

EQUAL PAY ACT



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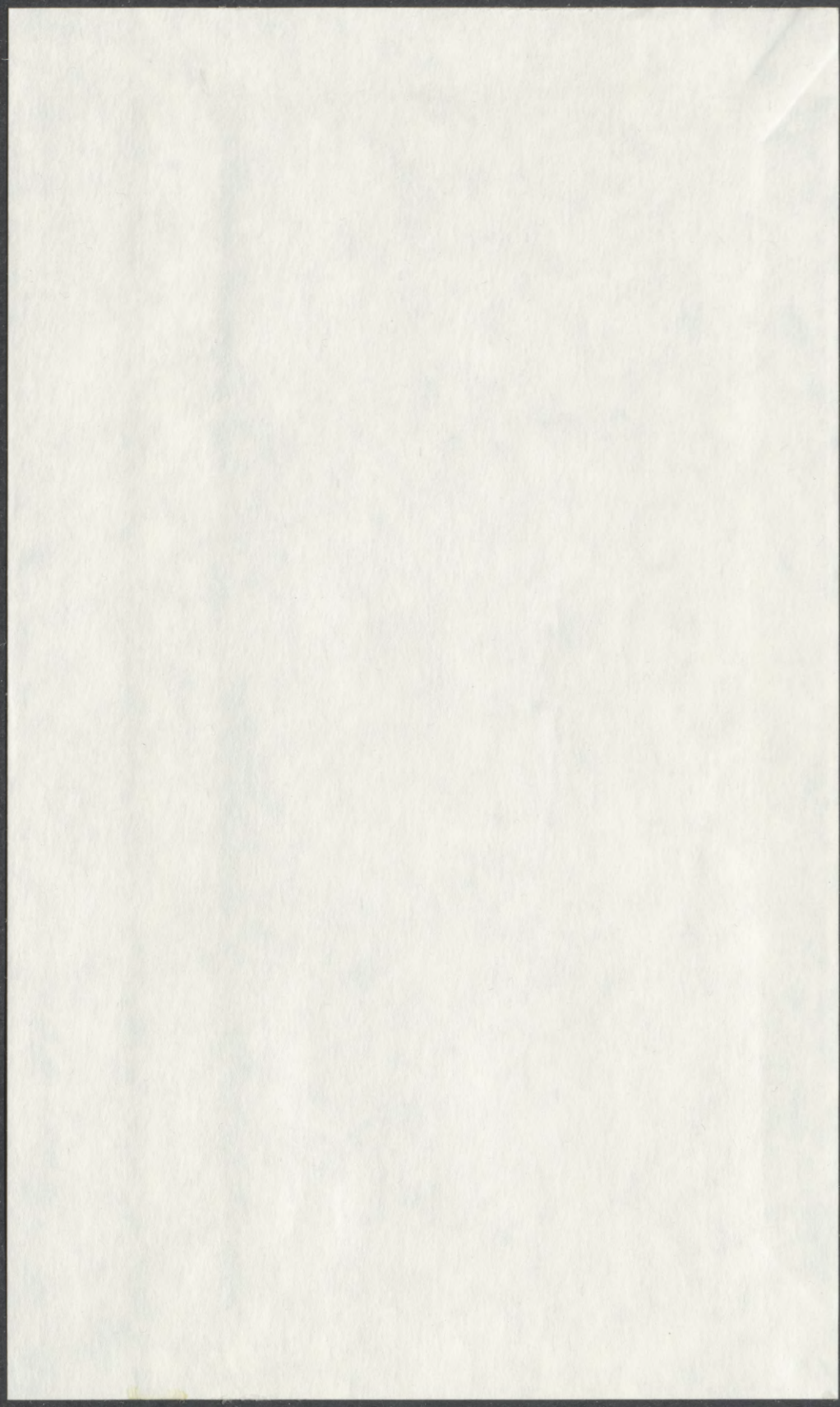
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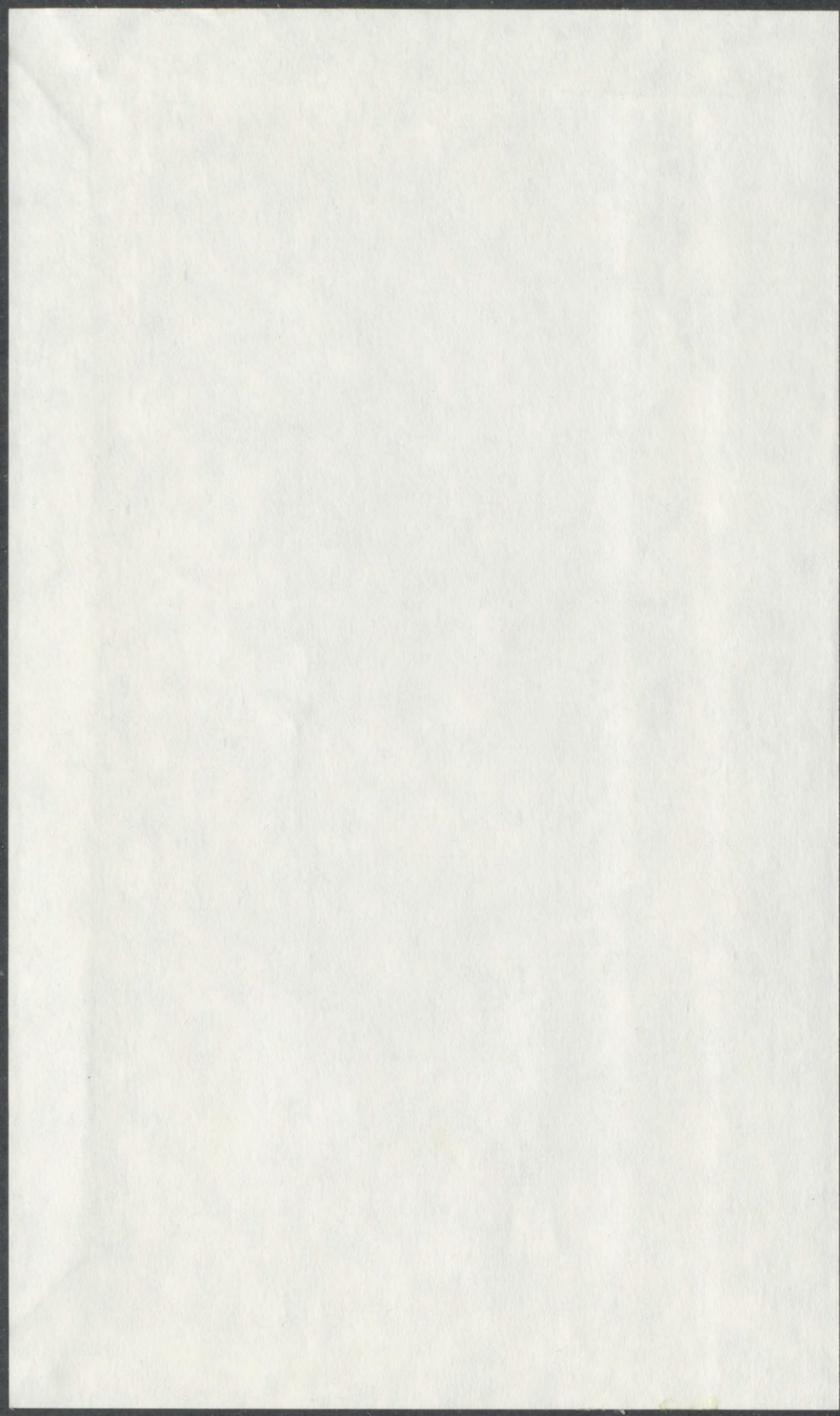
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HEARINGS

BEFORE THE

SPECIAL SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 3861 and Related Bills

TO PROHIBIT DISCRIMINATION, ON ACCOUNT OF SEX,
IN THE PAYMENT OF WAGES BY EMPLOYERS ENGAGED
IN COMMERCE OR IN THE PRODUCTION OF GOODS FOR
COMMERCE AND TO PROVIDE FOR THE RESTITUTION OF
WAGES LOST BY EMPLOYEES BY REASON OF ANY SUCH
DISCRIMINATION

HEARINGS HELD IN WASHINGTON, D.C.,
MARCH 15, 25, 26, AND 27, 1963

Printed for the use of the Committee on Education and Labor

ADAM C. POWELL, *Chairman*



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EQUAL PAY ACT

FRIDAY, MARCH 15, 1963

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 429 Cannon Office Building, Hon. Frank Thompson, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Thompson (presiding), Scott, Griffin, and Taft.

Present also: Representatives Green, Goodell, and Martin.

Staff members present: Robert E. McCord, subcommittee director; Richard Burress, minority clerk and counsel; and Dr. Deborah P. Wolfe, education chief, House Committee on Education and Labor.

Mr. THOMPSON. The subcommittee will be in order.

I might say that this is the first meeting in this Congress of this subcommittee and its personnel is somewhat changed. It is the first over which I have presided, and I welcome all of its members, new and old, and I hope that the old ones welcome me.

Today we open hearings on the Equal Pay Act.

Mr. GOODELL. Well, Mr. Chairman, the record should not show silence at that point. We always welcome you.

Mr. THOMPSON. This legislation is similar to legislation passed by both Houses of the Congress in 1962. The Senate version was attached as a rider to a bill originating in the Foreign Affairs Committee of the House.

During the closing weeks of the Congress, this presented an insurmountable parliamentary hurdle to a conference involving the two committees of each House having jurisdiction over equal pay legislation.

Today's hearings, as well as those to follow, are directed to legislation recommended by the administration and introduced by our colleague, Mrs. Green of Oregon, cosponsored by our colleague, Mr. Holland, and by myself.

There are many other bills before us sponsored by Members from both sides of the aisle, including one of our colleagues, Mr. Martin, who is sitting with us this morning.

The fact that there is discrimination in wages and salaries solely because of the sex of the employee is a serious social and economic problem. When the work services of a considerable segment of the labor force may be purchased at a reduced price, the wage scale and living standards of all breadwinners are depressed. The fact of discrimination is an affront to the dignity of the individual.

I was about to say the dignity of womanhood, and I remember that in some areas, it is the male worker who is offered the smaller pay. Principally, however, wage discrimination is practiced against the female worker. It is a condition that spreads across all levels of employment.

The Wall Street Journal of February 25, in the second of two articles on women who function in top management and executive posts, pointed out that the traditional bias affects the pay scale of women even at this level. The problem is not confined to wage earners alone.

Further hearings have been scheduled for next week. The Committee on Education and Labor; that is, the full committee, has scheduled executive consideration of other legislation for next week, and it has become necessary to postpone our hearings.

I hope that the witnesses from out of town who were scheduled to appear on Monday and Tuesday have not been too disturbed.

As a practical matter, the further hearings will be rescheduled as soon as possible, and we will endeavor to give the out-of-town witnesses as much leadtime as possible.

(H.R. 3861 follows:)

[H.R. 3861, 88th Cong., 1st sess.]

A BILL To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce and to provide for the restitution of wages lost by employees by reason of any such discrimination

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Pay Act of 1963".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex—

- (1) depresses wages and living standards for employees necessary for their health and efficiency;
- (2) prevents the maximum utilization of the available labor resources;
- (3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
- (4) burdens commerce and the free flow of goods in commerce; and
- (5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

DEFINITIONS

SEC. 3. When used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(d) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(e) "Employ" includes to suffer or permit to work.

(f) "Employer" means any person having twenty-five or more employees in any place of employment and includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including any person having the authority to hire, dismiss, and control the work of such employee, but shall not include the United States or any State or political subdivision of a State.

(g) "Employee" includes any individual employed by an employer.

(h) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wages paid to any employee.

(i) "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act.

(j) "Secretary" means the Secretary of Labor.

(k) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

SEC. 4. (a) No employer having employees engaged in commerce or in the production of goods for commerce shall discriminate, in any place of employment in which his employees are so engaged, between employees on the basis of sex by paying wages at a rate less than the rate at which he pays wages to any employee of the opposite sex in such place of employment for equal work on jobs the performance of which requires equal skills, except where such payment is made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex: *Provided*, That an employer who, on the date of this enactment, is paying a wage rate differential which would be in violation of the Act on its effective date may adjust the lower wage rate as follows:

(1) On the effective date of this Act, all wage rate differentials shall be reduced by an amount equal to 10 per centum of the higher wage rate in effect on the date of enactment;

(2) One year from the effective date of this Act, remaining wage rate differentials shall be reduced by an amount equal to 15 per centum of the higher wage rate in effect on the date of enactment;

(3) Two years from the effective date of this Act any remaining wage rate differential shall be removed.

(b) No employer shall discharge, cause to be discharged, discipline, or otherwise discriminate against any employee on account of any action taken by such employee to invoke, enforce, or assist in any manner in the enforcement of the provisions of this Act. No labor organization, or its agents, representing employees of such an employer shall cause or attempt to cause such an employer to discriminate against an individual in violation of this Act.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) The Secretary of Labor—

(1) shall prescribe such regulations and rules as he deems necessary and appropriate for the administration of this Act, including regulations to protect against violation of the wage standards of any other applicable law and to safeguard wage levels in the elimination of wage rate differentials under section 4(a) of this Act;

(2) may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such record (and made such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, and matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act;

(3) if a violation is found to exist, the Secretary may, before taking further action hereunder, by informal methods of conference, conciliation, and persuasion, endeavor to eliminate discriminatory practices prohibited by this Act and to secure restitution of wages which an employee would have received had the employee been paid at the rate paid the opposite sex as required by this Act and reinstatement to employment where an employee has been discharged in violation of this Act;

(4) may enter and serve upon any employer or labor organization found by the Secretary, after notice and hearing in conformity with sections 5, 6, 7, and 8 of the Administrative Procedure Act, to be engaged in or to have engaged in any violation of section 4 or section 7 of this Act, an order requiring such employer or labor organization (A) to cease and desist from such violation, and requiring such employer (B) to pay to each employee who has been adversely affected a sum equal to the amount of the wages due such employee at the rate paid to an employee of the opposite sex, plus up to an additional amount as liquidated damages not to exceed the back wages found to be due; and

(5) may enter and serve upon any employer found by the Secretary, after notice and hearing as provided in paragraph (4) hereof, to have discharged or otherwise discriminated against any employee on account of any action taken by such employee to invoke, enforce, or assist in any manner in the enforcement of the provisions of section 4 or section 7 of this Act, an order requiring such employer to reinstate such employee, or to remove such discrimination, and to pay to such employee a sum equal to the amount of the wages of which such employee has been deprived by reason of such discharge or other discrimination plus up to an additional amount as liquidated damages not to exceed the back wages found to be due.

(b) For the purpose of any investigation or proceeding conducted under this Act, the provisions of section 307 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Power Act of June 10, 1920 (16 U.S.C. 825f), shall be applicable to the jurisdiction, powers, and duties of the Secretary of Labor or any officers designated by him.

(c) The Secretary shall have power to petition any United States district court, within the jurisdiction of which the violation of this Act occurred or such person resides or transacts business, for the enforcement of any order issued under this section and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings. Upon filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding, and shall have power to grant such temporary relief and restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Secretary. No objection that has not been urged before the Secretary or hearing officer shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary or hearing officer, the court may order such additional evidence to be taken before the Secretary or his hearing officer and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and shall file his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals.

(d) Any person aggrieved by a final order of the Secretary issued under paragraphs (4) and (5) of subsection (a) of this section may obtain a review of such order in any United States district court within the jurisdiction of which the action in question was alleged to have been engaged in or such person resides or transacts business by filing in such court within sixty days of such order a written petition praying that the order of the Secretary be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Secretary. Upon the filing of such

petition, the court shall proceed in the same manner as in the case of an application by the Secretary under subsection (c) of this section, and shall have the same jurisdiction to grant to the Secretary such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Secretary; the findings of the Secretary with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

(e) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Secretary, as provided in this section the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (47 Stat. 70; 29 U.S.C. 101-115).

SUPERVISION OF WAGE PAYMENTS

SEC. 6. (a) The Secretary of Labor is authorized to supervise the payments of any amounts owing to any employee which have been withheld in violation of this Act. Any sum owed an employee and paid to the Secretary under this Act shall be held in a separate account and shall be paid, on order of the Secretary, directly to the employee. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury as miscellaneous receipts.

(b) No wage restitution shall be required with respect to any violation of this Act for any period which preceded by more than two years the date of commencement by the Secretary of Labor of the first administrative or judicial proceeding relating thereto.

(c) No person shall be subject to any liability for the commission of any action prohibited by this Act if he pleads and proves that the action complained of was in good faith and in conformity with and in reliance on any written interpretation or opinion of the Secretary.

GOVERNMENT CONTRACTS

SEC. 7. (a) Except as hereinafter provided in this subsection, in any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all of the stock of which is beneficially owned by the United States (all of which are referred to hereinafter as agencies of the United States), for the manufacture or furnishing of any materials, supplies, articles, or equipment, in any amount exceeding \$10,000, there shall be included stipulations under which the contractor (1) is required to compensate all persons employed by him in the manufacture or furnishing of such materials, supplies, articles, or equipment, in conformity with the requirements of this Act, and (2) shall be subject to all other provisions of this Act. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including the provisions of this subsection in any specific contract.

(b) No contract shall be awarded by the United States or any agency thereof to any person finally determined to have violated any of the provisions of this Act or any stipulation entered into in compliance with subsection (a) of this section, or to any firm, corporation, partnership, or association in which such person has a controlling interest, until or unless the contractor has satisfied the Secretary of Labor that he is complying with his obligation hereunder and that he has in good faith established and will carry out wage policies and practices to assure future compliance. The Comptroller General is authorized and directed to distribute to all agencies of the United States a list containing the names of persons ineligible for contract awards under this section. The Secretary of Labor shall cause the names of persons whom he determines to have made a satisfactory showing of present and future compliance with this Act to be removed from this list.

POSTING

SEC. 8. Every employer subject to this Act shall keep a copy of this Act posted in a conspicuous place in or about the premises where any employee is employed. Employers shall be furnished copies of this Act by the United States Department of Labor on request without charge.

APPROPRIATION

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 10. This Act shall take effect one hundred and twenty days after the date of its enactment.

Mr. THOMPSON. Now we have the honor and the pleasure this morning—

Mr. GRIFFIN. Mr. Chairman, commenting on your opening statement, as I understand it, there are 3 days of hearings, including today. Is that correct?

Mr. THOMPSON. Well, we would like to have 3 but I understand that there are some witnesses who are not yet scheduled and we want very much to have as complete a picture of this as possible, so—

Mr. GRIFFIN. I am very delighted to have the chairman's statement on that. There is no desire to have prolonged, lengthy, undue hearings with repetitive witnesses, but I am glad the chairman means that we do want to accommodate requests of any witnesses who may have something to contribute to this field, which is a complex one.

Mr. THOMPSON. Well, we do not want an incomplete record any more than we want any dilatory tactics; but in order to avoid arguments which might arise out of the inability of some people to be heard, I think that we certainly are going to make every effort to hear everyone who has something different to say than has been said before.

Mr. GRIFFIN. I think that is fine.

Mr. THOMPSON. For our first witness this morning, we have the honor to have the Honorable Willard Wirtz, the Secretary of Labor.

Welcome, Mr. Secretary, and please proceed as you wish.

STATEMENTS OF HON. W. WILLARD WIRTZ, SECRETARY, AND HON. ESTHER PETERSON, ASSISTANT SECRETARY, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY: SAMUEL V. MERRICK, SPECIAL ASSISTANT TO THE SECRETARY OF LABOR FOR LEGISLATIVE AFFAIRS; MISS CAROL COX, OFFICE OF THE SOLICITOR, DEPARTMENT OF LABOR; MRS. ALICE MORRISON, CHIEF, DIVISION OF LEGISLATION AND STANDARDS, WOMEN'S BUREAU; MISS JEAN A. WELLS, ACTING CHIEF, DIVISION OF RESEARCH AND MANPOWER PROGRAM DEVELOPMENT, WOMEN'S BUREAU; AND MRS. MORAG M. SIMCHAK, SPECIAL ASSISTANT, WOMEN'S BUREAU, U.S. DEPARTMENT OF LABOR

Secretary WIRTZ. Thank you very much, Mr. Chairman.

First a matter of procedure. I am appearing here, this morning, with Assistant Secretary Esther Peterson. We have tried to divide up our presentation so that there will be no duplication.

If it would in any way contribute to the committee's convenience on this matter, I should be glad to present my statement, which is a fairly general statement first; and to turn, then, to Mrs. Peterson and to have her present her statement; and then I should be glad to remain during that presentation, so you could question us both, if

there would be economy of time in that from your standpoint, and I think perhaps there would. So whatever way you want to handle that.

Mr. THOMPSON. Well, I am sure the members of the committee will want to ask you some questions. At the same time, I realize that you have an extraordinarily heavy schedule. If you would prefer to make your statement and then be questioned, we would be glad to do that.

Secretary WIRTZ. No preference on it at all. We have very great interest in this particular bill, and I shall be glad to wait.

Mr. THOMPSON. Well then, I think that the original suggestion is good.

Secretary WIRTZ. I think there will be some economy from the committee's standpoint.

Mr. Chairman and members of the committee, I am exceedingly grateful for the opportunity to appear here today in support of a plain and straightforward proposition, and it is simply this: that when a person works, the payment ought to depend on the work that is done and not on whether it is done by a man or a woman. I especially wish to compliment—hoping that it is not presumptuous to do so—you, Mr. Chairman, and Mrs. Green, not only for introducing the administration's proposed Equal Pay Act, H.R. 4269 and H.R. 3861 and for the other bills, but also for the very vigorous leadership which has been exercised here for improving our labor standards.

This present proposal is, in our judgment, a vital link in our continuing effort to eliminate discrimination, to protect those whose economic position is weak, and to advance competition based upon efficiency rather than on exploitation.

I should like to say, right at the outset, that I appear here in no sense of gallantry, if you will, and I hope we can remove that whole element from this discussion right at the start. We are talking here about an economic problem. It has elements of human justice in it, elements of fairness and equality of treatment, elements of propriety, if you will. But I am talking here, if I may emphasize this point, about an economic problem, about economic matters of competition, of avoiding exploitation, and I should like to cast my statements in that role.

I didn't ever expect to apologize for being in a position where gallantry wasn't in order, but I think it is important that we get it on that basis, and that is the spirit in which I approach you.

This bill states the very simple principle that men and women should be paid equal rates for equal work by the same employer. A woman is entitled to the assurance that the pay for the work she performs does not contain any element of unfair discrimination because of her sex.

And again, Mr. Chairman, as you, in your opening remarks noted, this bill does work both ways. I have cast my testimony in terms of the point of its most typical application, which will be to prevent discrimination against women.

Now, this idea of eliminating unfair discrimination is by no means a new principle. It has been endorsed for many years by labor, by leaders in both political parties, and by numerous business organizations and spokesmen.

It is interesting that the principle is also widely accepted abroad. The International Labour Organization, of which we are a member,

provides, in its constitution, that "men and women should receive equal remuneration for work of equal value." Thirty-eight countries have ratified an ILO convention which sets up standards and procedures for establishing equal pay, in fact as well as in principle.

It is interesting that the European Common Market agreement, the Rome Treaty, also carries a specific provision for equal pay.

This principle is explicitly recognized in many collective bargaining agreements. Even in cases where unions are not present, many employers have, on their own accord, adopted the principle of equal pay in setting pay schedules.

The broad acceptance of the general principle is easy enough to understand. Everyone recognizes that it is simple justice to pay workers in accordance with their work performance without regard to such personal factors as age or sex. Everyone also recognizes that a product made by a woman is never labeled "made by a woman" and sold at a lower price; the marketplace does not differentiate.

Now, it is an obvious corollary from this that it is unfair and dishonest to downgrade the pay of women simply because their bargaining power is weak. Frequently, the woman worker has less mobility geographically, and fewer resources to fall back upon, should she seek to hold out for a more equitable rate of pay. The savings to the employer in the bargain rates are often illusory, since discrimination in regard to pay has a demoralizing effect upon the workers affected.

Unfortunately, however, the standards which we accept in principle are, in a disturbing number of cases, not put into practice. Mrs. Peterson will document this situation for you in considerable detail, so that there will be no doubt and no mistake as to the nature and importance of the problem.

The continuing existence of this unfair practice undermines the standards adhered to by the great majority of employers. Competition is the lifeblood of our economy. But it is only the means to an end—a better economy—and we have, therefore, accepted and firmly embedded in the law specific restrictions upon competition. Competition cannot be dishonest. It cannot be unfair. It cannot be based on the exploitation of labor. To be effective, competition must be based on efficiency, service, careful buying, intelligence, aggressive salesmanship, innovation, and hard work.

There is no question but that exploitation of labor and unfair competition exist in the form of paying women less than men receive for the same work for the same employer. That this, in turn, forces some employers who do not approve of the practice to engage in it is also true. The fair employer, and the one who seeks to be fair, must be protected. That is already an established maxim in this country. In establishing that protection, the present proposal takes care not to go beyond the elimination of the evil—it is addressed only to individual employers, refers only to rates paid by the individual employer, and in no way affects rates as between different employers.

An additional danger in permitting unequal pay practices to continue lies not only in its perpetuation of inequities and not only in its effect, through competition, upon fairminded employers, but also in its effect—again through competition—upon the overall labor market. With our national labor force rising rapidly, and with our job opportunities expanding at a slower pace than in the first postwar decade, some employers may well be tempted to take advantage of

labor surpluses. When an employer can get by with substandard rates of pay for women, existing pay scales and labor standards are endangered.

Allowing the inequities to continue, in the context of current unemployment rates and the rising number of women in the labor force, can well result in a weakening of the voluntary gains already achieved, with pay discrimination becoming more severe. In earlier postwar years, when the labor market was relatively tight, when unemployment was considerably lower than it is today, the need for legislative action was not particularly obvious; it is very much so today.

The question before this committee, it seems to me, is not so much the validity of the principle but how to see to it that it is put into the widest possible practice, not only on grounds of justice and progressive labor standards but also on the grounds of maintaining and preserving healthy competition.

Reliance upon individual employer responsibility alone is not enough; Mrs. Peterson's data will show that. Collective bargaining, similarly, is not enough. Of the 24½ million women in the labor force today, 21 million do not belong to a union, and consequently are less able to establish the principle of equal pay for equal work.

Nor can the States, acting separately, do the job. Twenty-two States have already embodied this principle into legislation; a majority of the women workers are located in these States. Hopefully, this might mean that no congressional action is necessary. Unfortunately, however, examination of State laws and State enforcement activities makes it clear that action by the States is simply not sufficient.

Only action at the Federal level can prove effective. I feel that it will not be an expensive or particularly difficult action to persuade the minority of employers to adhere to the standards set by the majority.

This legislation is not particularly new in concept—it is within the framework of the already accepted principle that substandard working conditions should be eliminated by establishing nationwide standards. Nor is it particularly original—for legislation was proposed in Congress as far back as 1945, and both Houses actually passed a similar bill last year. What makes it important at present is that it would close a gap in our labor standards legislation, a gap which ought to be closed in justice and fairness and which, if not closed, can conceivably result in a major tear in the fabric of labor standards which we have built up over the years. It would close that gap in a moderate and flexible manner, allowing adequate time for adjustment and adequate play for special circumstances.

In conclusion, I should like again to emphasize what seems to me the necessity of consideration of this problem devoid of any subscription to the two myths which I think seem to haunt it.

The first I have already referred to.

This matter is too often cast in terms of prejudice, propriety, or politics and gallantry, or something of the sort. It isn't. It is a matter of exploitation. It is a matter of preserving the competition. It is a matter of good business.

And then there is a second set of considerations that sometimes, it seems to me, dilutes the importance of the conversation in this area. There is a feeling around that women represent a marginal element in the work force, a feeling on the part of some people that their being there is a detriment to other parts of the work force.

The facts on that have got to be dead clear.

The facts are that today one-third of the working force in this country is women. The proportion is rising very rapidly. A great many of the women are in the work force because they are the heads of families, or because they are members of families where the man in the family is unable to support the family.

This is not a matter of presenting opportunity for somebody to pick up pin money. It is a matter of preserving a fair opportunity for someone to exercise a choice which ought to be hers to discharge what is often a basic, key financial responsibility.

With that, Mr. Chairman, if it is within the committee's convenience, I should be glad to turn to Mrs. Peterson and then we could take your questions together.

Mrs. PETERSON. The chairman's bill, H.R. 4269, and Mrs. Green's bill, H.R. 3861, which are companion bills, would increase women's share of our bounty by safeguarding their wage rates when they are performing work equal in skill to that performed by men.

These bills are similar to our proposal in the last Congress. We think they are moderate in their approach and that they are flexible. If the proposal is passed, it would not go into effect for 4 months. Two years would be allowed from the effective date to remove wage differentials through gradual adjustment. In addition, justifiable differentials stemming from length of service or merit systems would be allowed to remain. And most importantly, the bill contemplates and expressly provides that the Secretary of Labor shall endeavor to secure compliance by conciliation and persuasion. Only when their efforts have failed would the enforcement provisions of the bill be used.

The enactment of these bills would have the immediate effect of establishing a Federal standard for employees covered by the law calling for equal pay for equal work irrespective of sex. Its practical effect, we believe, would extend far beyond its legal perimeter. It would complement existing State equal pay laws, support the establishment of equal pay in collective bargaining agreements, promote voluntary adherence by employers in intrastate commerce, and help lessen unfair competition among employers. Further, it would increase the prestige of the United States among the nations of the world.

The Federal Government compensates its employees in accordance with the principle of equal pay for equal work. The principle was first written into law in 1870 but was not fully implemented until the Classification Act of 1923 established a uniform system of job grades and salaries. Therefore, the principle of equal pay for equal work is well preceded by Federal experience.

To assess the importance of the safeguards which the proposal intends, I want to indicate the place of women, primarily those who work, in our Nation today.

Women are not a minority in the population. In 1962, there were 66½ million women of working age—about 3½ million more than the number of men.

An average of 24½ million women are in our labor force. They comprise one-third, as the Secretary pointed out, of the total force. In 1900, 5 million women were employed—less than 1 in 5 of all workers. In a period of a little more than half a century the number of men in the labor force doubled, while the number of women in-

creased fourfold. The Department of Labor estimates that the U.S. labor force will grow nearly 20 percent in the decade of the sixties. Approximately half of the additional number will be women.

Going into a little more detail of the points that the Secretary made, there are close to a million, nine-tenths actually, working women who had husbands at the last count who were not employed, primarily because they were retired or disabled.

The proportion of working wives is materially higher among families in the low-income groups. In 1962, 33 percent of the wives worked in families where the husband's annual income was less than \$3,000; 37 percent, where the husband's income was between \$3,000 and \$5,000; and 26 percent, where it was \$7,000 or over. And the statistics indicate the percentage that the larger proportion of women work in the low-income brackets, and as the husband's salary increases, the proportion drops, and, of course, the largest number, as I pointed out, are the women who are working in the low-income brackets, and I think it is needless to say that these women are not working for pin money.

Widowed and separated women are often the only wage earners in some families, and many single women and some married women carry the entire responsibility for family support. In 1962, women were the heads of 4.6 million families, i.e., one-tenth of all families in the United States.

There are about 8 million mothers who work outside the home. The largest proportions of mothers with a paid job are those whose husbands have low incomes. For example, of the mothers with children under 6 years old, about 1 in 4 worked when the husband's income in 1962 was under \$3,000 but 1 in 8 when it was \$7,000 or over.

Studies of the economic responsibilities of women show that women work for the same reasons that men do, to support themselves and their dependents. Women's earnings, in many families, are a substantial factor in meeting living costs.

Women's earnings accounted for 40 percent of family incomes.

Married women accounted for over one-half of the total number of women workers in 1962. Nearly 1 in every 3 married women was in the labor force in 1962 as compared with 1 in 9 in 1910.

Today women are employed in virtually all occupations. The great majority of these occupations, like industrial processes, are not by their nature exclusively "men's work" or "women's work." But some occupations are traditionally so regarded, and lower wage rates are paid for the work to which women are relegated. But changes are occurring, heavy lifting and arduous work are more and more frequently being done by mechanical means and machine power. Given necessary training and opportunities for employment, women are capable of performing nearly any kind of job.

I had the experience the other day of a young wisp of a girl coming and saying that she wanted a job as a truckdriver; and I said, "You can't possibly handle a truck." And she said, "With power steering and power brakes, I handle it much better than my husband does. I drive his truck all the time." But the differences are disappearing.

But women are not fully appreciated in their wage-earning role. They are valued as members of our society but devalued as members of our working force. The average earnings are lower for women than for men in almost every occupation for which area survey data

are available. The disparity between the income and earnings levels of women and men, moreover, has tended to widen in recent years. This tends to demonstrate the fallacy of the statement that the unequal pay handicap is being removed so rapidly that there is no need for Federal equal pay legislation.

Enlightened and progressive employers do not hold the conviction that there is a rationale to support unequal pay practices and they accordingly, in most instances, follow a rate for the job policy. I do not intend, for a minute, to fail to give them credit for their fair play, nor to fail to mention the disadvantage they encounter when competing with the employers who do use a double standard pay structure.

In some firms, unequal pay practices are acknowledged; in others they are concealed; and in others employers may not be aware that they are practicing it, so deeply embedded in our society is the custom of not putting the same economic value on the work of women as on the work of men. Sometimes the practice may come to light only when it becomes a collective-bargaining issue.

In two recent nongovernment sample surveys, significant proportions of employers acknowledge the existence of some wage or salary inequality. About one-third of the employers in one survey admitted they had a double standard pay scale for male and female office workers. In the other, about one-fifth of the employers questioned about salary practices affecting men and women in high-level positions said they did not follow a uniform practice of paying the same salaries.

Alarmingly, the pattern of devaluating women's wage rates is also apparent in the new industries, such industries of the future as synthetic textiles and plastics. This circumstance also refutes the expressed opinion that time will cure the inequities of unequal pay structures. The spread of basically unfair wage structures, even more than the perpetuation of existing ones, gives me the most serious concern.

I am filled with dismay at the thought that our college girls, now diligently applying themselves in meeting the highest standards of academic excellence, in many cases will have to face, in their future work, the disheartening experience of job rejections because of being a woman, and of dual pay scales with themselves at the low end.

Notwithstanding the vast social changes that have taken place in the United States since the beginning of this century and the acknowledged contributions of women to these changes, the chances are good for anyone's daughter, in her first job, to encounter the prejudiced spirit of years past which still stalks our world.

A survey of the Wall Street Journal of employment prospects for young women in 1962 leaves little doubt. The Journal's survey covered 30 college placement officials and 50 corporation personnel executives. It showed that, while the business upturn at that time means some new jobs for women, they would not benefit nearly as much as would men graduates from improvement in business. The Journal's report states:

Young women, winding up their college studies this spring, will find more jobs to choose from than last year's graduates did. But lingering sex barriers and fierce competition in some popular fields will force many of the graduating coeds to settle for less attractive positions than they had hoped for. * * *

Starting salaries for women will edge upward this year but will still lag by \$50 to \$100 a month behind offers to men for equivalent positions * * *

A recent university survey of 1962 graduates shows monthly starting salaries ranging from \$220 to \$550 for women but from \$260 to \$1,000 for men.

Even in the manpower shortage fields of mathematics and the sciences, signal differences are found in salaries paid men and women. And also in the lowest paid group of workers in the United States—service workers—women have the short end of the stick.

Because I do not want to dwell at length, in my testimony, upon statistics, I am submitting supplementary material as an attachment. I do, however, wish to discuss some comparative earnings which give some insight into the disadvantaged position of women.

This attachment that I have is called the Economic Indicators, which is attached to the statement.

MR. THOMPSON. I think, without objection, Mrs. Peterson, that we will make the Economic Indicators a part of the record.

MRS. PETERSON. Thank you.

MR. THOMPSON. There being no objection, it is so ordered.
(Economic Indicators follow:)

ECONOMIC INDICATORS RELATING TO EQUAL PAY, 1963

INTRODUCTION

The principle of paying men and women equal rates for equal or comparable work has been endorsed for several decades by many business, labor, and Government representatives in the United States. It was the guiding policy of the war labor boards during World War I and World War II, and of the wage and salary stabilization boards during the Korean war.

At the beginning of 1963, equal-pay laws are in effect in 22 States. A majority of the women workers are located in these States. However, in some States equal-pay laws exempt certain groups, such as domestic workers, agricultural workers, or public employees, and in other States, coverage is limited to workers in specific industries. As a result, not all the women workers in equal-pay States are covered by law. In States without equal-pay laws, women workers have only such protection as is provided by labor-management contracts and voluntary policies of individual employers. No nationwide estimate, therefore, can be made either of the number of men and women doing comparable work or of the extent to which they are receiving equal pay.

