditions are prosperous and the economy is expanding. Not until the business cycle turns downward are the predicted results of marginal employees being either laid off or not hired observed.¹⁶⁹

Graph 7¹⁷⁰ depicts a model with uniform coverage¹⁷¹ and illustrates the fallacy in the argument that increasing the minimum wage does not cause unemployment.

Graph 7: Minimum Wage Effects: Growing Demand



In this graph, D_0 is the demand curve for low-skilled labor in year 0, in which the real wage is W_0/P_0 and the employment level is E_0 . Assuming the absence of a change in the minimum wage, the money wage and the price level both increase by the same percentage over the next year. The real wage in year 1 (W_1/P_1) is the same as that in year 0. Suppose that in year 1 two things occur. First, the minimum wage rate is raised to W_2 which is greater than W_1 so that the real wage increases to W_2/P_1 . Second, because the economy is

168. *Id.* at 81.

169. Empirical studies of the effects of federal and state minimum wage increases amply support the theoretical economic expectation that adverse employment results follow from higher minimum wages, and that such results are likely to be felt during an economic downturn if the minimum wage is raised during a period of full employment. *See generally* J. PETERSON & C. STEWART, EMPLOYMENT EFFECTS OF MINIMUM WAGE RATES, AMERICAN ENTERPRISE FOR PUBLIC POLICY RESEARCH 11 (1969).

170. R. EHRENBURG & R. SMITH, *supra* note 25, at 81.

171. Uniform coverage assumes that all jobs are subject to paying at least the minimum wage. *See supra* notes 89-100 and accompanying text.

expanding, the demand for low-skilled labor shifts to $D1$. The result of these changes is that employment increases from $E0$ to $E1$.

Comparisons of the aggregate employment levels lead supporters of an increased minimum wage to conclude that the increase has no adverse employment effects.¹⁷² This simple before/after comparison, however, is erroneous.¹⁷³ The appropriate inquiry should be directed at actual employment levels: how the employment level in period 1 compares to the level that would have prevailed but for the increase in the minimum wage.¹⁷⁴ As a result of the increased demand, the employment level should have been $E1H$. $E1H$ is greater than $E1$, the actual level of employment in period 1, so that $E1H$ less $E1$ represents the loss of jobs caused by the minimum wage increase. In a growing economy with complete coverage, the net effect of a one-time increase in the minimum wage is to reduce the rate of growth of employment.¹⁷⁵ By focusing only on the actual employment growth, supporters of the increase in the minimum wage misunderstand the implications of the model and fail to address the adverse employment effects of the increase.¹⁷⁶ The following examination of empirical studies and historical analysis of minimum wage increases illustrates this conclusion.¹⁷⁷

The Twenty-Five Cent Minimum of 1938: Two weeks after the twenty-five cent per hour minimum wage became effective (this was the initial requirement of the FLSA), the administrator of the FLSA reported that between 30,000 and 50,000 persons became unemployed due to the law.¹⁷⁸ As firms continued to adjust to the wage floor, they substituted machinery for labor and weeded out inefficient workers.¹⁷⁹ The effect of this technological unemployment was offset by improved business conditions and a boom in defense spending that masked the real effect of the increase.¹⁸⁰

The Seventy-Five Cent Minimum of 1949: Congress raised the minimum wage from forty cents to seventy-five cents—an increase of 87.5%.¹⁸¹ Contrary to predictions of increased unemployment, unemployment fell from 5.9% in 1949 to 5.3% in 1950, and youth

172. See S. REP. NO. 6, *supra* note 22, at 29.

173. R. EHRENBURG & R. SMITH, *supra* note 25, at 82.

174. *Id.*

175. *Id.*

176. *Id.*

177. See G. BLOOM & H. NORTHRUP, *supra* note 119, at 545; L. REYNOLDS, *supra* note 115, at 109.

178. G. BLOOM & H. NORTHRUP, *supra* note 119, at 545.

179. *Id.*

180. *Id.*

181. Fair Labor Standards Amendments of 1949, Pub. L. No. 393, § 6, 63 Stat. 910, 912.

unemployment decreased 1.2% in the same period.¹⁸² Total employment grew more than in the prior year when there was no increase in the minimum wage.¹⁸³ Although these figures look appealing, the economic benefits of the period were mainly due to the economic upswing caused by the Korean War.¹⁸⁴

The One Dollar Minimum of 1956: Congress raised the minimum wage in 1955 to one dollar per hour—an increase of thirty-three percent.¹⁸⁵ The United States Chamber of Commerce warned that “[l]ow paid workers who are covered by the law will [be] . . . barred from jobs by [the increase].”¹⁸⁶ The aggregate effects of the increase were that unemployment fell from 4.4% to 4.1%, youth unemployment increased slightly from 11.0% to 11.1%, and total employment increased more in 1956 than in the two prior years.¹⁸⁷ These figures, however, are misleading. After the increase, the Bureau of Labor Statistics analyzed wages and employment in southern plants in five low-wage branches of manufacturing.¹⁸⁸ The Bureau found that the earnings increase of ten to twenty percent in these plants was accompanied by an average eight percent decline in employment during the year following the increase in the minimum wage.¹⁸⁹ Employment in industries that had substantial employment rates at under one dollar declined, even though the economy was strong.¹⁹⁰ Sixteen of the high impact industries suffered a ten to twenty-five percent drop in employment, with unskilled workers especially hard hit.¹⁹¹

The 1961 Amendments: Congress increased the minimum wage to \$1.15 per hour in 1961 and to \$1.25 per hour in 1963.¹⁹² The amendments also expanded coverage to retail and service trades,¹⁹³ thereby effecting 3.6 million workers. During debate on the amendments, the Chamber of Commerce again predicted gloom: “Many retail and service employers have already predicted layoffs . . . if brought under [the] coverage of the \$1.25 [per hour] law. . . .

182. S. REP. NO. 6, *supra* note 22, at 8.

183. *Id.*

184. G. BLOOM & H. NORTHRUP, *supra* note 119, at 545.

185. Fair Labor Standards Amendments of 1955, Pub. L. No. 381, § 3, 69 Stat. 711, 711.

186. S. REP. NO. 6, *supra* note 22, at 8.

187. *Id.* at 8-9.

