

Mrs. MINK. Has your industry made any effort to seek a determination on the part of the Department of Labor with reference to your salesmen at least to qualify them under that definition and secure for them under that type of ruling an exemption from overtime?

Mr. LIFTON. I think most of the salesmen involved are the antithesis of an ordinary salesman; they are on the job most of the time.

Mr. PEARSON. I would like to suggest that by far the large majority of the marine operations—I am talking about the recreation of the boating industry—these operations are not big enough to have categorized employees. I would further suggest the seasonal nature of the business as it has been related to other businesses is based on sales, but the seasonal nature is even more drastic in this respect.

Sales can be made over a long period, but in actual practice whether employees are put to use, a mechanic, for example, on a Saturday and Sunday, depends on whether it is July or November. He is extremely busy in July but there is not much for him to do in November. I don't care how capable he is. The people are not using their boats; they don't need repair.

A so-called salesman in a small operation on a lake boat might be out there pumping gas on a Sunday and if it is a bright Sunday where people are boating, they are in there from sunup to sundown. The next Sunday it may be raining and cold, so his activities are entirely different.

Mr. DENT. It is a peculiar business.

Mrs. MINK. Could I ask the Department if they have any figures relative to this industry and the number they estimate would qualify as outside salesmen and have an exemption already on overtime?

Mr. LUNDQUIST. We made a rough estimate and I am surprised to find we are at great variance with their figure. We indicated about 3,000 employees would be exempted from the overtime provisions under section 13(b)(10), if H.R. 13192 is enacted.

Mrs. MINK. You estimate 3,000 employees are exempt?

Mr. LUNDQUIST. Under a 13(b)(10) exemption, yes.

Mrs. MINK. Out of a total of what?

Mr. LUNDQUIST. This would depend on what a boat is, when it is or isn't a boat, what these activities are, and whether partsmen, mechanics, salesmen, are working for a nonmanufacturing installation which, in our judgment, in many instances might not be a retail or services establishment, as we are contending in a court case now.

Mrs. MINK. I have one further question, Mr. Chairman, relating to section 13(a)(3), which represents recreational establishments under the theory these are seasonal in character and both 6 and 7 should not apply.

In his statement submitted to this committee the gentleman indicated the fact that dealers would probably not qualify under this exemption, or if they do, only a few would.

I would like your comment with reference to that.

Mr. LUNDQUIST. We would say that the exemption in 13(a)(3), the amusement and recreational establishment exemption, would not be available to them.

Mrs. MINK. What is the rationale?

Mr. LUNDQUIST. The establishment concept here is one that is not related to a selling, manufacturing, or repairing activity as they are engaged in. The pumping of gas, repairing of motors, servicing of