Since prevailing wage-rate data for men and women are not available on a plant-by-plant and job-by-job basis, it is useful to analyze various salary and earnings studies which have been made. From the summaries which follow, we are able to gain some insight into existing pay inequities.

JOB HIRING ORDERS

When reporting job vacancies to employment offices, employers sometimes list a vacancy with a single job title but with a higher hiring rate for men than for women. About 91 examples of job orders with wage differentials were found by Women's Bureau representatives who visited public employment offices in nine cities in 1963. A majority of the job orders examined, however, indicated that employers desired either "men only" or "women only" for a specific job opening. Many other job orders, of course, listed one job title and one job rate, without any sex preference.

Hiring orders with wage differentials based on sex covered a variety of occupations, but well over half were for clerical, service, or sales jobs. Probable reasons for this concentration are such factors as the kinds of jobs for which both men and women are hired, the prevalence of piece rates for many factory jobs, and different practices which employers follow in seeking various types of workers.

Table 1 is based on job orders on file in nine public employment offices and lists selected examples of jobs with wage differentials based on sex. In about one-third of the orders the wage differential amounted to 10 percent or less of the men's rate; in over one-half of the orders, 11 to 25 percent; and in the remaining orders, 26 percent or more.

TABLE 1.—Selected job hiring orders with wage differentials in 9 cities, 1963

Job title	Industry	Hiring rate		Pay period	Percent wage differential is of men's rate
		Women	Men		
CITY A					
Cashier.....	Dairy.....	\$55.00	\$60.00-\$65.00	Week...	8-15
Hospital aid.....	Hospital.....	160.00	190.00	Month.....	16
Kitchen helper.....	Restaurant.....	.75	.90- 1.00	Hour.....	17-25
Salesclerk.....	Retail trade.....	40.00	65.00	Week.....	38
CITY B					
Clerk-typist.....	Chemical manufacturing.....	3,000.00	3,600.00	Year.....	17
Cook.....	Cafeteria.....	30.00	45.00	Week.....	33
Dining room attendant.....	Hospital.....	2,470.00	2,626.00	Year.....	6
Hospital aid.....	do.....	2,184.00	2,626.00	do.....	17
Physical technician.....	do.....	3,263.00	3,705.00	do.....	12
CITY C					
Accounting clerk.....	Insurance.....	51.00- 58.00	55.00- 60.00	Week.....	3-7
Do.....	Meat packing.....	65.00- 70.00	75.00- 80.00	do.....	10-13
Do.....	Metal manufacturing.....	210.00-260.00	250.00-275.00	Month.....	5-16
Do.....	Publishing.....	50.00- 55.00	65.00- 70.00	Week.....	21-23
Do.....	Transportation.....	58.00- 70.00	64.00- 80.00	do.....	9-13
Do.....	do.....	1.45	1.80	Hour.....	19
Assembler (electrical).....	Electrical manufacturing.....	1.25	1.40	do.....	11
Assembler (floor).....	Metal manufacturing.....	1.15	1.40	do.....	18
Do.....	do.....	1.185	1.545	do.....	23
Do.....	do.....	1.50	1.65	do.....	9
Billing clerk.....	do.....	210.00-260.00	250.00-275.00	Month.....	5-16
Bookkeeper.....	do.....	210.00-260.00	250.00-275.00	do.....	5-16
Cashier.....	do.....	210.00-260.00	250.00-275.00	do.....	5-16
Glazier.....	do.....	1.50	1.95	Hour.....	23
Machine operator (Addressograph).....	Publishing.....	46.00- 50.00	54.00- 60.00	Week.....	15-17
Machine operator (billing).....	Paper products manufacturing.....	1.60- 1.80	1.75- 1.90	Hour.....	5-9
Do.....	Metal manufacturing.....	210.00-260.00	250.00-275.00	Month.....	5-16
Machine operator (bookkeeping).....	do.....	210.00-260.00	250.00-275.00	do.....	5-16
Machine operator (general).....	do.....	1.185	1.545	Hour.....	23
Order clerk.....	Machinery manufacturing.....	56.00- 60.00	100.00	Week.....	40-44
Price clerk.....	Paint manufacturing.....	1.35	1.55	Hour.....	13
Punch press operator.....	Metal manufacturing.....	1.185	1.545	do.....	23
Do.....	do.....	1.30	1.75	do.....	26
Machine operator.....	do.....	1.25	1.50	do.....	17
Stock clerk.....	Meat packing.....	65.00- 70.00	70.00- 75.00	Week.....	7
Welder (combination).....	Metal manufacturing.....	1.185	1.545	Hour.....	23
CITY D					
Dishwasher (hand).....	Restaurant.....	18.00	20.00	Week.....	10
Manager (department).....	Retail trade.....	1.00	1.62	Hour.....	38
Do.....	do.....	1.00	1.50	do.....	33
Do.....	do.....	1.00	1.25- 1.62	do.....	20-38
CITY E					
Assembler.....	Electrical manufacturing.....	1.30	1.50- 1.75	do.....	13-26
Cashier.....	Retail trade.....	1.30	1.35	do.....	4
Grocery checker.....	do.....	1.30	1.35	do.....	4
Machine operator.....	Blueprinting.....	60.00	63.00	Week.....	5
Salesclerk.....	Retail trade.....	1.15	1.25	Hour.....	8
Do.....	do.....	1.15	1.25	do.....	8
Do.....	do.....	46.00- 56.00	63.00- 75.00	Week.....	25-27
Stock clerk.....	Retail trade.....	1.30	1.35	Hour.....	4
Teller.....	Banking.....	50.00	60.00	Week.....	17

TABLE 1.—Selected job hiring orders with wage differentials in 9 cities, 1963—Con.

Job title	Industry	Hiring rate		Pay period	Percent wage differential is of men's rate
		Women	Men		
CITY F					
Assembler.....	Ordinance.....	\$1.75	\$1.90	Hour....	8
Clerk-typist.....	Hospital.....	45.00	54.00	Week....	17
Do.....	do.....	45.00	50.00	do.....	10
Cook.....	Country club.....	65.00	70.00	do.....	7
Detective (store).....	Business service.....	1.25	1.35	Hour....	7
Packer.....	Miscellaneous manu- facturing.....	1.15	1.25	do.....	8
Salesclerk.....	Retail trade.....	1.25	1.50	do.....	17
Do.....	do.....	1.00	1.25	do.....	20
Do.....	do.....	1.00	1.25	do.....	20
CITY G					
Billing clerk.....	Textile manufactur- ing.....	50.00	55.00- 60.00	Week....	9-17
Clerk-typist.....	Beauty service.....	75.00	85.00	do.....	12
Counterworker.....	Retail trade.....	45.00	55.00	do.....	18
Do.....	do.....	45.00	55.00	do.....	18
Presser (machine).....	Drycleaning.....	1.35	1.55	Hour....	13
Salesclerk.....	Retail trade.....	50.00	65.00	Week....	23
Do.....	do.....	1.50	1.75	Hour....	14
Teletype operator.....	Communications.....	325.00	335.00-350.00	Month....	3-7
CITY H					
Clerk, general office.....	Transportation.....	1.75	2.00	Hour....	13
Salesclerk.....	Retail trade.....	35.00	35.00	Week....	53
Stock control clerk.....	Wholesale trade.....	60.00	80.00	do.....	25
CITY I					
Cook.....	Restaurant.....	1.25	1.50	Hour....	17
Production worker.....	Food manufacturing.....	1.25	1.50	do.....	17
Machine operator.....	Metal manufacturing.....	1.25	1.40	do.....	11
Punch press operator.....	do.....	1.25	1.40	do.....	11

LABOR-MANAGEMENT CONTRACTS

Labor-management contracts sometimes include provisions which guarantee equal pay to men and women doing the same or comparable work. Such provisions may be in the form of an equal-pay clause, a schedule of job rates, a job evaluation system, or some combination of the three. Some contracts make no mention of equal pay because no or very few women are employed by the signatory establishment; in other cases, a clause may be considered unnecessary because most of the workforce consists of women.

Equal-pay clauses usually state that the principle of equal pay for equal work shall be adhered to. Sometimes they expressly prohibit wage discrimination based on sex. In a special analysis of collective bargaining agreements made by Women's Bureau representatives in 1956, equal pay was specifically mentioned in about two-fifths of the contracts studies. The key contracts (those covering 1,000 employees or more) had a slightly higher proportion of equal-pay clauses than other contracts. In the electrical products industry, where large numbers of women production workers are employed, equal pay for equal work was specified in more than half the union agreements studied.

Typical examples of some equal-pay clauses follow:

"The parties hereto agree that the wage structure herein set forth is fully in accord with the principle of equal pay for equal work regardless of sex; and agree further to recognize and apply the principle of equal pay for equal work regardless of race, color, or creed."

"It is agreed that there shall be equal pay for equal work, regardless of sex or age."

Most collective bargaining agreements which include a schedule of job rates indicate that a single rate or rate range is to be paid for each job, regardless of the sex of the worker. Some of these contracts do not actually mention the phrase "equal pay", although some warn against discrimination. Illustrative contract provisions follow:

"The established rate of pay for each production or maintenance job, other than a trade or craft, apprentice, or learner's job as defined in paragraph 1 of this subsection B, shall apply to any employee during such time as the employee is required to perform such job."

"There shall be no discrimination by reason of age, sex, creed, color, or nationality, and all employees will be paid on the established base rate, hourly rate, or rate range for the job assigned except as otherwise provided in this agreement."

At some companies, a job evaluation system has been incorporated into the labor-management contract. As the wage or salary rate is by definition based on an objective evaluation of the skills and other requirements of each job, there may be no reference to the sex of the worker. Examples of clauses in contracts providing job evaluation follow:

"Job descriptions shall be agreed upon by the union and the management before the evaluation committee begins its work."

"An equitable wage plan has been scientifically developed by the company for all wage job classifications through the recording of the elemental values of each separate job and their fair evaluation in reference to the elemental values of every other job."

The absence of an equal pay provision does not indicate, of course, that unequal pay for equal work is either permitted or of no concern to the parties involved, since the principle may be voluntarily or unanimously accepted outside the written agreement. On the other hand, the presence of an equal pay provision does not necessarily insure equal pay practice. Important factors which influence the effectiveness of an equal pay provision include the method used in setting rates and the contract enforcement policy.

A few labor-management contracts set a man's rate and a woman's rate for the same job, or specify different methods of determining job rates for men and women. Examples follow:

Different hourly wage rates are listed for men and women in a contract with a long job rate list but few jobs covering both men and women. The jobs with differentials follow: Male material handlers, \$1.96; female material handlers, \$1.76; male janitors and sweepers, \$1.81, female janitresses, \$1.71, male cutter, second class, \$2.01, female cutter, \$1.91; male inventory, \$2.06, female inventory, \$1.76.

"New employees will come under the starting rates and base rates as indicated below: Female—first 30 days, \$1.805, thereafter, \$1.950; male—first 30 days, \$1.960, thereafter, \$2.015."

"Effective July 1, 1962, all male employees in the employ of the members of the association on that date shall receive a wage increase of 7½ cents per hour. Effective July 1, 1962, all female employees in the employ of the members of the association on that date shall receive a wage increase of 6¼ cents per hour."

PAY PRACTICES OF EMPLOYERS

Two private surveys in which employers were questioned whether or not they provide equal pay for equal work, give some indication of how employers view their own pay practices. In both surveys, significant proportions of employers acknowledged the existence of some wage or salary inequality.

As a result of a survey of more than 1,900 employers in the United States and Canada, the National Office Management Association has reported ¹ the following question and answers:

"Do you have a double standard pay scale for male and female officeworkers?"

	Percent
Yes.....	133
No.....	66
No answer.....	1

¹ These employers were probably all in the United States, since Federal and provincial laws requiring equal pay for equal work cover virtually all employers in Canada.

A mail questionnaire survey conducted by two university professors ² was focused on salary and personnel practices affecting men and women in high-level positions in business, industry, and education. A total of 120 firms located in 20 States

¹ "Factor of Sex in Office Employment" in the February 1961 issue of Office Executive.

² Preliminary information from an unpublished study "Men and Women in Executive Positions, a Comparison of Salary and Other Personnel Policies and Practices," by Lola B. Dawkins of Arizona State University, and E. Lanham of the University of Texas.

participated in the survey; they included manufacturers, oil companies, insurance firms, banks, universities, and department stores.

When questioned whether they always pay women the same salary as men if they both have the same position, the companies who responded answered as follows:

	Number	Percent
Always pay the same.....	65	83
Never pay the same.....		
Sometimes pay the same.....	13	17

The report of the university professors includes the following statement:

"Variations in practice from the policy of equal pay for women, even though the policy is favored, are explained as due to the factor of permanency (there is a relatively high rate of turnover among female employees for reasons of marriage, housekeeping, and family responsibilities) and the existence of jobs for which men are better suited (in which case the distinction in salary is primarily a difference in individuals rather than a difference based on policy)."

The comments contained in the above quotation may be viewed as individual interpretations, since there is no generally accepted proof that women in high-level positions have higher labor turnover than men, and since the jobs being compared were, by definition, similar—regardless of whether or not men were better suited to them.

ANNUAL WAGE AND SALARY INCOME

The wage and salary income data reported annually by the Bureau of the Census provide an overall view of the differences in pay levels of men and women. These differences are related primarily to the different types of jobs men and women hold, but they reflect also a variety of other factors, including amount of education and work experience, industry of employment, size of company, location of plant or office, and even wage differentials based on sex.

Among year-round full-time workers, women have earned, on the average, less than two-thirds as much as men during each of the past 7 years (1955–61). In 1961, women's median income of \$3,351 amounted to \$2,293 less than men's. Table 2 shows the median income of men and women for the years 1955–61 and the percentage that women's income was of men's.

TABLE 2.—*Wage or salary income of women and men, 1955–61 (year-round full-time workers)*

Year	Median wage or salary income		Percent women's income of men's
	Women	Men	
1961.....	\$3,351	\$5,644	59
1960.....	3,293	5,417	61
1959.....	3,193	5,209	61
1958.....	3,102	4,927	63
1957.....	3,008	4,713	64
1956.....	2,827	4,466	63
1955.....	2,719	4,252	64

Source: U.S. Department of Commerce, Bureau of the Census.

Even for the same major occupational groups, there are substantial differences in men's and women's earnings. In 1961, the greatest difference existed in the median earnings of men and women salesworkers. The relatively best situated were the women clerical workers, who averaged almost seven-tenths as much as men clerical workers. Comparative earnings of men and women in the same major occupational groups are shown in table 3.

TABLE 3.—*Earnings of women and men in selected occupations, 1961 (year-round, full-time workers)*

Occupational group	Median earnings		Percent women's earnings of men's
	Women	Men	
Salesworkers.....	\$2,391	\$6,021	40
Managers, officials.....	3,411	6,977	49
Service workers (except private household).....	2,302	4,322	53
Operatives.....	2,951	5,150	57
Professional workers.....	4,875	7,468	65
Clerical.....	3,719	5,355	69

Source: U.S. Department of Commerce, Bureau of the Census.

Occupational distributions of men and women workers

Although women are employed in almost every occupation, a large proportion of women are employed in a relatively small number of occupations, with only a few women in the remaining job array. To a large extent, women have different types of jobs than men. For example, over half of the women workers in 1962 were engaged in clerical or service work (including private-household work), whereas over half of the men workers were operatives, craftsmen, or managerial workers—as indicated in table 4.

TABLE 4.—*Major occupational groups of men and women workers, 1962*

Occupational group	Numbers (in thousands)		Percent distribution		Women as percent of all workers
	Women	Men	Women	Men	
All workers.....	22,954	44,892	100	100	34
Professional workers.....	2,865	5,175	12	12	36
Managers, officials.....	1,132	6,276	5	14	15
Clerical workers.....	6,963	3,144	30	7	69
Sales workers.....	1,699	2,646	7	6	39
Service workers.....	3,462	2,999	15	7	54
Operatives.....	3,377	8,664	15	19	28
Private-household workers.....	2,281	60	10	(1)	97
Craftsmen.....	223	8,455	1	19	3
Farmers.....	132	2,463	1	5	5
Farm laborers.....	731	1,540	3	3	32
Laborers.....	90	3,469	(1)	8	3

¹ Less than 0.5 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

OCCUPATIONAL EARNINGS OF SELECTED GROUPS

Occupational wage surveys conducted by the Bureau of Labor Statistics provide information on average earnings of men and women in selected occupations. In evaluating this information, it is important to remember that the averages shown do not relate to any particular establishment. Differences in average earnings for men and women in a given area may reflect variation in the following: (1) In the distribution of men and women among establishments (and among industries in the case of office clerical jobs); (2) in job content, since the job descriptions used in wage surveys are usually more generalized than those in individual establishments; or (3) in amounts of work experience or length of service.

In order to decrease wage variations arising from differences in incentive earnings, industry combinations, or geographical locations, the following data are presented for jobs paid on a time basis only, for firms engaged in similar activities, and for the smallest geographical area possible.

To what extent these figures reflect unequal pay for identical or comparable work cannot be determined. Nevertheless, they do serve as striking examples of the lower level of women's earnings.

White-collar workers

Salaries of clerical workers are especially pertinent for consideration because of the fact that 7 million women and 3.1 million men were engaged in clerical work in 1962. It appears that clerical occupations represent one of the most important areas where lower pay for women than men is found.

The Bureau of Labor Statistics annually collects salary data for selected clerical groups in major metropolitan areas. In the winter of 1958-59, a special analysis was made of comparative job earnings in the survey establishments which employed both men and women in the same job categories. The analysis covered six office jobs and three plant jobs. Although the pay comparisons were confined to identical establishments, the remaining differences are at least partially accounted for by differences in workers' positions within rate ranges, in length of service, and in actual duties within the limits of the job descriptions.

From one-fifth to two-fifths of the establishments studied reported higher average earnings for women than for men in the same office jobs. About one-tenth of the establishments had fairly similar average earnings for men and women in five of the six office jobs. (Relatively more of the office boys and girls had similar averages.) Thus, in a majority of the survey establishments, women averaged less than men in five of the six office jobs. The difference generally exceeded \$8 a week, as may be noted in table 5.

TABLE 5.—*Distribution of establishments by relationship between establishment averages for men and women in selected office occupations, 20 labor markets, winter 1958-59*

Relationship of women's weekly earnings to men's	Accounting clerks, class A	Accounting clerks, class B	Order clerks	Payroll clerks	Office boys or girls	Tabulating-machine operators
Total number of establishments.....	748	603	207	317	376	472
Establishments with women's average higher than men's ¹	170	182	43	91	112	176
\$20 or more.....	5	6	2	7	3	5
\$18 to \$20.....	2	2	1	1	1	2
\$16 to \$18.....	2	4	-----	4	2	5
\$14 to \$16.....	6	4	-----	5	2	3
\$12 to \$14.....	9	6	2	6	6	5
\$10 to \$12.....	14	10	4	5	6	17
\$8 to \$10.....	12	8	3	10	5	13
\$6 to \$8.....	23	16	9	9	17	24
\$4 to \$6.....	35	35	4	15	25	30
\$2 to \$4.....	40	60	10	19	26	48
\$1 to \$2.....	22	31	8	10	19	24
Establishments in which difference was less than \$1.....	91	81	18	30	108	43
Establishments with men's average higher than women's ¹	487	340	146	196	156	253
\$1 to \$2.....	36	24	4	14	27	20
\$2 to \$4.....	58	61	10	19	46	41
\$4 to \$6.....	51	57	15	18	24	33
\$6 to \$8.....	63	37	7	14	14	26
\$8 to \$10.....	52	44	8	21	13	26
\$10 to \$12.....	44	32	11	13	14	21
\$12 to \$14.....	35	23	13	14	7	20
\$14 to \$16.....	26	15	11	19	6	11
\$16 to \$18.....	24	13	8	10	-----	12
\$18 to \$20.....	22	8	9	7	4	13
\$20 or more.....	76	26	50	47	1	30

¹ Limited to establishments in which the difference in average weekly earnings is \$1 or more.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Another representative group of white-collar workers are bank tellers, for whom salary data were collected by the Bureau of Labor Statistics in 1960. Even though the salary data were separated by the length of experience of the tellers and the type of work done, women's average earnings were consistently lower than men's.³ For example, table 6 shows that women note tellers with under 5 years' experience typically averaged \$5 to \$15 a week less than men in the same occupational group:

TABLE 6.—Comparison of average weekly earnings of women and men note tellers (under 5 years' experience), May-July 1960

Area ¹	Number of workers		Average weekly hours		Average weekly earnings		
	Women	Men	Women	Men	Women	Men	Difference ²
Atlanta.....	27	6	39.0	39.0	\$67.00	\$72.50	—\$5.50
Boston.....	44	13	35.5	36.5	69.00	77.00	—8.00
Chicago.....	26	66	39.5	39.0	78.50	89.50	—11.00
Dallas.....	21	11	40.0	40.0	64.00	79.50	—15.50
Denver.....	56	6	40.0	40.0	63.00	91.00	—28.00
Detroit.....	7	7	40.0	37.5	64.50	73.50	—9.00
Houston.....	27	23	40.0	40.0	69.50	89.00	—19.50
Kansas City.....	16	12	40.0	40.0	63.50	74.50	—11.00
Los Angeles-Long Beach.....	289	102	40.0	40.0	77.00	82.50	—5.50
Miami.....	31	19	38.5	39.0	62.50	68.00	—5.50
Milwaukee.....	22	14	39.5	39.5	63.50	94.50	—31.00
Minneapolis-St. Paul.....	27	15	39.5	40.0	65.00	88.50	—23.50
Newark-Jersey City.....	44	41	36.0	36.0	72.00	80.00	—8.00
New York City.....	21	125	37.0	36.5	75.00	80.50	—5.50
Providence.....	17	12	36.0	37.0	54.00	66.00	—12.00
St. Louis.....	19	16	37.5	36.5	62.50	80.00	—17.50
San Francisco-Oakland.....	60	68	40.0	40.0	71.50	81.50	—10.00
Seattle.....	43	16	39.5	40.0	67.50	85.00	—17.50

¹ Includes all survey areas in which both men and women in this occupation were paid on a time basis.

² Refers to the amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Comparisons of average weekly earnings may also be made for women and men employed in similar white-collar occupations by life insurance companies with home offices or regional head offices in selected cities. The data obtained by the Bureau of Labor Statistics in June 1961 are shown in table 7. In the majority of instances where comparisons are possible, the men's average exceeded the women's average by \$8 to \$20 a week.

Annual salaries for men and women employed in professional occupations in government and voluntary agencies for the blind are shown in table 8. The Bureau of Labor Statistics bulletin which reported the salary data collected in May 1961 contained the following analysis:

"Median salaries for men in all agencies combined were higher than for women in 14 of the 16 occupational categories in which comparisons could be made. In the five categories with the highest employment—grade school teachers, vocational counselors, caseworkers, home teachers, and secondary school teachers—median salaries for men were 1.3, 3.2, 4.2, 1.1, and 11.1 percent, respectively, above those for women. Separated by type of agency, salary levels of men also were higher than for women in a majority of the occupations in which comparisons could be made in both government and voluntary agencies."⁴

Service workers

There are about 3.5 million women and 3 million men classified as service workers (excluding private-household workers). Earnings data for service workers have been collected by the Bureau of Labor Statistics in selected service industries, including power laundries, hotels, hospitals, and eating and drinking places.

³ In this report, the data are combined for all banks in each survey area. Thus, as stated previously, the differences in earnings are partially accounted for by variations in wages between small and large establishments, in job content, and in length of service.

⁴ U.S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 1322, "Salaries for Selected Occupations in Services for the Blind, May 1961," p. 3.

Tables 9, 10, 11, and 12, which present wage comparisons in these industries for occupations employing both men and women workers on a time basis, show marked wage differences favoring men.

TABLE 7.—*Comparison of average weekly earnings of women and men employed in home offices and regional head offices of life insurance companies, June 1961*

Occupation and area	Number of workers		Average weekly hours		Average weekly earnings		
	Women	Men	Women	Men	Women	Men	Difference ¹
Clerks, accounting, Class A:							
Chicago.....	54	6	38.0	38.0	\$92.50	\$96.00	—\$3.50
Dallas.....	23	7	39.0	39.0	72.50	84.00	—11.50
New York.....	132	41	35.5	35.5	87.50	97.00	—9.50
Clerks, correspondence:							
Class A:							
Chicago.....	27	21	37.5	37.5	89.50	113.50	—24.00
Hartford.....	14	20	37.0	36.5	105.50	113.50	—8.00
Class B:							
Dallas.....	48	11	38.5	39.5	64.00	83.00	—19.00
Hartford.....	29	9	37.0	37.0	75.50	84.00	—8.50
Clerks, policy evaluation:							
Chicago.....	62	25	37.5	37.5	71.00	90.50	—19.50
Dallas.....	46	8	38.5	38.0	63.50	79.00	—15.50
Programers, electronic data processing, class B: New York.....	21	38	36.0	36.0	124.00	129.00	—5.00
Tabulating machine operators class B: Chicago.....	13	54	38.0	37.5	77.50	82.50	—5.00
Underwriters:							
Class A: Minneapolis-St. Paul.....	6	8	38.0	38.0	130.00	150.00	—20.00
Class B:							
Boston.....	10	36	37.0	37.5	126.50	126.00	+ .50
Chicago.....	9	21	38.0	37.5	112.00	130.50	—18.50
Los Angeles-Long Beach.....	8	30	38.0	39.0	120.50	118.00	+2.50
Minneapolis-St. Paul.....	9	12	37.5	38.0	98.50	127.50	—29.00
Class C:							
Chicago.....	17	15	37.5	37.5	90.50	99.00	—8.50
Dallas.....	12	9	38.5	38.5	77.00	97.00	—20.00

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 8.—*Comparison of median annual salaries of women and men in selected occupations, agencies for the blind, 1961*

Occupation	All agencies		Government agencies		Voluntary agencies	
	Women	Men	Women	Men	Women	Men
Assistant directors, agencies for the blind.....	\$7,500	\$8,130	\$8,520	\$7,860	\$7,500	\$8,820
Caseworkers (social).....	5,180	5,400	5,520	5,700	4,860	5,200
Casework supervisors (social).....	6,500	7,020	6,700	7,020	6,500	7,020
Directors, agencies for the blind.....	6,500	7,800	8,770	8,360	6,240	7,750
Principals of residential schools.....	7,200	7,030	7,560	7,020	7,020	7,020
Superintendents of workshops for the blind.....	4,780	5,880	-----	6,190	4,680	5,710
Supervisors, sections for the blind.....	6,770	7,130	7,300	7,150	5,300	6,800
Teachers:						
Teachers of arts and crafts.....	4,360	4,250	4,680	4,200	3,490	4,840
Grade school teachers.....	4,450	4,510	4,530	4,580	4,200	4,000
Home teachers.....	4,510	4,560	4,740	4,510	3,900	4,810
Music teachers.....	4,500	4,630	4,550	4,820	3,990	3,580
Physical education teachers.....	4,350	4,660	4,350	4,680	-----	4,350
Secondary school teachers.....	4,680	5,200	4,770	5,200	4,500	4,400
Supervising teachers.....	5,400	6,020	5,370	6,020	5,400	-----
Vocational training teachers.....	4,120	4,740	4,530	4,920	3,800	4,500
Vocational counselors.....	5,350	5,520	5,360	5,520	-----	5,330

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 9.—Comparison of average hourly earnings of women and men workers in power laundries, June 1961

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Assemblers:					
Baltimore.....	108	21	\$0.91	\$0.87	+\$0.04
Chicago.....	233	90	1.22	1.30	— .08
Detroit.....	71	18	1.13	1.25	— .12
Newark-Jersey City.....	131	29	1.20	1.33	— .13
New York.....	150	92	1.23	1.35	— .12
Philadelphia.....	177	22	1.17	1.14	+ .03
Washington, D.C.....	90	21	1.07	1.11	— .04
Clerks, retail, receiving:					
Chicago.....	128	14	1.22	1.81	— .59
Newark-Jersey City.....	43	28	1.12	1.38	— .26
Washington, D.C.....	132	18	1.00	1.08	— .08
Identifiers:					
Boston.....	21	63	1.26	1.34	— .08
Chicago.....	98	90	1.11	1.34	— .23
Newark-Jersey City.....	38	6	1.11	1.29	— .18
New York.....	66	64	1.17	1.36	— .19
Philadelphia.....	27	25	1.16	1.16	-----
Markers:					
Boston.....	40	14	1.19	1.28	— .09
Los Angeles-Long Beach.....	213	9	1.35	1.67	— .32
New York.....	24	29	1.39	1.38	+ .01
Pressers, machine (dry cleaning):					
Boston.....	13	22	1.66	1.78	— .12
Chicago.....	48	18	1.38	1.68	— .30
Los Angeles-Long Beach.....	35	18	2.00	1.98	+ .02
New York.....	30	16	1.35	1.88	— .53
San Francisco-Oakland.....	27	21	2.40	2.60	— .20
Tumbler operators (laundry):					
Baltimore.....	19	13	.82	.98	— .16
Boston.....	9	20	1.10	1.39	— .29
Chicago.....	128	51	1.06	1.30	— .24
Los Angeles-Long Beach.....	30	23	1.29	1.42	— .13
Newark-Jersey City.....	31	26	1.18	1.31	— .13
New York.....	49	62	1.12	1.23	— .11
Philadelphia.....	20	44	1.19	1.27	— .08
San Francisco-Oakland.....	22	11	1.58	1.83	— .25
Washington, D.C.....	16	12	.97	1.25	— .28
Wrappers, bundle:					
Boston.....	40	17	1.13	1.29	— .16
Chicago.....	128	22	1.11	1.38	— .27
Los Angeles-Long Beach.....	12	27	1.28	1.32	— .04
Newark-Jersey City.....	100	27	1.17	1.22	— .05
New York.....	96	72	1.19	1.41	— .22
Philadelphia.....	91	10	1.14	1.21	— .07
Washington, D.C.....	40	15	.98	.98	-----

¹ Refers to the amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 10.—Comparison of average hourly earnings of women and men workers, by selected occupations in hotels, June 1961

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Room clerks:					
Atlanta.....	22	64	\$1.55	\$1.50	+\$0.05
Buffalo.....	17	54	1.42	1.48	-.06
Chicago.....	120	409	1.52	1.67	-.15
Cleveland.....	33	43	1.31	1.45	-.14
Denver.....	19	77	1.36	1.52	-.16
Detroit.....	33	98	1.52	1.47	+.05
Indianapolis.....	37	22	1.29	1.27	+.02
Kansas City.....	51	86	1.00	1.32	-.32
Los Angeles-Long Beach.....	47	328	1.52	1.49	+.03
Miami.....	65	361	1.23	1.59	-.36
Milwaukee.....	18	59	1.64	1.75	-.11
Minneapolis-St. Paul.....	15	47	1.53	1.58	-.05
New York.....	10	852	1.85	2.01	-.16
Philadelphia.....	43	86	1.34	1.78	-.44
Pittsburgh.....	24	55	1.54	1.54	-----
Portland.....	23	44	1.47	1.65	-.18
San Francisco-Oakland.....	49	252	1.96	2.14	-.18
St. Louis.....	18	114	1.39	1.24	+.15
Pantry workers:					
Boston.....	85	94	1.36	1.68	-.32
Chicago.....	173	56	1.32	1.28	+.04
Denver.....	52	22	1.23	1.18	+.05
Los Angeles-Long Beach.....	38	59	1.97	2.05	-.08
Miami.....	24	134	1.29	1.51	-.22
Minneapolis-St. Paul.....	77	16	1.36	1.34	+.02
New York.....	122	340	1.66	1.73	-.07
Philadelphia.....	43	47	1.18	1.32	-.14
Portland.....	28	11	1.59	1.53	+.06
San Francisco-Oakland.....	16	71	2.03	2.15	-.12
Washington, D.C.....	108	19	1.16	1.34	-.18

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 11.—Comparison of average weekly hours and earnings of women and men workers in private hospitals, mid-1960

Occupation and area ¹	Number of workers		Average weekly hours		Average weekly earnings		
	Women	Men	Women	Men	Women	Men	Difference ²
PHYSICAL THERAPISTS							
Buffalo.....	9	9	39.5	40.0	\$81.50	\$91.00	—\$9.50
Chicago.....	65	18	39.5	40.0	81.00	98.50	—17.50
Los Angeles-Long Beach.....	80	20	40.0	40.0	99.00	91.00	+8.00
Minneapolis-St. Paul.....	31	7	40.0	40.0	95.50	120.50	—25.00
New York.....	105	41	37.5	38.5	80.50	89.00	—8.50
Philadelphia.....	32	8	40.0	39.5	85.50	100.00	—14.50
San Francisco-Oakland.....	39	9	40.0	40.0	95.50	99.50	—4.00
X-RAY TECHNICIANS							
Baltimore.....	44	24	40.0	40.0	69.00	74.00	—5.00
Boston.....	144	34	40.0	40.0	69.50	74.50	—5.00
Buffalo.....	36	12	39.0	40.0	70.00	75.00	—5.00
Chicago.....	195	96	40.0	40.0	81.00	86.00	—5.00
Cincinnati.....	30	10	40.0	39.5	64.50	72.00	—7.50
Cleveland.....	79	19	40.0	40.0	70.00	76.00	—6.00
Dallas.....	12	10	40.0	40.0	66.50	74.50	—8.00
Los Angeles-Long Beach.....	107	40	40.0	40.0	86.00	87.00	—1.00
Minneapolis-St. Paul.....	65	20	40.0	40.0	66.00	71.00	—5.00
New York.....	159	178	38.0	38.0	79.00	79.00	—
Philadelphia.....	152	14	40.0	40.0	65.50	68.50	—3.00
Portland.....	24	7	40.0	40.0	82.50	89.00	—6.50
San Francisco-Oakland.....	69	16	40.0	40.0	85.00	89.50	—4.50
NURSING AIDS							
Baltimore.....	1,726	395	40.0	40.0	37.50	44.50	—7.00
Boston.....	1,640	387	40.0	40.0	49.00	52.50	—3.50
Buffalo.....	1,294	96	40.0	40.0	46.00	52.50	—6.50
Chicago.....	4,987	380	39.5	40.0	50.00	58.50	—8.50
Cincinnati.....	839	91	40.0	40.0	40.00	47.00	—7.00
Cleveland.....	1,634	381	40.0	40.0	45.50	54.50	—9.00
Dallas.....	417	87	40.0	40.5	35.00	41.50	—6.50
Los Angeles-Long Beach.....	3,209	268	40.0	40.0	57.00	60.50	—3.50
Minneapolis-St. Paul.....	1,146	171	40.0	40.0	55.50	60.00	—4.50
New York.....	6,232	1,271	39.5	39.5	46.50	49.50	—3.00
Philadelphia.....	1,849	520	40.0	40.0	37.50	39.00	—1.50
Portland.....	511	54	40.0	41.5	56.00	61.00	—5.00
San Francisco-Oakland.....	1,037	228	40.0	40.0	64.50	65.50	—1.00

¹ Includes all areas in survey in which both men and women were working as physical therapists, X-ray technicians, and nursing aids, and were paid on a time basis.

² Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 12.—Comparison of average hourly earnings of women and men workers in eating and drinking places, June 1961

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Bus girls and boys:					
Atlanta	53	367	\$0.66	\$0.63	+\$0.03
Baltimore	104	66	1.00	.73	+ .27
Boston	163	861	.98	.98	—
Buffalo	24	127	.95	.88	+ .07
Chicago	276	2,551	1.03	.99	+ .04
Cincinnati	105	309	.88	.96	— .08
Cleveland	141	620	.92	.88	+ .04
Dallas	312	386	.56	.69	— .13
Detroit	165	680	.83	.92	— .09
Houston	162	409	.59	.63	— .04
Indianapolis	132	106	.74	.82	— .08
Kansas City	112	263	.92	.81	+ .11
Memphis	35	126	.48	.44	+ .04
Minneapolis-St. Paul	51	231	1.00	1.06	— .06
Newark-Jersey City	36	114	1.17	.82	+ .35
New Orleans	86	181	.52	.54	— .02
New York	523	3,524	1.17	1.16	+ .01
Philadelphia	208	419	1.06	.92	+ .14
Pittsburgh	72	122	1.05	.92	+ .13
Portland	29	158	1.16	1.23	— .07
St. Louis	336	565	.91	1.02	— .11
San Francisco-Oakland	218	1,268	1.63	1.54	+ .09
Washington, D.C.	238	1,133	1.08	.90	+ .18
Counter attendants:					
Baltimore	382	36	1.16	1.00	+ .16
Boston	797	344	1.18	1.23	— .05
Chicago	971	721	1.02	1.12	— .10
Cincinnati	112	126	1.10	1.49	— .39
New York	951	1,262	1.46	1.56	— .10
Philadelphia	1,300	132	1.04	1.17	— .13
St. Louis	377	122	1.16	1.72	— .56
Washington, D.C.	394	169	1.23	1.29	— .06
Pantry workers:					
Atlanta	252	48	.80	.79	+ .01
Baltimore	100	92	.93	.93	—
Boston	269	249	1.36	1.69	— .33
Chicago	760	199	1.30	1.84	— .54
Dallas	108	57	1.01	1.01	—
Denver	92	52	1.40	1.21	+ .19
Detroit	382	31	1.31	1.84	— .53
Houston	153	13	.81	.98	— .17
Kansas City	185	38	1.05	1.03	+ .02
Los Angeles-Long Beach	248	369	1.83	2.12	— .29
Miami	119	119	1.12	1.66	— .54
Newark-Jersey City	38	169	1.53	1.73	— .20
New Orleans	105	54	.69	1.18	— .49
New York	621	1,424	1.43	1.93	— .50
Philadelphia	427	172	1.27	1.27	—
San Francisco-Oakland	98	433	2.02	2.27	— .25
Washington, D.C.	474	98	1.08	1.09	— .01

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Plant workers

Comparative earnings of men and women classified in three plant jobs and employed in identical establishments were analyzed in the Bureau of Labor Statistics community-wage survey of 1958-59. Again, it is pertinent to note that individual plant averages for men and women in a specific job may be influenced by variations in job content and length of service.

The differences in average earnings of men and women were found to be least among passenger elevator operators and greatest among janitors. Men and women elevator operators had similar average earnings in a majority of the establishments. However, for janitors and packers, the women's averages were below the men's in at least 70 percent of the establishments. In the latter firms, the difference was typically 15 cents an hour or more, as shown in table 13.

TABLE 13.—*Distribution of establishments by relationship between establishment averages for men and women in selected plant occupations, 20 labor markets, winter 1958-59*

Relationship of women's hourly earnings to men's	Janitors, porters, and cleaners	Packers, shipping	Elevator operators, passenger
Total number of establishments.....	1,232	185	110
Establishments with women's average higher than men's ¹	58	16	14
25 cents or more.....	3	2	-----
23 to 25 cents.....	-----	-----	-----
21 to 23 cents.....	1	-----	-----
19 to 21 cents.....	5	-----	-----
17 to 19 cents.....	2	1	-----
15 to 17 cents.....	2	-----	3
13 to 15 cents.....	6	2	-----
11 to 13 cents.....	2	2	-----
9 to 11 cents.....	2	-----	1
7 to 9 cents.....	4	3	1
5 to 7 cents.....	13	3	2
3 to 5 cents.....	18	3	7
Establishments in which difference was less than 3 cents.....	284	39	61
Establishments with men's average higher than women's ¹	890	130	35
3 to 5 cents.....	52	9	3
5 to 7 cents.....	64	10	7
7 to 9 cents.....	63	8	6
9 to 11 cents.....	63	14	6
11 to 13 cents.....	63	14	-----
13 to 15 cents.....	56	6	2
15 to 17 cents.....	45	6	5
17 to 19 cents.....	52	2	-----
19 to 21 cents.....	47	6	1
21 to 23 cents.....	38	6	2
23 to 25 cents.....	28	6	-----
25 cents or more.....	319	43	3

¹ Limited to establishments in which the difference in average hourly earnings is 3 cents or more.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Another study⁵ gives information on the comparative average earnings of men and women employed on similar jobs in the same establishments. This analysis was based on earnings data collected by the Bureau of Labor Statistics in the winter of 1952-53 from plants which manufactured machinery. For the seven plant occupations studied, the average earnings of time-rated women workers were lower than men's average earnings in from two-fifths to two-thirds of the establishments.

It was suggested in the study report that different distributions of men and women workers within an established range might account for from 5 to 10 cents of the total difference in men's and women's hourly earnings. Therefore, it is particularly interesting to note that men's earnings exceeded women's by at least 5 cents an hour in from one-sixth to one-half of the firms, and by at least 10 cents an hour in from one-ninth to one-third of the firms. Table 14 shows comparisons of women's earnings with men's based on data contained in the special report.

⁵ U.S. Department of Labor, Bureau of Labor Statistics Report No. 98, "Women Production Workers in the Machinery Industries, Their Employment Distribution and Earnings," January 1956.

TABLE 14.—*Percent of establishments with lower average earnings for women than for men plant workers, 29 machinery centers, 1952-53*

Occupation	Percent of establishments in which women's average earnings were—		
	Lower than men's	Lower by over 5 cents	Lower by over 10 cents
Assemblers, class B.....	68	47	26
Assemblers, class C.....	70	50	30
Inspectors, class B.....	70	44	20
Inspectors, class C.....	65	47	36
Drill press operators (single or multiple spindle), class C.....	42	32	19
Grinding-machine operators, class C.....	42	17	17
Milling-machine operators, class C.....	44	33	11

Source: U.S. Department of Labor, Bureau of Labor Statistics.

The occupation of "operatives" included 3.4 million women and 8.7 million men in 1962, but relatively few of these workers appeared to be doing similar work. The numerous wage surveys made by the Bureau of Labor Statistics in manufacturing industries yield relatively few examples of men and women in the same occupations and paid on a time basis. The examples which may be found virtually all show women receiving lower average earnings than men, as illustrated in the three manufacturing industries reported in tables 15, 16, and 17.

TABLE 15.—*Comparison of average hourly earnings of women and men workers in wood household furniture (except upholstered) manufacturing establishments, July 1962*

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Assemblers, case goods:					
Chicago.....	42	203	\$1.66	\$1.90	—\$.24
Indiana.....	120	350	1.26	1.58	— .32
Los Angeles-Long Beach.....	9	500	2.16	2.52	— .36
Winston-Salem-High Point.....	41	395	1.30	1.41	— .11
Glueers, rough stock: Indiana.....	23	49	1.47	1.55	— .08
Off-bearers, machine:					
Chicago.....	6	84	1.58	1.58	—
Indiana.....	55	127	1.34	1.52	— .18
Jamestown.....	25	46	1.55	1.40	+ .15
Packers, furniture:					
Chicago.....	16	55	1.54	1.72	— .18
Indiana.....	63	104	1.31	1.53	— .22
Winston-Salem-High Point.....	34	230	1.20	1.32	— .12
Rubbers, furniture, hand: Winston-Salem-High Point.....	43	108	1.28	1.29	— .01
Rubbers, furniture, machine: Winston-Salem-High Point.....	6	88	1.30	1.34	— .04
Sanders, furniture, hand:					
Chicago.....	43	69	1.45	1.76	— .31
Grand Rapids.....	47	12	1.45	1.57	— .12
Hickory-Statesville.....	50	605	1.28	1.27	+ .01
Indiana.....	125	171	1.32	1.64	— .32
Sanders, furniture, hand:					
Los Angeles-Long Beach.....	10	244	2.10	2.07	+ .03
Martinsville.....	88	150	1.15	1.28	— .13
Winston-Salem-High Point.....	216	238	1.21	1.30	— .09
Sanders, furniture, machine: Miami.....	8	66	1.39	1.44	— .05
Sprayers:					
Los Angeles-Long Beach.....	6	177	2.53	2.40	+ .13
Winston-Salem-High Point.....	94	338	1.31	1.44	— .13

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 16.—*Comparison of average hourly earnings of women and men workers in paint and varnish plants, May 1961*

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Labelers and packers:					
Baltimore.....	30	50	\$1.44	\$1.59	-\$0.15
Boston.....	8	40	1.93	2.07	-.14
Chicago.....	135	283	1.84	2.16	-.32
Cleveland.....	72	77	1.73	2.23	-.50
Detroit.....	29	36	1.78	2.50	-.72
Houston.....	18	25	1.43	1.64	-.21
Kansas City.....	10	42	2.25	2.27	-.02
Los Angeles-Long Beach.....	19	64	2.17	2.31	-.14
Louisville.....	17	31	1.56	1.92	-.36
Newark-Jersey City.....	45	123	1.97	2.23	-.26
Paterson-Clifton-Passaic.....	8	31	1.91	1.91	-----
Philadelphia.....	25	51	1.43	2.08	-.65
Pittsburgh.....	15	17	1.69	2.12	-.43
St. Louis.....	28	20	1.99	2.17	-.18
San Francisco-Oakland.....	24	69	2.46	2.67	-.21
Fillers, hand or machine:					
Chicago.....	18	292	2.02	2.15	-.13
New York.....	13	119	2.08	1.94	+.14
Philadelphia.....	33	140	1.45	2.14	-.69

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 17.—*Comparison of average hourly earnings of women and men workers in work clothing manufacturing establishments, May 1961*

Occupation and area	Number of workers		Average hourly earnings		
	Women	Men	Women	Men	Difference ¹
Janitors:					
Georgia.....	14	38	\$1.00	\$1.10	-\$0.10
Indiana.....	8	27	1.17	1.27	-.10
Kentucky.....	7	7	1.03	1.03	-----
Mississippi.....	14	17	1.03	1.06	-.03
North Carolina.....	16	18	1.01	1.04	-.03
Tennessee.....	18	42	1.05	1.08	-.03
Texas.....	16	35	1.11	1.09	+.02
Virginia.....	11	11	1.05	1.07	-.02
Work distributors:					
Georgia.....	20	148	1.07	1.12	-.05
Indiana.....	17	32	1.24	1.27	-.03
Mississippi.....	21	51	1.15	1.13	+.02
Tennessee.....	27	91	1.24	1.17	+.07

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

SALARY SCHEDULES OF TEACHERS

Teachers' salaries hold special interest for two major reasons: Teaching is the most popular profession among women, and there are large numbers of men and women teachers. In October 1962, there were 1,278,000 women and 569,000 men teachers in elementary and secondary schools.

Sixteen States and the District of Columbia have laws which require that men and women schoolteachers be paid the same rate for comparable teaching positions. These States are California, Colorado, Connecticut, Illinois, Louisiana, Maine, Maryland, Massachusetts, Montana, Nevada, New Jersey, New York, North Carolina, Oregon, Washington, and Wyoming. In addition, in States where equal pay is not required by law, many school boards have set salary schedules

which provide the same rate for men and women schoolteachers. However, higher salaries are often paid for teaching certain subjects, and high school teachers may be paid higher salaries than elementary school teachers. Men teachers generally benefit from such provisions, since the majority of them are in high schools and many teach the subjects which pay more.

Teacher salary schedules with differentials based on sex have decreased in number during recent decades, but a few still prevail. A National Education Association study of salary schedules for the school year 1962-63 showed higher rates for men than women in 14 out of 792 reporting school districts. As table 18 shows, the differentials ranged from \$100 to \$400 a year.

SALARIES OF RECENT COLLEGE GRADUATES

Comparative salaries of recent college graduates are particularly pertinent, since length of service and work experience may generally be excluded from the list of possible factors related to differences in average salary data. Such information is available in a study of college graduates made by the Bureau of Social Science Research, Inc., for the U.S. National Science Foundation.

TABLE 18.—*School districts with salary differentials for men and women classroom teachers, by enrollment of school district, 1962-63*

District	Salary schedule provisions		
	Minimum	Maximum	Differential
100,000 or more enrollment:-----			None.
50,000 to 99,999 enrollment: Wichita, Kans.	\$4, 500	\$8, 500	\$200 additional for men.
25,000 to 49,999 enrollment: Columbia, S.C.	4, 008	5, 688	\$204 additional for men.
12,000 to 24,999 enrollment:-----			
Kansas City, Kans.	4, 600	7, 900	\$400 additional for men assigned extra duties.
Topeka, Kans.	4, 500	7, 550	\$200 additional for men.
Ann Arbor, Mich.	4, 500	8, 800	Men start at \$300 above scheduled minimum but do not exceed scheduled maximum.
Anoka-Hennepin, Minn.	4, 800	9, 120	\$300 additional for married men, and for widows and widowers with dependent minor children, up to maximum.
Midwest City, Okla.	4, 100	5, 850	\$150 additional for men.
6,000 to 11,999 enrollment:-----			
Salina, Kans.	4, 400	7, 400	\$400 additional for men until maximum is reached. Maximum for men is \$200 above schedule.
Albert Lea, Minn.	4, 600	7, 800	\$150 additional for men.
Biloxi, Miss.	3, 500	5, 055	\$200 additional for men.
Anderson, S.C.	3, 624	6, 500	\$300 additional for men.
Wauwatosa, Wis.	4, 900	8, 400	\$100 additional for single men and \$200 for married men.
Suburban districts: ¹ -----			
Edina-Morningside, Minn.	4, 850	10, 100	\$300 additional for married men until maximum is reached.
Westlake, Ohio.	4, 600	8, 300	\$100 additional for men.

¹ Enrollment not reported.

Source: National Education Association: "Classroom Teacher Salary Schedules, 1962-63, Districts Having 6,000 or More Pupils," Research Report 1962-R 11, 1962.

In this survey of college graduates of the class of 1958, 2 years after graduation—women were again found, generally, to have lower salaries than their male counterparts in the same occupational classification. The occupations allowing comparisons, relatively few in number, are listed in table 19—except for teachers (who were discussed previously). The differences in average salaries for the men and women baccalaureate graduates, when compared by occupation, ranged from \$290 to \$1,560 a year—all in favor of the men.

TABLE 19.—*Men and women college graduates of 1958: Their salaries 2 years later, by occupation and degree*

Occupation	Number		Median annual salary in 1960		
	Women	Men	Women	Men	Difference ¹
A. Graduates who earned a bachelor's degree in 1958:					
Pharmacists.....	31	273	\$5,500	\$7,060	—\$1,560
Writers.....	115	123	3,990	5,380	—1,390
Artists.....	49	78	3,720	5,100	—1,380
Accountants.....	42	910	4,290	5,490	—1,200
Personnel workers.....	56	127	4,290	5,400	—1,110
Research assistants.....	171	336	3,940	4,920	—980
Mathematicians.....	67	146	5,520	6,090	—570
Chemists.....	50	205	5,540	5,960	—420
Social and welfare workers.....	247	181	4,180	4,470	—290
B. Graduates who earned a master's degree in 1958:					
Psychologists.....	36	46	5,000	5,690	—690
Social and welfare workers.....	126	92	5,340	5,710	—370
Librarians.....	62	22	5,080	5,170	—90

¹ Refers to amount by which women's earnings vary from men's earnings.

Source: Bureau of Social Science Research, Inc.

FEDERAL SALARIES

The Federal Government compensates its employees in accordance with the principle of equal pay for equal work. The principle was first written into law in 1870, but was not fully implemented until the Classification Act of 1923 established a uniform system of job grades and salaries.

For many years, under an interpretation of the 1870 law, agencies had the option of specifying sex in their requests for qualified applicants. This option was abolished in 1962, when the President directed agencies to make appointments without regard to sex, except in unusual situations where such action is found justified by the Civil Service Commission on the basis of objective nondiscriminatory standards.

According to statistics collected prior to the new order, the majority of women Federal employees are concentrated in the lower-salary levels; whereas most of the men are in the middle levels. A Civil Service Commission survey made in October 1961⁶ showed that job grades 1 through 5 accounted for almost 77 percent of the women Federal employees but only 26 percent of the men. On the other hand, in the top grades of 13 through 18, there were less than 1 percent of the women and 14 percent of the men.

Reasons that women's grades are lower than men's include such factors as the differences in kinds of jobs held, nature and amount of education and training, length of service, and preferences for men or women in certain types of work.

The job grade distributions of men and women white-collar workers in Federal service are shown in table 20.

Mrs. PETERSON. The annual wage and salary data reported by the Bureau of the Census provide an overall view of the differences of pay levels of men and women. Among year-round, full-time workers during each of the past 7 years, 1955–61, women have earned, on the average, less than two-thirds as much as men. In 1961, women's median wage and salary income of \$3,351 was \$2,293 less than men's—just 59 percent of men's income. In 1955, it was \$2,719, which was \$1,533 less than the men received, or 64 percent of men's income. These differences exist in all the major occupational groups, ranging from 40 percent among salesworkers to 69 percent among clerical workers.

⁶ See the U.S. Civil Service Commission report "Federal Employment Statistics Bulletin, April 1962."

TABLE 20.—*Distribution of white-collar employees of the Federal Government, by grade and sex, 1961*

Grade	Women			Men	
	Number	Percent distribution	As percent of all employees	Number	Percent distribution
Total.....	498,766	-----	32.1	1,054,295	-----
Grade specified.....	430,500	100.0	41.7	602,107	100.0
GS-1.....	832	0.2	32.2	1,749	0.3
GS-2.....	18,272	4.2	53.6	15,805	2.6
GS-3.....	109,001	25.3	71.0	44,584	7.4
GS-4.....	123,815	28.6	72.7	46,234	7.7
GS-5.....	79,626	18.5	63.4	45,968	7.6
GS-6.....	31,318	7.3	58.4	22,286	3.7
GS-7.....	30,404	7.1	32.6	63,003	10.5
GS-8.....	6,374	1.5	28.3	16,136	2.7
GS-9.....	16,300	3.8	14.8	93,615	15.5
GS-10.....	1,984	0.5	13.3	12,916	2.1
GS-11.....	7,548	1.8	7.8	88,657	14.7
GS-12.....	3,444	0.8	4.8	67,998	11.3
GS-13.....	1,531	0.4	3.1	47,628	7.9
GS-14.....	495	0.1	2.2	22,283	3.7
GS-15.....	162	(1)	1.4	11,159	1.9
GS-16.....	13	(1)	1.0	1,271	0.2
GS-17.....	8	(1)	1.4	561	0.1
GS-18.....	3	(1)	1.2	254	(1)

¹ Less than 0.05 percent.

Source: U.S. Civil Service Commission.

These differences in earned income result, though, I must say, from a variety of factors, one of the major ones of which is lack of opportunity for women, particularly in the better paying jobs.

Persistent differences in earnings of men and women in comparable occupational classifications suggest the need for equal pay legislation as a first step toward more equitable treatment of women.

Occupational wage surveys conducted by the Bureau of Labor Statistics provide information on average earnings of men and women in selected occupations, in selected areas. For example, women bank tellers were found consistently to earn less than men in all areas surveyed, even though the data were separated, to some extent, by length of experience and type of work. Moreover, the average weekly hours were the same in most of the cities. The differences in average earnings of men and women note tellers with less than 5 years' experience ranged from \$0.50 a week to \$31 a week.

In factory jobs too, women workers are shown to have lower earnings than men. This is substantiated in recent Bureau of Labor Statistics surveys in which there are instances where men and women are in the same occupational category. For example, a 1961 survey of paint and varnish firms in a large eastern city showed the following average hourly earnings rate:

<i>Labelers and packers</i>	
Women.....	\$1.43
Men.....	2.08
<i>Hand or machine fillers</i>	
Women.....	\$1.45
Men.....	2.14

Similar patterns emerge from surveys in the work clothing industry and in wood-household furniture manufacturing.

The Bureau of Labor Statistics special analysis in 1958-59 of earnings, of men and women in the same job categories in the same establishments, showed that women in office jobs in a majority of the survey establishments averaged less than men in all categories except that of office boy or girl.

In the other classifications, the difference generally amounted to at least \$8 a week, but for some jobs, exceeded \$20 a week.

To learn more about wage differentials of men and women in specific jobs in the same establishments, the Women's Bureau, in 1963, studied job orders filed with public employment offices in nine different cities. Some of the orders requested men only or women only; some offered the same rate for the job for men or women. However, 91 job orders were found offering higher wage or salary rates for men than for women, though applicants of both sexes were acceptable.

Differences in hiring rates occurred on orders for many types of workers, but the majority were for clerical, service, or sales workers. However, there were numerous orders for production workers from manufacturing establishments offering different rates to men and women. No reasons for these differences were given, and the orders were for jobs bearing the same title and covering the same major duties and skills.

Scanning the list, we see it represents orders for workers not only in a variety of jobs but also in the number of different industries. The quoted areas on these orders raise many unanswered questions. We ask, "Why should an employer offer \$3,600 a year for a male clerk-typist, but only \$3,000 for a female clerk-typist?" I realize that one person may be better qualified than another. But this is true among men as well as among women. Does the employer assume that better performance on the job is related to the sex of the worker?

Why should a employer in a transportation company quote a rate of \$1.80 an hour for a male accounting clerk but only \$1.45 for a female accounting clerk? We have been unable to think of any rational answers.

Rough calculations of the wage differentials existing in the hiring orders studies indicate that about one-third of the orders contain differentials of 10 percent or less of the men's rate. Under the step-up arrangements proposed by this legislation, these differentials would be subject to removal when the act becomes effective in those firms within the scope of the bill. Over one-half of the orders listed have wage differentials ranging from 11 to 25 percent of the men's rate. Thus, in a majority of the cases sampled, the employer, if covered, would have over 1 year to make the needed adjustments. In the remaining cases involving differentials of 26 percent or more, the final adjustments would be completed at the end of 2 years from the proposal's effective date.

The NEA study of the salary schedules of teachers for the school year 1962-63 also provides a view of the rates paid to men and to women in the same position. In most school districts, salary differentials based on sex have been abolished, but in a few—that is, in 14 out of the 792 districts surveyed, differentials ranging from \$100 to \$400 a year still prevail.

The wording of some of these differentials is extremely interesting, and I think indicates a bit of our philosophy in some of these areas.

In some districts there is a salary differential for men. Another district has one differential for single men and a different differential for married men. Still another district provides \$300 additional for married men, and for widows and widowers with dependent minor children.

These provisions reveal an outmoded philosophy of wage payment. Certainly, in our society, rates should be set according to the job to be done.

Women's participation in the labor force brings numerous economic benefits. Their employment as factory workers, teachers, nurses, secretaries, typists, laboratory aids, librarians, and in many other occupations is a major factor in the production of the goods and services needed by our economy. But equally as important, their earnings are an influence for increased demand and higher consumption in our society. More than 30 million women worked at some time during 1961, according to the Bureau of Labor Statistics. Earnings from their employment are estimated to total almost \$45 billion. As one-third of the labor force, women earned one-fifth of the wages. We readily perceive from this fact that improvement in the earnings of women will mean and can mean an upsurge in purchasing power.

There are 22 States with equal pay laws. State experience shows that public education programs can be effective in obtaining employer compliance. This would be our administrative approach in a Federal law—compliance through agreement. The State compliance programs generally include plant inspection and conferences, informal administrative hearings and wage collection through voluntary settlement. Some of the principal equal pay cases that have come to the attention of the Women's Bureau are summarized in an attachment. And this, too, is here as part of my supplementary material, and I would appreciate if that might be made part of the record as well.

Mr. THOMPSON. Without objection, it is so ordered.

(The material referred to follows:)

SELECTED STATE COURT CASES INVOLVING STATE EQUAL-PAY LAWS

I

General Motors Corporation v. Thomas Read, Attorney General et al., 294 Michigan 558; 293 N.W. 751, September 6, 1940.

Plaintiff Corporation filed for an injunction against enforcement of Michigan Equal-Pay Act (Act No. 328 of Public Acts, 1931, sec. 556 of the Penal Code) which provides: "Any employer of labor in this state, employing both males and females in the manufacture or production of any article, who shall discriminate in any way in the payment of wages as between sexes or who shall pay any female engaged in the manufacture or production of any article of like value, workmanship and production a less wage, by time or piece work, than is being paid to males similarly employed in such manufacture, production or in any employment formerly performed by males, shall be guilty of a misdemeanor: *Provided, however*, That no female shall be given any task, disproportionate to her strength, nor shall she be employed in any place detrimental to her morals, her health or her potential capacity for motherhood." Plaintiff contended that the statute was unconstitutional in that it was uncertain, arbitrary, confiscatory, discriminatory and denied equal protection of the laws.

In upholding the constitutionality of the law, the Court stated: "A reading of the statute is convincing that it sets out only one offense and that the words 'or who shall pay any female engaged in the manufacture or production of any article,' etc., are only definitive of what constitutes discrimination in the payment of wages. The first objection is that the phrase 'males similarly employed' is indefinite. We do not think so. The word 'similarly' has a definite meaning and as used in this statute means *substantially alike*. This phrase simply means

that the employer shall not, because of her sex only, pay a woman employee less than it pays a man employee for doing work of substantially the same character, quality and quantity. The standard so set is clear and unambiguous."

The Court further stated: "The law applies a uniform standard to all employers subject to its provisions. The law does not endeavor to set the same wages for women employees, but rather it seeks to provide the same wage conditions for women as for men, and necessarily the difference in pay of men will be reflected in the wage scale for women."

II

St. John v. General Motors Corporation, 308 Michigan 333, 13 N.W. 2d 840, April 3, 1944.

Plaintiff employee in her own behalf and as assignee of 28 other women instituted civil action to recover the difference in wages paid them, as women employees, and men engaged in similar industrial employment in defendant's Olds Motor Works Division at Lansing, Michigan. The action was based upon the Michigan Equal-Pay Act (Act No. 328 of Public Acts, 1931, sec. 556 of the Penal Code).

In remanding the case to Circuit Court for calculation of separate damages suffered by each claimant, the Michigan Supreme Court upheld the right of a woman worker to maintain a civil action to recover damages under the act (a penal statute) stating that "the statute establishes specified personal civil rights and if there has been discrimination between sexes in the instances at bar, the remedy by action at law is available to claimants." The court further held that the right against self-incrimination claimed by defendant in objecting to producing the employment records at the trial did not apply in the present situation, citing a previous court enunciation that the "privilege against self-incrimination is personal to a witness and cannot be claimed in behalf of another, inclusive of an employing corporation unless guilt of the witness producing the record is also involved."

St. John v. General Motors Corporation, 310 Michigan 392; 17 N.W. 2d 226, January 2, 1945.

Affirmed the computation by the Circuit Court of the amount due each of the 29 claimants.

III

Edward Corsi, Industrial Commissioner of the State of New York v. Bentley Stores Corporation, New York, Municipal Court of New York City, Borough of Manhattan, First District, No. 23060, October 31, 1947, 13 Labor Cases P64, 149.

Affirmed without opinion by New York Superior Court, Appellate Division, June 17, 1948.

Action was instituted to recover civil penalties for alleged violations by defendant company of section 199-a, Labor Law (enacted July 1, 1944) reading in part as follows:

"Discrimination in Rate of Pay Because of Sex Prohibited. No employee shall, because of sex, be subjected to any discrimination in the rate of her or his pay. A differential based in facts or factors other than sex shall not constitute discrimination within the meaning of this section."

The Court held that the New York "Equal-Pay" Law forbids discrimination in pay because of sex, but does not prohibit pay differentials between male and female employees based on substantial factors other than sex. In dismissing the case, it was stated that "there are differences in the work of the defendant's employees; * * * and that the differences in their work do constitute a substantial factor other than sex to justify a differential in the wages paid."

IV

Stollar, et al., v. Continental Can Company, Inc. Pennsylvania Court of Common Pleas, Washington County, No. 185. February Term, 1960, October 7, 1960, 41 Labor cases P50, 081.

Affirmed by Pennsylvania Superior Court, Nos. 57 and 58. December 14, 1961, 43 Labor Cases P50, 415.

Action was brought by a number of employees of the Hazel Atlas Division in Washington County, Pennsylvania, against the Continental Can Company, Inc. to recover wages allegedly due them under the so-called Women's Equal-Pay Law of July 7, 1947 (P.L. 1401, 43 P.S. 335.1 et seq.). The plaintiffs claimed that they were paid less than the male employees doing the same or comparable

work, and that the difference in wages actually paid was due solely to the difference in sex. During the course of the trial, the parties stipulated as to the bargaining contract and the wage rates in effect which provided a variation in wage rates for males and females doing the same work as packers and checkers.

The judgment was directed in favor of the defendant on the basis of subsection (c) of the act which provides that any employee may through his collective bargaining representative waive any claim which such employee may have under the act either before or after commencement of suit thereon. The Court arrived at this decision in spite of the provision of subsection (a) which provides that any agreement between the employer and the employee to work for less than the wage to which such employee is entitled under the act shall be no defense. The Court was of the opinion that subsection (a) must yield to subsection (c) by reason of its social and economic implications and the legal protection affecting collective bargaining and the benefits resulting therefrom, stating that a private right must yield to a public right where there is a conflict.

(NOTE.—Pennsylvania's Equal-Pay Law of 1947 was repealed and a new law enacted in 1959 without the controversial subsection (c)).

Mrs. PETERSON. Progress continues to be made by unions in bargaining for equal pay. We hail the success of this bargaining. However, our economy cannot afford to wait on this gradual process. Our low-paid worker can even less afford the delay.

A study by the Women's Bureau in March 1956—and there is a summary attached—of 510 collective bargaining agreements in Bureau of Labor Statistics files, showed that only 38 percent contained equal pay clauses. The so-called key contracts (those covering 1,000 employees or more) showed a higher proportion, 45 percent, with equal pay clauses. In the electrical and metal fabrication industries, more than 60 percent of the key contracts had such provisions. Some contracts specify one rate for the job, thereby, achieving equal pay. The absence of equal pay or rate-for-the-job provisions in so large a number of bargaining agreements, shows at the very least that discriminatory wage practice has not been expressly outlawed for even all of the 3.4 million women who are union members. Behind them we see standing their nonunion sisters, who are 7 times their number, and who have less chance of rising out of unequal pay situations without the protection of law.

A number of the Nation's leading management groups have long advocated that job rates be related to job content. Their policy is to encourage their associates to base wage rates on fundamental differences in the nature, the duties, and the physical requirements of the job.

In the last 10 years, many foreign countries have taken positive action toward establishment of equal pay on a nationwide basis, formally incorporating labor standards into national law and labor-management contracts. We should not lag behind other nations in correcting injustice in this vital area. More than 10 years ago, in 1951, the ILO adopted an international convention and recommendation (convention 100 and recommendation 90) calling for "equal remuneration for men and women workers for work of equal value." More details of this are contained in an attachment.

One of the most recent developments, as the Secretary pointed out, was inclusion of an equal pay provision in the treaty establishing the European Economic Community. This treaty signed in Rome in 1957, binds Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands "to insure and subsequently to maintain the application of the principle of equal remuneration for equal work as between men and women workers."

Congresswoman Edith Green, a recognized authority in the equal pay field, brought back some pertinent information when she visited Russia in 1961—in fact the information is a little startling. Mrs. Green said that the overwhelming number of questions asked her about discriminations in the United States concerned those practiced against women.

H.R. 4269 and H.R. 3861 are designed to insure that workers covered by its provisions will have a legal right to a rate of pay based on the job and not on the sex of the worker. This is the bill's direct and immediate purpose. However, enactment of this bill into law will have many additional and far-reaching benefits. It is well known that discrimination in rates of pay is an important element in maintaining unequal opportunities between men and women workers. Payment of the rate for the job would remove one of the main objections to opening new jobs for women, that is, the fear that the women will be paid lower wage rates and thus undercut the established wage levels of men workers. By removing this major barrier to women's economic advancement, it would diminish the possibilities of using women to force wages down and of taking advantage of sharp competition for jobs in times of substantial unemployment.

The enactment of this bill will help to promote greater flexibility in the labor force. In our highly industrialized economy, with its technological advances and growing demand for new skills, the ability to draw upon a broadly trained, skilled labor force is essential to expanded production. If employers were required to pay the rate for the job, without prejudice because of sex, they could more readily use men and women workers interchangeably. Women would have a real incentive to equip themselves with higher skills, and would thus be prepared to make their maximum contribution to the economic progress of our country.

It may be pointed out, too, that labor disputes result from discriminatory wage practices which these bills are designed to correct. As a long-time union member and one who will always have the interest of the worker at heart, I know from firsthand experience that labor disputes will inevitably arise as long as unfair wage practices continue to exist.

I see the unequal pay problem not only nationally and economically but I see it as reflected in the lives of women workers throughout the country whom I have met. I have seen its sharp and painful thrust in factories in which women and men stand side by side doing the same work but receiving different pay.

Before I discuss the provisions of H.R. 4269 and H.R. 3861, I want to emphasize the fact that the proposal does not aim at any general equalization of wage rates. It speaks to individual employers in terms of their own wage structure only and only in those instances where the structure provides a lower wage rate on the basis of whether the same work is performed by a man or a woman.

The framework of the bills is similar to that of some of the State equal pay laws, minimum wage and maximum hours laws.

The bills prohibit an employer having employees engaged in commerce or in the production of goods for commerce who has 25 or more employees in any place of employment from discriminating between his employees by paying lower wages to one sex than he pays to the other sex for substantially the same job. In other words, "work of

equal character on jobs the performance of which requires equal skills" must be paid for on an equal nondiscriminatory wage basis. Government supply contractors whose contracts exceed \$10,000 would also be covered. Further, labor organizations would be prohibited from seeking to cause an employer to discriminate against an employee in violation of the act.

Employers and labor unions could be restrained from violating the act. Further, the sanction—common to minimum wage laws—requiring an employer to pay to aggrieved employees the wages which they failed to pay as the act requires and under certain circumstances up to an amount equal to the wages as liquidated damages—would be imposed.

Employers who violate the act would also be subject to the sanction of ineligibility for Government contracts until the contractor comes into compliance with the act and gives indication that he will continue to comply in the future.

In the administration of this act, the Department would expect to rely heavily on the provisions authorizing encouragement of voluntary elimination of discriminatory practices and the securing of restitution of withheld wages through conference and persuasion. Educational and compliance programs would be emphasized to secure maximum employer and labor organization cooperation. In the light of my experience, both within and without Federal service, I cannot too strongly affirm the importance I attach to this method of achieving accord in labor affairs.

The Department of Labor's experience under other wage laws which it administers is that employers, when given an opportunity, often readily accept suggestions for voluntary wage settlements. These settlements, of course, save time, money, and effort. They also tend to furnish the basis for a more mutually satisfactory employee-employer relationship in the days which follow.

The Secretary of Labor would be vested with the authority to make rules and regulations necessary for the administration of the act. When compliance is not forthcoming, the Secretary is authorized to hold administrative hearings with respect to alleged violations and to issue cease-and-desist orders and orders requiring reinstatement of employees, if necessary. These orders would be subject to court enforcement and aggrieved parties would have a right to secure court review. As is well known, the system of administrative proceedings for initial enforcement of remedial laws and court review of these proceedings forms the framework for many Federal laws.

This proposal has a feature—new to the pattern of equal pay proposals previously considered by Congress—which would permit employers to adjust their fiscal affairs gradually to the mandate of the law. Differentials in wage rates in effect when the act was passed could be eliminated in three steps, over a period of 2 years from the effective date of the act. A similar provision is included in the equal pay provisions of the Rome Treaty on which the European Economic Community is founded. When the law proposed by H.R. 4269 and H.R. 3861 becomes effective, that part of any wage differential which amounts to 10 percent of a higher wage for equal work must be eliminated immediately. If a differential still exists, an additional amount equal to 15 percent of the higher wage must be removed a

year later. Any remaining differential must be removed by the end of the second year after the effective date of the act.

I have emphasized the effect of the proposed law in improving the outlook for women because in the great majority of cases, it is they who are the victims of unequal pay practices. However, I want to point out also that the same protection would be afforded men under this proposal in any case where such discrimination is practiced or threatened.

The fact that we get wiser as a nation as we get older does not mean that we had no wisdom before but only that we have grown. Our liberty itself is the product of growth in our attitudes which have been translated into action. Most of our major legislation to meet human needs had to run the painful gantlet of bitter resistance and attack. Yet, in retrospect, we can see that these laws well serve the cause of freedom. Without them our Nation would not be so strong—or so respected.

I believe that the right to receive equal pay should be inscribed with our other measures to free workers from want and from injustice. Our democratic creed calls for it. This is the fullness of time to give it expression. I believe in this, as in other matters related to human equality, that we can never of astray if we follow the path of justice.

I urge the committee to take favorable action on these proposals for equality.

(The supplementary material follows:)

Equal-pay clauses in union contracts, 1956

Industry	Total number of con- tracts	Contracts with equal pay clauses		Contracts with no equal pay clauses	
		Number	Percent of total	Number	Percent of total
Total.....	510	195	38.2	315	61.8
Electrical machinery.....	112	59	52.7	53	47.3
Textiles.....	86	36	41.9	50	58.1
Transportation equipment.....	124	49	39.5	75	60.5
Drugs and medicines.....	18	7	38.9	11	61.1
Fabricated metals.....	51	19	37.3	32	62.7
Food products.....	71	25	35.2	46	64.8
Apparel.....	40	-----	-----	40	100.0
Book printing and publishing.....	8	-----	-----	8	100.0

Source: Women's Bureau study of union contracts in U.S. Department of Labor, Bureau of Labor Statistics' files, 1956. (Unpublished data.)