188. *Effects of the \$1.00 Minimum Wage in Five Industries*, 15 MONTHLY LAB. REV. 492 (1958); see also Kaun, *Minimum Wages, Factor Substitution, and the Marginal Producer*, 43 Q. J. ECON. 478 (1965); Peterson, *Employment Effects of Minimum Wages*, 18 J. POL. ECON. 429 (1957).

189. Peterson, *supra* note 188, at 433.

190. G. BLOOM & H. NORTHRUP, *supra* note 119, at 545.

191. *Id.* (citations omitted).

192. Fair Labor Standards Amendments of 1961, Pub. L. No. 87-30, § 5, 75 Stat. 65, 67.

193. *Id.*

Whatever good might result from minimum wage legislation would be far outweighed by the unemployment and inflation the legislation would provoke."¹⁹⁴ Evidence of the effects was misleading. Although employment in retailing continued to expand, the increase occurred in areas still not covered by the FLSA.¹⁹⁵ In areas covered by the FLSA, employment decreased.¹⁹⁶ In addition, although overall unemployment fell from 6.7% to 5.5%, and overall employment increased as compared to the prior year, employment in the covered sector fell, dropping by thirty-two thousand jobs between October 1960 and June 1962.¹⁹⁷

The 1966 Amendments: The 1966 amendments increased the minimum wage to \$1.60 per hour in two steps for workers already covered by the law and in several steps for newly covered workers.¹⁹⁸ The increases were enacted in a great period of prosperity and rising employment.¹⁹⁹ Government sponsors of the amendments hailed the results of the increase as a major contribution to the fight against poverty.²⁰⁰ A more careful examination of the data, however, reveals that the consequences of the increase were not entirely beneficial.²⁰¹ In some newly affected industries, such as laundries and agriculture, employment declined.²⁰² In others, such as hotels, restaurants, and hospitals, employment continued to expand.²⁰³

The 1974 and 1977 Amendments: In 1974, Congress amended

194. S. REP. NO. 6, *supra* note 22, at 9.

195. G. BLOOM & H. NORTHRUP, *supra* note 119, at 545.

196. *See id.* at 546 n.9.

197. *See id.* at 546 n.8.

198. Fair Labor Standards Amendments of 1966, Pub. L. No. 89-601, § 301, 80 Stat. 830, 838.

199. *See* G. BLOOM & H. NORTHRUP, *supra* note 119, at 546 n.8.

200. During the period 1966 to 1968, unemployment fell from 3.8% to 3.6%, youth unemployment fell from 12.8% to 12.7%, and employment increased by more than three million workers. S. REP. NO. 6, *supra* note 22, at 9. Labor market participation rates hit a post-war high in 1969. *Id.* The increases raised the minimum wage to 55.8% of the average hourly earnings, the highest relative level of the minimum wage to date. *Id.* These figures led then-Secretary of Labor Hodgson to report to Congress that:

[I]n view of the overall economic trends, it is doubtful whether changes in the minimum [wage] had any substantial impact on wage, price, or employment trends. *Of much greater significance, however, is the fact that the 15 cent boost did help two million workers recover some of the purchasing power eroded by the steady upward movement of prices which had started even before the enactment of the 1966 amendments.*

Id. at 10 (emphasis added) (quoting then-Secretary of Labor Shultz in a report to Congress in 1970).

201. G. BLOOM & H. NORTHRUP, *supra* note 119, at 546; *see also* J. PETERSON & C. STEWART, *supra* note 169, at 24.

202. G. BLOOM & H. NORTHRUP, *supra* note 119, at 546.

203. *Id.*

the FLSA, increasing the minimum wage to \$2.00 in 1974, \$2.10 in 1975, and \$2.30 in 1976.²⁰⁴ In 1977, under the Carter Administration, the FLSA again was amended raising the minimum wage in a series of steps to \$3.35 an hour as of January 1, 1981.²⁰⁵ The increases in the minimum wage since 1974 have had a serious impact on employment of unskilled and teenage workers.²⁰⁶ During this period, overall unemployment rose from 5.5% to 7.6% between 1974 and 1976, although this was due in part to the 1975 recession.²⁰⁷ Retail employment increased during the same period by 655,000 jobs (a 5.2% increase).²⁰⁸ Contrary to a Chamber of Commerce prediction,²⁰⁹ total employment increased by 8,296,000 between 1977 and 1981.²¹⁰

204. Fair Labor Standards Amendments of 1974, Pub. L. No. 93-259, § 1, 88 Stat. 55, 55. Concerning these increases, one witness for the American Retail Federation testified that retailers would be forced to "reduce the number of employees. The first ones to go would have to be marginal employees we in many cases are carrying now. We would also have to suggest retirement to employees who are no longer productive but who we are currently carrying." S. REP. NO. 6, *supra* note 22, at 10.

205. Fair Labor Standards Amendments of 1977, Pub. L. No. 95-151, § 2, 91 Stat. 1245, 1245. In both the 1974 and 1977 amendments, Congress narrowly defeated attempts to provide for a special subminimum wage for teenagers. See S. REP. NO. 6, *supra* note 22, at 10.

206. Granlich, *Impact of Minimum Wages on Other Wages, Employment and Family Incomes*, in 2 BROOKINGS PAPERS ON ECONOMIC ACTIVITY 442 (A. Okun & G. Perry eds. 1976); see also Welch, *supra* note 103, at 285.

207. S. REP. NO. 6, *supra* note 22, at 10.

208. *Id.*

209. In testimony before the Committee on Labor and Human Resources, a representative of the U.S. Chamber of Commerce predicted that the proposed minimum wage increase would result in about two million lost jobs. *Id.* The Chamber calculated a first year job loss of 40,000 of which 38,700 would be teenage jobs, and an increase in minority teenage unemployment anywhere from 6% to 45% with a minimum wage of \$2.65 in the first year of the increases. *Id.*

210. *Id.* at 11.

The only decline in employment occurred in 1982, a year in which there was no increase in the minimum wage. Employment increased 3,313,000 in 1977, another year in which there was no increase, and it increased 3,927,000 in 1978, the year a 15% increase of the minimum wage went into effect. Teenage employment increased 382,000 in 1978, as compared to an increase of 352,000 in 1977 when there was no increase in the minimum wage. Minority teen unemployment declined 1.8% in 1978 when the minimum wage reached \$2.65, instead of the 6-45% increase predicted by the U.S. Chamber of Commerce testimony in 1977.