Digest of State equal-pay laws

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
ALASKA Session Laws, 1949, ch. 26, effective May 7, 1949.	Any occupation, i.e., any industry, trade, business, or branch thereof, or any employment or class of employment therein.	Prohibits discrimination by an employer in any way in the payment of wages as between the sexes, or employment of any female at salary or wage rates less than wage rates paid to male employees for work of comparable character, or work in the same operations, business, or type of work in the same locality.	Empowers commissioner or authorized representative to enter place of employment; inspect and copy payroll records and other employment records; compare work on which employees are engaged; question employees; obtain other necessary information; issue subpoenas; examine witnesses under oath; and issue administrative regulations.	Requires employers to make, keep, and maintain records of wages, wage rates, job classifications, and other data on employment; to preserve such records and make such reports therefrom as the commissioner prescribes.	Provides for employee suits to collect unpaid wages and empowers commissioner to take assuring legal action on behalf of employee, join various claimants in 1 action.	Makes violation a misdemeanor, punishable by a fine of not more than \$500.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	Penalty
ARIZONA Ariz. 1962 Session Laws, ch. 23; effective June 21, 1962.	Any employer and every person, firm, corporation, agent, manager, representative, contractor, subcontractor, principal, or other person having control or direction of woman or man employed at any labor, or responsible directly or indirectly for the wages of another.	Prohibits any employer from paying any female in his employ at wage rates less than the rates paid to male employees in the same establishment for the same quantity and quality of the same classification of work. Provides that variation of rates of pay for male and female employees in the same classification of work is not prohibited when based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, factor or factors other than sex, when exercised in good faith.			Provides for civil action by female receiving less than wage to which she is entitled to recover balance of such wages, together with the costs of suit, notwithstanding any agreement to work for a lesser wage. Provides that female employee may register complaint with the commission, and that commission shall take all proceedings necessary to enforce payment of any sums found due and unpaid to female employee. Places burden of proof upon person bringing the claim that the differentiation in rate of pay is based upon sex and not upon other differences, factor, or factors. Limits period in which action may be instituted to 6 months after date of alleged violation; makes employer liable for any pay due for not more than 30 days prior to his receipt of written notice of claim from female employee.	

ARKANSAS

Ark. Stats.
Anno. 1947, secs.
81-623 to 81-629;
effective June 9,
1955.

Any person employed
for hire in any lawful
business in industry,
trade, or profession or
in any lawful enterprise,
but not including per-
sons engaged in domes-
tic service, in agricul-
tural service, in tempo-
rary or seasonal employ-
ment, or employees of
any nonprofit social
club, fraternal, chari-
table, educational, reli-
gious, scientific, or liter-
ary association.

Prohibits discrimina-
tion by employer in
payment of wages as be-
tween the sexes, or pay-
ment to any female of
salary or wage rates less
than rates paid male
employees for compa-
rable work. However,
variations are not pro-
hibited when based on
difference in seniority,
experience, training,
skill, ability, duties, and
services performed, shift
or time of day worked,
or any other reasonable
differentiation other
than sex.

Empowers commis-
sioner of labor to enforce
the act.

Requires employers
to keep and maintain
records of salaries and
wage rates, job classi-
fications and conditions
of employment. Rec-
ords must be preserved
for 3 years. Records
must be made available
to parties and court in
wage-collection actions.

Provides for fine of not
more than \$500 or im-
prisonment of not more
than 1 year, or both, for
any employer violating
act or who discharges or
in any other manner dis-
criminate against em-
ployee because such em-
ployee makes complaint
or institutes proceedings
under act, or testifies in
such proceedings.

Provides for employee
suits. Empowers com-
missioner to take assign-
ment of wage claim and
to bring legal action on
behalf of employee.
Makes employer liable
to pay back wages due,
plus equal amount as
liquidated damages,
court costs, and reason-
able attorney's fee.
Any agreement to work
for less is not a defense
to such action.
Limits period within
which action may be
brought to 2 years after
accrual thereof.

CALIFORNIA

Calif. Labor Code
Anno., 1197.5; effec-
tive Oct. 1, 1949, as
amended, ch. 2384,
Laws, 1957; amend-
ment effective Oct.
8, 1957.

Any employer em-
ploying males and fe-
males in the same estab-
lishment.

Empowers division of
industrial welfare to en-
force the act.

Prohibits payment by
an employer to any fe-
male of wage rates less
than the rates paid to
male employees in the
same establishment for
the same quantity and
quality of the same clas-
sification of work. Var-
iations in rates of pay
are not prohibited where
based on a difference in
seniority, length of serv-
ice, ability, skill, duties,
or services performed
(whether regularly or
occasionally), shift or
time of day worked,
hours of work, restric-
tions on lifting or mov-
ing heavy objects, or
other reasonable differ-
entiation factors other
than sex when exercised
in good faith.

Provides for employee
suits. Empowers divi-
sion of industrial welfare
to take procedures nec-
essary to enforce pay-
ment of any sums found
to be due and unpaid.
Limits period within
which action may be
brought to 6 months
after date of alleged vio-
lation; limits employer's
liability to period of 30
days prior to receipt by
him of written notice of
claim from employee.
Places burden of proof
on claimant.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
COLORADO Colo. Rev. Stats., 1953, secs. 80-23-1 to 80-23-5; effective Apr. 7, 1955.	Public and private employment, except household domestic servants, farm and ranch laborers.	Prohibits discrimination in wage or salary rate solely on account of sex.	Provides that commission, on written complaint of employee, hear and determine same, and make award. Empowers commission to inspect books, records, payrolls, and other pertinent data of employer against whom complaint is made. Empowers industrial commission to enforce act, make rules and regulations, and supply copies to employees and employers on written request.		Provides for judicial review of commission's award. Employee may sue on award or assign claim to commission, which may join claims against 1 employer. Makes employer liable for difference between amount paid and amount which employee should have received.	On willful violation, commission may impose penalty of an additional equal amount.
CONNECTICUT General Stats. of Conn. Rev. of 1958, secs. 31-75, 31-76; effective Oct. 1, 1949; amendment effective June 18, 1953.	Any employer.	Prohibits discrimination by an employer in amount of compensation paid to any employee solely on basis of sex. Wage variations based on employment practices recognizing length of service or merit rating as factor in determining rates are not prohibited.	Authorizes labor commissioner upon complaint or own motion to carry out provisions of act. For this purpose, he may enter place of employment, inspect payrolls, investigate work and operations in which employees are engaged, question employees and take other necessary action to determine compliance.		Provides for employee suits to collect unpaid wages; provides that any agreement to work for less is no defense to such action; authorizes commissioner to take assignment of such claims. Makes employer liable to pay attorney's fees and court costs. Limits period within which action may be brought to 1 year after date of alleged violation.	Provides for fine of not more than \$100 for violation or for discrimination against any employee because of filing a complaint or taking any other action under act.

HAWAII	Any employer.	Prohibits discrimination in payment of wages as between persons of different races, or religions or as between sexes; or payment to any female at wage rates paid less than rates paid to lowest paid male employee in same establishment for same quantity and quality of work. Wage variations are not prohibited where they are based on difference in seniority, length of service, substantial difference in duties or services performed, differences in shift or time of day worked or hours of work.	Requires employer to keep records of name, occupation, and amount paid each pay period, daily and weekly hours, and other data. Director or representative to have free access to records.	Provides fine of not more than \$500 and/or imprisonment up to 90 days for employer's willful hindrance of enforcement or refusal of admission to premises; failure to keep records; falsification thereof; or refusal to furnish necessary information.
ILLINOIS	Any employer of 6 or more persons employing both men and women in manufacture of any article.	Prohibits payment, by any employer to any female engaged in manufacture, of wage not equal to that paid to males employed in such manufacture. Wage variations are not prohibited where based on difference in seniority, experience, training, skill or ability, duties, services performed (whether regularly or occasionally), availability for other operations or other reasonable classification except differences in sex. Wage differentials based on sex are not prohibited where authorized by contract between employer and recognized bargaining agent.	Limits period within which action may be brought to 6 months after date of alleged violation.	Makes violation of act a misdemeanor punishable by a fine of from \$25 to \$100.

1955 Rev. Laws of Hawaii (secs. 94-4.5, 94-7), S. B. 15; Session Laws, 1959, p. 101; effective May 21, 1959.

Ill. Rev. Anno. Stats., 1943, ch. 48, pars. 4a-b; effective July 1, 1944.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	Penalty
MAINE Rev. Stats. of Maine, 1964, ch. 30, sec. 52, effective Aug. 6, 1949.	Any employer.	Prohibits employment of any female in any occupation for salary or wage rates less than those paid by the same employer to male employees for equal work. Wage variations are not prohibited where based upon a difference in seniority, experience, training, skill, ability, or difference in duties or services performed (either regularly or occasionally), or difference in the shift or time of day worked, or difference in availability for other operation, or other reasonable differentiation.			Provides for a fine of not more than \$200 for any individual, association, or corporation violating act.	
MASSACHUSETTS Anno. Laws of Mass. ch. 149, secs. 105-A, 105-G (1945) amended 1947, 1951; amendment effective June 25, 1951.	Any person employed for hire by an employer in any lawful employment, but not including persons employed in domestic service; agricultural service; and employees of any social club, fraternal, charitable, educational, religious, scientific, or literary association.	Prohibits discrimination by an employer in any way, in the payment of wages as between the sexes, or payment to any female of salary or wage rates less than those paid to male employees for work of like or comparable character, or work on like or comparable operations. Variations in rates of pay are not prohibited	Empowers commissioner or authorized representative to enter place of employment, inspect payrolls, compare character of work and operations on which employees are engaged, question employees, and take other necessary action to determine compliance.		Provides for employee suits to collect unpaid wages. Any agreement to work for less is no defense to such action. Authorizes commissioner to take assignment of such claim and to join various claimants in 1 action. Makes employer liable to pay additional equal amount of liquidated damages.	Provides for fine of not more than \$100 for any employer violating act, or discharges or in any other manner discriminates against employee because such employee makes complaint, institutes proceedings, or testifies in such proceedings.

MICHIGAN 1	Any employer of labor employing both males and females.	Prohibits discrimination by any employer in the payment of wages as between the sexes who are similarly employed. A difference in wage rates based upon a factor other than sex shall not violate this section.	when based upon a difference in seniority.	Limits period within which action may be brought to 1 year after date of alleged violation. Makes employer liable for attorney's fee and court costs.	(2).	Makes violation of act a misdemeanor.
MONTANA	Any person, firm, State, county, municipal, or school district, public or private corporation.	Prohibits employment of any woman or women in any occupation or calling for salary, wages, or compensation less than that paid to men for equivalent service or for the same amount or class of work or labor in the same industry, school, establishment, office, or place of any kind or description.	(2)	Makes violation a misdemeanor, punishable by a fine of \$25 to \$500 for each offense.		
	Mont. Rev. Code, 1947, secs. 41-1307, 41-1308; effective July 1, 1919.					

See footnotes at end of table, p. 52.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
NEW HAMPSHIRE N.H. Rev. Stats., Anno, 1955, chs. 275: 36 to 275: 41; effective July 1, 1947.	Any person employed for hire by an employer in any lawful employment, but not including domestic service in the home of the employer; agricultural service; temporary or seasonal employment; employees of any social club, fraternal, charitable, religious, scientific, or literary association.	Prohibits discrimination by an employer in the payment of wages, as between the sexes or payment to any female employee, salary or wage rates less than rates paid to male employees for equal work or work on the same operations. Variations in rates of pay are not prohibited where based on a difference in seniority, experience, training, skill, ability, duties or services performed (either regularly or occasionally); or in shift or time of day worked; or availability for other operations; or any other reasonable differentiation except difference in sex. Variations in rates between the sexes are not prohibited where provided by collective bargaining agreement, or if there is no recognized bargaining unit, by written agreement between employer and not less than 5 of his employees.	Employers commissioner to enforce the act.		Provides for employee suits to collect unpaid wages. Authorizes commissioners to take assignment of such claim and to join various claimants in one action. Makes employer liable to pay additional equal amount of liquidated damages. Limits period within which action must be instituted to 1 year from accrual of unpaid wages.	Provides for fine of not more than \$200 or imprisonment of not more than 6 months, or both, for employer who violates the act or who discharges or otherwise discriminates against an employee because such employee makes complaint, institutes proceedings, or testifies in any such proceeding.

NEW JERSEY

N. J. Stat., Anno.,
secs. 34: 11-56.1 to
34: 11-56.11; effective
July 1, 1962.

Any person employed
by an employer but not
including those service for
nonprofit organizations
or corporations; those
employed in a hotel, on
a farm, or in domestic
service in a private
home.

Prohibits discrimination
by an employer in
any way in the rate or
method of payment of
wages to any employee
because of his or her sex.
A differential in pay
between employees
based on a reasonable
factor or factors other
than sex does not constitute
discrimination.

Empowers commissioner or authorized
representative to enter
place of employment,
inspect and copy pay-
rolls and other employ-
ment records, compare
character of work in
which employees are
engaged, question em-
ployees and obtain other
necessary information.
Empowers commissioner
to issue administrative
regulations.
Permits commissioner, on complaint or
on reasonable belief of
violation, to hold a hearing
on request of an
alleged violator, after
notice and opportunity
for answer at which all
interested persons must
be given opportunity to
appear. If, as the result
of such hearing, it ap-
pears that the violation
will be corrected with-
out prosecution, the
commissioner is not ob-
ligated to prosecute.

Provides for employee
suits to collect unpaid
wages plus an additional
equal amount as
liquidated damages, to-
gether with costs and
reasonable attorney's
fees. Any agreement to
work for less is no de-
fense to such action.
Empowers commis-
sioner to take assign-
ment of wage claim and
to join various
claimants in one action.

Makes violation a mis-
demeanor. Provides for
penalty of not more than
\$200 or less than \$50 or
imprisonment, or both,
for willful violation of the
act or for discharge or
for or discrimination
against an employee be-
cause such employee has
instituted a complaint, in-
stituted any proceedings,
or has testified in any
such proceedings.
Provides for penalty
of not more than \$200 or
less than \$50 if employer
willfully fails to furnish
required records and in-
formation, or falsifies the
records, or interferes
with commissioner or au-
thorized representative
or refuses him entry into
any place of employ-
ment.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	Penalty
NEW YORK Consolidated Laws of N.Y. Anno. Labor, sec. 199a; effective July 1, 1944.	Any person employed for hire by an employer in any useful employment except domestic service engaged in the home of the employer, labor on a farm, or persons employed by any corporation, joint stock company, unincorporated association, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purpose. ⁴	Provides that no employee shall, because of sex, be subjected to any discrimination in the rate of his or her pay. Variations in pay based on "a factor or factors other than sex," are not prohibited.	Appropriates the sum of \$40,000 for administrative expenses.		Provides for civil action by commissioner whereby employer is subject to a \$50 forfeit to the people of the State for each violation under the act.	
OHIO Rev. Code of Ohio, secs. 4111.17, 4111.99; effective July 16, 1960.	Employers of 10 or more employees; except domestic service in employer's home and farm labor.	Prohibits discrimination between sexes in payment of wages, salaries or other compensation in any occupation where males and females regularly perform identical work. Prohibits discrimination against employee because of making complaint, instituting proceeding or testifying therein.	Empowers director of industrial relations to administer and enforce.		Provides for employee suits to collect unpaid wages and costs. Empowers director of industrial relations to take assignment of wage claim and bring court action. Permits joinder of wage claimants in one action. Bars as defense agreement by employee to work for discriminatory wage. Limits period in which action must be commenced to 1 year after date of violation.	Provides for fine of not more than \$100 for violating act.
OREGON Oreg. Rev. Stats., 1957, secs., 652.210, 652.220, 652.230, 652.240; effective Aug. 3, 1955.	Any employer, except State, municipal corporation or political subdivision having civil service system, or Federal	Prohibits discrimination by employer in payment of wages as between sexes or payment of wages to any em-			Provides for employee suits to collect unpaid wages. Limits employer's liability to pay to 1-year	Makes violation of act a misdemeanor.

eral Government, employing persons who, other than copartners or independent contractors, render personal services to an employer who pays or agrees to pay at a fixed rate.	employee at rate less than that paid to employees of opposite sex for work of comparable character, the performance of which requires comparable skills. Permits variation in rates based on seniority or merit system which does not discriminate on basis of sex, or based in good faith on factors other than sex. Prohibits discrimination in wage payment because employee has filed complaint, testified, is about to testify, or because employer believes he may testify in any investigation or proceeding under act.	Empowers secretary of labor and industry to enter employer's establishment to inspect and copy payroll and other employment records; to compare character of work and operations in which employees are engaged; to question employees and to obtain other necessary information. Empowers secretary to issue rules and regulations.	Requires employers to keep and maintain records of wages, job classifications, and other related information and to preserve such records for such period and make such reports therefrom as secretary of labor and industry may prescribe. Requires employer to post a copy of the act in a conspicuous place.	Provides for employee suits to collect unpaid wages and an additional equal amount of liquidated damages, attorney's fee, and court costs. Any agreement to work for less is no defense to such action. Permits suit by any one of employees for himself or on behalf of himself and others similarly situated. Permits secretary of labor and industry to join various claimants against the employer in 1 cause of actions. Empowers secretary to take assignment of such claim for collection. Limits period within which action must be brought to 1 year from date violation occurs.	period preceding commencement of action, plus additional equal amount as liquidated damages, attorney's fees, and court costs. No agreement to work for less is a defense to such action.	Provides for penalty of not more than \$200 nor less than \$50. Upon default of such fine and costs, imprisonment for not more than 60 days, or both, for willfully and knowingly violating the act or for discriminating or otherwise discharging or otherwise discriminating against an employee because such employee has made a complaint or instituted proceedings, or testified or is about to testify in any such proceeding, or for failing to keep records or furnish records, or interfering with a Department representative. Provides that each day such violation continues constitutes a separate offense.
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PENNSYLVANIA

Pa. Session Laws, 1959, p. 1163; effective Mar. 17, 1960.
 Repeals Public Law 1401 (Laws 1947), effective Jan. 7, 1948.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1943]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
RHODE ISLAND General Laws of R. I., 1936, secs. 28-6-17 to 28-6-21; effective Apr. 25, 1946.	Any person employed for hire by any employer in any lawful employment, except those employed in domestic service in the home of the employer, or those employed by any social club, fraternal, charitable, educational, religious, scientific, or literary association.	Prohibits discrimination by an employer in the payment of wages as between the sexes or payment to any female of rates less than the rates paid to males for equal work or work on the same operations. Variations in rates of pay are not prohibited where based on difference in seniority, experience, training, skill, or ability, or difference in duties and services performed (either regularly or occasionally), shift or time of day worked, availability for other operation, or any other reasonable differentiation except difference in sex. Wage differentials based on sex are not prohibited where provided by a contract between an employer and a recognized bargaining agent.	Empowers director of labor to enforce.		Provides for employee suits to collect unpaid wages and an additional equal amount of liquidated damages. Authorizes director to take assignment of wage claim and to join various claimants in one action.	Provides for maximum fine of \$200, or imprisonment of not more than 6 months, or both, for violation of act, or for discharge or other discrimination against an employee because such employee makes complaint, institutes proceedings under act, or testifies in any such proceeding.
WASHINGTON Rev. Code of Wash., sec. 49.12.210; effective June 9, 1943.	Any employer employing both males and females.	Prohibits discrimination by any employer in any way in the payment of wages as between the sexes, or payment to any female of a wage less			Provides for employee suits to collect full amount of compensation due had no discrimination existed, less the amount the em-	Makes wage discrimination based on sex a misdemeanor.

than is being paid to males similarly employed, or in any employment formerly performed by males. Variations in wages are not prohibited where based in good faith on a factor or factors other than sex.	Empowers industrial commission to administer and enforce. Empowered to hold hearings, subpoena witnesses, take testimony, make investigations and issue orders of compliance which are subject to judicial review and enforced specifically in a court of equity.	Provides for employee suits to collect unpaid wages and an additional amount as liquidated damages. Empowers Commissioner to take assignment of wage claim, bring legal action on behalf of employees, and join various claimants in 1 action.	Provides for fine of not more than \$200 nor less than \$25, and/or by imprisonment of not more than 180 days or less than 10 days for any employer violating act, or discriminating against any employee for making complaint to employer, commissioner or other person, or instituting proceedings or testifying to or planning to testify to such violation. Each day of violation is a separate offense.
Any employer except a social club, fraternal or religious association not organized for profit but not including any individual employed by his parents, spouse or child.	Prohibits discrimination by an employer individually or in consent with others against any employer or any applicant for employment in regard to his hire, tenure or term, condition or privilege of employment. A differential in pay between employees based in good faith on a factor or factors other than sex does not constitute discrimination.	Prohibits payment to any female in any occupation of salary or hourly wage rate less than that paid to male employed by same employer for same work.	
Wis. Stats., Anno, secs. 111.31-111.37, as amended. Amendments effective Oct. 10, 1961 and Jan. 14, 1962.	Any occupation; i.e., any industry, trade, business, or branch thereof, or any employment or class of employment.		
WYOMING Wyo. 1959 Session Laws, ch. 150 (H.B. 167); effective May 23, 1959.			

See footnotes at end of table, p. 52.

Digest of State equal-pay laws—Continued

[Revised as of Jan. 1, 1963]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
WOMEN'S BUREAU Suggested draft bill.	Any occupation; i.e., any industry, trade, business, or branch thereof, or any employment or class of employment.	Prohibits discrimination by an employer in any way in the payment of wages as between the sexes or employment of any female in salary or wage rates less than the rates paid to male employees for work of comparable character or work on comparable operations.	Employers commissioner to carry out provisions of act. Authorizes commissioner to place of employment to inspect and copy payrolls and other employment records, to compare character of work and operations on which employees are engaged, to assist employers and to obtain other necessary information. Authorizes commissioner to examine witnesses under oath, to subpoena the attendance and testimony of witnesses and production of documentary evidence. Authorizes commissioner to issue such regulations necessary for administration of act.	Requires employer to make, keep, and maintain such records of the wages, wage rates, job classifications, and other employment data and preserve such records for such period of time and make such reports therefrom as commissioner prescribes. Requires employers to post a copy of this act in a conspicuous place in or about the premises.	Provides for employee suits to collect unpaid wages and an additional equal amount of liquidated damages, attorney's fee and court costs. Permits employees to bring action for themselves and others similarly situated. Provides that no agreement to work for less shall be a defense to such action. Authorizes commissioner to take assignment of such claim and to join various claimants in 1 action.	Provides for fine or imprisonment, or both, for violation of the act or for discharging or otherwise discriminating against an employee because such employee makes complaint, institutes proceedings, testifies or is about to testify in any such proceeding. Provides for fine for misdemeanor of employer who willfully fails to keep the records required, falsifies them, fails to furnish such records, or who hinders, delays, refuses entry or otherwise interferes with the department representative in the enforcement of the act. Provides that each day a violation continues constitutes a separate offense.

¹ Constitutionality of 1919 act upheld: *General Motors Corp. v. Read*; *Atty. Gen. et al.* (1940); 294 Mich. 558; 293 N. W. 751.

² Right of woman worker upheld to bring civil action for damages: *St. John v. General Motors Corp.* (1944); 308 Mich. 333; 13 N. W. (2d) 840; 310 Mich. 392; 17 N. W. (2d) 225.

³ Attorney General's Opinion No. 190, vol. 21, Aug. 7, 1946; Department of Labor charged with enforcement under revised codes, 1935, sec. 3635.

⁴ Attorney General's Opinion, Dec. 13, 1944: Law not enforceable against State and municipalities.

⁵ Wisconsin fair employment law, sec. 111.31-37, as amended by chs. 529 and 628, Laws of 1961, prohibits discrimination because of age, race, color, sex, creed, national origin or ancestry.

EQUAL-PAY ACTIVITY IN STATE LEGISLATURES (1957-63)

U.S. Department of Labor, Women's Bureau, Washington, D.C.

States with no equal-pay laws in which bills were introduced in—

1963: ¹ Indiana, Maryland, Minnesota, New Mexico, North Dakota, Utah, West Virginia.1962: Arizona,² Maryland.1961: Arizona, Florida, Indiana, Maryland, Minnesota, Nevada, Utah, Wisconsin.²

1960: Arizona, Nevada.

1959: Florida, Hawaii,² Indiana, Maryland, Minnesota, Ohio,² Wisconsin, Wyoming.²

1958: Kentucky

1957: Florida, Indiana, Minnesota, Nebraska, Ohio, Utah, Wisconsin.

States with equal-pay laws in which bills were introduced in—

1963: ¹ Illinois, Michigan, New York, Washington.1962: Michigan,³ New York, Wisconsin.³

1961: Illinois, Michigan, New Jersey, New York, Washington.

1960: Michigan, New York.

1959: Illinois, Michigan, New York, Oregon, Pennsylvania.³

1958: New York.

1957: California,³ Illinois, New Jersey, New York, Pennsylvania.*Examples of differences in wage increases negotiated in selected current union contracts*

Date effective	Industry and union	Location	Number of employees covered by contract	Negotiated hourly increase (cents)	
				Men	Women
May 1961----	Industry: Paper and allied products. Union: International Brotherhood of Pulp, Sulphite & Paper Mill Workers.	St. Paul, Minn----	1,250	10	8
July 1961-----	Industry: Chemicals and allied products. Union: Oil, Chemical & Atomic Workers International Union.	St. Paul and Hastings, Minn.	2,500	18	16.5
March 1960--	Industry: Food and kindred products. Union: International Brotherhood of Teamsters, Chauffeurs, Warehousemen, & Helpers of America.	Northern California.	10,000-60,000	11-15	10
September 1959.	Industry: Metalworking----- Union: International Union, United Automobile, Aircraft & Agricultural Implement Workers of America.	Elkhart, Ind-----	1,000	6-16	6
January 1960.	Industry: Printing and Publishing. Union: International Brotherhood of Bookbinders.	Philadelphia, Pa--	(²)	39	37
July 1961-----	Industry: Warehousing, wholesale and retail trade. Union: International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America.	Seattle, Wash-----	1,000	5-6¼	3¾
	Industry: Miscellaneous manufacturing. Union: United Rubber, Cork, Linoleum & Plastic Workers of America.	Lancaster, Pa-----	(²)	47	45.5

¹ Production employees.² Not available.³ Journeymen and journeywomen.⁴ Average.

Source: U.S. Department of Labor, Bureau of Labor Statistics. "Current Wage Developments," Nos. 146 and 147, 151, 162, 164, and 168.

¹ Report for 1963 incomplete.² Equal-pay law enacted for first time.³ New equal-pay legislation enacted.

TEXT OF THE CONVENTION (No. 100) CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE (ARTICLES 1-6)

The General Conference of the International Labor Organization,

Having been convened at Geneva by the Governing Body of the International Labor Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this 29th day of June of the year one thousand nine hundred and fifty-one the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

Article 1

For the purpose of this Convention—

(a) the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;

(b) the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of—

(a) national laws or regulations;

(b) legally established or recognized machinery for wage determination;

(c) collective agreements between employers and workers; or

(d) a combination of these various means.

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers, which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organizations concerned for the purpose of giving effect to the provisions of this Convention.

Article 5

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labor Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labor Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

RATIFICATION STATUS OF CONVENTION 100

Forty-three countries had ratified the Convention as of January 1, 1963:

Albania	Iceland
Algeria	India
Argentina	Indonesia
Austria	Italy
Belgium	Ivory Coast
Brazil	Libya
Bulgaria	Malagasy Republic
Byelorussia	Mexico
China (Taiwan)	Norway
Costa Rica	Panama
Cuba	Peru
Czechoslovakia	Philippines
Denmark	Poland
Dominican Republic	Rumania
Ecuador	Senegal
France	Sweden
Gabon Republic	Syrian Arab Republic (Syria)
Federal Republic of Germany	Ukraine
Guatemala	United Arab Republic (Egypt)
Haiti	Union of Soviet Socialist Republics
Honduras	Yugoslavia
Hungary	

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Mr. THOMPSON. Thank you, Mrs. Peterson.

As usual, your testimony is excellent, and I look forward to the opportunity to study the data which has been included in the record.

Mrs. Green is here and—although she is not a member of this subcommittee—as a sponsor of this legislation she is vitally interested. She has a commitment uptown in a few minutes, so I will give her the first opportunity to ask you some questions.

Mrs. Green.

Mrs. GREEN. I thank you very much, Mr. Chairman, and may I also express my gratefulness to you for such speedy consideration of this legislation.

Mrs. Peterson, I think your statement was excellent, and as always you present very persuasive arguments, at least to the women of this country.

I have one comment, if I may, Mr. Chairman, and two questions, if I may direct them to the Secretary.

As the author of this legislation in this session and in previous sessions, I regret that we were forced to make concessions on provisions of the bill, which in effect weaken the legislation. This was true in the 87th Congress and it is true once again in the 88th Congress, and it seems to me that this bill is a bare minimum.

I am constantly confronted with the hypocrisy in regard to this legislation.

I think of a leading nationwide lumber association which has been writing Members of Congress from the Northwest, where lumber is such an important industry, asking for Government rules and regulations in order to protect the lumber industry, and I have in my files probably dozens of letters from them and individual members of that association. Yet I see that they have taken a stand in opposition to equal pay legislation on the basis that they do not want any governmental interference.

The consistency and the logic of this escapes me.

I would like to direct two questions to the Secretary, if I might.

In Executive Order 10925, establishing the President's Committee on Equal Employment Opportunity, we read the words, "Whereas discrimination because of a race, creed, color, or national origin is contrary to the Constitutional principles and policies of the United States," et cetera. Why could not the word "sex" also be written into this order?

Secretary WIRTZ. I think it could be, Mrs. Green. Yet I feel at the same time that the two matters, without making any comparison between the degree of the seriousness they present, are sufficiently different that probably they warrant different treatment.

This would be for a number of reasons.

I think there is more prejudice in our treatment of minority groups than there is in our treatment of women today.

I interspersed my formal commends at the beginning with a suggestion that this matter of equal pay for women and for men seems to me to have been carried now to a point where it is no longer a matter so much of prejudice. There is a hangover of prejudice about it, but we have matured in this area more, I think, than we have in the other, so that we face now primarily a business matter of seeing to it that we remove a degree of discrimination which I think is just a kind of carryover, and that it does not have the elements which are inherent in the minority situation.

There are differences in State treatment. There are differences of one kind or another.

My answer to your question would be that it is not a matter of attaching more importance to one than to the other, but rather a matter of recognizing them as sufficiently different that separate treatment of the two problems is probably a good idea.

Mrs. GREEN. When you say that discrimination because of sex is just a carryover and not as great as other discrimination, in view of the statistics and the material that the Assistant Secretary has presented, I am not persuaded that this is the case, and I wonder if you could comment further on that?

Secretary WIRTZ. If I may, my word was there is not so much prejudice about it. I think the resultant discrimination may very well have an equivalence of effect, but I do not think there is the same characteristic of, well, benightedness, if you will, about it.

Mrs. GREEN. When you speak of minority, of whom do you speak?

Secretary WIRTZ. Racial minority, principally Negroes.

Mrs. GREEN. Also in the President's order are included the words "creed or national origin." Do you think there is more discrimination in both of those areas than there is against women?

Secretary WIRTZ. No; I do not at all, and I come back to my original question that it could have been included, could be included now. That order would be limited in its application only to Government contracts and to Government employment.

This legislation would have the broader effect of covering the entire area of interstate commerce and would be different in its effect and treatment. To whatever extent my answers to your question might seem to be taken as including any implication of a difference of importance of the two problems, I do not intend that differentiation.

I point, rather, to differences which seem to me to exist as far as the nature, not the severity, of the problem is concerned.

Mrs. GREEN. I favor the broader legislation, too. I think it is badly needed, but it seems to me that we could get some action immediately in eliminating discrimination because of sex, if that word were written into the order establishing the President's Committee on Equal Employment Opportunity. Then I would turn to part III of the order—

Secretary WIRTZ. May I just complete our discussion of that by noting that section 7 of the legislation does have a coverage which is similar to the coverage of the Executive order, so that that problem is singled out here for particular treatment.

Mrs. GREEN. This leads me to my next question.

Secretary WIRTZ. Yes.

Mrs. GREEN. That by Executive order, part III could be amended to include the word "sex" as far as Government contracts are concerned, which would not necessitate section 7 in the bill, is that not correct?

Secretary WIRTZ. If the Executive order were amended to that extent, that would in effect result in the same coverage as section 7 of the bill has.

I would point out that there would be differences with respect to enforcement procedures. The enforcement procedures in this bill are substantially different from those in the Executive order, but the coverage would be in effect the same.

Mrs. GREEN. Do the enforcement procedures need to be strengthened in the President's order?

What I am really getting at is that we could move more rapidly; I have introduced equal pay bills for 9 years, and this is a bit of a long time and no action has resulted. If it could be done in a matter of a week by Executive order, it seems to me that this might be an avenue that would produce results.

Secretary WIRTZ. Well, let me point out just two things, both of which are, of course, familiar to you.

One, that the President's Commission on the Status of Women has had very much in mind the question of the balance between the two

approaches; and both through the advice of that Commission and in connection with general discussions which have taken place, I should not for a moment mean to suggest that the other opportunity is foreclosed if this one is not followed. I would, at the same time, feel quite strongly that this legislative proposal, as of the present moment, represents the most effective approach to this problem, but I repeat that I do not mean to foreclose consideration of the other.

Mrs. GREEN. Why would section 7 in this bill be a better route than to amend the Executive order?

Secretary WIRTZ. The most specific answer would be that the enforcement provisions do a good deal further than the enforcement provisions in the Executive order. The enforcement provisions in the Executive order are limited to a cancellation of the contract, with reference to injunctive relief of one sort or another, which is much less clearly defined than is true in this bill. That would be the principal difference.

Mrs. GREEN. But you see no objection to amending the Executive order, and then going beyond that in the bill?

Secretary WIRTZ. My personal judgment would be that this proposal represents the best approach to this problem at this point, because you would have the administration of section 7 in the hands of a group which was working with this particular problem, the problem of discrimination as between men and women.

Now, I guess I do think somewhat differently from the answer which your question might imply. I guess I do think that it would be better to put the enforcement of this program, make the enforcement of the provisions on discrimination between men and women in Government employment and on Government contracts, part of the broader program of prohibiting discrimination as between men and women in interstate commerce as a whole. I think this is a preferable approach.

Mr. THOMPSON. Well, might not the addition of the word "sex" to the Executive order at this time somewhat dilute the effectiveness of this effort? And further, is this not a more comprehensive treatment of the subject in which we are interested?

Secretary WIRTZ. You have said better what I was trying to imply, that to take this matter or problem as a whole, and to put it in the hands of administrative groups concerned with this problem does seem to me to have that advantage.

Mrs. GREEN. Thank you, Mr. Chairman.

Mr. THOMPSON. Mr. Griffin?

Mr. GRIFFIN. Mr. Secretary and Mrs. Peterson, I want to commend both of you on your statements. As the Secretary indicated, there is no longer much disagreement concerning the general principle that this bill seeks to implement.

Even though it was not in the exact form presented by the Department, I was pleased that the House did pass an equal-pay-for-equal-work bill in the last session. I wish that bill had become law. I am pleased to note, although Mrs. Green indicates some disappointment, that some of the amendments which we presented and which were adopted in the consideration of the floor in the last session have been retained by you in the bill which is presented in this session.

I guess we will not have to argue about the words "equal" and "comparable" any more. Also we raised the point, you will recall,

that, as studies of the Department of Labor indicate, some of the discrimination—perhaps not very much of it, but some of it—is caused or at least partly caused or joined in by the activities of local labor union officials.

I think we are all aware of the fact that labor as well as the NAM, at their top levels and in their platforms, piously decry any discrimination on the basis of color, any discrimination on the basis of sex, and so forth, but at the local level, in some instances, these principles are not always observed. In fact, discrimination on the basis of sex is sometimes written into collective bargaining agreements with the agreement, if not the insistence, of local union officials.

I notice in the bill you have presented that you have accepted this principle, and have provided that "no labor organization shall cause or attempt to cause any employer to discriminate against an individual in violation of this act." I certainly want to commend you for making this apply to both sides of the bargaining table.

However, I am a little at a loss to understand why that one part of the amendment adopted in the last session was eliminated. We not only used the language which I just quoted but we also provided that no such employer and no such labor organization shall "discharge, cause to be discharged, discipline or otherwise discriminate against" any employee on account of any action taken by such employee to invoke, enforce, or assist in any manner in the enforcement of the provisions of this act.

That provision is retained with respect to employer action, but the union is eliminated.

That may have been an oversight. I would think that should be an important implementation of the principle.

Would you have any comment on that, either the Secretary or Mrs. Peterson?

Secretary WIRTZ. Yes, Congressman Griffin, that would appear in section 5(a)(5), and there is between the position you have stated here and the one reflected here, this difference. I do point out that in section 5(a)(4), the sanctions would run against both the union and the employer. There is intended no discrimination or differentiation, I mean, on that score.

Now, with respect to section 5(a)(5), that is a reflection of the fact that the employment involved here runs between the employer and the individual employee and that is the reason for its being in this form.

It would be a little hard to spell out in a different form, but there is no intended difference.

Mr. GRIFFIN. I am glad to get that assurance as some of us may want to propose an amendment for unions in the disciplining of their members, sometimes imposing fines, for example. That is a problem we run into, when union discipline sometimes seems to fly in the face of what legal rights are supposed to be. I am disturbed about this practice in other areas of the law, and I do not want it to enter into this situation. I realize it is not a major problem. I think most unions—let me make it very clear—are very sincere in their efforts to try to eliminate discrimination on the basis of sex, and much of the progress that has been made has been made because of the efforts of labor organizations to eliminate it in the collective bargaining process.

Secretary WIRTZ. You know, as I think through your question in terms of the language here, it does seem to me that with a combination of 5(a)(4) and 5(a)(5), we do cover this situation completely with respect to unions and employers, because 5(a)(5) relates only to the fact of reinstatement after discharge. That reinstatement would have to be by the employer, because he is the employer, and by making 5(a)(4) run against both employers and unions, it is my impression that the point that you are suggesting would be covered by the combination of those two.

But let us be clear, we are talking about the same thing.

Mr. GRIFFIN. We are talking about the same principle, and we can worry about the technical language at a later point.

One of the points, I think, that is of some concern—and perhaps we could get some clarification—is the meaning of the term “place of employment.” The bill presented this year and also the bill that passed the House in the last session, talked in terms of no employer discriminating in any “place of employment.”

In the fair labor standards amendments, which were passed here a year or so ago, the term “establishment” was used. I wonder if the Secretary or Mrs. Peterson can give us any enlightenment on the scope or the meaning of the term “place of employment” as it is used in the bill.

Mrs. PETERSON. I would be glad to do that.

Our intention definitely is to limit it, to be very specific and precise, and in our interpretation “place” means exactly place of employment.

May I give you an example of how I feel that we would interpret that term? Let us take one firm, for example, where an inequality of wage rates exists; and suppose it was a firm called the X firm on a certain corner. It is in that place of employment that the differentials, we would hope, would be eliminated.

If this person, this employer, had a branch store in the other end of town, that would not be the same place of employment.

Our intention, really, in moving into legislation of this kind which is new—we are plowing new ground—is to limit its scope to this. This was clearly the intent of our bill last year, and I think is clear in the intent this year. We carried it forward. It is a precise definition, as near as we could get it.

Mr. GRIFFIN. So that if a company had another place of business in another State, or in another area of the same State—

Mrs. PETERSON. It would not be covered.

Mr. GRIFFIN. It would not be covered by this language.

It would be covered but you would look at that place of employment separately, to see whether he was discriminating in that particular place of employment.

Mrs. PETERSON. That is right. It would have to be a case in that specific place of employment.

Mr. GOODELL. Would the gentleman yield?

Mr. GRIFFIN. Yes.

Mr. GOODELL. Since that is your interpretation, and since we do have minimum wage laws which use the word “establishment” to mean precisely, I think, what you define here as “place of employment,” I wonder if you have any objection to using the word “establishment” rather than “place of employment”?

Mr. GRIFFIN. Or perhaps in a definition of place of employment.

Secretary WIRTZ. My offhand remark, Congressman, is that there would be no difference.

The use of the phrase "establishment" in the Fair Labor Standards Act is for a different purpose, and does not include this key fact here of comparison as between particular employees, but I say to you in complete candor that I know no intended meaning in the term "place of employment" which would give the word "establishment" a different effect.

Mrs. PETERSON. And I think it might even confuse this very point that you raise, where we want to be specific here.

It is tighter.

Mr. GRIFFIN. Getting into some of the practical problems of making this law work—and, as I indicated at the outset, I think this is the area to which the concern is largely directed—let me give you a situation which may not be typical, but certainly is within the realm of possibility. There may be a problem in one provision of this proposed bill. The bill, in effect, says that where a violation is determined by the Secretary to exist, that the only way it can be remedied is for the wages to be raised.

This may not always benefit the ladies, although I assume most of the time it will.

I am thinking of the situation in a restaurant, for example, where a poor male waiter is competing with a nice looking blonde. In some instances, this law may help the members of my sex. In addition, there is the situation of dancers and entertainers, and so forth. I do not know what you are going to do, Mr. Secretary, to determine if there is discrimination in some of these areas.

Secretary WIRTZ. I can look into that case. [Laughter.]

Mr. GRIFFIN. Let us take a situation where there is a production line. Fifty women work for one wage and, let us say, one man, who happens to be the boss' nephew receives 50 cents an hour more. Across the street, a competitor in business has no men working at all. The women in both places are making the same wage. I also assume there would be a violation here, and I assume the only way it could be corrected would be to raise the 50 women 50 cents so they would receive the same pay as the boss' nephew, or am I mistaken, in the bill?

Secretary WIRTZ. Yes; I think there is another approach. I think if I were the boss, I would forget nepotism at that point and get rid of the man whom I was paying 50 cents more just because he was my nephew. And I do not mean this lightly, Congressman, because your reference is to a set of situations which we have thought through, and realize might present some difficulty, and if there were an artificiality of that kind, I would think that good business would prompt putting him in his will instead of on his payroll, and removing this fact.

Mr. GRIFFIN. That is very interesting, and I think should be the right answer in a situation like this. Let us change the facts a little. There is a collective bargaining agreement in a particular establishment. The one man does not happen to be the boss' nephew, but he is receiving 50 cents an hour more. The only thing he does different than the ladies is to take the box off the end of the line and put it on the floor.

Now, the employer thinks—and perhaps the union in this situation also thinks—this is enough of a difference in the work so that they are all right.

I do not know at this point—and I do not know if you would know at this point—whether that would be enough of a difference in job content to justify saying that this is or is not “equal work.” However, suppose that your department came along later and said, “No, this is equal work, within our regulations, and therefore you have to come into compliance and raise the 50 women 50 cents an hour.”

Secretary WIRTZ. I do not mean to minimize the problem. I am perhaps entitled to say that in previous experience as a labor arbitrator, I have encountered, I suppose, a hundred or a hundred fifty, maybe 200, of these equal pay cases. It is a problem in the administration of a collective bargaining agreement and, therefore, I do not mean to minimize it; but I would add from that experience, too, that the result in most cases of this kind which come up under collective bargaining from time to time is that the matter is worked out on some adjustment basis.

I think probably it is true that private arbitration in the equal pay for equal work cases result more frequently than in any other class of grievance cases in recognizing that you have a problem which ought to be worked out by adjustment rather than enforcement.

Now I couple that experience with the experience that we have in the administration of the Walsh-Healey Act and the Fair Labor Standards Act where again our experience is that about 95 percent of all cases of violation result in voluntary compliance or an adjustment.

I would assume that the only fair answer to your question is that those problems will arise, and the procedures must be sufficiently flexible to permit the largest degree of practical working out of those situations, reserving the sanctions of enforcement only for the very few cases in which it remains.

I would repeat again that there is nothing in the act as proposed which would preclude his making administrative, managerial shifts of employment which would resolve the most extreme cases of that kind which might arise. I do not mean to duck the implications of your question. The proposal is—and I think almost necessarily—legislation which suggests that if the problem cannot be met by any of those approaches then the lower wages would be brought up to the higher level.

I am going to say that I think we are talking about a problem which will be serious as a matter of administration, but the unusual problem.

Mr. GRIFFIN. Mr. Secretary, I think this sort of brings up the question of whether or not the sole purpose of this legislation is to eliminate discrimination on the basis of sex, or whether this legislation has another purpose; namely, to raise wage levels in this country. If the only way violations of the law can be remedied is to raise wage levels, it is going to have that effect; is it not?

Secretary WIRTZ. Yes.

I did not mean to interrupt. Is that your question?

Mr. GRIFFIN. Yes.

Secretary WIRTZ. The purpose of it is to eliminate the differentiation and is exclusively that.

Mr. GRIFFIN. Why, then—I am not suggesting that in every case the man should be fired or that in every case the man's wage should be lowered to the women's wage; however, I am suggesting that there

may be situations where it may be necessary in order for a particular employer to stay in business, to have some accommodation between the wages paid to the men and the women. It might be equitable to pay a wage that would be somewhere in between, a wage that all would agree upon. But, as I understand it, the proposed bill would not permit that to happen.

The only way a violation could be remedied under the bill—and certainly a union is going to insist on it—is for the lower wages to be raised to the higher.

It seems to me there is a serious problem here that we ought to face.

Secretary WIRTZ. Of course, the questions are put and the answers recognize that this was a matter of a good deal of discussion last year in connection with this legislation, and I am not sure how much I can add to that really very extensive consideration.

I can only say that again, it would seem to me that this is a matter which will arise most infrequently. My immediate reaction is a little different from the one you have suggested about the treatment which would result in a mutually satisfactory settlement as far as all the parties are concerned.

I think of a case that has come up under one of the State laws, Congressman Griffin, in which there was a settlement of about that same kind.

In that case there was an adjustment worked out in a situation apparently about like the one that you have posited here, in which there was an adjustment of both the rates, to bring them into accommodation, and I can only say that with whatever question there may be about the letter of the act, if the situation presented itself to me as administrator under the act, in which a mutually satisfactory arrangement of that kind had been made, my every disposition would be to accept that mutually satisfactory arrangement.

Mr. GRIFFIN. Of course, whenever we raise questions of this nature it is not unusual for the administrator at the present time to say, "Well, if this came to me, I would not do such and such," but we cannot legislate on the basis that you will always be the Secretary of Labor.

Secretary WIRTZ. Completely right, and——

Mr. GRIFFIN. Of course, we expect you will be for a while at least——

Secretary WIRTZ. You shame me, nor could I answer the question fairly in those terms, and I will withdraw that part of the answer, and I would simply say in a general way—well, let's let the matter end there. I appreciate your point.

Mr. GRIFFIN. I have taken more than my allotted time, Mr. Chairman, and I yield the floor.

Mr. THOMPSON. Mr. Secretary, I gather, then, that in response to Mr. Griffin's earlier question that it is not the intention of the Department or of your self to have this become law in order to raise wages, but rather to establish the principle of equal pay for equal work, and some means by which to enforce it. Is that correct?

Secretary WIRTZ. That is right, Mr. Chairman.

Mr. THOMPSON. Mr. Taft.

Mr. TAFT. Mr. Secretary, under the Government contract section 7 portion of the bill, there is what I would call a blacklisting provision under subsection (b).

Secretary WIRTZ. Yes.

Mr. TAFT. Am I correct in thinking there that the only way that someone can be removed from the blacklist is by satisfying the Secretary of Labor?

Secretary WIRTZ. That is after a formal determination that there has been violation.

Mr. TAFT. Yes.

Secretary WIRTZ. Yes. That would be true, if there has been a formal determination of violation, then the removal from the blacklist would be on the basis of being assured that the violation had been rectified. That is right.

Mr. TAFT. Do you think that is a satisfactory provision?

Secretary WIRTZ. I understand the point you have in mind, and if the alternative were that upon satisfaction or remedying of the fact of formally determined violation, he should be removed from the blacklist, I would think that it is highly appropriate.

Mr. TAFT. I do not envy you in having that responsibility.

Secretary WIRTZ. No, not a bit.

Mr. TAFT. The language in the bill last year on this point read:

Until the contractor has complied with all orders issued to him, pursuant to section 6, the appropriate section.

I would think that language would be preferable.

Secretary WIRTZ. So should I, Congressman.

Mr. TAFT. Thank you.

Mr. Secretary, are there provisions of law or regulation applying the principle of nondiscrimination to the Federal Government?

Secretary WIRTZ. Apart from this bill?

Mr. TAFT. Yes. I realize there is nothing in the bill on it, as I see it.

Secretary WIRTZ. That is an area in which there has been a good deal of development. There is no precise statutory coverage along the same lines.

This is a matter which has been considered by the Government in connection with various directives, one thing or another, for a long period of time, Congressman Taft, and it has been brought into its present form by a ruling of the Attorney General within the last 12 months, which, although in a different form, approaches this treatment very substantially.

Today, I would say that as a combination of the effect of that ruling and the developing practices, to the best of my knowledge, the situation within the Federal Government is tantamount to the situation which would be established as general policy under this act. I do not think we have eliminated or met the problem 100 percent, but I think under this new ruling, it is about that.

Mr. TAFT. Do you recall that ruling? I have had a couple of inquiries along this line.

Of course, rather than to pay, probably, they are more likely to relate to promotion and seniority, but would the Attorney General's order apply to that, also?

Secretary WIRTZ. The Attorney General's order relates specifically to hiring practices.

Mr. TAFT. To the hiring and to pay only?

Secretary WIRTZ. That is correct. I mentioned it as part of a movement within the Federal Government. It does not cover pay, as such. It refers to the hiring. I do not believe, Congressman—

let me say two things: I do not think that the laws go to the point in their application that you have here expressed. I think that the prevailing practices are substantially what you have expressed here, but I think that perhaps you would prefer an answer from Mrs. Peterson, who would be more sensitive in this area, whose answer might be a little different from mine. If it was, I would want her to make it.

Mr. TAFT. I would very much like to have an answer from Mrs. Peterson.

Mrs. PETERSON. Well, I think there were two items involved here. One is, I think, the question of opportunity, which I think was somewhat covered by the Attorney General's ruling, and the other is the matter of equal pay, which was established in the Federal service under the Civil Service Classification Act of 1933, so in the Federal Government there is equal pay, and that principle is well established. When a job is set up, whoever performs that job, gets the same pay.

The difficulty in the Federal Government has been that there has been the feeling that women have not had access to the higher level jobs and the standards have shown this, because previous to the Attorney General's ruling, a designating officer could state whether he wanted a man or a woman for the position.

Under the new ruling, he can state a man or a woman, but he must give reasons for it. If there is a justifiable reason, this is accepted, of course, because there are some areas of employment which may not be suitable for women. But the general selection is on the basis of what are the requirements for the job, regardless of whether it is a man or a woman who performs it, so it has two items in it, you see, the pay issue and the opportunity issue.

Secretary WIRTZ. I think we are being too conservative in our answers.

As far as the civil service rules are concerned, as you know, there are certain grades, the pay is on a grade basis, and so there could be no opportunity, under the technical application of those rules, to get to an unequal pay situation. In referring to the Attorney General's ruling which was as Mrs. Peterson has said, the way in which that might have been avoided in the past, I think that probably is pretty well met, I guess, as I think about it, the whole civil service grade classification system, without a specific prohibition on wage discrimination on the basis of sex does mean that technically we have no discrimination in the Federal Government, and practically we are pretty close to it.

Mr. TAFT. Of course, the problem is more likely, as I said, to arise in the Federal Government with relation to layoffs or in relation to promotion and this type of thing.

This is where I have had some contact with it. We are talking about the biggest employer in the Nation and I was curious as to how it was handled.

Secretary WIRTZ. Yes, you would be entitled, in answer to your question, to have it pointed out that there is also a substantial segment of blue collar employment within the Government, as far as some of the naval yards and so on and so forth are concerned, and I would have to check my answer more carefully than I have to be sure that it covered that, but I think it would.

Mr. TAFT. Mr. Secretary, on the power that would be given under this regulation, would you expect to issue regulations defining what equal work is?

Secretary WIRTZ. Yes, within that area of possibility in which I would know from experience and from consideration of the problem that was possible. They could not go all the way. They would be as specific as they could be for the guidance of employers. They would recognize that there still remained the necessity of a good deal of case by case determination, and of course it is for that reason that the bill also includes a provision that if any action is taken, based on reliance upon anything that the Secretary has done, that should be a complete defense.

Mr. TAFT. I take it that that would probably cover, going on with the language of the bill, "equal skills" as well. I do not really understand what an equal skill is. Is strength a skill, or not?

Secretary WIRTZ. The difference in the strength requirement on a job would be a basis for differentiation.

Mr. TAFT. Is it a skill?

Secretary WIRTZ. In the established job classifications, job evaluation approaches, the skill factor, the strength factor, would be among those which are specifically identified in every job evaluation system.

Mr. TAFT. In the language of the bill last year, the word "bona fide" job classification was used. This has been eliminated this time. Do you see any objection to putting wording of that sort back into the bill?

Secretary WIRTZ. I think that that is covered in its broadest form in section 4(a), and there was a feeling that any specification would have the effect of limiting the application of the broad provision. So that it would be my impression that that would be more unquestionably taken into account in the present form of the bill than it would under your suggestion, and that the specification would have the effect, as I say, of limiting the application of the broad provision.

Mr. GOODELL. Will the gentleman yield?

Mr. TAFT. Yes, I yield.

Mr. GOODELL. Mr. Secretary, you mentioned the question of strength being a "skill". In many States there are restrictions on the manner in which women may be employed and the times at which they may be employed.

Now I assume there is a State law that forbids the employment of women on night shifts, or restricts the employment of women on night shifts. Would you say that the men have a special skill, in that they are exempt from these State laws?

Secretary WIRTZ. Let me think. I don't quite understand that.

Does a man have a special skill which is reflected in the fact that he is exempted from the State law?

Mr. GOODELL. Which protects the woman and restricts the conditions under which they can be employed.

Secretary WIRTZ. I wouldn't have used "skill". I wouldn't class that in terms of skill.

There is a quality there which apparently the State has recognized as different, for reasons which are obvious.

Mr. GOODELL. Well, do you think under this law that you have enough flexibility so you can recognize the difference and differentiate the two?

Secretary WIRTZ. I inquire—not to argue, of course, but to be clear about the question—how would it come up? Would it come up in connection with an employer paying different rates on the same job, on the basis that he could hire men all three shifts but he could hire women only one?

Mr. GOODELL. He may have two shifts, or he may have three shifts set up, and he has to employ men in the night shift while he prefers to employ women, but the State law prohibits him from doing so.

Secretary WIRTZ. I do not think that that would be a basis for paying a differential wage on the first or the first and second shifts.

Mr. GRIFFIN. Would the gentleman yield to me?

Mr. TAFT. Yes, sir.

Mr. GRIFFIN. I think it goes back to the answer, Mr. Secretary, concerning the bona fide job classification system as being a reason other than sex for differentiation.

In section 4(a), to which you referred, at page 5 of the bill, there is an exception—I guess it is the one you were referring to—“except where such payment is made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex.”

If a differentiation were paid for a night shift, I don't see how that would fit into the exception. I think the exception is very limited rather than being broad. Or isn't that the language you were referring to?

Secretary WIRTZ. I don't think there is any difference between us.

If Congressman Goodell's question was as to whether it would be all right to pay men who work on the night shift a higher rate than women are paid for doing that same work on the day shift, I would be strongly inclined to give that possibility very real consideration.

Mr. GOODELL. That is my question; yes.

Secretary WIRTZ. Oh, yes; and I am sorry. I misunderstood your question.

If that factor of nightwork, of availability by way of physical fitness or whatever it may be is such that a State says that men may come out at night, and women may not, to work in this factory, I would have no difficulty at all. In fact, not only would I have no difficulty; I would feel that the payment of that extra rate for the nightshift work would be proper.

But my earlier answer was in terms of whether that would then justify a differentiation on the day shift of that same job.

Mr. GOODELL. Oh, no.

Secretary WIRTZ. I am sorry. I misunderstood your question.

My answer to that would be squarely on the idea that there was a difference and the State has decided that there is a factor here that means that men can do that and women cannot.

I am sorry.

Mr. GOODELL. Would the gentleman yield just a moment?

My concern is this: I don't think the bill as presently written makes this flexibility very clear. It certainly is not seniority, and it is certainly not a merit increase system, and this is what we were attempting to reach last year when we talked about bona fide job classifications that weren't based on differences of sex.

Secretary WIRTZ. I understand. And I understand, too, the reason the question is put in terms of skills, because—

Mr. GOODELL. That is the only category I see that it would fall under, because that is the only one in the bill.

Secretary WIRTZ. May I only say on that that it would be a personal view that the general language does permit a broader recognition of elements of that kind than the more specific language last year would have permitted, but that anything along that line which is found to be a better identification, a fuller identification of the intention to take those factors into account, would be completely consistent with the intention of the proposal.

Mr. GOODELL. Thank you, sir.

Mr. THOMPSON. I would find it a bit difficult to determine in my mind how the phrase "bona fide job classification" would assist in the interpretation of many laws from the 50 States, or indeed from some municipal ordinances going to the hours of work or other restrictions which might create distinctions between men and women in terms of hours or types of work.

Do you have a few questions, Mr. Goodell? We would like to move on.

Mr. TAFT. I have one or two more.

Just following through on this same line, Mr. Secretary, it seems to me there are so many variations that could be involved that it is impossible to spell them all out, even by regulation.

Now last year there was included in the bill a provision that no order of court may issue if the wage discrimination was based on some factor other than sex. Do you see any objection to including language of that sort in the bill, just to spell this out?

Secretary WIRTZ. I see none.

Mrs. Peterson, with a background of working with it last year, might, but I see none.

Mrs. PETERSON. Oh, no.

Mr. TAFT. One other question then, Mr. Secretary.

The powers under section 5(a)(2) on page 6 of the bill, the power to "enter and inspect such places and such record, and make such transcriptions thereof, question such employees, and investigate such facts, conditions, practices, and matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this act, or which may aid in enforcement of a provision of this act," sound to me like very broad language from a legal point of view.

As a lawyer, that is the kind of language that makes me recoil a little bit, because I want to know what is going to happen to somebody when somebody comes in under this provision from the Department and asks for some information and they refuse to give them the information. What happens then?

Secretary WIRTZ. Well, first may I say with respect to the language that we have in this section simply taken the language from section 11(a) of the Fair Labor Standards Act as it was adopted by the Congress in 1938.

Mr. TAFT. It is identical with that language?

Secretary WIRTZ. I think if not verbatim, virtually so.

Mr. TAFT. What happens when they turn down requests for information under that act?

Secretary WIRTZ. I would have to check. I should know the answer.

I would have to check as to the statutory provision for refusal to comply with that kind of provision.

I will be glad to add to the record a reference to the general provisions. It is not in this bill. It would be in whatever statutory provisions are applicable generally, and I would have to check to give you a complete answer to that.

Mr. TAFT. I would appreciate a letter or something for the record.

Secretary WIRTZ. Your question specifically is, What would be the procedures and sanctions for a contempt of the administrative process established in section 5(a)(2)? We will add that.

(The information referred to follows:)

INVESTIGATION PROCEDURES UNDER 5(a)(3) OF THE EQUAL PAY ACT OF 1963

The Secretary of Labor's investigation authority under the proposed Equal Pay Act,¹ (H.R. 3891, H.R. 4269) follows section 11(a) of the Fair Labor Standards Act of 1938, as amended.²

1. Fair Labor Standards Act investigation authority

There is no coercive aspect to the investigation authority in the Fair Labor Standards Act. Section 9 of that act authorizes the Secretary to secure oral testimony or access to records required for administration of the act by issuing subpoenas pursuant to section 9 of the Federal Trade Commission Act. A subpoena, therefore, is resorted to in the unusual situation in which an employer refuses access to premises or records in connection with investigations under section 11(a).

There are no legal sanctions which can be applied administratively under the Fair Labor Standards Act or under general provisions of law for failure to comply with such an administrative subpoena. In cases of contumacy, it is necessary to go into court and obtain a court order to enforce a subpoena. If a court order is issued ordering compliance and compliance still is not forthcoming, the non-complying individual then would be subject to civil court proceedings for contempt.

As the courts have said:

"No officer or other person has sought to enter petitioners' premises against their will, to search them, or to seize and examine their books, records or papers without their assent, otherwise than pursuant to orders of court authorized by law and made after adequate opportunity to present objections with in fact were made." (*Oklahoma Press Pub. Co. v. Walling*, 327 U.S. 186 (1945)).

In a footnote (23 on p. 199), the court comments upon the investigation authority:

"The section thus authorized both general and specific investigations, one for gathering statistical information concerning entire industries, cf. *Walling v. American Rolbal Corp.*, 135 F. 2d 1003, the other to discover specific violations. The pattern has become common since its introduction into Federal law by the Interstate Commerce Commission legislation. See the summary given as to both Federal and State instances in *Handler, the Constitutionality of Investigations by the Federal Trade Commission* (1928) 28 Col. L. Rev. 708, 905, at 905-909, see also 925-929."

2. Experience under the Fair Labor Standards Act

Subpenas to employers in connection with investigations are required in rare instances, totaling only five or six a year. Court actions to enforce them are also rare—one a year for the past 4 fiscal years and one during the present fiscal year.

3. Inspection policy under the Fair Labor Standards Act

As to the extent of investigations under the Fair Labor Standards Act, the Department usually inspects less than 5 percent of the 1,200,000 covered estab-

¹ "SEC. 5. (a) The Secretary of Labor—

"(2) may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such record (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, and matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act."

² Under Section 601 of the Labor Management Reporting and Disclosure Act of 1959, the Secretary of Labor is vested with investigation authority similar to that in the Fair Labor Standards Act and in the proposed Equal Pay Act of 1963.

lishments. Selection of establishments for inspection is usually made under the following priority:

- (1) inspections on complaints;
- (2) reinspections following inspections which have revealed violations;
- (3) routine checks of firms not previously inspected in industry or areas where violations have been found in some number.

Mr. TAFT. Let me ask one other question in this regard.

Do you think it would seriously handicap the administration of this act to put in a requirement that some notice be filed apprising the employer of the fact that he is being investigated, and that a provision of some type of appeal to a court on that order be included in here for protection?

Secretary WIRTZ. If the interpretation were to limit the administration of this only to a situation in which there is a filing of complaints, it would make a whale of a difference in the effect of the act, and one which I would think would be very unfortunate.

If, as the latter part of your question implies, the suggestion is just to be sure that the employer is given full notice of a proposal to look into his records and so on and so forth, something along that line, that would be no difficulty.

Mr. TAFT. I see no reason why a government department should be able to come in without any probable cause, without any information, and be able to demand books and records under sanctions. We assume the purpose is a proper purpose, but, unfortunately, it seems some people have seen abuse of provisions of that sort.

Secretary WIRTZ. Well, Congressman, my life would be a lot easier and maybe even a lot longer if we could accept that rule. I get it most in connection both with the administration of the Fair Labor Standards Act, the Walsh-Healey Act, and, most acutely right now, from the unions in connection with the administration of the Labor-Management Reporting Act. We have that problem very much before us.

I think anybody, whether it is a Government official or not, would like to assume that we can sit back and wait for protests or complaints before instituting a governmental process.

We have been told by Congress in each of these other acts—and I think for good reason—that we also have to make a check study, and to look into these things to find out whether somebody is getting pushed around.

Mr. TAFT. I understand that, Mr. Secretary, but that is very different from coming in and demanding a Gestapo kind of proceeding. When somebody comes in and starts flashing Federal badges around and demanding information, frankly, many businessmen just start to tremble and they turn over everything, sometimes having nothing to do with the case at all.

Secretary WIRTZ. And anything to eliminate or neutralize that feeling, as I indicated earlier, would be fine, would be of great advantage to us.

But I rather thought that your question also implied that the enforcement of this would be limited to cases where complaints are filed from the outside.

Mr. TAFT. I don't know about a complaint from the outside, but it seems to me that at least some showing of probable cause or probable information such as in the antitrust cases, would be very appropriate under the circumstances.

Secretary WIRTZ. Well, we are looking for that. This is a matter, as I say, of daily concern especially in connection most recently with the labor-management reports as far as the unions are concerned. And, frankly, I think the point they take—the point the employers take—is well taken. And anything that could be included here which would have the effect of neutralizing that feeling and establishing the procedure for avoiding that without limiting it to cases, without limiting the enforcement to cases where there are complaints filed outside, would be a gain from our standpoint.

The CHAIRMAN. Maybe we ought to give them very distinctive colored badges or something so that the businessmen wouldn't confuse them with Internal Revenue.

Mrs. PETERSON, would retail workers be covered by this bill, and, if so, to what extent?

Mr. PETERSON. Well, if they conformed to the standards which are set, which is 25 or more employees doing work that is involved in interstate commerce, it is estimated that 50,000 places of employment and 2,400,000 employees would be covered. I would think that many retail stores that are doing business would be covered, because the goods they handle are moving back and forth in commerce.

Mr. THOMPSON. Mr. Goodell, do you have any questions?

Mr. GOODELL. Yes, Mr. Chairman.

Mr. THOMPSON. I am going to ask that you be brief.

Mr. GOODELL. I will be very brief.

I want to thank Mrs. Peterson and the Secretary for their statements. I think we have a unanimous view in favor of the objective that you seek. You might call this one a majority rights bill.

Mrs. PETERSON. That is a new phrase. Thank you for that.

Mr. GOODELL. One thing that does concern me: In your statement, Mrs. Peterson, you cited the Wall Street Journal survey of employment opportunities for young women. I think there may be a boomerang effect in this unless we are careful in the way it is written and the way it is administered. You quoted in 1962 the survey as saying:

While the business upturn at that time means some new jobs for women, they would not benefit nearly as much as would men graduates from improvement in business.

Now, as a practical matter, requiring employers to pay more for women doesn't seem to me a very good way to induce them to hire more women.

Mrs. PETERSON. You mean more than men? We are not asking for that.

Mr. GOODELL. If your problem is that the file clerk graduates have difficulty getting jobs, then requiring the employers to pay these girl graduates more money certainly isn't going to increase the number of opportunities for them, I would think.

Mrs. PETERSON. I think that most of the employers—how can I say this? That a woman doesn't want to be hired as a bargain. I mean she has her skills and her contribution to make, and therefore I think she feels completely entitled to it.

It costs just as much to educate a girl as it does a boy. Her contributions are the same.

Mr. GOODELL. Well, I agree with your point, but I think we have to be practical about what the effect is going to be, and I think the

immediate effect may be to dry up some job markets for the women in this whole movement.

Mrs. PETERSON. Yes, we hear this. I think we have heard* that kind of argument relative to the Fair Labor Standards Act. We hear it quite frequently, but it actually does not work out that way. There may be some cases, it is true, but I think the principle of hiring the person for the job who has the skill also has weight.

We are willing to take our chance, shall I say. I will put it this way.

Mr. GOODELL. Well, let me ask you one other thing.

There are 120 days after enactment before this program would go into effect. Now in the interim period I would hope that we are not going to have all your employers going out and firing all their women and seeing to it that they have adjusted the situation so they won't have any problem.

On the other hand, we don't want to give special advantage to an employer who has been smart enough to go out and fire his women or transfer them to another agency and set up a special job differentiation; and others who don't do that and who will find the Federal investigators in there.

Do you have an idea how you could handle this?

Mrs. PETERSON. I don't anticipate that employers will do this. I think that the majority of our employers in this country are fair-minded, and there is no intention in this bill, of course, to throw things into confusion.

Employers can hire whom they choose; they can hire men if they want to; they can hire women if they want to. The only thing we are seeking in this bill is that if you hire a person, that you pay the rate for the job to the person who does this. And there is time before this bill goes into effect, I think, for people to bring their payrolls into compliance.

Mr. GOODELL. I think it may have a salutary effect that they can try to adjust their payrolls during that period.

Mrs. PETERSON. And there is a period for that. That was put in because we hoped it would help them to adjust those situations.

Mr. GOODELL. One more question.

On page 7, where you are talking about the Secretary trying to conciliate, and you use the words "may before taking any action." Would you have any objection to making it "shall" or "shall endeavor to conciliate"? On page 7, line 2.

Just a little bit stronger, that where conciliation is a possibility, that the Secretary "shall"?

Secretary WIRTZ. No objection at all.

Mrs. PETERSON. No objection at all. That is our intention.

Mr. GOODELL. I would assume you wouldn't. And a final question.

The CHAIRMAN. If you keep this up we will get this bill out by unanimous consent.

Mr. GOODELL. I would hope so, Mr. Chairman.

One final question that concerns me. On page 6, lines 12 and 13, it would seem that your language there would, through the enactment of this particular bill, permit you to rewrite all regulations with a broader authority in all wage standards acts.

You not only say that the Secretary shall have authority to write such regulations as are necessary for the enforcement of this act, but

you say including regulations to protect against violations of the wage standards of any other applicable law.

This would seem pretty broad language that could be extended to other statutes.

Secretary WIRTZ. Mr. Chairman, I answer responsively not only to Congressman Goodell's question but to your comment of just a moment ago.

We have given very, very serious consideration to the question which is presented by Congressman Goodell, and to the language which appears in lines 12 and 13 on page 6.

I think there is a pretty good argument which can be made for seeking the kind of protection against confusion in the application of various laws which is reflected in those two lines.

I must say frankly again, in answer to your question, Congressman Goodell, that the end product of our consideration of this question is that there is real doubt in our mind as to whether the problems which those two lines would meet are as large as the problems which they would create.

We would therefore feel from our own standpoint, hoping not to be presumptuous as far as the folks who have introduced the bills are concerned, that there is a good argument which can be made for eliminating those two lines.

It is a close question, closer, I think, than the others. There is a real problem here, Congressman Goodell, and these two lines were put in meaningfully.

This language was to cover a case where the argument might be made that satisfying the equal pay law would constitute an excuse for not satisfying another law, or that satisfying another law would constitute an excuse for not satisfying this one.

So I answer it tentatively with an appreciation that there are two sides to this question, but frankly with subscription to the fact that the language might cause more problems than it eliminates.

Mr. GOODELL. Thank you, Mr. Secretary. As usual, your answers are very frank and very helpful. I appreciate them, and Mrs. Peterson's.

Mr. THOMPSON. Mr. Martin, do you have any questions?

Mr. MARTIN. No questions.

Mr. THOMPSON. Thank you very much, Mr. Secretary, Mrs. Peterson.

Secretary WIRTZ. Thank you, Mr. Chairman.

Mr. THOMPSON. Our next witness is Dr. Richard Lester, vice chairman of the President's Commission on the Status of Women, and also, to add a personal note, chairman of the department of economics of Princeton University, a very valued friend and constituent of mine.

Dr. Lester.

STATEMENT OF RICHARD A. LESTER, VICE CHAIRMAN, PRESIDENT'S COMMISSION ON THE STATUS OF WOMEN

Mr. LESTER. Mr. Chairman, it is a pleasure to be here.

I regret that I don't have mimeographed copies of my statement. If you will permit, I would like to read it, and I will start in by saying that my name is Richard A. Lester. I am chairman of the depart-

ment of economics at Princeton University. I am appearing before your committee on behalf of the President's Commission on the Status of Women, of which I am a vice chairman.

The President's Commission on the Status of Women was established by Executive Order 10980 on December 14, 1961. This Commission is composed of 25 members appointed by the President from among persons with a competency in the area of public affairs and women's activities. Among the appointees are Members of Congress—Representative Edith Green, former Representative Jessica M. Weis, and Senators George D. Aiken and Maurine B. Neuberger. In addition, the Secretary of Labor, the Attorney General, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the Chairman of the Civil Service Commission serve as members. The late Mrs. Eleanor Roosevelt was chairman.

I appear today to represent the Commission in support of Federal legislation for nondiscrimination in pay on account of sex.

At one of its early meetings the Commission unanimously adopted a motion supporting the principle of equal pay for comparable work in the same establishment.

At its most recent meeting in February, the Commission unanimously approved a resolution endorsing Federal legislation to implement the principle of equal pay for comparable work.

Now this action of the Commission was taken after a considerable period of study by a special committee of which I have been chairman. Among the members of this committee are such prominent persons in management and labor as Frank Pace of the General Dynamics Corp., Edgar F. Kaiser of Kaiser Industries, Mrs. Ogden Reid, former publisher of the New York Herald Tribune, John A. Roosevelt of Bache & Co., and Mrs. Caroline Davis of the UAW, Jacob Clayman of the AFL-CIO, and Joseph Keenan of the Brotherhood of Electrical Workers.

The committee not only surveyed the available published material on pay for male and female workers but also consulted with industrial relations executives, union research people and officials in several State employment services with respect to current practice and the equal pay principle.

In addition, our staff examined the methods used in the 1961 survey of the National Office Management Association cover 1900 firms in the United States and Canada, which showed that one-third of those firms were discriminating against female office workers by having a double pay scale for males and females employed in the same office positions in the same office.