Contrary to the testimony projecting that 5800 of the 29,000 convenience stores would close if the minimum wage were increased, the number of convenience stores increased by 4100 between 1977 and 1978, as compared to an increase of 2000 between 1976 and 1977, a year in which there was no increase.

Retail employment also increased by 1,381,000 between the years 1977 and 1981. The only decline came in 1982, a year in which there was no increase in the minimum wage. Similarly, retail employment increased in 1977 (a year with

VI. EMPIRICAL EVIDENCE AND STUDIES

Assuming that political pressure will always lead to minimum wage increases, the effect of any increase on the homeless is determined by analyzing who wins and loses as a result of artificial wage supports.²¹¹ Labor economists have devoted much effort to empirically studying the effects of minimum wage legislation on the employment levels of various age, race, and gender groups.

Studies and estimates abound for calculating the effect of increasing the minimum wage.²¹² Most, if not all, conclude that there is a disemployment effect borne primarily by low-income and teenage workers.²¹³ While their academic temperament makes economists wont to disagree on any issue, in this case the disagreement is limited to details of econometric simulation.²¹⁴

A. Effect by Age Group

Most studies conclude that teenagers fare the worst from minimum wage increases.²¹⁵ As a group, teenage labor can be characterized by inexperience, lack of advanced education, and equilibrium

no increase) by only 599,000 jobs, while it increased in 1978 (a year with a 15% increase) by 765,000 jobs.

Id.

211. See *supra* Section IV.

212. See Brown, Gilroy & Kohen, *The Effect of the Minimum Wage on Employment and Unemployment*, 20 J. ECON. LIT. 487 (1982) (surveying recent theoretical and empirical literature on this topic). Economists have long been concerned with the impact of minimum wage legislation on employment. For a survey of earlier work, see A. KAITZ, *YOUTH UNEMPLOYMENT AND MINIMUM WAGES* (Bureau of Labor Statistics Bulletin No.1657, 1970); and J. PETERSON & C. STEWART, *supra* note 169. George Stigler's classic analysis, published in 1946, was perhaps one of the first to predict adverse effects on employment. Stigler, *The Economics of Minimum Wage Legislation*, 36 AM. ECON. REV. 358, 361 (1946).

213. See, e.g., R. BURNS, *THE BUSINESS CYCLE IN A CHANGING WORLD* 216-19 (N.Y. Nat'l Bureau of Econ. Res. 1969); M. FRIEDMAN, *CAPITALISM AND FREEDOM* 180-81 (1962); D. HAMERMESH & A. REES, *supra* note 97, at 127; P. SAMUELSON, *ECONOMICS* 393-94 (1973); Feldstein, *The Economics of New Unemployment*, 33 PUB. INTEREST 3, 14-16 (Fall 1973).

214. Brown, Gilroy & Kohen, *supra* note 212, at 487.

215. See Al-Salam, Quester & Welch, *Some Determinants of the Level and Racial Composition of Teenage Employment*, in *THE ECONOMICS OF LEGAL MINIMUM WAGES* (S. Rottenberg ed. 1981); Cotterman, *The Effects of Federal Minimum Wages on the Industrial Distribution of Teenage Employment*, in *THE ECONOMICS OF LEGAL MINIMUM WAGES*, *supra*, at 42; Mattila, *The Impact of Minimum Wages on Teenage Schooling and on Part-Time/Full-Time Employment of Youths*, in *THE ECONOMICS OF LEGAL MINIMUM WAGES*, *supra*, at 61; Ragan, *The Effect of a Legal Minimum Wage on the Pay and Employment of Teenage Students and Nonstudents*, in *THE ECONOMICS OF LEGAL MINIMUM WAGES*, *supra*, at 11; Swindinsky, *Minimum Wages and Teenage Unemployment*, 13 CANADIAN J. ECON. 158, 168 (1980). These studies were conducted before the youth training wage was instituted and therefore did not include the effects of the now-legislated teenage training wage. See *supra* note 12.

wage rates below the minimum.²¹⁶ Evidence is overwhelming that a higher minimum wage reduces employment among people age sixteen to nineteen in the United States.²¹⁷ There is some evidence that greater coverage of the minimum wage has had the same effect.²¹⁸ Brown, Gilroy, and Kohen²¹⁹ conclude that teenage workers incur a decline in employment between one and three percent as a result of a ten percent increase in the minimum wage.²²⁰

Studies that provide estimates of the effect of the minimum wage on young adults, ages twenty to twenty-four, show consistent negative employment effects and positive unemployment impacts.²²¹ The effects tend to be smaller than those estimated for teenagers, although the effects vary somewhat across gender and racial groups.²²²

The effect on adult employment of increasing the minimum wage is uncertain. This is because the effects are better studied on groups containing a relatively large percentage of workers who would have earned less than the minimum wage in the absence of the mandated wage floor. Teenagers, and to a lesser extent, young adult workers, fit this description; adults generally do not. As a result, the increased minimum wage could increase or reduce adult employment. In either case, the effect²²³ may be so small compared to total adult employment that it will not be detected with precision.²²⁴

B. *Effects in Low-Wage Industries*

1. AGRICULTURE

The 1966 amendments to the FLSA provided for significant increases in coverage among agricultural workers.²²⁵ The statutory minimum wage for covered farm workers has risen in seven steps

216. D. HAMERMESH & A. REES, *supra* note 97, at 127.

217. *Id.*

218. *Id.*

219. Brown, Gilroy & Kohen, *supra* note 212, at 487.

220. *Id.* at 501. If, as one commentator suggests, one of the goals for the enactment of the minimum wage was "to reduce youth employment and limit their competition with adults," this may be a desirable result. P. OSTERMAN, *GETTING STARTED: THE YOUTH LABOR MARKET* 84 (1980). More youth enroll in school when the minimum wage increases—probably because the attractiveness of schooling is enhanced when employment opportunities are restricted by the higher minimum wage. Mattila, *Youth Labor Markets, Enrollments and Minimum Wages*, 31 *INDUS. & LAB. REL. REV.* 134 (1978).