Furthermore, the committee last September held a one-day conference in Washington attended by 135 persons, including 45 from business and 20 from organized labor, who are concerned with the employment and pay problems of women. The Vice President of the United States spoke at that conference, and he remarked on this matter as follows:

I think we have to consider a simple matter of justice. No governmental or social program will ever succeed that leaves justice out of its consideration. One of the oldest injunctions of the Wise Men is "A laborer is worthy of his hire."

I for one am weary of situations which differentiate between compensation for work well done for any reason other than merit. We live in a never-never land if we believe that there is still a society in which women who work are merely supplementing income from male relatives.

One of the five working panels dealt with the subject of "Compensation for women workers, including methods of obtaining equal pay."

The predominant view among the 20-odd persons attending that panel was, to quote the summary by the chairman, that "legislation fairly enforced is the best and most effective way" of eliminating dual pay scales based on sex. And the chairman also indicated that the members of the panel believed that elimination of sex discrimination in pay should not significantly affect employment opportunities for women, which bears somewhat on the question that Congressman Goodell raised.

Industrial relations executives have pointed out that progressive firms with formal wage structures based on job evaluation or similar objective methods of determining occupational wage rates pay a rate for the job, a single rate or rate range based on the job. In that way they eliminate personal favoritism or irrational and haphazard elements from a company's wage scale. Consequently, such firms have a single wage structure regardless of sex, and do not have a double pay standard discriminating against women.

It is clear from labor-market studies made by economists that the imperfect and loose-jointed operation of the market mechanism as applied to the employment of much unskilled and semiskilled labor means that much unwarranted discrimination exists in employment opportunities and in pay scales. Such discrimination persists although it is unjustified on straight economic grounds. We have seen it in the case of dual pay scales for men in some cases, or minority groups against majority groups, as well as in dual pay scales for men and women where they are both equally qualified to perform a job in a particular establishment.

At its meeting last October the Commission had the benefit of a discussion by Mr. Bertil Kugelberg, president of the Swedish Employers Association, and Mr. Arne Geijer, president of the Swedish Trade Union Confederation. They both explained how their organizations had arranged to eliminate sex discrimination in pay in Sweden by three successive yearly reductions in any sex differential under a nationwide set of collective agreements worked out by the two federations.

In this country collective bargaining does not cover as high a percentage of the work force as in Sweden where over three-fifths of the total labor force of the country is organized in unions, in contrast to about 25 percent in this country.

A special analysis of collective-bargaining agreements in the United States, made by the Women's Bureau in 1956, revealed that equal pay was specifically mentioned in about two-fifths of the contracts studied.

Some of our collective agreements make no mention of equal pay either because the firm has for some time had a single wage structure or because very few, if any, women are employed by the establishment, or because such a clause is considered unnecessary since most of the covered work force of the establishment consists of women.

So this two-fifths figure does not represent fully the extent to which under a collective agreement you do have, in essence or in effect, equal pay.

Equal-pay legislation is primarily designed to bring all covered employment up to the nondiscriminatory practices already followed

under collective-bargaining agreements and also followed by progressive firms that may not be in the particular employment covered by an agreement.

As an economist who has engaged in the study of wages and labor markets for some 30 years, it is my conviction that a Federal equal-pay law would help to improve the operation of the market mechanism in the labor field, and would serve to make the wage structures of individual firms more rational; that is, not the firms that I have been dealing with already primarily, but some that are not covered.

It is well to bear in mind, as Mrs. Peterson's figure indicated, that only one-seventh of the women that are working are covered under collective agreements.

The equal pay principle and equal pay legislation, it should be emphasized as has been emphasized in previous testimony, apply within each establishment separately, or place of employment, as it is put in the act. Such a law is not designed to reduce interfirm or interregional wage differentials but only unwanted wage differentials within a plant that are based on a person's sex and not on his or her ability to perform the job.

Now, in closing my remarks, I should like to repeat that the President's Commission as such has supported legislation to implement the principle of equal pay for persons with equal ability to perform a job in an establishment. It has not specifically endorsed any particular bill or law at the Federal or at the State level.

Thank you.

Mr. THOMPSON. Thank you, Dr. Lester.

I know from long association that you are familiar with New Jersey's equal pay law, and I wish that you would describe for the benefit of the committee and the record the operation or the lack of operation of it.

Mr. LESTER. Well, I am not, in detail, familiar with the New Jersey act, but I think the main benefit—and, of course, its coverage is limited—but the main benefit of such a law in my judgment is that it establishes a principle, a principle which is already being adhered to by far the bulk of the employers. Therefore, it has that moral value, and it provides something to which the progressive firms and the leading firms in the State can look. In the enforcement of the law, so far as I know, there have been no cases of court cases brought up. It hasn't been necessary to go into that kind of method of enforcement in New Jersey so far as I am aware.

Mr. THOMPSON. Do you have any fears as an economist that this will to any large extent "dry up," as the phrase was used earlier, work opportunities for women?

Mr. LESTER. It is quite clear, it seems to me, that it would not dry up the opportunities normally for women who are already working. They are already qualified. If they are under collective agreements, of course, there is a seniority provision, if they are beyond the probationary period.

It is also clear that if they are employed at the present time in these particular jobs, in general they are well qualified for the job by training and experience, so that I would not expect that to happen.

The law says if they are equally skilled or equally qualified, then they will have equal pay. It seems to me if they are equally skilled or equally qualified, the employer has no reason for eliminating them if he has to pay them equally. It would only be where they are not equally qualified or equally skilled, it would seem to me, that he might resist.

There is also perhaps in some instances the added factor of additional cost, but that works both ways. It may work in some occupations and in some situations there may be less cost in hiring women than there would be in hiring men.

I am a trustee of the local hospital, and it is harder actually—I would assume from what I have seen that it would be harder—to hire men nurses in that hospital. You would have some additional difficulties with hiring men nurses perhaps than you would have in hiring women. So it doesn't always work in the one direction.

Mr. THOMPSON. I see. Thank you.

Mr. GRIFFIN?

Mr. GRIFFIN. No questions.

Mr. THOMPSON. Mr. Martin?

Mr. MARTIN. No, sir.

Mr. THOMPSON. Thank you very much, Dr. Lester. It is a pleasure to be with you again.

Mr. LESTER. Thank you, sir.

Mr. THOMPSON. Our next witness is Miss Sarah Jane Cunningham, representing the Business & Professional Women's Clubs. And I would like her to be introduced by our colleague, Mr. Dave Martin.

Mr. MARTIN. Thank you, Mr. Chairman.

Our next witness, as was announced by the chairman, is Miss Sarah Jane Cunningham, of Nebraska, and I am honored to have Miss Cunningham in my district. She is a most able citizen of not only the community but of the entire State of Nebraska as an attorney there, and she practices what she preaches in regard to equal pay because her fees for her legal work are characteristically the same as those of her men competitors.

And I am sure that she gives just as good if not perhaps a little better service to her clients as her competitors.

I would also like to point out that she is no stranger to Washington, in view of the fact that her father was a very able and distinguished Member of this body for 16 years as a Representative from the State of Iowa from 1942 to 1958.

We welcome you, Miss Cunningham, as the national legislative chairman of the Business & Professional Women to our committee meeting this morning.

STATEMENT OF MISS SARAH JANE CUNNINGHAM, NATIONAL LEGISLATION CHAIRMAN, NATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.; ACCOMPANIED BY DR. MINNIE C. MILES, OF ALABAMA, NATIONAL PRESIDENT, NATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.; AND MISS VIRGINIA R. ALLEN, OF MICHIGAN, NATIONAL FIRST VICE PRESIDENT, NATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.

Miss CUNNINGHAM. Thank you, Mr. Chairman, Mr. Martin.

Mr. Chairman, members of the committee, as Mr. Martin has told you, I am Sarah Jane Cunningham, national legislative chairman of the National Federation of Business & Professional Women's Clubs, and I appear here today in their behalf.

Seated on my right and appearing with me is our national president, Dr. Minnie C. Miles, of Alabama, and, on my left, our national first vice president, Miss Virginia R. Allen, of Wyandotte, Mich. We also have, in the back of the room, our immediate past national legislative chairman, Mrs. Agnes Merritt, of Ohio, and Mrs. Prather, of Illinois.

Our national federation represents 170,000 members in over 3,500 communities, with at least 1 local club in every congressional district in the United States, who wholeheartedly support the proposal of equal pay for comparable or equal work for men and women.

Mr. Chairman, I wish to sincerely thank you and the members of your committee for this opportunity to present the views of our federation regarding H.R. 3861, introduced by Representative Edith Green of Oregon, and of H.R. 4269, introduced by Frank Thompson, Jr., of New Jersey, with other like proposed legislation.

Never in the history of our Congress have there been so many major difficult problems to be solved as there are today. However, this issue before the committee today, by all comparisons, is a simple one. Basically, there is no sound reasoning behind its continued existence. Let us take two human beings working on the same job and making the same contribution; certainly they should receive the same pay. The issue is just that simple.

It is gratifying to know that our Government recognizes the fairness of equal pay for equal work which is exemplified by the fact that our women representatives in Congress are paid the same salary as the men.

To cite another example of equal pay for equal work, a doctor's fee is not based on whether one be of female or male species which is as it should be. This should be applicable wherever and whenever men and women are employed at performing the same tasks.

There are no price differentials based on sex when a woman buys any of the necessities of life or when she pays her income tax. We do not ask that there should be. We merely ask that no differential in pay exist because of sex.

Women cannot be treated in the labor market as a commodity. They must be paid on the basis of quality of their work, and should be paid the same as men for equal work. We are of the firm opinion that the measuring rod should be qualification rather than sex. It is not our intent to appear in support of special concessions for women in

this matter. Our position is that we unanimously endorse equal pay for comparable or equal work for men and women.

In studying the membership evaluation survey of our federation we learned many interesting facts which we would like to share with you. Figures revealed that over 40 percent of the respondents to a questionnaire which was issued last March in our national magazine, the National Business Women, have personal annual incomes of over \$5,000. This is well above the national average which, based on the last tabulation made by the U.S. Department of Labor in 1960, was \$3,296 for full-time women workers. Of this group, 84 percent have life insurance, 62 percent own stocks and bonds, 80 percent own automobiles, 60 percent own homes, and 32 percent own real estate other than homes. These figures do more than merely suggest that women deserve our attention as U.S. citizen, first class.

Wartime experience has proven that women have been able to assume successfully many skilled and unskilled labor jobs as well as supervisory, administrative, and executive positions that had in the past been assigned solely to men. If women are to accept the responsibility of citizenship, shoulder their economic load, participate in the thinking and action commensurate with today's needs, it is vital that the barriers of wage discrimination between women and men be removed.

During the course of various hearings held on the equal pay legislation numerous instances of the Federal Government's activity in support of the principle have been cited.

The Industrial Commission appointed as far back as 1898 expressed itself strongly in favor of the principle of equal pay for equal work.

The Commission of Industrial Relations, created by Congress in 1915, recommended that both public opinion and legislation recognize—

the principle that women should receive the same compensation as men for the same service.

In World War I the War Labor Conference Board, in recommending the creation of a National War Labor Board to settle industrial disputes, formulated certain principles to be applied, among which was this one:

If it shall become necessary to employ women on work ordinarily performed by men, they must be allowed equal pay for equal work and must not be allotted tasks disproportionate to their strength.

The National War Labor Board proceeded then to apply this principle in more than 50 cases in World War I.

The U.S. Railroad Administration, formulating an order in November 1918, stated the principle in these words:

The pay for female employees, for the same class of work, shall be the same as that of men, and their working conditions must be healthful and fitted to their needs. The laws enacted for the government of their employment must be observed.

The U.S. Civil Service Commission definitely ruled that all examinations were open to men and women alike in 1918. Following this principle, the salary grades for Federal employees fixed in the Classification Act of 1923 were not differentiated according to sex. Ratings are based on the component elements in the job.

In World War II the War, Navy, and Labor Departments concurred in stating a policy on equal pay, as follows:

Wage rates for women should be the same as for men, including the entrance rate.

The Navy and War Departments followed this statement of policy by issuing directives establishing the principle of equal pay for equal work for the men and women in their offices and installations.

Various Secretaries of Labor have spoken out in support of this legislation. Secretary Lewis B. Schwellenbach, in a report to a Senate committee, stated:

I favor enactment of legislation which would assure equal pay for equal work for women * * *. Such legislation is required as a matter of simple justice to the 16 million women in our labor force in order to prevent unwarranted discrimination against them. Such legislation is also required to prevent the use of women as wage cutters, a process which experience has indicated tends to depress general wage levels of both men and women and to reduce the ability of both to provide the essentials of life for themselves and their families.

Again, in 1948, appearing before the House Labor Committee, Mr. Schwellenbach stated:

Recent history makes such wage cutting more than a theory. During the war years, when the employment of women rose to a peak of over 20 million—36 percent of the civilian labor force—large numbers of women acquired new skills. They worked at a wide range of jobs that had formerly been exclusively men's domain, and these ranged all the way from the manual to the technical and professional. Competition for jobs between men and women workers today is, therefore, active over a much wider area than at any time in the past. This fact makes the harmful effects of paying lower rates to women for comparable work much more pertinent and immediate than at any time within our history.

Secretary Maurice J. Tobin in 1950, in his statement before the House Education and Labor Committee, pointed out:

State laws alone, however, cannot cure an evil which is found on a wide scale throughout our Nation. The scope and standards of these State laws are varied. Uniformity in the application of equal pay standards is important to their effectiveness. This is clearly shown by the fact that employers in States which have equal pay laws and consequently higher wage standards are often put at a competitive disadvantage with those in States where there is no legal barrier to unfair exploitation of women workers by means of discriminatory wage-cutting practices. This disadvantage can be eradicated only through congressional action establishing the equal pay principle on a uniform basis in all our interstate industries and business.

The following statement by Secretary Arthur J. Goldberg in March 1962 before the House Committee on Education and Labor has special significance by reason of his previous experience with the labor organizations:

The origin of the rate differential for men and for women performing comparable jobs is the false concept that a woman intrinsically deserves less money than a man. This outmoded concept, rooted in a psychological downgrading of women's skills, has been amply demonstrated to be false in every field of endeavor, and we simply cannot afford to give it credence in this modern space age. It is indefensible from every standpoint. To state this concept should suffice to refute it, but this has not proven to be true.

Discrimination in wage payment on the basis of sex continues to exist, and this subcommittee is performing an invaluable public service in publicizing its extent and its complete lack of justification. Many will contend it is not pervasive, but this does not mitigate its degrading effect in the cases where it is practiced.

In 1957 Alice K. Leopold, then Assistant to the Secretary of Labor for Women's Affairs, stated:

The principle of equal pay is basic to the American free enterprise system. It also is a matter of simple justice to women workers. Both Federal and State legislation are important methods for helping to achieve this goal.

An excerpt from the St. Louis (Mo.) Post-Dispatch of January 17, 1963, reads:

Women should receive equal pay with men for equal work on jobs the performance of which requires equal skill. We hope that proposition, which women have been trying for more than a century to write into Federal law, will be legitimized by the 88th Congress. It was approved in both Houses in the 87th but killed on a technicality. Its about time this act of economic justice was finally performed.

The strength of the equal pay principle is perhaps best indicated by the weakness of the arguments against it. Some employers claim it costs them more to employ women than it does to employ men—because of high absenteeism and turnover and increased costs of pension and health plans. Proponents of the bill dealt with this argument by making it a complete defense for an employer if he can prove the differential in his costs. The remaining objection is that Federal equal pay legislation for women would be an unwarranted interference in private business. At this day, and considering Senator Barry Goldwater's praise of the measure, that is pretty antediluvian.

Women are an important part of the U.S. work force—they constitute a third of it, more than 24,500,000 of them. Yet in almost every business, industry, and profession in which they are employed they are discriminated against in pay—and many occupations are virtually barred to them. This is not a situation of which the country can be proud. It is rooted not in rationality but in habit—and not a good habit; 1963 is a good year to change it.

Wages are not paid on the basis of need.

In answer to the question so often raised, as to whether this legislation would require an extensive amount of litigation to enforce, according to a statement by the Commissioner of Labor from the State of Arkansas, it would not.

There have been equal pay cases in the courts; two in Michigan and one in Pennsylvania. We understand that a good many years ago there was one in Montana, but there is no record of this case.

It is our opinion that the adoption of a law providing equal pay for equal work will result in substantial compliance in places where there is now discrimination because of sex.

The publicizing of the passage of such a law will cause both employers and employees to either evaluate their operations and make the necessary adjustments and finally in the small number of places where discrimination in pay remains because of sex, it will provide the enforcement machinery which is needed to guarantee that every person regardless of sex will receive the same pay for the same job.

We feel the passage of such a law is long overdue and we sincerely hope that this committee in its wisdom will favorably report an equal pay bill with strong enforcement procedures which will insure its effectiveness.

In conclusion, Mr. Chairman and members of the committee, the double standard for pay must be eliminated. It is in conflict with our basic concept of justice and fairplay. It is rooted in prejudice. Moreover, it constitutes a roadblock to progress.

If we are to maintain and improve our standards of living for an expanding population, we know that we must increase the production of goods and services by about 5 percent by 1970. We can do it only if we use all our manpower resources without regard to race, creed, nationality, or sex.

Mr. Chairman, with your permission and that of your committee, I would like to submit a list of case histories on equal pay for the record.

The CHAIRMAN. That will be a very valuable contribution.

Without objection, that will be done.

(The documents referred to follow:)

CASE STORIES ILLUSTRATING NEED FOR AN EQUAL PAY LAW

A glass manufacturing plant employs women in its packing and carton assembly departments and as benchworkers. They do the same work as the men in these departments. The benchworkers and the workers in the carton assembly department are paid 4 cents an hour less than the men, and the women in the packing department receive 12 cents an hour less than the men. In the period between March 21 and October 1, 1960, these 68 women were paid \$7,181.60 less than the men for the same work.

A thousand men and women worked in a cigar factory. Throughout the plant, on every job, at every point on the wage scale, the women's rate was 5 cents an hour less than the men's rate. In addition, men had sick leave with pay but women did not.

The base pay on which the incentive pay system in a can manufacturing plant was based was 89 cents an hour for women and 99 cents an hour for men. The workers, who were all in the same labor grade, operate hand presses, gluing discs, and working on tray presses. There are 90 women in this crew. During the war, all these jobs had been "manned" by women. When men returned after the war, they were hired at 10 cents an hour more than the women, although the women's productivity equaled to the men's and, in some cases, was higher.

A bank employs six men tellers and eight women tellers, doing identical work and carrying the same degree of responsibility. The men are paid considerably more than the women. A study of the payroll for tellers, after adjusting for seniority, shows the salaries of the women far below those of the men.

A hardware manufacturing company had both men and women workers in their assembling, packaging and labeling division. They paid the men 20 cents an hour more than the women on the grounds that the men could do heavier work if needed. However, at slack seasons, the men were laid off and the women did their work—at the woman's rate of pay. This system invited the replacement of men workers with women at lower rates of pay.

The women employees of a plastic manufacturing company protested that they were paid 5 cents an hour less than the men, throughout the plant. It turned out, that back in 1941, the women had elected to take 5 cents an hour less in exchange for 15 minute "breaks" morning and afternoon. In the years since, the company had installed food cars which circulated morning and afternoon, and given up any special "breaks" for women. But the women continued to get 5 cents less an hour.

Summary of occupational earnings by major labor market areas of the United States, 1960 or 1961

[Average straight-time earnings, in dollars]

Sex and occupation	Range of wages by	
	High	Low
Office occupations—Weekly earnings:		
Men:		
Clerks, accounting, class A	\$134.50	\$77.50
Clerks, accounting, class B	112.50	66.00
Clerks, order	112.00	71.00
Clerks, payroll	130.00	60.00
Office boys	69.00	47.00
Women:		
Clerks, accounting, class A	99.00	68.50
Clerks, accounting, class B	82.50	53.00
Clerks, order	77.00	53.50
Clerks, payroll	91.50	54.00
Office girls	62.50	43.00
Custodial and material movement occupations—Hourly earnings:		
Elevator operators, passenger (men)	2.14	0.77
Elevator operators, passenger (women)	1.75	0.63

Source: Bureau of Labor Statistics, U.S. Department of Labor.

ADDITIONAL CASE STORIES ILLUSTRATING NEED FOR AN EQUAL PAY LAW

Consider the case of Mrs. A., a note teller in a bank in Milwaukee, as revealed by the most recent census study. She, like 4.5 million other working women, is the head of a family, and, like 9 million others, is over 45. Together with other women tellers in Milwaukee with less than 5 years' experience, during the May-July 1960 period studied, Mrs. A. received an average weekly salary of \$63.60. Men note tellers with less than 5 years' experience received \$94.50. If she had been working in Denver, Mrs. A's compensation for the same period would have averaged \$63, while men were getting \$91.

Here are some other examples:

Physical therapists.—In mid-1960 the average weekly earnings of women in the private hospitals of Minneapolis-St. Paul were \$95.50; men averaged \$120.50. In Chicago, women averaged \$81; men, \$98.50.

Nursing aids.—In Cleveland, the average weekly earnings of women in private hospitals during mid-1960 were \$45.50; men averaged \$54.50. In Baltimore, women averaged \$37.50; men, \$44.50.

Hotel-room clerks.—During March-July 1960 period, the average hourly earnings for women in Chicago were \$1.37; men averaged \$1.76. In Kansas City, women averaged 92 cents; men, \$1.30.

Sewing-machine operators.—In New York City in May 1961, women making shirts for men and boys averaged \$1.51 an hour; men, \$1.98. Women making sport shirts averaged \$1.52; men, \$2.06.

Professional workers.—In 1960 the median annual income of women was \$4,384 as compared with \$6,848 for men. There are undoubtedly many reasons for this disparity, but among them is the frequent failure of employers to provide equal pay for equal work. For example, a February 1962 survey by the Wall Street Journal covering 30 college placement officials and 50 corporation personnel executives showed that the starting salaries for women graduating from college in June 1962 would lag \$100 to \$500 a month behind those offered to men graduates for equivalent jobs. In testimony before the Select Committee on Labor of the House of Representatives Committee on Education and Labor, a placement official of the University of Wisconsin declared: "The double-wage standard still holds, except in mathematics and sciences."

An analysis in 1961 of job orders placed with State Employment Service offices indicated that many employers have every intention of continuing to pay women less than men for the same kind of work. Here are just a few illustrations of the pay differentials specified:

City A: Bookkeeper in a laundry: Women, \$60 to \$70 a week; men, \$75.

City B: Hotel auditors: Women, \$90 a week; men, \$100.

City C: Grocery checkers: Women, \$56.88 a week; men \$62.90.

City D: Traffic clerk in a wholesale trade concern: Women, \$270 a month; men, \$300.

City E: Assembler in an electrical manufacturing plant: Women, \$1.40 an hour; men, \$1.55.

Miss CUNNINGHAM. And on behalf of our federation, Mr. Chairman, we appreciate the opportunity to be heard here this morning.

Mr. THOMPSON. Well, we appreciate very much the fact that you have taken the time to prepare this splendid statement and come all the way here.

I served with your father here for at least two terms, and I have particular pleasure in welcoming you.

As a lawyer, too, I am delighted that Mr. Martin testifies that your fees are the same as a man's. I might suggest that I would approve of your going back and raising them and, thereby, bringing the level of all the men's up to yours.

Miss CUNNINGHAM. I must admit, Mr. Chairman, after Mr. Martin's remark it occurred to me that perhaps I could corner a little more of the legal trade in Nebraska if I lowered mine a little. Of course, I am sure somebody would holler "discrimination."

Mr. THOMPSON. Yes, it does work both ways.

Well, I gather from this statement, which I consider to be an excellent one, that you find yourself in sympathy with the two bills

to which you refer. Are you satisfied with the outline set forth in the bills for the enforcement of the legislation?

Miss CUNNINGHAM. Mr. Chairman, in my statement I did not propose to indicate that I was, on behalf of the federation, taking a position on any of the bills.

Mr. THOMPSON. We understand that the federation's policy is one which prohibits the endorsement of specific legislation, and for that reason I was referring only to the enforcement of sections.

Miss CUNNINGHAM. We feel that this committee, in its wisdom, after considering the 11 bills which have been introduced, all of which have good points, some of which have some bad points, and based on the testimony which you will hear during these days of hearings on this matter, that you will be able to perhaps rewrite a bill which will have effective enforcement procedures in it.

Mr. THOMPSON. Thank you.

Mr. Griffin?

Mr. GRIFFIN. I want to join the chairman in welcoming you, Miss Cunningham, and also your two associates, one of whom, I notice, is from my State, and to compliment you on a very excellent statement.

Picking up where the chairman left off on a point, so far as the enforcement provisions of the proposed legislation are concerned, I would like to ask you a question as a lawyer: Could not effective enforcement procedures be available within the generally acknowledged protections of due process, i.e., by trial in a court of law? In other words, I am wondering whether or not there is room for any concern so far as this or any other law that the Congress might propose to pass, about giving to the Secretary of Labor or any particular administrator broad, undefined powers.

Since I have raised the question, you might comment upon whether or not we should be concerned about that at all.

Miss CUNNINGHAM. Mr. Griffin, I think we should be very much concerned about it. Personally I would like to see a provision that the Secretary, upon a complaint, would then have the privilege of entering a particular place of employment to investigate the particular charge or complaint that has been made.

I do not believe that this type of legislation should open a door for unnecessary investigatory powers.

Mr. GRIFFIN. In other words, in seeking equal treatment in the payment of wages you are not seeking any special protective treatment in terms of how the law is to be enforced. I mean you would like this law to stand pretty much in the same light as any other law that is to be enforced. Is that a reasonable statement?

Miss CUNNINGHAM. This is correct, Mr. Griffin.

I feel, as I stated earlier, we are not asking any special concessions. We don't want them, and I personally feel that if such a law is enacted, if some woman feels she is being discriminated against by her employer in rate of pay, then she should have the courage to stand on her own two feet and make the complaint, and follow the statutory procedure for such complaint. I don't think she should expect somebody to come in and play nursemaid for her.

Mr. GRIFFIN. I think that is a very courageous and forthright statement, and it accords with the views of a good many of the lawyers in the Congress.

At another point in your statement you referred to the fact that some people have raised the question of whether or not there are extra costs involved in employing women in some situations, possibly in some situations because State laws require certain rest periods and other things. And then, as you also pointed out, there is the possible additional cost involved in health, welfare, and insurance programs. And then, I was interested in your next statement where you said that, as a defense to these concerns, the proponents of the bill would be willing to go along with language which would recognize this difference in cost if it in fact existed and could be ascertained and proved.

In the bill which passed the Senate in the last Congress, there was, as you indicated, specific language recognizing that possibility in section 4, which is the general clause which provided that no employer shall discriminate, and so forth and so on, carried the following exception—which I shall read from the bill as it passed the Senate last year. It corresponds with section 4(a), beginning at the bottom of page 4 of the Green bill, and reads:

Except where such payment is made pursuant to a seniority or merit increase system.

That is retained in the Green bill. But the rest of what I am about to read from the Senate bill was eliminated in the Green bill:

Or a bona fide job classification program which does not discriminate on the basis of sex, or where such payment is attributable to ascertainable and specific added costs resulting from the employment of the opposite sex.

Do I take it from your statement that you would have no objection to that language as it appeared in the Senate bill passed last year?

Miss CUNNINGHAM. Yes, this is correct, Mr. Griffin.

Now personally I don't believe that this differentiation or this higher cost can be proven. I would feel that the only fair way to determine such a cost would again be on an equal-work basis. In other words, a man and a woman doing the same work in the same situations.

This is the only true comparison you could make as to whether or not there was a difference in the cost of employing one of the individuals.

Mr. GRIFFIN. I have no further questions, Mr. Chairman.

Mr. THOMPSON. Mr. Martin.

Mr. MARTIN. I would simply like to compliment Miss Cunningham for the very splendid statement which she has given to the committee this morning.

As she knows, I have introduced legislation in this regard, H.R. 1936, a bill to require equal pay for equal work, and I am sure that we are going to be able to work this out in committee on both sides of the aisle and report it out, and I hope that it is successfully passed this year on both sides and signed by the President.

Again I compliment you on your very fine statement, Miss Cunningham.

Miss CUNNINGHAM. Thank you.

Mr. THOMPSON. Thank you, Miss Cunningham.

Our concluding witness this morning is Dr. Huber F. Klemme who appears on behalf of the National Council of Churches of America.

We are very glad to see you, Doctor. Please proceed as you wish.

STATEMENT OF HUBER F. KLEMMER, NATIONAL COUNCIL OF CHURCHES

Mr. KLEMMER. Thank you, Mr. Chairman.

My name is Huber F. Klemme. I am an ordained minister of the United Church of Christ, and serve my denomination in the capacity of associate director of its Council for Christian Social Action. Through my work with the United Church of Christ, I am also actively associated with the National Council of the Churches of Christ in the U.S.A.

I appreciate this opportunity to speak at this hearing on behalf of the National Council of Churches.

The United Church of Christ is 1 of the 30 constituent Protestant and orthodox communions which comprise the membership of the National Council of Churches. These church bodies have a total membership of 40 million persons.

In presenting this testimony here, or at other legislative hearings, the National Council of Churches does not presume to speak for each of its constituent communions nor for each of their many members. The views I will present here, however, were approved after careful consideration by official representatives of the council's member churches who serve on its general board, and this testimony is being presented upon direct authorization of that body.

Since its own formation in December 1950, and by inheritance from its predecessor national church bodies, as well as from its constituent member communions, the National Council of Churches has had at the center of its concern, in matters relating to economic life, the according of just and equitable treatment to all persons regardless of race, sex, color, creed, or national origin.

On specific economic issues such as equal opportunity for employment and access to education as well as fair and equitable conditions of work, the council has declared and repeatedly testified to its belief that these are inherent elements in the Christian view of human rights and dignity of all men. In its own employment and personnel procedures, the council has also sought to make its practice accord with its declared positions at these points.

It is wholly consistent, therefore, with its basic religious philosophy as with its daily functioning, for the National Council of Churches to give its wholehearted support to the particular form of economic justice embodied in the principle of equal pay for equal work without discrimination on the basis of sex.

The considerations underlying the council's position on this issue were summarized briefly in a resolution adopted by the council's policy-determining general board at its recent meeting in Denver, Colo., on February 28, 1963. Since this is a brief statement, I would like, with your permission, to present it at this time. It reads as follows:

Whereas the National Council of Churches has declared: "It is a clear Christian responsibility to work against those special forms of economic injustice that are expressed through racial and other group discrimination;" and

Whereas the basic principle of equal pay for equal work is a matter of economic justice; and

Whereas the persistent denial of this principle in the remuneration of women constitutes, in our opinion, a clear case of unjust discrimination against women; and

Whereas the justice of this principle as a matter of national and international concern has been widely recognized through the acceptance by 38 countries of

the convention on the subject adopted by the International Labor Organization, Labor Organization, including the six member nations of the European Economic Community: Therefore, be it

Resolved, That the principle of equal pay for equal work without discrimination on the basis of sex should be supported as a matter of basic economic justice;

That the general board authorizes representatives of the National Council of Churches to testify at hearings in support of the embodiment of this principle in legislation, both national and State; and

That the general board calls to the attention of member communions of the National Council the special opportunity which is theirs to support this principle in their own employment practices, and to encourage a climate of acceptance of the principle by their churches and church members.

As indicated in the sense of the resolution, we think, Mr. Chairman, that an action such as that proposed in the legislation now before your committee represents removal of a basic discrimination against women which has long been merited by women through their proven contribution to the Nation's work force, and which is long overdue as a specific guarantee of justice in our national economic policy.

We do not presume to speak to the details of the legislative proposals before the committee, and we do not consider it necessary to recite further the widespread evidence, such as you have already had presented, of continuing discrimination in matters of wage rates and personnel practices which need to be remedied. Let me stress again our support of and sense of urgency as to the need for enactment into Federal law of the principle of equal pay for equal work to men and women without discrimination on the basis of sex.

This, Mr. Chairman, concludes my presentation on behalf of the National Council of Churches. I have appeared at this hearing at the specific request of the council's department of the church and economic life, which I have the privilege to serve as a member of its general committee. It is my understanding that a written statement is also being forwarded to your committee by the council's general department of united church women, which has long advocated enactment of legislation such as you are now considering.

In closing, let me state that we appreciate very much the opportunity to present this and to lend what moral force this position of the general board of the national council may add on behalf of the legislation you are now considering.

Mr. THOMPSON. Thank you very much, Dr. Klemme, and we appreciate very much your appearance, and the invaluable support of your organization.

Mr. Griffin?

Mr. GRIFFIN. No questions.

Mr. THOMPSON. Thank you very much.

I ask unanimous consent that the Department of Labor's data may be included completely in the record, and that Mrs. Green be permitted to revise and extend her remarks following her colloquy with the Secretary.

The committee had intended to meet next week and had scheduled hearings. However, we have been notified that the full committee will be in session for an unspecified period of time. So I must reluctantly adjourn the hearing subject to the call of the chair.

(Whereupon, at 12:45 p.m., the committee adjourned, subject to call of the chair.)

(The following was supplied for the record:)

STATEMENT BY UNITED CHURCH WOMEN, A GENERAL DEPARTMENT OF
THE NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE UNITED STATES
OF AMERICA

United Church Women appreciates the opportunity of adding this written testimony to the presentation to the committee by the National Council of Churches as a whole in regard to the principle of equal pay for equal work without discrimination on the basis of sex.

United Church Women, the organization through which the national women's bodies of the churches making up the National Council of Churches work together on common concerns, is composed of 2,300 local councils in all 50 States. While we do not presume to speak for the 12 million women in these churches, the point of view here presented is in line with long-established policy of United Church Women, predating the entrance of the movement into the National Council of Churches in 1950, and reaffirmed at the most recent meeting of the board of managers of United Church Women in April 1962.

We support the principle of equal pay for equal work without discrimination on the basis of sex as a matter of economic justice. We support it also because of our conviction that the full contribution of talents and skills of all citizens is essential to a sound and healthy economy and society. Whatever limits full participation is an obstacle and must be removed. Any discrimination in employment and in wages or salary constitutes such an obstacle.

It is not difficult to understand the origins of this form of discrimination in the limited role formerly prescribed for women in our culture, centering primarily in the home. Relatively few women worked outside the home. Their work was usually limited to domestic service or other low paying work often referred to as "women's work." It was not infrequently for pin money rather than family support. It was regarded as temporary.

The situation today is radically changed. Expanding technology is continuously reducing the burden of household tasks. Women are freer to combine home responsibilities with work outside the home. More and more women possess the necessary educational qualifications.

Women are now found in practically every occupation. They constitute one-third of the labor force as compared with a fifth in 1900. Twenty-four and a half million women were working or seeking work in 1961.

Studies support our observation that most women work today for the same reasons that men do: to support themselves and their dependents. Labor force data show that the proportion of wives at work is materially higher among families in the low-income groups. Widowed and separated women are often the only wage earners in the family and many single women and some married women carry the entire responsibility for family support. In 1961 women were the heads of families in 4.6 million homes, or about one-tenth of all families in the United States.

In view of the radically changed economic position of women we are encouraged at the advances which have been made over the years in the application of the principle of equal pay for equal work by government, industry, labor, the churches, and through State legislation.

In spite of these gains, however, it is clear that much needs to be done before this form of discrimination is fully eliminated either in law or in practice. We recognize that trade union practice in too many instances denies its accepted principle. Employers still find it difficult to escape being affected by attitudes of a former day, and too often continue to think of women as casual earners, or as working for pin money or marking time with jobs before marriage. Equal pay laws exist in less than half the States and their effectiveness in some States where they are in force is hampered by inadequacies in their basic provisions. Churches still have a gap between principle and practice which must be closed.

The fact remains that the income and earning levels of women remain substantially lower than those of men.

Finally we believe that we will have seen this issue whole only if we take into account the effect of any proposed policy upon the peoples of other countries as well as our own. Thirty-eight nations, including the six member nations of the European Economic Community, in ratifying the Convention 100 of the International Labor Organization have declared themselves in support of the principle and practice of equal pay for equal work.

We do not presume to speak to the details of the legislative proposals before the committee. We wish, however, to add our testimony to that of the National Council of Churches already presented regarding the urgency and the importance of enacting into Federal law the principle of equal pay for equal work without discrimination on the basis of sex.

STATEMENT BY HON. LEONOR K. SULLIVAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSOURI

I strongly support the principle of the many bills now before this subcommittee to eliminate discriminations against women in the wages and salaries they receive for work comparable to that done by their male colleagues and associates, often at higher pay.

I am the sponsor of one of those bills, H.R. 1151. I introduced this bill, or similar bills, in the past five Congresses. It is a major legislative goal of mine, and always has been, ever since coming to Congress and, in fact, for years before that, when I was employed in the office equipment training field and saw the many pay discriminations against women throughout the business world. Business could not survive without the loyal and dedicated work of women in the offices and throughout all phases of industry. Yet the women workers do not, as a general rule, receive the same pay as men for doing the same or comparable work.