221. Brown, Gilroy & Kohen, *supra* note 212, at 503.

222. D. HAMERMESH & A. REES, *supra* note 97, at 127.

223. Some adults may be displaced by the minimum wage while others benefit by remaining employed at the higher wage.

224. Brown, Gilroy & Kohen, *supra* note 212, at 487.

225. The Fair Labor Standards Amendments of 1966, Pub. L. No. 89-601, § 103, 80 Stat. 830, 832.

from one dollar an hour in February 1967 to eventual parity with other covered workers at \$2.65 in 1978. Current studies measuring the impact of the minimum wage on employment in agriculture build upon earlier econometric analyses of the farm labor market²²⁶ and tend to support the hypothesis that increases in the minimum wage result in adverse employment effects.²²⁷

In a 1981 aggregate time-series study of United States agriculture over the 1946 to 1978 period, significant disemployment effects were found, with the minimum wage reducing the number of hired farm workers by sixty thousand.²²⁸ Other studies have found even larger effects. For example, a 1972 study²²⁹ used annual data over the 1947 to 1970 period and estimated that the 1966 amendments reduced hired farm employment by approximately eighteen percent from what it would have been in the 1967 to 1970 period.²³⁰

In a more specialized study, Trapani and Moroney estimated the effect of the 1966 FLSA amendments on employment of seasonal cotton workers.²³¹ The study, which was based on cross-section data from fourteen cotton-producing states pooled during 1960 to 1966, found that the extended minimum wage coverage accounted for fifty percent of the decline in employment on cotton farms between 1967 and 1969.²³² Predictably, the greatest effects were felt in regions where wages, on average, were initially the lowest—the south-central and southeastern states.²³³

2. RETAIL TRADE

The most thorough statistical study concerning retail trade concludes that employment has been significantly curtailed as a result of the 1961 and subsequent increases in the minimum wage.²³⁴ Using a mixture of time-series regressions, forecasts of relative wages in retail

226. See generally Schuh, *Econometric Investigation of the Market for Hired Farm Labor in Agriculture*, 44 J. FARM. ECON. 307 (1962); Trychniewicz & Schuh, *Econometric Analysis of the Agricultural Labor Market*, 51 AM. J. AGRIC. ECON. 770 (1969).

227. For a survey of literature, see Gilroy, *Minimum Wages and Agricultural Employment: A Review of the Evidence*, in 1982 INDUS. REL. RES. A. PROC. 78 (B. Demis ed.).

228. Gardner, *What Have Minimum Wages Done in Agriculture?*, in THE ECONOMICS OF LEGAL MINIMUM WAGES, *supra* note 215, at 210.

229. Gardner, *Minimum Wages and the Farm Labor Market*, 54 AM. J. AGRIC. ECON. 473 (1972).

230. *Id.*

231. Trapani & Moroney, *The Impact of Federal Minimum Wage Laws on Employment of Seasonal Cotton Workers*, in THE ECONOMICS OF LEGAL MINIMUM WAGES, *supra* note 215, at 233.

232. *Id.* at 236.

233. *Id.*

234. P. FLEISHER, MINIMUM WAGE REGULATION IN RETAIL TRADE 9 (1981).

trade, and estimates of consumer demand equations, the study inferred that during the 1960's, retail trade employment was five percent lower than it otherwise would have been for each five percent increase in the minimum wage.²³⁵ Further, the study found significantly different effects among industries within the retail trade. For instance, the minimum wage caused a negligible effect on department store employment, while strongly affecting variety and food store employment.

Other studies confirm that the minimum wage has a negative effect on employment in retail trade. According to a United States Department of Labor study,²³⁶ employment in covered establishments in the South fell by 10.6 % between June 1961 and June 1962, while employment in uncovered establishments rose by 4.8%.²³⁷

3. SERVICE INDUSTRIES

The United States Department of Labor has reported on several service industries in which minimum wage coverage was extended by the 1966 FLSA amendments.²³⁸ These industries include hospitals, hotels and motels, and laundries and cleaning establishments. The reports found no correlation between the imposition of the minimum wage and employment.²³⁹ The reports are, however, open to the same criticism as is aggregate employment data. Brown, Gilroy, and Kohen applied their formula to the same data and found that the minimum wage had a negative impact on employment in these industries. They concluded that a ten percent increase in the minimum wage resulted in a one percent reduction in employment.²⁴⁰

Gordon²⁴¹ focused on the private household service (housekeeping) sector's response to the 1974 minimum wage coverage extension by comparing the rate of change in employment of private household

235. *Id.*

236. U.S. DEPT. OF LABOR, REPORT SUBMITTED TO THE CONGRESS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 4(D) OF THE FAIR LABOR STANDARDS ACT 40 (U.S. GPO 1963).

237. *Id.* at 41.

238. See WAGE & HOUR & PUB. CONTRACT DIVS., U.S. DEP'T OF LABOR, HOSPITALS: A STUDY OF THE ECONOMIC EFFECTS OF THE APPLICATION OF MINIMUM WAGE AND MAXIMUM HOURS STANDARDS UNDER THE FAIR LABOR STANDARDS ACT (1979); WAGE & HOUR & PUB. CONTRACT DIVS., U.S. DEP'T OF LABOR, HOTELS AND MOTELS: A STUDY OF THE EFFECTS OF THE \$1.00 MINIMUM WAGE UNDER THE FLSA (1968); WAGE & HOUR & PUB. CONTRACT DIVS., U.S. DEP'T OF LABOR, LAUNDRY AND CLEANING SERVICES: A STUDY OF THE EFFECTS OF THE \$1.00 MINIMUM WAGE UNDER THE FLSA (1969).

239. See *supra* note 225.

240. Brown, Gilroy & Kohen, *supra* note 212, at 520.

241. Gordon, *The Impact of Higher Minimum Wages on Private Household Workers*, in THE ECONOMICS OF LEGAL MINIMUM WAGES, *supra* note 215, at 191.

workers before and after 1974. The Gordon study found precisely the opposite of the predicted result that the minimum wage was having an adverse effect on employment, concluding that since 1974, the long-term decline in the number of household workers has slowed dramatically.²⁴² This conclusion is tainted, however, because the number of hours worked was reduced, and compliance and enforcement of the minimum wage was also lower.²⁴³

4. MANUFACTURING

The United States Department of Labor studied the effects of the 1956 increase in the minimum wage on several manufacturing industries.²⁴⁴ Although this increase came at a time of expansion, the study concluded that industry growth was five percent lower in high-impact firms than it was in low-impact firms.²⁴⁵ Brown, Gilroy, and Kohen, using the same data, found a negative correlation between a ten percent increase in the minimum wage and employment within the low-wage manufacturing sector of 2.4%.²⁴⁶

More recent studies have found similar results. One analysis of the impact of minimum wage changes on employment in seven low-wage, nondurable goods manufacturing industries during the period 1947 to 1966, consistently found that increases in the minimum wage led to reductions in employment.²⁴⁷ A disemployment effect existed for both number of workers and number of hours worked.²⁴⁸ These results are supported by Boschen and Grossman,²⁴⁹ who found that a ten percent increase in the minimum wage would reduce employment in low-wage manufacturing jobs by about one percent.²⁵⁰

C. *The Effect on the Macro Economy*

In 1987, the Senate Committee on Labor and Human Resources received testimony and accompanying studies when it considered Senate Bill 837 which would have increased the minimum wage to

242. *Id.* at 203.

243. *Id.* at 206-08.

244. U.S. DEP'T OF LABOR, STUDIES OF THE ECONOMIC EFFECTS OF THE \$1.00 MINIMUM WAGE (1959).

245. *Id.* at 9.

246. Brown, Gilroy & Kohen, *supra* note 212, at 521.

247. Zucker, *Minimum Wages and the Long-Run Elasticity of Demand for Low-Wage Labor*, 87 Q.J. ECON. 267 (1973).

248. *Id.* at 278.

249. Boschen & Grossman, *The Federal Minimum Wage, Employment, and Inflation*, in REPORT OF THE MINIMUM WAGE STUDY COMMISSION 19 (U.S. G.P.O. 1981).

250. *Id.*

\$4.68.²⁵¹ One study submitted by the United States Chamber of Commerce estimated that, under the bill, 1.9 million jobs would be lost by 1995.²⁵² The study concluded that through the first three years there would be a loss of 550,000 jobs, resulting in an increase in unemployment of 0.4%.²⁵³ A National Chamber Foundation study relied on statistical relationships summarized by Brown, Gilroy, and Kohen in their 1982 publication concerning the employment effects of the minimum wage.²⁵⁴ The study concluded that as a result of the proposed minimum wage increase, 750,000 jobs would be lost after the first three years of the increase.²⁵⁵

The Congressional Budget Office ("CBO")²⁵⁶ prepared estimates on the impact of an earlier proposal (H.R. 2²⁵⁷) increasing the minimum wage. It found that H.R. 2 would cause a loss of approximately 125,000 to 250,000 jobs by 1992, with the most likely estimate falling toward the low end of that range.²⁵⁸ The CBO concluded that a ten percent increase in the minimum wage would result in approximately a one to two percent decline in teenage employment, and have little effect on young adults.²⁵⁹ Despite this loss in employment, the CBO concluded that the aggregate earnings of low-wage workers would rise because the additional earnings received by those who would be paid

251. *Minimum Wage Restoration Act of 1987: Hearings on S. 837 Before the Comm. on Labor and Human Resources*, 100th Cong., 1st Sess. 1 (1987).

252. *Id.* at 12.

253. *Id.* Another Chamber of Commerce study received by the Committee concluded that through the same three years of the bill, total job loss would exceed 750,000. *Id.*

254. *Id.*

255. The Chamber study has been criticized for its reliance on outdated statistical relationships summarized by Brown, Gilroy, and Kohen, for failing to account for the declining percentage of the workforce made up by minimum wage workers, for ignoring the decline in the supply of teenage and young adult labor, and for not considering the impact of States which have already increased their state minimum wages above the federal minimum wage. *Id.* at 24.

256. The CBO was created in 1974 to provide Congress with basic budget data and to prepare studies on budget related areas. Congressional Budget Act, Pub. L. 93-344, 88 Stat. 297-332 (1974) (codified as amended at 2 U.S.C. § 601 (1988)).

257. 100th Cong., 2d Sess. (1989). H.R. 2 proposed to raise the minimum wage in stages from the current level of \$3.35 per hour to \$3.85 per hour in 1990, \$4.25 per hour in 1991, and \$4.65 per hour in 1992. *Id.* This was vetoed by President Bush. Veto of H.R. 2, H.R. Doc. No. 71, 101st Cong., 1st Sess. 1 (1989).

258. *Minimum Wage Controversy: Pro & Con*, *supra* note 12, at 135. When called upon to calculate a similar estimate for an earlier proposal to increase the minimum wage, the CBO noted that "any attempt at quantifying the employment impact of increases in the minimum wage is subject to a wide range of error. If anything, estimates are now even more uncertain than usual because of special circumstances." *Id.* These special circumstances (not taken into account by the CBO) include states in which the minimum wage is already above the federal minimum, the expected decline in teenage and young adult populations, and the continued decline in the percentage of hourly workers who are paid minimum wage. *Id.*

259. *Id.* at 137.

higher wages would exceed the losses caused by lower employment.²⁶⁰ In addition, the CBO estimated the H.R.2 would increase inflation by about 0.1% to 0.3% per year during the phase-in period.²⁶¹ The CBO study is in sharp contrast with a study by Krumm and Chao²⁶² which suggests that the ripple effect²⁶³ on wages, caused by increasing the minimum wage, will increase inflation at a higher rate.²⁶⁴

Aside from the CBO estimate, the most influential study concerning minimum wage and employment concerns the effects of minimum wage policy in Puerto Rico.²⁶⁵ The policy considered by the study occurred in the mid-1970's, when the government of Puerto Rico supported periodic increases in the island's minimum wage until it reached parity with that of the United States.²⁶⁶ The target date for parity was 1980.²⁶⁷ At the time, differential industry-wide minimum wages were in effect.²⁶⁸ The statutory minimum wage was eighty-three percent of average hourly earnings in manufacturing in Puerto Rico as compared to forty-four percent in the United States.²⁶⁹ The amendment of the Fair Labor Standards Act in 1974, which provided for automatic annual increases in minimum wage in Puerto Rico until reaching the United States statutory level, was instrumental to this

260. *Id.* The CBO estimate was based on the findings and methodologies of recent studies that have examined the economic impact of the minimum wage. The CBO further concluded that the responses in employment were found mainly in teenage workers and, to a lesser extent, for young adults between the ages of 20 and 24. *Id.* These findings are in contrast with the higher disemployment effects of minimum wage increases during the 1960's and 1970's. *Id.* The CBO cited several reasons why the loss of jobs caused by an increase in the minimum wage in the current economic and demographic situation would be smaller. These included: (1) fewer teenage workers than in earlier periods (for example, in 1978 and 1979 there were 9.6 million teenagers in the labor force compared with approximately eight million today); (2) the teenage unemployment rate is lower today than in the past; and (3) there are fewer hourly workers in the aggregate working at the minimum wage. *Id.*

261. *Id.*

262. Krum & Chao, *The Ripple Effect of the Proposed Minimum Wage Increase*, 10 GOV'T UNION REV. 27 (1989).

263. "Ripple effect" refers to the wage increase that occurs when workers senior and more experienced than minimum wage workers command higher wages to maintain the prior wage differentials intended to recognize their greater value to the employer; the more the minimum wage increases, the greater the number of individuals whose compensation must be adjusted to maintain their relative wage differentials. *Id.*

264. *Id.* at 31.