I support the principle of "comparability" rather than the narrow test of "equal work." My bill carries the title "Women's Equal Pay for Equal Work Act of 1963" but in its terms it prohibits pay discriminations based on sex for work of comparable character on jobs the performance of which requires comparable skills, except where such payment is made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex.

I would appreciate it if you would make the text of my bill part of my remarks in the record of the hearings. And I conclude by promising my full support to the very best bill this subcommittee can bring to the floor of the House. Thank you.

(The bill is as follows:)

[H.R. 1151, 88th Cong., 1st sess.]

A BILL To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in operations affecting commerce, and to provide procedure for the collection of wages lost by employees by reason of any such discrimination

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Women's Equal Pay for Equal Work Act of 1963".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds that the existence in industries engaged in commerce or in operations affecting commerce of wage differentials based on sex—

- (1) depresses wages and living standards of employees necessary for their health and efficiency;
- (2) prevents the maximum utilization of the available labor resources;
- (3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
- (4) burdens commerce and the free flow of goods in commerce; and
- (5) constitutes an unfair method of competition.

DEFINITIONS

SEC. 3. When used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representatives, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "Affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led to or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

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

(e) "Employee" includes any individual employed by an employer.

(f) "Wages" means all remuneration for services performed by an employee for an employer, including board, lodging, or other facilities customarily furnished by an employer to his employees.

PROHIBITION OF WAGE RATE DIFFERENTIAL BASED ON SEX

SEC. 4. No employer engaged in commerce or in operations affecting commerce shall discriminate between employees on the basis of sex by paying to any employee wages lower than those which he pays to employees of the opposite sex for work of comparable character on jobs the performance of which requires comparable skills, except where such payment is made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex.

ADMINISTRATION

SEC. 5. (a) The Secretary of Labor—

(1) shall prescribe such regulations as he deems necessary and appropriate for the administration of this Act, including regulations to provide standards for determining work of a comparable character on jobs the performance of which requires comparable skills;

(2) may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, and matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act;

(3) may enter and serve upon any employer found by the Secretary, after notice and hearing in conformity with sections 5, 6, 7, and 8 of the Administrative Procedure Act, to be engaged in or to have engaged in any violation of section 4 of this Act an order requiring such employer (A) to cease and desist from such violation, and (B) to pay to each employee who has been adversely affected a sum equal to the aggregate amount or value of the wages which such employee has been deprived by reason of such violation plus an additional equal amount as liquidated damages; and

(4) may enter and serve upon any employer found by the Secretary, after such notice and hearing, to have discharged or otherwise discriminated against any employee on account of any action taken by such employee to invoke, enforce, or assist in any manner in the enforcement of the provisions of section 4 of this Act, an order requiring such employer to reinstate such employee, or to remove such discrimination, and to pay to such employee a sum equal to the aggregate amount or value of the wages of which such employee has been deprived by reason of such discharge or other discrimination plus an additional equal amount as liquidated damages.

(b) For the purpose of any investigation conducted under paragraph (2) of section 5(a) of this Act, the provisions of sections 9 and 10 of the Federal Trade Commission Act (relating to the attendance of witnesses and the production of books, papers, and documents) (15 U.S.C. 49, 50) shall be applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

(c) Any order entered by the Secretary of Labor pursuant to paragraph (3) or paragraph (4) of section 5(a) of this Act shall be subject to judicial review, and shall be enforced judicially, in the same manner and with the same effect as provided by section 5 of the Federal Trade Commission Act (15 U.S.C. 45) with respect to orders issued thereunder by the Federal Trade Commission, except that in any proceeding before any court for the review of any order issued under paragraph (3) or paragraph (4) of section 5(a) of this Act the findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence.

WAGE RESTITUTION

SEC. 6. (a) The Secretary of Labor is authorized to supervise the payment of any amounts for which any employer has been finally determined to be liable under any order for payment under clause (A) of paragraph (3) or paragraph (4) of section 5(a) of this Act. Any sum so recovered by the Secretary on behalf of any employee under this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury as miscellaneous receipts.

(b) No wage restitution shall be made with respect to any violation of this Act for any period which preceded by more than four years the date of commencement by the Secretary of Labor of the proceeding in which such restitution is ordered.

INJUNCTIONS

SEC. 7. The district courts, together with the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands, shall have jurisdiction upon application made by the Secretary of Labor, for cause shown, to restrain any violation of section 4 of this Act. No court shall have jurisdiction, in any action brought by the Secretary of Labor to restrain any such violation, to order the payment to any employee of any wages of which such employee may be deprived by reason of such violation.

GOVERNMENT CONTRACTS

SEC. 8. (a) In any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all of the stock of which is beneficially owned by the United States (all of which are referred to hereinafter as agencies of the United States), for the manufacture or furnishing of any materials, supplies, articles, or equipment, or the rendition of any service, there shall be included stipulations under which the contractor (1) is required to compensate all persons employed by him in the manufacture or furnishing of such materials, supplies, articles, or equipment, or in the rendition of such service, in conformity with the requirements of section 4 of this Act and (2) shall be subject to all other provisions of this Act with respect to the compensation of such persons.

(b) Unless the Secretary of Labor shall by order otherwise determine and permit, no contract shall be awarded by the United States or any agency thereof to any person finally determined to have violated any of the provisions of this Act or of any stipulation entered into in compliance with subsection (a) of this section, or to any firm, corporation, partnership, or association in which such person has a controlling interest, until three years have elapsed after the date of final determination that such violation has occurred. The Comptroller General is authorized and directed to distribute to all agencies of the United States a list containing the names of such persons.

POSTING

SEC. 9. Every employer subject to this Act shall keep a copy of this Act posted in a conspicuous place in or about the premises where any employee is employed. Employers shall be furnished copies of this Act by the United States Department of Labor on request without charge.

APPROPRIATION

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 11. This Act shall take effect one hundred and twenty days after the date of its enactment.

EQUAL PAY ACT

MONDAY, MARCH 25, 1963

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 429, Cannon Office Building, Hon. Frank Thompson, Jr. (presiding).

Present: Representatives Thompson, O'Hara, Scott, Ashbrook, and Findley.

Also present: Representative Goodell.

Staff members present: Robert E. McCord, subcommittee director, and Richard Burress, minority clerk and counsel.

MR. THOMPSON. The subcommittee will be in order. We will continue the hearings on the bills H.H. 3861 and H.R. 4269 and such other bills as have been introduced on this subject. Our first witness this morning is Mr. W. Boyd Owen, vice president for personnel administration of the Owens-Illinois Glass. Mr. Owen.

STATEMENT OF W. BOYD OWEN, VICE PRESIDENT, PERSONNEL ADMINISTRATION OF OWENS-ILLINOIS GLASS CO.

MR. OWEN. Mr. Thompson, I would like to introduce my associate, Mr. Berry, of the law firm of Fuller, Seney, Henry & Hodge, from Toledo.

MR. THOMPSON. Would you give the stenographer his full name, please?

MR. OWEN. Richard L. Berry.

Mr. Chairman and members of the subcommittee, my name is W. Boyd Owen. I am a vice president of Owens-Illinois Glass Co. and have responsibility for personnel administration. I have been with our company for 26 years. Prior to my present assignment, I have held various other positions. Among other things, I have been the personnel director of one of our plants, the general manager of one of our plants, and the director of labor relations for the entire company. At present, our company has 71 manufacturing plants and 125 sales offices in 31 States. We also have glass container plants under construction in Charlotte, Mich., and North Bergen, N.J. In 1962 our average employment in the United States was approximately 37,380 persons. I appear here today as a representative of our company and I wish to thank you for this opportunity to testify in connection with the present bill, H.R. 3861.

We have previously filed with this committee my prepared statement on the present bill. That statement sets forth in detail our position on H.R. 3861. Today, I will try only to highlight one of

the points covered in my prepared statement. That point is the present bill's failure to provide an exception to the bill's basic prohibition to permit wage differentials based on the higher costs to an employer of employing women when such higher costs can be shown. For convenience, I shall call this a cost justification exception. In selecting this one point for discussion today, I am, of course, not implying that the other items in my prepared statement—such as the necessity for a collective-bargaining exception, the necessity for an exception for other reasonable differentiations not discriminating on the basis of sex, and the necessity for restricting the administrative and enforcement provisions of the present bill—are of less importance. I am restricting my oral presentation to the cost justification point simply because I cannot cover anything more in the time allotted to me.

In my opinion, any equal pay bill which is enacted, if it is to prove workable, must contain a cost justification exception. As shown in my prepared statement, this conclusion is supported by the results of a survey that we recently conducted to determine as closely as we could what was the difference in costs between employing men and women in our factories. We firmly believe that any employer of women in any number would also find that the employment of women does involve additional costs.

If this additional cost in employing women is not taken into consideration, the net effect of equal pay legislation will be to limit the job opportunities for women since it will cost more to employ women than men. Obviously, an employer, to survive in a competitive market, must look to his total employment costs and not simply to individual wage rates.

MR. THOMPSON. Mr. Owen, may I interrupt you to ask you whether subsequently in your statement you are going to outline specifically what these additional costs are?

MR. OWEN. Yes, sir.

In the remainder of my time today I would like to review with you briefly several of the principal factors to which such increased costs are attributable.

(1) Greater absenteeism: It is generally accepted—and has been demonstrated by numerous Government surveys—that absenteeism results in increased employment costs and that women have a greater absenteeism rate than do men. This has also been our experience. Employment costs due to absenteeism result primarily from premium time payments for replacements, reduced efficiency of replacements, increased supervision for replacements, and maintenance of a labor pool to replace absent employees, including the cost of hiring and training such additional employees and the cost of their social security, workmen's compensation, group insurance, pensions, vacations, holidays, et cetera.

During 1962, female employees in our factories were absent from work an average of 11.6 days more per year than were our male employees. We estimated that the costs of absenteeism for our female employees were 14.3 cents per hour higher than the costs of absenteeism for our male employees, and this amounted to estimated additional total employment costs of \$2,278,579.

(2) Greater labor turnover: It is also generally accepted—and again has been our experience—that greater labor turnover results in in-

creased employment costs and that there is a greater labor turnover rate among women than among men. Employment costs due to labor turnover result primarily from administrative hiring and termination expenses, expenses relating to indoctrination and training of new employees, and losses due to reduced efficiencies of new employees.

As a result of the greater turnover among our female employees, we were required to hire during 1962 an additional 1,452 women at an estimated cost in hiring and training of \$344 each. For 1962, we estimated that the costs of labor turnover for our female employees were 3.1 cents per hour higher than the costs of labor turnover for our male employees, and this amounted to estimated additional total employment costs of \$499,488.

(3) Higher cost of lunch and rest periods: Due primarily to local legislation limiting the hours of work of women and labor agreements requiring payment for lunch and rest periods, it is now commonly acknowledged that these elements of employment costs are higher for women than men.

Our experience also bears this out. During 1962, our average cost in providing lunch and rest periods for our female employees was estimated at 18.8 cents per hour and for our male employees was estimated at only 15.1 cents per hour. As a result of this additional average hourly cost of 3.7 cents per hour for our female employees during 1962, we incurred estimated additional total employment costs of \$590,244.

(4) Higher cost of health and welfare benefits: We have found that the cost of providing retirement benefits for our female employees is greater per year of credited service than for our male employees. In part, of course, this is due to the greater longevity of women, who at age 65 have a life expectancy of 15.6 years, whereas men at age 65 have a life expectancy of only 12.7 years. We have also found that the cost of providing other health and welfare benefits, such as medical care benefits, disability income benefits, and life insurance for our female employees, is also greater per year than for our male employees. Among the principal factors causing this higher cost is the obvious one of providing maternity benefits for women.

For 1962, we have estimated that the additional average hourly cost of providing health and welfare benefits for our female employees was 8 cents per hour greater than the cost for our male employees, and that we incurred estimated additional total employment costs of \$1,283,229 in providing health and welfare benefits for our female employees.

(5) Higher cost of special facilities: The employment of women also requires numerous special facilities—often as a result of local legislation—which are not required in the employment of men. Such higher costs are primarily due to the construction of more elaborate lounge areas, the construction of individual washroom and toilet facilities, and the maintenance of both of these, including the costs of extra matron service and of providing special supplies.

Here, too, we have found that the providing of these special facilities cost us more for our female employees than for our male employees. In 1962, we incurred estimated additional total employment costs of \$159,525 in maintaining and servicing special facilities for our female employees.

In summary, the foregoing analysis, on the basis of the 15,952,546 hours worked by our female employees in our factories in 1962, reveals

that the above factors cost our company over 30 cents per hour more for our female employees than for our male employees, and this amounted to estimated additional total employment costs of at least \$4,811,065.

While the specific statistics used in the foregoing analysis admittedly apply only to our company, we believe that the cost factors used in this analysis are realistic and are applicable to every company employing women in any number. In view of these cost factors, among others that could have been mentioned, the inclusion of a cost justification exception in H.R. 3861, or in any equal pay legislation, is absolutely necessary, since employment costs to many employers are in fact substantially higher in employing women than in employing men. Unless a cost justification exception is included in H.R. 3861, employers, to avoid being required to absorb the increased costs in the employment of women, would be forced to attempt to reduce their female employees to the lowest possible number. The proposed legislation, therefore, would be wholly self-defeating. In order to secure equal employment opportunity for women H.R. 3861 must be amended so as to take into consideration the additional costs in employing women. Otherwise, the employment of women at the same rates as men would result in an actual cost substantially higher than that in employing men. The necessary and inevitable result would be fewer employment opportunities for women.

Thank you for your kind attention.

(The statement referred to follows:)

STATEMENT OF W. BOYD OWEN, VICE PRESIDENT, PERSONNEL ADMINISTRATION OF
OWENS-ILLINOIS GLASS CO.

Mr. Chairman and members of the subcommittee, my name is W. Boyd Owen. I am a vice president of Owens-Illinois Glass Co. and have responsibility for personnel administration. Our company manufactures a number of different products. Briefly, these products are made primarily of glass, forest products, plastics, or combinations of them, and relate themselves primarily to packaging, electronics, scientific research, and glass and plastic tableware. At present, we have 71 manufacturing plants and 125 sales offices in 31 states. We also have glass container plants under construction in Charlotte, Mich., and North Bergen, N.J. In 1962, our average employment in the United States was approximately 37,380 persons. I appear here today as a representative of our company, and I wish to thank you for this opportunity to testify in connection with the present bill, H.R. 3861.

The present bill presupposes that wage differentials based on sex have given rise to certain harmful conditions and that Federal equal pay legislation to prohibit such differentials is necessary. Whether such harmful conditions do in fact exist and whether Federal legislation is necessary to correct such conditions are questions which I am not qualified to answer. I note in passing, however, that many responsible national trade associations and other organizations have seriously questioned whether such conditions have actually resulted from wage differentials based on sex and whether Federal legislation is necessary.

Assuming that this committee should conclude that some Federal equal pay legislation is desirable, we respectfully urge that H.R. 3861, as presently drafted, should not be recommended for passage. In our opinion, the provisions of H.R. 3861 are neither necessary nor proper to achieve its declared objectives. To evaluate each of the provisions of H.R. 3861 and present our thoughts with respect to each such provision would unduly lengthen this statement and unnecessarily burden the record. Consequently, I shall discuss very briefly several material aspects of the present bill to which our company objects and then focus my comments upon several vital omissions from the bill. For the record, however, I wish to emphasize that our lack of comment on other provisions of the present bill should not be misconstrued as an endorsement of such pro-

visions. To make these remarks on H.R. 3861 more meaningful, I shall occasionally refer to the administration's equal pay bill of the 87th Congress, H.R. 11677, and to Congressman Martin's presently pending bill, H.R. 1936.

GENERAL REVIEW OF BILL

Substantively, of course, section 4 is the heart of the present bill. Although I could discuss the various provisions of this section at length, I shall only comment upon several of its provisions.

First, while we note with approval that the present bill proceeds on an "equal work * * * equal skills" basis rather than on the unduly vague "comparable character * * * comparable skills" basis, as did the initial version of H.R. 11677 and as do several pending bills, even more explicit language could be used.

Second, H.R. 3861 provides for only two exceptions to the basic prohibition of section 4; namely, a seniority exception and a merit increase exception. Section 4 of H.R. 11677 contained these two exceptions plus two other exceptions: a bona fide job classification exception and a cost justification exception. In addition to these exceptions, presently pending H.R. 1936 also provides an exception for wage variations based on other reasonable differentiations. While we agree that such exceptions as those contained in H.R. 11677 and in H.R. 1936 are necessary, we do not believe that these exceptions go far enough.

We would propose, therefore, that H.R. 3861 be amended to except wage differentials based upon both job classification programs and wage incentive programs. We would also propose that an exception be included recognizing differentials based upon specific added costs of employing persons of the opposite sex and that the types of specific added costs which may be taken into consideration be set forth in the definition section of the present bill. Since the avowed purpose of H.R. 3861 is to prohibit only those differences in rates of pay which discriminate on the basis of sex, we suggest that an exception be included in the present bill which would permit all other differentials which do not discriminate on the basis of sex. This latter exception would differ from the corresponding provision of H.R. 1936 in that the latter excepts only differentials based on factors other than sex and is not limited to differences which discriminate on the basis of sex. Finally, we would propose that the present bill be amended to take into consideration the peculiar circumstances surrounding negotiated rates by excluding them from its coverage. After briefly reviewing several other provisions of the present bill, I shall present our views a little more fully with respect to these proposed exceptions and the necessity for including them in any equal pay legislation.

Third, section 4 also provides for the elimination of wage differentials by increasing lower rates to higher rates in accordance with an escalator formula. This provision is reminiscent of one initially contained in section 4 of H.R. 11677 providing that an employer, in carrying out the bill's requirements, could not reduce the wages of any employee to eliminate existing differentials. In deleting this provision from H.R. 11677, the House recognized that the inclusion of such a provision would have had many harmful effects: it would have operated unevenly and unfairly against competing employers by increasing labor costs depending on the number of women workers each employed; it would have lessened the employment opportunities for women; it would have increased ultimately the costs to consumers of all "goods" produced thereunder by increasing the labor costs of all employers of women. This deleted provision of H.R. 11677 and the escalator formula of the present bill, although slightly sugar-coated, are unmistakably based on the same underlying principle. Consequently, the same rationale that the House used in deleting the counterpart of the present bill's escalator formula in H.R. 11677 is fully applicable here. We strongly oppose the inclusion of this provision in the present bill.

Fourth, section 4(b) is either inadvertently unclear or purposely inconsistent; in either event, the legislative intent should be made clear. While the second sentence of this subsection applies to labor organizations and its agents, the first sentence applies only to employers. While recognizing that a labor organization and its agents generally have no right to " * * * discharge [an employee] * * * [or] cause [an employee] to be discharged * * *," a labor organization and its agents can effectively " * * * discipline, or otherwise discriminate against * * *" an employee. By failing to have the first sentence apply to a labor organization and its agents, the present bill also gives the peculiar result of prohibiting a labor organization and its agents from causing or attempting " * * * to cause * * *

an employer to discriminate against * * * an employee while permitting a labor organization to engage directly in disciplinary and discriminatory actions.

Section 5 relates to administration and enforcement. Next to section 4, section 5 is, in our opinion, the most important and the most objectionable section of the present bill. If there is any necessity for Federal equal pay legislation, there is absolutely no necessity for granting to the Secretary virtually unlimited powers of legislation (sec. 5(a)(1)), investigation (secs. 5(a)(2) and (b)), adjudication (secs. 5(a)(4) and (c) and (d)), and enforcement (sec. 5(a)(5)). In our view, the broadly and vaguely worded administrative and enforcement provisions of section 5 would authorize extensive governmental intervention in labor-management relations far exceeding the purported evils at which this legislation is allegedly directed. Such provisions, moreover, effectively give the Secretary and his agents an unlimited license to destroy the wage structures which both labor and management have worked for years to develop. In addition, the disruptive effects of such interventions will vary from plant to plant depending upon what particular agents happen to be roaming a given section of the country at a given time. In summary, it is our position that the principal administrative and enforcement provisions of section 5 as presently drafted are completely unnecessary and unwarranted.

Section 6(b) provides for a 2-year statute of limitations for claims arising under the present bill. Anyone even slightly familiar with "shop talk" will know that it would not take an employee 2 years to find out whether he or she has been victimized by a wage discrimination.

The foregoing is even more obvious when it is realized that once equal pay legislation has been enacted all differences in rates of pay between male and female employees will be immediately suspect. To provide a limitation period of 2 years under a law which would at best be uncertain in application would increase the potential liability of an employer, in the event of an adverse finding, to a staggering and unreasonable amount. Unless the purpose of this legislation is punitive rather than remedial, there is simply no justification for a 2-year statute of limitations. In the same vein, we also note that several State equal pay statutes have limitations of 6 months and further limit the employer's liability to a reasonable period of time prior to the filing of a complaint, and that the Taft-Hartley Act also provides for a 6 months' limitation for the filing of unfair labor practice charges. A similar time limit here would be in keeping with the purported remedial nature of the present bill and would be consistent with existing Federal labor legislation.

The present bill, unlike section 10 of H.R. 11677 and similar sections of other presently pending equal pay bills, has no provision relating to its applicability when a State has an equal pay statute. Since 22 States have equal pay statutes, it would seem appropriate for the present bill to dispose initially of potential conflicts between Federal and State equal pay statutes. Moreover, in view of the probable high expenses in administering and enforcing any Federal equal pay legislation, this omission in H.R. 3861 would appear to result in an unnecessary duplication of expenditures by prohibiting the Secretary from even being able to cede to a given State the administration and enforcement of its own equal pay statute when the Federal and State statutes overlap.

Although the above remarks have been very cursory, we trust that they will suffice to present for the record our general position with respect to the provisions discussed. I should now like to discuss in more detail our proposed exceptions to the basic prohibition of section 4(a).

EXCEPTIONS OF SECTION 4(a)

As previously noted, section 4(a) provides for only two exceptions to the basic prohibition contained therein:

"Sec. 4. (a) * * * [E]xcept where such payment is made pursuant to a *seniority or merit increase* system which does not discriminate on the basis of sex * * *." [Emphasis added.]

All proponents of equal pay legislation are apparently agreed that the basic purpose of such legislation is to prohibit discrimination based solely on sex. While there are countless reasons for wage variations—some of which may even be based on sex but which are not discriminatory in nature, such as wage variations resulting from differences in restrictions or prohibitions on lifting or moving objects in excess of specified weights, in hours of work, in the shift or time of day worked, in the regularity of performing duties, in training—it is clear that exceptions other than the two contained in H.R. 3861 may be made

without interfering with the purpose of this legislation. This is also clearly and unequivocally evidenced by the additional exceptions contained in the equal pay statutes of numerous States.

Job classification and wage incentive programs exceptions.—Job classification and wage incentive programs are so widely accepted and so firmly established in American industry that there seems little need to set forth a lengthy list of reasons why they should be excepted from the present bill. Certainly no one could properly argue that job classification and wage incentive programs would interfere with the purpose of this legislation. Such exceptions, moreover, would merely parallel H.R. 3861's two exceptions for seniority and merit increase systems. Exceptions for job classification and wage incentive programs are absolutely essential to realistic and workable equal pay legislation.

Collective bargaining exception.—Before commenting on this point, I might observe that our company has 84 collective bargaining agreements with 20 international unions. Some of these contracts were negotiated with other employers. Some of these contracts were negotiated with more than one union. Some of these contracts cover the employees of more than one plant, others cover the employees of only one plant, and still others cover the employees of only a part of one plant.

Based on our experience in this field, it is our firm belief that H.R. 3861 is deficient in that it does not contain an exception for variations in rates of pay as between sexes when such variations result from collective bargaining agreements. The equal pay statutes of several States have recognized the necessity for such an exception. In these States it is recognized that when an employer negotiates a variation with a union, there is some justification for the variation, such as, among others, employment costs and workloads. This recognition is not only proper, but it is in accord with the traditional view that the determination of wage rates is a subject for negotiation between the parties directly concerned rather than a subject for general legislation.

While we recognize that some will undoubtedly claim that the purpose of a provision excluding negotiated rates from the law is to discriminate against organized labor, such a claim cannot withstand analysis. Where differences in wage rates between male and female employees have resulted from years of collective bargaining, it is apparent that the parties found some justification for the differences in rates. Numerous factors may have been taken into consideration by the parties over years of collective bargaining in establishing a particular wage differential. For example, women may receive more rest periods or longer rest periods than men. Similarly, the parties may have recognized the increased cost of providing insurance with maternity benefits when women are employed. Numerous other examples could be cited which would establish a reasonable basis for differences in negotiated wage rates between men and women.

In view of this background of negotiated wage differences, it cannot at this late date be questioned that both management and labor have traditionally recognized the justification for such differences. In fact, many of the differences which now exist were in the first instance established pursuant to demands of organized labor and have been magnified by subsequent demands for percentage increases, wage adjustments on the basis of wage brackets, and many other bona fide reasons. In any event, the negotiated differences must have been considered fair, equitable, and justified by both parties at the time such collective bargaining agreements were executed. Although with the passage of time, it might be difficult, or even impossible, to determine what the quid pro quo was for each such difference, it would ignore the realities of collective bargaining to assume that such a quid pro quo had not existed. To tie the hands of employers of organized labor now by requiring them to adjust wages one way would force such employers to assume the entire cost of differences which resulted from bilateral agreements, which were negotiated in good faith, and which were executed in full compliance with all existing laws.

Even absent the provision in the present bill requiring employers to eliminate existing wage differentials by raising the lower rates, solvent employers have little, if any, leverage in requesting unions to agree to reductions in wage rates. Consequently, failure to include a provision excepting negotiated differences in many instances would place employers of organized labor at an overwhelming competitive disadvantage by compelling them to absorb the entire cost of eliminating such differences. The far-reaching inequities which may result from an equal pay law without adequate safeguards are legion. We submit that one of

the necessary safeguards against such inequities is the inclusion of a provision excepting negotiated differences in rates.

Exception for other reasonable differentiations not discriminating on the basis of sex.—To restate the obvious, the purpose of equal-pay legislation is to prohibit discrimination based solely on sex. As I noted previously, there are countless reasons for wage variations between sexes, and some of such reasons may even be based on sex but are not discriminatory in nature. Rather than attempting to incorporate a comprehensive list of reasons for which variations in wages might lawfully exist, it would be preferable to have—in addition to the two exceptions already specified in H.R. 3861 and the exceptions suggested herein—a blanket provision simply excepting all other wage variations which do not discriminate on the basis of sex. Such an exception is not only practicable and workable, it also leaves completely intact the legislation's basic purpose of prohibiting discrimination based solely on sex.

Again, we recognize that some will claim that the purpose of such an exception is an attempt to emasculate the legislation, but we submit that such is not the case. To the contrary, the purpose of such an amendment is merely an attempt to limit the scope of the legislation to its avowed purpose. That such a general exception is neither discriminatory nor revolutionary is clearly evidenced by the number of State equal-pay statutes containing such an exception, including the equal-pay statutes of such highly industrialized and populous States as California and New York. This is also evidenced by the fact that section 6(d) of H.R. 11677 specifically provided that “* * * no order of the court may issue if the wage discrimination was based on some factor other than sex.” To make the general exception more responsive to the purpose of equal-pay legislation, we urge that all differences be permitted which do not discriminate on the basis of sex. In summary, such an exception offers a workable means for clarifying the scope of the proposed legislation while fully upholding the equal-pay principle of prohibiting discrimination based solely on sex.

Cost justification exception.—In our opinion, any equal-pay bill which is enacted must contain a cost justification exception if it is to prove workable. This conclusion is based on our finding that it does, in fact, cost more to employ females than it does to employ males. Accordingly, if this additional cost is not taken into consideration, the net effect of equal-pay legislation will be to limit the job opportunities for females since it will cost more to employ females than males. We believe it is self-evident that an employer, if it is to survive in a competitive market, must look at its total employment costs rather than merely individual wage rates in effectuating its employment policies. Moreover, when the subject of costs of an individual company is involved, only the individual company is qualified to discuss what effects legislation will have upon it. Since the effects on an individual company of equal-pay legislation which does not contain a cost justification exception can be closely estimated, I would like to present our own appraisal of the difference in the cost of employing women and men.

Simply stated, our employment costs are substantially higher in employing females than in employing males. Among the factors to which such increased costs are attributable, I shall emphasize only five here: (1) greater absenteeism, (2) greater labor turnover, (3) higher cost of lunch and rest periods, (4) higher cost of health and welfare benefits, (5) higher cost of special facilities.

(1) *Greater absenteeism.*—It is generally accepted—and has been demonstrated by numerous Government surveys—that absenteeism results in increased employment costs and that female employees have a greater absenteeism rate than do male employees. This has also been our experience. Employment costs due to absenteeism result primarily from the following: premium time payments for replacements; reduced efficiency of replacements; increased supervision for replacements; maintenance of a labor pool to replace absent employees, including the cost of hiring and training such additional employees and the cost of their social security, workmen's compensation, group insurance, pensions, vacations, holidays, etc.

During the year ending December 31, 1962, our company employed the following average number of factory employees: 19,000 male employees; 9,368 female employees. Of these employees, our female employees were absent from work an average of 11.6 days more per year than were our male employees. For 1962, we estimated that the costs of absenteeism for female employees were 14.3 cents per hour higher than the costs of absenteeism for male employees, and this amounted to estimated total employment costs of \$2,278,579.

(2) *Greater labor turnover.*—It is also generally accepted—and again has been our experience—that greater labor turnover results in increased employment costs and that there is a greater labor turnover rate among female employees than among male employees. Employment costs due to labor turnover result primarily from the following: administrative hiring and termination expenses; expenses relating to indoctrination and training of new employees; losses due to reduced efficiencies of new employees.

For our company, the average annual labor turnover among employees has been 8.9 percent for male employees and 24.4 percent for female employees. As a result of the greater turnover among female employees, we were required to hire during 1962 an additional 1,452 female employees at an estimated cost in hiring and training of \$344 per female employee. For 1962, we estimated that the costs of labor turnover for female employees were 3.1 cents per hour higher than the costs of labor turnover for male employees, and this amounted to estimated additional total employment costs of \$499,488.

(3) *Higher cost of lunch and rest periods.*—Due primarily to local legislation limiting the hours of work of female employees and labor agreements requiring payment for lunch and rest periods, it is now commonly acknowledged that these elements of employment costs are higher for female employees than male employees.

Our experience also bears this fact out. During 1962, our average cost in providing lunch and rest periods for female employees was estimated at 18.8 cents per hour and for male employees was estimated at only 15.1 cents per hour. As a result of this additional average hourly cost of 3.7 cents per hour for female employees during 1962, we incurred estimated additional total employment costs of \$590,244.

(4) *Higher cost of health and welfare benefits.*—Higher costs of health and welfare benefits for female employees are due to a number of factors, several of which I shall attempt to enumerate.

All standard life insurance mortality tables now recognize that the average life expectancy for females is substantially greater than it is for males. For example, the 1961 Statistical Abstract of the United States (table 56) shows that the initial life expectancy of a female is 73.9 years while that of a male is only 67.3 years. In 1959, the remaining life expectancy for a female of age 65 was 15.6 years and for a male of age 65 was only 12.7 years. This difference in life expectancy is an important factor in an insurance company's establishing of premium rates for female employees with respect to group annuities, disability income benefits, and medical care benefits. The cost of providing group annuity benefits, for female employees is reported to be approximately 123 percent of the cost of providing the same benefits for male employees of the same age. Likewise, the cost of providing disability income benefits for female employees is reported to be approximately 150 percent of the cost of providing the same benefits for male employees when maternity benefits are excluded or 200 percent when maternity benefits are included. The cost relationship between females and males varies markedly with respect to medical care benefits depending upon the type of medical expenses for which benefits are provided. For a typical package plan of medical care benefits, however, the female cost is reportedly about 130 percent of the male cost. This does not include a plan that allows benefits for pregnancy. Since the typical group plan does include benefits for pregnancy, a ratio of 165 percent or even 170 percent would be appropriate.

Since we have negotiated different collective bargaining agreements with several unions and since each such agreement establishes different health and welfare benefits, we do not have a uniform health and welfare plan for our employees. Our actuaries, however, have been able to estimate these costs: the cost of providing retirement benefits for our female employees is \$59.10 greater per year of credited service than for our male employees; the cost of providing other health and welfare benefits, such as medical care benefits, disability income benefits, and life insurance for our female employees is \$77.88 per year greater than for our male employees. By applying these estimates to our 1962 figures, we arrived at the following results: the additional average hourly cost of providing health and welfare benefits for our female employees was 8.0 cents per hour greater than the cost for our male employees; we incurred estimated additional total employment costs of \$1,283,229 in providing health and welfare benefits for our female employees.

(5) *Higher cost of special facilities.*—The employment of females requires numerous special facilities—often as a result of local legislation—which are

not required in the employment of males. Such higher costs are primarily due to the following: construction of more elaborate lounge areas; construction of individual washroom and toilet facilities; the maintenance of both of these, including the costs of extra matron service and of providing special supplies.

After investigation, we applied the above factors to our employment costs and were able to arrive at the following estimates: the average hourly cost for maintaining and servicing special facilities for our female employees was 1 cent per hour greater than the cost of maintaining and servicing facilities for male employees; we incurred estimated additional total employment costs of \$159,525 in maintaining and servicing special facilities for female employees.

In summary, the foregoing analysis on the basis of the 15,952,546 hours worked by our female employees during 1962 reveals that the above factors cost our company over 30.0 cents per hour more for female employees than for male employees, and this amounted to estimated additional total employment costs of at least \$4,811,065.

While the specific statistics used in the foregoing analysis admittedly apply only to our company, we submit that the cost factors used in this analysis are realistic and are applicable to every company employing female employees in any number. In view of these cost factors, among others that could have been mentioned, the inclusion of a cost justification exception in H.R. 3861, or in any equal pay legislation, is absolutely necessary since employment costs to many employers are in fact substantially higher in employing females than in employing males. To repeat, unless a cost justification exception is included in H.R. 3861, employers, to avoid being required to absorb the increased costs in the employment of females, would be forced to attempt to reduce to the lowest possible number their female employees. The proposed legislation, therefore, would be wholly self-defeating. Consequently, in order to secure equal employment opportunity for women, H.R. 3861 must be amended so as to take into consideration the additional costs in employing women. Otherwise, the employment of women at the same rates as men would result in an actual cost substantially higher than that in employing men. The necessary and inevitable result would be fewer employment opportunities for women.

CONCLUSION

The enactment of any equal pay legislation will add hundreds of employees to an already inflated Federal payroll and hundreds of thousands of dollars to an already astronomical Federal budget. If this committee ultimately determines that Federal equal pay legislation is worth such a price, we urge that H.R. 3861 in its present form is not the bill to be recommended to the Congress for enactment.

Not only does H.R. 3861 exceed its avowed purposes, it would, if enacted into law, be detrimental to employees of both sexes, to all employers of women, and to the public generally. The harmful effects of the present bill can be substantially reduced by incorporating realistic exceptions into section 4 and by deleting the escalator formula of section 4. Without the elimination or restriction of the sweeping provisions granting to the Secretary the broad and virtually unlimited administrative and enforcement powers provided in the present bill, however, much of the vice would still remain. The exercise of such unlimited powers could not but grievously and irreparably injure labor-management relations throughout the Nation. We suggest that the administrative and enforcement provisions of H.R. 1936 would adequately and appropriately implement any equal pay legislation, and at the same time would avoid the inevitable consequences of the corresponding provisions of H.R. 3861.

We respectfully submit that H.R. 3861 as presently drafted should not be recommended for enactment.

Mr. THOMPSON. Thank you, Mr. Owen.

Do you have with you any statistics showing the differential in cost to you with relationship to the men and women employees?

In other words, what is the hourly wage rate difference, Mr. Owen?

Mr. OWEN. When you say "the wage rate," Mr. Thompson, I am not sure—

Mr. THOMPSON. Between men and women.

Mr. OWEN. The base hourly wage rate with all the fringes, Mr. Thompson?

Mr. THOMPSON. Well, in terms of cost to your company.

Mr. OWEN. We have at the time a figure which I will be very happy to give to you of our average hourly rate for women during 1962 and for men.

But I think it should be plain when I give it to you that the men's rate includes all of our crafts, all of our skills which in some instances are rates much higher than our unskilled, sir.

Mr. THOMPSON. Do you have men and women doing the same jobs?

Mr. OWEN. No, sir.

Mr. THOMPSON. Then why do you have any concern with opposing this legislation?