265. Santiago, *Closing the Gap: The Employment and Unemployment Effects of Minimum Wage Policy in Puerto Rico*, 23 J. DEV. ECON. 293 (1986). This study is particularly important in determining the effects of the increased minimum wage on the homeless because it focuses on a relatively low wage area rather than a particular demographic group such as the teenage population. *Id.*

266. *Id.* at 294.

267. *Id.* at 296.

268. *Id.*

269. *Id.*

policy.²⁷⁰

By the end of the 1970's, a number of changes were apparent in the Puerto Rican economy.²⁷¹ Average wages were rising less rapidly than the minimum wage increases.²⁷² Predictably, labor force participation was highly concentrated in the covered industries.²⁷³ Although these jobs became more competitive, workers were able to remain outside the labor force while they searched for these job due to increases in federal government transfers.²⁷⁴ Most importantly, the unemployment rate increased to unprecedented levels, reaching over twenty percent by the end of the decade, although this was due at least in part to recessions in the Puerto Rican economy in 1974 to 1975 and 1979 to 1980.²⁷⁵ It is noteworthy that the disemployment effects of the minimum wage increase were not experienced uniformly across industries.²⁷⁶ The groups most affected were those with lower average wages²⁷⁷ and employment expanded in those industries characterized by high wages, i.e., high-productivity occupations.²⁷⁸

VII. THE EFFECT OF INCREASING THE MINIMUM WAGE ON THE HOMELESS

The increase in the minimum wage will affect the homeless both directly and indirectly. Those homeless who are currently employed at the minimum wage will lose their jobs if their productivity is not high enough to offset the increased cost to the employer. As a result, these workers will either become unemployed or will be forced to accept lower paying jobs in the uncovered sector. On-the-job training could offset this result. Empirical evidence, however, shows that the minimum wage tends to discourage on-the-job training, especially among lower educational levels and lower wage groups.²⁷⁹

The disemployment effect is magnified by the restructuring of the economy and the resulting decline in manufacturing and retail jobs, and a rise in white-collar professional jobs that displace many low-

270. Fair Labor Standards Amendments of 1974, Pub. L. No. 93-259, § 2, 88 Stat. 55, 55.

271. Santiago, *supra* note 265, at 294.

272. *Id.*

273. *Id.*

274. *Id.* These included unemployment compensation and a federal food stamp program. *Id.*

275. *Id.* at 295.

276. *Id.*

277. This translates into those with low marginal productivities. See *supra* notes 115-21 and accompanying text.

278. Santiago, *supra* note 265, at 260.

279. Leighton & Mincer, *The Effects of Minimum Wages on Human Capital Formation*, in *THE ECONOMICS OF LEGAL MINIMUM WAGES*, *supra* note 215, at 155, 171.

income workers as well as the low-wage workers who are unable to adapt.²⁸⁰ The increased minimum wage's negative impact on on-the-job training prevents adaption to the shifting economy. The results, developed by Olwen Hufton²⁸¹ to describe the subsistence strategies of the poor in eighteenth-century France, are "economies of makeshift" in which the poor managed chiefly "by dint of their own ingenuity and resiliency."²⁸²

Another factor which must be recognized is the myriad other social and practical handicaps the homeless must overcome to succeed in the job market.²⁸³ The homeless are afflicted with more handicaps than other low-wage workers.²⁸⁴ The daily uncertainty about shelter ranks among the most burdensome.²⁸⁵ In addition, homeless people are disproportionately affected by physical illness and social problems.²⁸⁶

Section III characterized the homeless as primarily employed at non-minimum wage jobs or as unemployed. The increased minimum wage will also affect this group. As was shown in the discussion concerning the dual labor market, an increased minimum wage will depress the uncovered sector. This translates into a reduction in income for the homeless employed in these jobs. Additionally, those already unemployed will face greater competition for both minimum wage and non-minimum wage jobs, thereby reducing the likelihood of finding employment.

VIII. SUPPLEMENTS TO INCREASING THE MINIMUM WAGE

There are several other methods of reducing poverty by increasing wages that do not have the negative impacts associated with the minimum wage. Given that the American political climate seems to be destined to incorporate the minimum wage in its economy, these other methods should be considered in combination with the minimum wage.

One alternative method of raising wages is through wage subsi-

280. Hopper, Susser & Conover, *supra* note 67, at 211; see also C. HOCH & R. SLAYTON, *NEW HOMELESS AND OLD* 176 (1989).

281. Hopper, Susser & Conover, *supra* note 67, at 213 (citing O. HUFTON, *THE POOR IN EIGHTEENTH CENTURY FRANCE, 1750-1789* (1974)). The practice of economies of makeshift included "an extra job, seasonal migration, turning the children out to beg, [and] involvement in some semi-nefarious practice such as smuggling or prostitution." *Id.*

282. *Id.* at 216.

283. See generally C. HOCH & R. SLAYTON, *supra* note 280, at 178.

284. See *supra* notes 7-11 and accompanying text.

285. *Id.*

286. *Id.*

dies.²⁸⁷ A wage subsidy works by giving heads of low-wage families a government subsidy equal to a percentage of the difference between their money wage and some targeted amount. In theory, a wage subsidy is ideal because it can be carefully targeted to only those workers who need their wages boosted, as opposed to all minimum wage earners, many of whom are not poor. It would also increase the rewards of work and increase employment, rather than reduce it, as raising the minimum wage does, by increasing the incentives to work. The main problem associated with wage subsidies is with administrative difficulties.²⁸⁸ Employers would have to report both hours and earnings. Both employees and employers would have an incentive to lie, claiming that the wage rate was lower and that the hours worked were higher than they actually were. In addition, employers are reluctant to hire workers receiving a governmental subsidy.²⁸⁹

The negative income tax ("NIT") is another alternative. It is a type of welfare program involving cash transfers to low-income families.²⁹⁰ In its pure form, any family with a sufficiently low income would be eligible to receive cash assistance. The NIT is distinguished by the way transfers are related to the level of income: the greater the income of a family, the lower the transfer.

Table D is an example of a hypothetical NIT:²⁹¹

TABLE D: OPERATION OF NEGATIVE INCOME TAXES

Before Transfer Income	Transfer	Total Disposable Income
\$ 0	\$4000	\$4000
1000	3500	4500
2000	3000	5000
3000	2500	5500
4000	2000	6000
5000	1500	6500
6000	1000	7000
7000	500	7500
8000	0	8000

287. Wage subsidy proposals have a long history. See, e.g., *JOBS FOR DISADVANTAGED WORKERS: THE ECONOMICS OF EMPLOYMENT SUBSIDIES 1* (R. Havemen & J. Palmer eds. 1982).

288. R. EHRENBERG & R. SMITH, *supra* note 25, at 117.

289. *Id.*

290. For a complete discussion of negative income taxes, see C. GREEN, *NEGATIVE TAXES AND THE POVERTY PROBLEM* (1967).

291. E. BROWNING & J. BROWNING, *supra* note 89, at 529.

In the hypothetical, the transfer is reduced by fifty cents for each additional dollar earned until the cut-off point is reached.²⁹² The rate at which the transfer is reduced is called the benefit reduction rate, or the marginal tax rate.²⁹³ Reducing transfers as income rises guarantees that the neediest families receive the most help.

There are two problems with the NIT: (1) its effect on work incentive; and (2) its budgetary effect.²⁹⁴ To examine the way a NIT affects the incentive to work, the income-leisure choice of workers must be considered.²⁹⁵ Economic theory suggests that both the income effect and the substitution effect of the NIT encourage less work while at the same time increasing total income received.²⁹⁶ Exactly how much the work effort will decline depends both on the specific design of the program and on the preferences of the recipients. Recall that to the worker, both income and leisure (nonwork) are desirable economic goods and that a change in the budget line relating income and leisure affects a worker's choice through income and substitution effects.

The income effect results because a cash transfer enriches the recipient, enabling him to work less. The substitution effect of the NIT relates to the way it reduces benefits as a worker's earnings rise. The marginal tax rate under the NIT reduces the net contribution to income that comes from working additional hours. For example, if a worker's wage rate is four dollars an hour under the hypothetical NIT, working an additional hour adds four dollars to earnings but results in a two dollars reduction in the transfer; the net gain associated with the extra hour's work is only two dollars. As a result, the relative cost of consuming leisure—the income sacrificed by not working—is reduced from four dollars an hour to two dollars an hour. The resulting reduction in the worker's net wage rate creates an incentive to substitute leisure for income.

In contrast to the NIT, the earned income tax credit ("EITC")²⁹⁷ rewards work by low-paid workers. EITC benefits start from a zero base and grow as earnings grow, up to some limit. Conversely, the

292. If poverty is the targeted problem, a cut-off point would be at the poverty threshold.

293. E. BROWNING & J. BROWNING, *supra* note 89, at 529.

294. *Id.* at 530.

295. *Id.* at 531.

296. *Id.* at 532.

297. A modest EITC is already in place in the current tax system. 26 U.S.C. § 32 (1988). Some might agree that expanding it would be simple. Another type of tax program is the New Jobs Tax Credit ("NJTC"), which offers a tax credit of 50% of the first \$4,200 of wages per employee for increases in employment of more than two percent over the previous year. See Bishop, *Employment in Construction and Distribution Industries: The Impact of the New Jobs Tax Credit*, in *STUDIES IN LABOR MARKETS* 209 (S. Rosen ed. 1981).

NIT starts high and is reduced as earnings grow.²⁹⁸ Economists favor the EITC because it provides a greater incentive to work at higher levels, at least until the phase-out level.

The basic EITC works as follows. Families with low earnings gain tax credits for each dollar they earn. Under current law, families with earnings below \$6,200 per year receive tax credits of fourteen cents for each dollar they are paid. For example, a worker who earns \$5,000 gets an additional \$700 in tax credits. Since the tax credits are refundable, the worker's effective earnings are \$5,700. When earnings reach \$6,200, the worker receives the maximum credit of \$868. For those families with incomes over \$9,840, the credit is then reduced by ten cents for each dollar earned. Thus, the only real incentive or value problem with the EITC does not occur until the family reaches a level that can be set above the poverty level.

Currently, the EITC is low enough that it roughly offsets only the taxes a working person will pay into the Social Security system.²⁹⁹ Part of the minimum wage compromise between Congress and the Bush Administration was to increase the EITC.³⁰⁰ Because only low-income families benefit from the EITC, it seems a more efficient way of helping the working poor.

The combination of an increased minimum wage and an expansion of the EITC appears to be a giant step in solving at least the economic aspects of the homeless problem.³⁰¹ David Ellwood provides an example of this in his work entitled, *Poor Support*.³⁰² This model, *Making Work Pay—A Simple Plan*,³⁰³ is based on two simple changes that could have been implemented in 1986: the minimum wage increasing to \$4.40 an hour, and the EITC roughly doubling to a thirty percent credit up to \$9,000.³⁰⁴ Table E³⁰⁵ illustrates the result.

298. In essence, an NIT is a guaranteed minimum income in disguise, and an EITC is a wage subsidy in disguise.

299. See *Help, at Last, for the Working Poor*, N.Y. Times, Nov. 2, 1989, at B20, col. 1.

300. *Id.*

301. This combination reduces budgetary problems because of lower governmental outlays under the tax credit. See *id.*

302. D. ELLWOOD, *POOR SUPPORT* (1988).

303. *Id.* at 119.

304. *Id.*

305. *Id.*

TABLE E: THE EARNINGS, INCOME, AND WAGES OF A MINIMUM-WAGE WORKER UNDER THE CURRENT SITUATION AND UNDER THE MAKING WORK PAY PROPOSAL

Earnings, Income, and Wages	Current Situation	Making Work Pay Proposal
Earnings ³⁰⁶	\$6,700	\$ 8,800
Less Soc. Sec. taxes	479	629
Plus EITC	868	2,640
Total Income	7,089	10,811
Minimum Wage	3.35	4.40
Effective Wage	3.54	5.41

Various artificial wage supports like the NIT and the EITC, however effective, only treat low wages and/or underemployment instead of curing them. Without any long-term policy to aid the homeless, the various economic factors causing and stemming from homelessness will only reinforce and perpetuate themselves. Subsidized job training of the homeless is one long-term policy that could enable the homeless to begin or resume a steady path of earnings, thereby reducing dependence on welfare and other governmental services.³⁰⁷ It is especially effective in counteracting the predicted job loss of low-skilled workers due to the increase in the minimum wage.³⁰⁸ Further, unless unemployment is very low, employers are unlikely to provide training to the most disadvantaged, least-educated members of the work force,³⁰⁹ a category that many homeless fall into.

Subsidized on-the-job training can overcome the stifling effect that the minimum wage has on job training. During the late 1970's and early 1980's, the major government training programs for adults were funded under the Comprehensive Employment and Training

306. This category assumes 2,000 hours of work.

307. See D. HAMERMESH & A. REES, *supra* note 97, at 88.

308. There are, however, arguments that suggest that subsidized job training is not economically efficient. Those who are offered subsidized training may merely displace other workers with similar backgrounds who are not given the training. Moreover, the increased number of qualified workers will place a downward pressure on wages, thereby reducing real income. See R. EHRENBURG & R. SMITH, *supra* note 25, at 119. Where the private rate of return to those receiving the training may be large, the social rate of return is smaller because there is little net addition of skills to the work force. D. HAMERMESH & A. REES, *supra* note 97, at 88. According to this view, the program only shuffles training opportunities around within the low-skilled work force. *Id.* It is also argued that training will have little value if aggregate demand is insufficient to provide steady jobs for the workers after they are trained. *Id.* The government could increase the skill level of the population more if it maintained high aggregate demand and thus tried to create jobs directly. *Id.*

309. D. HAMERMESH & A. REES, *supra* note 97, at 88.

Act ("CETA").³¹⁰ This was replaced in 1982 by the Job Training Partnership Act ("JTPA").³¹¹ These programs have proved effective in increasing the probability that the person trained would remain employed.³¹²

For the unemployed homeless, remedial training also is needed to assist them into the economic mainstream.³¹³ Many of the unemployed homeless either have no marketable skills or have been displaced by changes in the nature of the economy. Remedial training can be achieved through combinations of federal, state, and local programs. Although they exist today, they have one major drawback: they provide no monetary support while the trainee is out of the workforce.³¹⁴ Without this stipend, the unemployed are forced to find subsistence jobs and forego the training.³¹⁵

IX. CONCLUSION

It is important to remember the functional purpose of the minimum wage. In a 1981 letter to then-President Reagan and Congress from the Chairman of the Minimum Wage Study Commission,³¹⁶ the Commission Chairman noted that:

The purpose of the [FLSA] was and is to establish a floor below which wages would not fall, a floor which is adequate to support life and a measure of human dignity. It is a laudable legislative effort to ensure a just wage in return for a day's labor.

That the minimum wage has not brought us to the Earthly Paradise may be a disappointment, but it should not be a surprise. That it has provided a working floor below which wages would have gone in its absence and have not gone because of it, suggests that it has done what it was intended to. May that be said of each of us.³¹⁷

There is no question that the minimum wage has some place in

310. Pub. L. 93-302, 87 Stat. 839 (1973) (replaced by Job Training Partnership Act of 1982, 29 U.S.C. § 1501 (1988)).

311. Pub. L. 97-300, 96 Stat. 1322 (1982) (current version at 29 U.S.C. § 1501 (1988)). For a thorough description of employment and training programs in the United States through the 1960's and 1970's, see S. LEVITAN, G. MAGNUM & R. MARSHALL, *HUMAN RESOURCES AND LABOR MARKETS* (1981).

312. See Bassi, *Estimating the Effect of Training Programs with Nonrandom Selection*, 66 *REP. ECON. STAT.* 36 (1984).

313. See generally COMMITTEE FOR ECONOMIC DEVELOPMENT, *TRAINING AND JOBS FOR THE URBAN POOR* 14 (1970); F. RIESSMAN, *STRATEGIES AGAINST POVERTY* 89 (1969).

314. See, e.g., BARRY UNIVERSITY, *supra* note 82, at 24.

315. *Id.*

316. The 1977 amendments created the Minimum Wage Study Commission to examine the impact of the FLSA. See *supra* note 21.

317. S. REP. NO. 6, *supra* note 22, at 12.

the American economy—to prevent the unfair exploitation of workers. When viewed in that light, it seems to be of value. But when viewed as a measure to fight poverty, and for the purposes of this Comment to fight homelessness, it seems inefficient at best.

As shown in Section III of this Comment, the majority of minimum wage earners are neither poor nor homeless. Additionally, the majority of minimum wage earners are not the primary wage earners in a household. Therefore, if the extended purpose of the minimum wage is to aid in the fight against poverty and homelessness, a more targeted approach, concentrating on only those in need of assistance, is better suited. Moreover, as Section IV illustrated, the majority of employed poor and homeless are employed in primarily minimum wage jobs. If policies are not explored to aid this majority, their plight will only continue.

The effect that the increased minimum wage will have on the homeless who earn the minimum wage is uncertain. There will certainly be winners and losers. Those who maintain their jobs at higher wages obviously benefit, while those who become unemployed or are forced out of covered sector jobs into lower paying jobs in the uncovered sector lose as a result of the increase. Additionally, those unemployed whose prospects of employment are diminished because of an increased supply of labor and those who leave the labor market are also losers. Today, empirical evidence of these effects is lacking and is worthy of further study. The abundance of related data on minimum wage effects suggests that because homeless minimum wage earners are characteristically employed in high-impact industries, they will be affected disproportionately worse than other minimum wage earners. When employers are faced with having to pay higher wages, evidence proves that they reduce employment by eliminating the least productive workers. This could be offset if firms increased the productivity of their workers through job training—but studies prove that this does not occur.

However noble a notion raising the minimum wage to fight homelessness is, it must be viewed in practical terms. It is not the most efficient method of curing the economic causes of homelessness. It is, however, the least expensive to the government. Conversely, various tax programs and wage subsidies offer solutions with minimal adverse effects on employment and greater efficiency. These programs, however, are expensive, especially in an era of deficits. Homeless advocates should not glorify the increase in the minimum wage as a victory against poverty and homelessness. Rather, they should per-

suade Congress to develop the necessary broad-based programs to minimize the harsh results of an increased minimum wage.

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