This is only where they are doing the same jobs?

Mr. OWEN. We don't have concern with the principle of equal pay but we have a concern that we don't know what "equal" is, we don't know exactly how the bill is going to be interpreted the way it is written by the Labor Department.

I think it is very possible that when you consider the equal skills and so forth, that it can be on one job and they could interpret it to mean that they are going to compare that with some other job of like skills.

To answer your first question, our average—and this includes all of the fringes, I believe—for girls in 1962 it was \$2.657 per hour.

The average hourly male with the same fringes being included was \$3.375 per hour.

Now if we were to compare the base hourly wage rate—

Mr. THOMPSON. That is a differential of 72 cents?

Mr. OWEN. Yes.

Mr. THOMPSON. You make approximately a 42-cent net profit by hiring women.

Mr. OWEN. As I mentioned, these rates are all overall rates of all our skilled machinists, our machine operators, and generally speaking—this is without exception in any of our plants, with almost the 10,000 women that we employ they are on an unskilled or semiskilled job.

If we compare this rate to the same type—

Mr. THOMPSON. What do you pay your unskilled or semiskilled men?

Mr. OWEN. There is a differential of 14 cents between that and the women, \$1.75 and \$1.89. That is just the base rate. All the fringe costs are between 85 and 90 cents an hour.

Mr. THOMPSON. Mr. Ashbrook?

Mr. ASHBROOK. I notice you said in your statement that without the inclusion of cost justification exceptions in H.R. 3861 it would amount to higher costs and inevitably so far as your company is concerned it would probably mean less employment for females.

Do you have any suggestions on cost justification? This is something that we have grappled with on this committee for quite some time. The word "equal," for example, the words "identical" or "similar."

I agree with a lot of your concern over not so much what we will do here in the Congress but what the bureaucratic agencies will do.

We had this in the last session, the difference between "similar", "identical" in reference to work.

Do you have any suggestions on what cost justifications can be considered to be reasonable?

Now you have pointed out some here. Do you have any ideas that you could give us the benefit of your thinking on, on that subject?

Mr. OWEN. It has been mentioned many times that a lot of people don't agree with the figures on the differential and so forth.

All we would like to have in the bill in this particular area is that the burden of proof is on us to prove that we have the differential, that there is a demonstrable cost factor that we have to prove, we understand that.

I believe in reading the testimony of Miss Cunningham of a week or so ago, she said she did not—she had no objection to the inclusion of some wording so that the cost exception would have some effect, but she did not think it could be proven.

We think we could prove it and we would like the opportunity to do so. As far as "identical," it seems to me if we had wording in the bill, something similar to the same work, identical work, quality and quantity, on the same job classification, we would have protection in that area. We can see when there is a possibility of the Labor Department in trying to compare oranges and lemons and automobiles and horses and getting—whether we have the same person doing the same job or not.

We are concerned about that. We love the women. We would like to have them. He have had them since the First World War. That is when we hired them. We increased the number during the Second World War.

Mr. ASHBROOK. What percentage, roughly, would be in your operation now, women against men?

Mr. OWEN. Between 35 and 40 percent. I think the figure is 9,000—some odd girls and about 19,000 to 20,000 men. It is about 40 percent.

Mr. ASHBROOK. Obviously there are many women who are doing jobs that could not be replaced by men both in their ability and nature of the work.

How many would you say are in that area and in the area that probably would be replaced by men?

Mr. OWEN. Of this whole group that I mentioned, 9,000, during the First World War and all during the twenties and thirties we did part of that work with men.

Mr. ASHBROOK. Does that include office work?

Mr. OWEN. No, that is just hourly factory people. We have about 8,880 office people but that is men and women. They are not in that figure.

Mr. ASHBROOK. You have stated it here but do you really anticipate if a bill of this type were to pass without the amendments that you think are necessary, do you really anticipate the loss of a great number of these women through either attrition, firing—

Mr. OWEN. I think we would be obligated to take some steps and the management, of course, has been concerned about it because of the cost factor of some replacement by men and speedup in our automation process. I don't think we would have any choice but to do that just by the very nature of the business. It can be done. We are trying to produce products as economically as possible, as everyone knows we must.

I think it would mean the speeding up of that process. We have not had the problem that a lot of companies have had up to now, of replacing a lot of people and worrying about retraining and so forth.

As far as our girls are concerned, of course the normal labor turnover would take care of any change. However, in 1933 and 1934 we had about 8,500 people. Now we have in the neighborhood in the United States of 38,000.

So we have gone the other way, most of it because of expanding the business and so forth. So we haven't had the problem of replacing people because of automation.

We have always had something we could put them on.

Mr. ASHBROOK. Thank you.

Mr. THOMPSON. Isn't it a fact, Mr. Owen, that as the opportunities for automation occur, notwithstanding whether it is a man or woman working, if it is to your economic advantage the company is going to automate?

Mr. OWEN. I think so. However, I think it should be pointed out that our largest single labor cost and the only place in the bulk of our business where we haven't decreased our man-hour or whatever figure you want to use, has been in the area where we have this large group of girls.

It is mainly because of quality demands and so forth. Now that is the area that we have to automate. We know that.

Mr. THOMPSON. Mr. Findley.

Mr. FINDLEY. Mr. Owen, no doubt in your office operations you have some male employees who do work similar to female. Is this true?

Mr. OWEN. Mr. Findley, you get mixed up in this. I think if the bill was passed as presently submitted—I am gone from the office about 70 percent of my time. I have an excellent secretary—if we ever get this equal pay thing she might get more than I do. She does an awful lot of my work. She makes four, five, or six decisions, perhaps, in 2 or 3 days.

We have a lot of our people in the public relations department and the typing, Mr. Berry, as a matter of fact, did some typing and showed me the results of his work—I suppose if that could be considered equal work, well there is that possibility.

I don't believe we have any salaried male and female jobs that are identical if we have an opportunity to define the "identical" part of it.

Mr. FINDLEY. You spoke about your differential in the hourly classifications.

Mr. OWEN. Yes, sir.

Mr. FINDLEY. I just wondered if you maintained a rate fixed differential in the salaried positions, too?

Mr. OWEN. Not as such. Every job in the company is evaluated. We have a job evaluation program since 1933. They are rated on 12 points like most job evaluation programs are. The difficulty of the work, and so forth, the decisionmaking and all those factors.

I am sorry I cannot quote a salaried differential between the two. I would say there is no question there is a greater difference in the various jobs and so forth in our salaried payroll than in our hourly.

Mr. FINDLEY. Would it be safe to conclude, from your statement, that the enactment of H.R. 3861 would mean fewer jobs for women?

Mr. OWEN. I don't think there is any question but what that would be the result.

Mr. FINDLEY. Thank you, Mr. Chairman.

Mr. THOMPSON. The fact is, of course, that a great many people feel that even at the risk of women losing some of these positions they would like to see it enacted so that in places where they can be employed and are doing work which is the same as that of men, they will be paid the same.

However, that is a question which we cannot resolve this morning. We thank you very much for coming.

Mr. OWEN. Thank you very much.

Mr. THOMPSON. The subcommittee will recess for 5 minutes.

(Whereupon, a short recess was taken.)

Mr. THOMPSON. The subcommittee will be in order.

Our second witness this morning is Mr. James B. Carey, who represents this morning the Industrial Union Department of the AFL-CIO.

He is also known to us as the president of the Electrical Workers. Mr. Carey, welcome and please proceed as you wish.

STATEMENT OF JAMES B. CAREY, SECRETARY-TREASURER, INDUSTRIAL UNION DEPARTMENT, AFL-CIO, AND PRESIDENT, IUE, AFL-CIO

Mr. CAREY. My name is James B. Carey. I am secretary-treasurer of the Industrial Union Department, AFL-CIO. I am also president of the International Union of Electrical, Radio & Machine Workers of America, AFL-CIO. I appear here on behalf of both organizations.

The IUD is comprised of 58 affiliated unions, with an industrial union membership of some 6 million. It represents the interests of these workers within the AFL-CIO and before the general public.

The IUE represents 425,000 workers employed in the electrical manufacturing industry. Both the IUD and the IUE have a vital stake in the legislation before your subcommittee.

On behalf of both the IUD and the IUE, I wish to thank this subcommittee and its chairman for receiving our views on equal pay legislation. The subject before you—equal opportunity—is a cornerstone of our democratic structure.

Until all Americans are first class economic and political citizens, the ideals of this Nation will remain unfulfilled. There can be no true equality of opportunity until it is made mandatory in the workshops of the Nation.

A majority of American adults are women. Women are the only majority against whom economic, political, and social discrimination is practiced. Like certain of our minorities, women were for centuries held to be an inferior form of humanity.

It took two centuries for women to win the vote in the United States. Women are still discriminated against in property rights in some States. The theory that was used to deny women the vote for so many years still operates in subtle and open fashion in the whole area of job opportunity. To win even a measure of job equality, women must

often demonstrate that they can perform far better than the men with whom they work in industry and commerce.

Women workers are treated to one particularly bitter form of inequality. Wage discrimination is applied equally to married women seeking to improve family living standards, to single women who support themselves or their parents, and to widows and divorcees who are the sole support of minor children. All feel the same economic lash.

In the case of male workers, industry does not ask whether the individual supports one child or five, or only himself. Wage policies are tailored to the job, not the circumstances of the man who fills it.

In the case of women workers a different standard is often used. Industry pretends that women really need not work and uses the pretext to discriminate against the sex.

America is becoming increasingly dependent upon womanpower. Over a third of the labor force already is female and greatest growth in the foreseeable future will take place among women workers.

The Department of Labor has projected an increase of 13.5 million in the labor force by 1970. Over half of the new workers will be women.

Women work as efficiently and productively as men in hundreds of occupations and skills. They proved their ability in World War II when "Rosie the riveter" made allied victory possible with the planes and tanks she helped to produce. Almost every executive of worth has a girl Friday whose judgment he frequently substitutes for his own.

Gainful employment has become a way of life for millions of women. It has become commonplace for a woman to work, marry, bear and rear her children, and then to reenter the labor force; many a youth goes to college because mother has returned to work to earn the tuition costs. Women add billions upon billions to our store of wealth. They pay the same prices as men for food and rent and spend more on clothing and clothing and personal care. They have earned the right to equal pay treatment on the job.

The Statistical Abstract of the United States reveals that, as of 2 years ago, there were 24.2 million women at work. Of these, nearly 15 million were married; 5.6 million were single, and 4 million were widowed or divorced.

The figures supply a compelling answer to those who in this day and age still believe that married women should not be permitted to work. Without the married women in the labor force, modern industry would die.

Of women who work, some 7.5 million are called upon to supplement the income of male wage earners who makes less than \$3,000 annually. Another 4.6 million are the sole support of families. Other single women work to support themselves, or lend partial support to parents. Necessity clearly brings most women workers into the labor markets.

It's hardly a secret that women workers have been used to depress wage levels of both sexes. Wage inequality persists because it's profitable for unscrupulous employers to pay women less than men for the same or a comparable job. Some unfair employers hire women workers to gain a competitive wage advantage over fair employers who pay according to job requirements or a union contract.

Unequal pay policies pit women against man in the struggle for jobs. Rivalry between the sexes in the job arena is used by some employers to counter union organization. By pitting men against women, some employers have been able to instill fear of job loss among all workers in the event of union organization. The practice is on a par with the playing off of one nationality or race against another.

Employers often seek to justify their position on the ground that women would go jobless were it not for their generosity in supplying work. These employers really seek to take advantage of economic need. There is no greater hypocrisy than that of employers who inform the world that their chief concern is to grant women an opportunity to earn "extra" money.

Automation is changing the character of jobs in the U.S. industry. Muscular strength is becoming secondary in many industrial operations. Women can monitor a meter needle as well as men, and can adjust dials equally well.

Inevitably, many will some day be employed at tasks once limited to strong men. Unless there is equal pay legislation, the age of automation could bring with it a low wage economy geared to the rising female labor supply.

Studies of the Census Bureau show that women workers are steadily falling behind men in earnings. BLS studies of wage and salary income for year-round workers showed that in 1955, a woman worker earned 64 percent as much as a male; in 1960, women made only 61 percent as much. The average pay for men in 1960 was \$5,417 annually, that of year-round women workers was \$3,293. The figures give eloquent testimony to the need for remedial legislation.

A 1961 study of five cities made by the Women's Bureau, and based upon hiring orders placed with USES offices, showed the rankest kinds of discrimination.

A majority of hiring orders designated "men only" or "women only." The most flagrant wage discrimination was in office, service, and sales jobs—a range of occupations little protected by union contracts.

In city A, a woman bookkeeper employed in a laundry was reported to earn from \$60 to \$70 a week; a man hired for the same job was paid \$75. A woman hotel auditor in city B was paid \$90; a man got \$100.

A female sales clerk was paid a dollar an hour; a man was paid \$1.25. A female counterworker in city C got \$30; a man was paid \$40.

In city D, a machine presser (female) got \$1.60 hourly, a presser (male) was paid \$1.75. In city E, a woman inventory control clerk was paid from \$300 upwards, while a man was paid from \$400 and up.

Salaries of clerical workers are especially pertinent for consideration because of the fact that 6.7 million women and 3.1 million men were engaged in clerical occupations in 1961. It appears that clerical occupations represent one of the most important areas where lower pay for women than men is found—

a Women's Bureau publication has pointed out.

Discrimination is sometimes open and sometimes hidden by job title. Regardless of the way it operates, the results are equally appalling. It's difficult to understand how Denver banks justify an average differential of \$28 weekly in the pay of men and women bank tellers who do the same work and have the same 40-hour workweek.

A third of the employers surveyed by the National Office Management Association freely admitted that they have a double pay standard. The facts reveal that others professing not to discriminate do so freely, despite pious protestations to the contrary.

Excluding private households, there are some 6.5 million workers in the service trades. The majority of these are women workers and many holding the lowest paid and most menial jobs are Negro, Puerto Rican, and Mexican-American—depending upon the geographic area.

Assemblers in New York power laundries—mostly Negro and Puerto Rican—make an average of \$1.16 an hour if they are women and 16 cents more if they are men.

Although the issue is present, I have no intention of turning this into testimony dealing with race or religion. But the double discrimination suffered by Negro, Puerto Rican, and Mexican-American women workers makes a mockery of our protestations of equal opportunity. The ugly exploitation in our service industries attests to this combination of race and sex discrimination. It is time to lighten the burden through enactment of the equal pay law.

Employer organizations have come before your subcommittee to urge inaction. The U.S. Chamber of Commerce has taken the stand that all that is required is further education of its membership. The National Association of Manufacturers has also contented itself with platitudes.

The chamber has long urged its members to adopt voluntarily practices that "will accurately reflect the value of services performed by women." The NAM has advocated the principle of equal pay for equal performance by women workers.

Years of NAM and chamber membership education appear to have been in vain: discrimination against workers is as rife as ever. A Federal law applying equally to all establishments within the Federal jurisdiction is overdue.

The chamber is seeking to stampede small proprietors into a panic over the proposed bill. It is again seeking to hide behind the "mom 'n pop shop," although it would be the larger employers in interstate commerce who would be affected. Family-operated stores generally would not be affected. The chamber is up to its usual tricks, seeking to hide behind the skirts of poor old mom.

In its fight to kill the measure, the chamber has attempted to label the equal pay bill a wage-fixing proposal. I suppose the measure fixes wages in the same fashion that the Fair Labor Standards Act has fixed a floor under wages.

I suppose also that any requirement to pay equal wages invades the right of unscrupulous employers to underpay women workers. I think that such an invasion against greed is a good thing for the Nation.

I well remember the cry that went up from some when the Fair Labor Standards Act was enacted into law. The "Jeremiahs" of that day cried out that grass would grow on Broadway and that the Nation would sink into an economic swamp.

The other day, I read that America has more multimillionaires than ever. In 1960, some 306 Americans reported incomes of more than a million dollars, and another 735 reported incomes over a half million.

I don't often go to Broadway these days, but reports reaching me indicate no grass. From what I can learn, there are more incomes

over \$10,000 than ever, although the accompanying unemployment is more than uncomfortable.

The Department of Labor recently reported that 1961 changes in the Fair Labor Standards Act caused no added unemployment, but that it added materially to the welfare of the millions of low-paid workers.

If I remember rightly, the chamber warned of dire consequences when the law was amended. If I fail to be alarmed at current chamber propaganda, regarding the adverse effects of the proposed equal pay bill, I am sure you will understand.

Twenty-two States now have equal pay laws of varying effectiveness. Unfortunately, too, many are limited in scope, while others have few enforcement teeth. In some cases, the laws are little more than declarations of intent. As the Labor Department's "equal pay primer" has pointed out, a "number of State equal-pay laws contain qualifications or loopholes which lessen their effectiveness." In some cases, the employee adversely affected must institute suit to obtain redress.

In any case, 28 States have no equal pay law, nor is any law in prospect in most of them. A Federal law is required, if only to equalize conditions among the States.

There is no conflict between State and Federal law in equal pay legislation. The Fair Labor Standards Act has not prevented the States from acting in the minimum wage area. New Jersey currently is in the process of adopting a \$1.25 minimum wage floor for intrastate establishments. New York has moved ahead with similar legislation.

The Federal law now serves as a floor in interstate commerce and encourages action on the State level. As in most social legislation, the Federal and State laws would complement each other.

Enactment of the equal pay law would provide a standard for States that have not yet acted. It would also provide a guide to fair employers in both interstate and intrastate commerce, and would put added moral pressure upon unfair employers who might not be covered. A Federal law is definitely required if we are to correct present inequities in the treatment of women workers.

The American labor movement has long sought equal pay for equal work. While the principle has not always been honored, the overall union record is good. Our industrial unions have been in the forefront of the fight. Many of our significant contracts include equal pay clauses or show one pay rate for each job.

Try though we may, we have sometimes been unable to achieve our goal. It takes two to make a bargain and we have sometimes been faced with determined employer resistance. Sometimes, we must contend with historic patterns that requires years of work to overcome. But if there is discrimination, the reason more often than not is that the union has not been able to overcome employer opposition.

Organized labor is on record in favor of equal pay legislation. The most recent AFL-CIO Executive Council meeting declared that nothing is more "shortsighted as a matter of public policy than to tolerate the continued existence of discriminatory pay practices based on sex."

The CIO testified in support of equal pay 17 years ago, and was joined at that time by the AFL. The IUD testified in favor last year and was a leader in the almost successful fight for a law.

We will continue this fight until an effective measure is enacted and signed into law. For many years, IUD affiliates have been represented on the National Committee for Equal Pay, an organization of labor, educational, and women's groups with an impressive membership.

There is clear evidence that collective bargaining has helped materially in the fight for equal pay. This is particularly true in manufacturing. In some industries where unions are strong and women are employed in significant number, the goal of equal pay has been achieved or nearly achieved.

The International Union of Electrical Workers has had concrete experience with the equal pay problem and believes that this experience lends weight to the case for equal pay legislation.

Our union has sought equal pay for equal work in its collective bargaining contracts ever since it came into being. We have been able to win equal pay clauses in many contracts and in other instances we have been able to work out equal pay procedures despite the lack of specific contract language.

Together with the United Auto Workers, we have won agreements on equal pay from the General Motors Corp. IUE contracts with this firm specifically state:

Wage rates for women shall be set in accordance with the principle of equal pay for comparable quantity and quality of work on comparable operations.

Unfortunately, we have been unable to win equal pay clauses in contracts covering a majority of our members. The big roadblock is arrogant refusal by two industry leaders to negotiate such clauses. These leaders—General Electric and Westinghouse—together employ 30 percent of our membership.

In our 1960 negotiations with GE, we proposed—

that our contract call for equal pay for work of equal skill and quantity irrespective of the sex of the employee or where the employee works.

In our Westinghouse negotiations, we likewise called for an end to pay differentials based upon geography and sex.

Our problem with these two corporate giants is that we have no peaceful recourse on an individual wage rate when the company decides what is proper.

We have sought arbitration as the terminal point in such disputes. We can accept the company's final decision after protest or we can go on strike. The problem of striking over an individual wage rate is very difficult. Because of all the implications, our membership in some plants has endured this discrimination for many years.

IUE's pressure on GE and Westinghouse has produced some favorable movement by the two managements. But while differentials have been reduced, the problem of pay discrimination because of sex still persists.

The companies now argue that a firm commitment on equal pay would give rise to a flood of grievances. If this is true, the basis for complaints must exist.

It is quite clear to us that these two corporate giants have no intention of providing us with a firm equal pay clause. Workers do not

submit grievances unless there is a factual, as well as a contractual basis for them. GE and Westinghouse are seeking to sidestep the problem.

Two pay scales existed side by side in Westinghouse for many years—one for men and another for women. In most cases, the top pay provided in the women's scale was equal to the lowest rates within the men's scale. It took us years to eliminate this raw discrimination against Westinghouse women employees.

We finally got Westinghouse to combine the two wage scales. The company then put all female jobs at the bottom of the ladder. While the company generally no longer shows two scales in its pay schedules, they exist in fact if not on paper.

The Fairmont, W. Va., Westinghouse plant offers a graphic example of Westinghouse discrimination. There are 14 labor grades. There are a few men in grade 4, but other than this, the first five grades are women's jobs. Men fill all the jobs in grades 6 to 14. In many cases, the skills and job content of the men's jobs and those of the women are the same. The men's jobs, of course, carry higher rates of pay.

Last year, Terese Belcastro, a member of IUE Local 627, in Fairmont, appeared on behalf of equal pay legislation. Miss Belcastro was then a 20-year employee of Westinghouse, working as a quality inspector in the plant. She was in labor grade 4, with a pay rate of \$2.04 hourly.

A quality inspector operates mechanical and electrical test equipment and performs prescribed tests on a sampling of incandescent lamps. She must use a torsion gage for distortion tests; a polariscope to test the strain on glass; a skiascope to check continuant of the filament. It's a skilled job.

I had to take a mathematics test and I want you to know that the learning process is endless due to the new procedures that we must learn and understand—

Miss Belcastro said.

This woman worker also testified that her job carries a grade equal to that of male janitors and sweepers. There is no educational requirement for the male jobs and the learning time is 2 weeks.

Rated above her job in labor grade 6 is the delivery man who move materials and assists shipping and receiving clerks.

At the Warren, Ohio, plant of General Electric, the lowest labor grade is R-9 and classifications run through grade R-22.

Women are found in grades 9 through 12, with one female in R-13 a year ago.

Men are found in grades 12 through 22 and are paid accordingly. The majority of the employees, however, in the plant, are women who work in lower paying but often comparable jobs.

The State of Ohio has an equal pay law, but it requires equal pay only when men and women are employed in identical jobs.

There's always some way to get around the Ohio law for a company like GE which can make certain that jobs differ in some detail although skill requirements may be higher in the so-called women's jobs.

The highest rate paid any female plant employees at GE's Fort Wayne, Ind., plant is \$2.415 an hour. The job grade is R-14 and the title is "Synthetic Motion Instructor." There are about a dozen women who hold the job.

Male employees with the identical title—"Synthetic Motion Instructor"—do the same work as female instructors. Men and women received the same training and do the same work. Male synthetic motion instructors are in grade R-19 and are paid \$2.93½ an hour, 52 cents more.

An effective Federal equal pay law will do much to reenforce our position in collective bargaining. It will end the kind of discrimination that I have described here. It will add to the Nation's living standards and purchasing power at a time when these things are greatly needed.

The AFL-CIO Executive Council has urged Congress to reject all efforts, open or concealed, "to undercut the substance of the hope held out to working women through enactment of anything less than a comprehensive enforceable, effective bill," and it is of the view that a pious statement of principle won't do. It has stated that it will fight "any shabby attempts" to equalize women's wages by reducing those of men.

H. R. 3861, the measure before you, by and large is a minimum measure. We are willing to support it as a minimum in the hope that the wording of the measure and its legislative history will not permit the kind of subterfuge that has taken place under some State law.

The bill provides that there shall be no discrimination—

between employees on the basis of sex in such place of employment for equal work or on jobs the performance of which requires equal skills, except where payment is made pursuant to a seniority or merit system which does not discriminate on the basis of sex.

The IUD takes this language to mean what it says. Equal work requiring equal skills does not mean an absolutely identical job. We interpret this language to mean what it would mean in a collective bargaining contract—substantially equal value of work requiring equal value skills.

We are willing to accept the argument that a reasonable time allowance be permitted to make adjustments without undue disruption to the economy, and thus grant employers 2 years in which to eliminate present unfair and inequitable practices.

The IUD welcomes the provision which makes it illegal for any labor organization to engage in discriminatory practices against women members. This provision will make adjustment less difficult for unions that must deal with historically rooted practices outdated by time but not by custom.

We regard it as a weakness that the measure does not specifically prohibit a reduction in pay to eliminate any existing differential.

We have no fears of any such attempts by employers whose workers are covered by collective bargaining contracts. We recognize also that the intent and spirit of the law is to eliminate differentials by raising wages of women workers who suffer discrimination.

Nonetheless, we urge the inclusion of a specific clause prohibiting reduction of wages to end pay differentials based upon sex.

The measure would exclude from coverage establishments employing fewer than 25 workers. In today's automated world, this could be stretched to include large chemical plants, oil refineries, banks and offices of many kinds. We urge that the exclusion be limited to any individual employer employing ten workers or fewer.

Section 4(a) of the bill provides that covered employees must be "engaged in commerce or in the production of goods for commerce."

The use of this "commerce" yardstick puts in doubt the coverage under the law of workers in the retail and service industries and those in other similarly situated industries.

It should be remembered that the Fair Labor Standards amendments of 1961, coverage of such categories of workers was determined by the volume of business of an "enterprise or establishment."

In order to make certain the inclusion of retail, service, and other workers in similar industries, in this bill, the "engaged in commerce" language should be clarified to eliminate all uncertainty.

We are in general agreement with the administration and enforcement provisions of the proposed law. We are especially pleased with the powers granted to the Secretary of Labor to investigate and gather data to determine whether or not there has been a violation of the law.

Without this provision, the law would be without effective teeth.

We are also in accord, in full accord, with the right given the Secretary to order restitution of wages and reinstatement of an employee who has been discharged for seeking redress under the law.

We welcome the application of the proposed law to Government contract work. Federal procurement represents a significant part of our economic activity in today's world. By requiring equal pay on such orders, the Government will have an important means of obtaining compliance throughout the entire economy.

We are particularly gratified with the provisions which would deny Government contracts to employers found in violation of the law.

The chamber of commerce has expressed fear that the Secretary of Labor will be given the right to determine whether or not seniority or merit systems are in compliance with the law.

The chamber may rest assured that if the spirit and intent of the law are not violated there will be no interference. Any seniority or merit system based upon discriminatory practices against women workers should be junked.

The proposed law provides for fair hearings and permits recourse to the courts. No employer or union complying with the law has anything to fear.

In the last 10 years, 39 nations have accepted the "equal pay for equal work" convention of the International Labor Organization, among them nine iron-curtain countries. The United States is conspicuously absent from the rolls.

You may be certain that American labor hears about this failure when it attends ILO meetings. You may also be certain that lack of an equal pay law and U.S. failure to adhere to the ILO convention has been grist for the Communist propaganda mills.

Canada has both federal and provincial laws governing equal pay. The law hasn't hurt Canadian employers and most of them seem to accept it in good spirits.

The electrical manufacturing industry in Canada has complied without harm to its economic position. Surely we can profit from the Canadian experience.

Both political parties have pledged support for equal pay legislation. Women are Republicans and Democrats and their votes count equally with those of the Nation's males. It is time for a bipartisan effort to push through an effective measure.

Appearing together with House Minority Leader Halleck, Senate Minority Leader Dirksen recently asserted that American women are the "most charming, the most efficient, the most businesslike" in the world.

We of the industrial labor couldn't agree more emphatically, and you know how rarely this kind of unanimity occurs.

Thank you very much.

Mr. THOMPSON. Thank you, Mr. Carey. This is really a historic occasion when we find you in such solid agreement with the Senior Senator from Illinois.

Mr. Ashbrook, do you have any questions?

Mr. ASHBROOK. Yes.

I was interested in your quotation on the statement that you say we have won agreement on equal pay, so I assume you take some pride of authorship.

I quote again the statement you made:

Wage rates for women shall be set in accordance with the principle of equal pay for comparable quantity and quality of work on comparable operations.

Is this the type of provisions that you think would be reasonable then to incorporate in the bill that is before us?

Mr. CAREY. No, sir. I have some pride of authorship, sir, since I negotiated that agreement, but in view of the competitive situation and common membership in the employer's group, General Motors was not able to go beyond the wording of that particular agreement. They are the third largest electrical manufacturing company in the industry. This is a good step in the right direction. I commend General Motors for having the foresight but they are restrained by the fact that they will be ostracized in American industry, as large as they are, if they went as far as the union's proposal was in this regard. The union's proposal was similar to that contained in the present bill.

Mr. ASHBROOK. Would you tell me, then, in your judgment what is wrong with wage rates being set in accordance with "the principle of equal pay for comparable quality and quantity of work in comparable operations"?

Mr. CAREY. We want it to read not as a principle but as a contract provision enforceable.

Mr. ASHBROOK. The language and idea expressed, if we would put it in the legislation then would meet with your approval?

Mr. CAREY. I would rather have it a matter of law than a stated principle.

Mr. ASHBROOK. Yes.

Mr. CAREY. That is the difference we had with the company on that question.

Mr. ASHBROOK. We would be talking in terms of principle, of course, but if that type of definition left out the word "principle," and said "equal pay shall be for comparable quantity and quality of work on comparable operations," then that would be a reasonable approach to it, in your judgment?

Mr. CAREY. That would be a vast improvement over what we have.

Mr. ASHBROOK. Taking out the word "principle," do you agree with that idea?

Mr. CAREY. That's right.

Mr. ASHBROOK. Now as to the operation of your own union for which you would be the best witness, to what extent are these principles that you adhere to incorporated in your union?

Mr. CAREY. We have women organizers that get equal pay and in many cases they are better than some of the male organizers that we have.

Mr. ASHBROOK. But there is no problem, you are testifying to the extent that as to the fiscal operations of your union they do get equal pay with equal work?

Mr. CAREY. In response to your question, I am speaking now as an employer that issues a newspaper, it is larger than most of the dailies. We have organizers, people on our staff in various categories, and we have no interest in providing discriminatory practices. On this we do not need the agreement of the employers.

Mr. ASHBROOK. That is fine.

Now, on the specific subject of some union contracts which do, in effect, provide for this kind of discrimination, it is your contention that you are forced to sign these and therefore you are, in principle, against them but it has been necessary as part of the collective bargaining process to sign them; is that correct?

We have had several instances before our committee and you could look at a union contract and it, in fact, ratifies the discriminatory rate between men and women.

Wherever that has happened, in your judgment it has happened because the employers forced it on you and you had to sign it; is that what you are telling us?

Mr. CAREY. I don't know of any provisions in our contracts—

Mr. ASHBROOK. That may be so as to your own contracts. I think we can produce some, however, from other unions.

Mr. CAREY. In the electrical manufacturing industry of recent date?

Mr. ASHBROOK. Not electrical, I believe.

Mr. CAREY. Sir, we have been trying to overcome the resistance of the employer to the inclusion of nondiscriminatory provision based on geography and sex. We don't have in the contracts language that condones it. It is a practice that in some areas they pay less for comparable work than they do in others.

There are some areas in our industry that still pay women less for equal work, of quality and quantity, than men. But our contracts do not sanction that discrimination. It is just that we haven't been able to get into the contracts, especially in General Electric and Westinghouse the same provisions that we have been able to get in a great number of the other companies.

I might suggest, that we will make an effort that will begin shortly in our negotiations with General Electric and Westinghouse the enactment of legislation will eliminate this particular controversial question in our collective bargaining contract or at least make it easier.

Some employers would like to go along with us in putting provisions that do not discriminate but they cannot do it until the big giants do it, otherwise they will be read out of the union league or something of that nature, whatever it is.

Mr. ASHBROOK. Union league?

Mr. CAREY. Well, they will not be looked upon with favor and some of these companies are entirely and completely dependent upon the giants.

Mr. ASHBROOK. Thank you, Mr. Carey.

Mr. THOMPSON. Mr. Carey, I particularly commend your agreement to the requirements which this statute would impose on labor. I commend you also for your efforts with which I am familiar, having several plants organized by your union in my district, to bring about an end to discriminatory pay practices.

With respect to the words "equal" and "comparable," last year the bill was reported with the word "comparable." There was a debate on the floor. Some of us felt that "comparable" was the better word.

Mrs. St. George of New York made one of her unusually stirring speeches and carried the day for the word "equal."

Realizing her persuasive powers we decided "Why argue with her, she is paid equally but has unusual talent." So we have the word "equal" in there again this year.

Mr. O'Hara?

Mr. O'HARA. Mr. Carey, I want to thank you for your testimony.

Are you, as a leading official of the Industrial Union Department of the AFL-CIO, seeking to have this Congress impose upon industry any requirement that you aren't willing to have imposed upon yourselves?

Mr. CAREY. No, sir. We contend that this legislation is long overdue. It will help the fair employer, it will help the fair union, it will help the Nation. There is no proposal that we have that would not apply with equal force to unions.

We have within our ranks people who exercise the same prejudices as people in industry, unfortunately.

Mr. O'HARA. As a matter of fact, the term "employer" as defined in the act would cover a labor organization with regard to its own employees, would it not?

Mr. CAREY. Yes, sir, but we would expect from labor unions a greater adherence to the principles of this bill than we would expect from the employer because the purpose is for profit and ours is for service.

I would expect that the law would apply to all employers including labor union executives, but I do not think we would have any great difficulty with any of the labor people, but they do need this kind of legislation in order to correct some of their past customs.

Mr. O'HARA. Section (4) would provide that a labor organization that shall cause or attempt to cause an employer to discriminate against an individual in violation of the act would also be in violation of the act; isn't that correct?

Mr. CAREY. Yes, sir.

Mr. O'HARA. Mr. Carey, thank you very much for your testimony. I am aware of the efforts that your organization has made in behalf of equal pay for equal work and I think you are to be commended.

Mr. CAREY. Thank you.

Mr. THOMPSON. Thank you very much, Mr. Carey.

Mr. CAREY. Thank you, Mr. Chairman.

Mr. THOMPSON. Our next witness this morning is Mrs. Joseph P. Normile, who represents the American Nurses' Association, National

Consumers' League, the National Council of Catholic Women, and the National Council of Jewish Women.

You, I understand, are an assistant professor at Dunbarton College here in Washington. You are welcome.

STATEMENT OF MRS. JOSEPH P. NORMILE, ON BEHALF OF AMERICAN NURSES' ASSOCIATION, NATIONAL CONSUMERS' LEAGUE, THE NATIONAL COUNCIL OF CATHOLIC WOMEN, THE NATIONAL COUNCIL OF JEWISH WOMEN

Mrs. NORMILE. Thank you, Mr. Chairman.

Members of the committee, my name is Mrs. Joseph P. Normile. I am an assistant professor of economics at Dunbarton College. I am appearing on behalf of the American Nurses' Association, National Consumers' League, National Council of Catholic Women, and the National Council of Jewish Women in support of H.R. 3861 and H.R. 4259 bills to prohibit discrimination on account of sex in the payment of wages.

The need for equal pay legislation is greater now than ever before. Economic experts predict that the sixties will bring revolutionary changes in the United States.

The rising tide of unemployment in an era of increasing production is disturbing to say the least. President Kennedy warns that it is likely to be our most important domestic problem for some time to come.

The constant changes in our industrial processes, induced by automation or developments short of it, are reducing the need for human labor, with resultant upheavals in the working force.

In those industries where discriminatory pay scales prevail, there would, in all probability, be a displacement of the sex drawing the higher pay, together with readjustment of the wage differential at increasingly lower levels.

The American Nurses' Association, the National Council of Catholic Women, and the National Council of Jewish Women represent cross sections of American womanhood in their respective religious and professional areas. Their members, for many years, have realized the social and economic harms resulting from the practice of paying women at lesser rates than men for equal work.

The National Consumers' League has studied the problem of fair labor standards for over 60 years and has always been in the forefront of campaigns to achieve fair compensation for the workers of our Nation.

While instances occasionally occur of women receiving higher rates, this is most unusual, particularly in the lower paid occupations where the economic need is the greatest.

There is a pressing need today for legislation of this kind. It is true that sweatshop abuses and gross inequities of the past have been largely eliminated. Nevertheless wage discriminations still exist.

A Department of Labor survey, published in 1962, "Economic Indications Relating to Equal Pay," published by U.S. Department of Labor, indicates that there is a definite pattern for payment of lower wages to women than to men for similar work particularly in unskilled and semiskilled areas. For instance, for service workers there

were found to be "marked wage differences favoring men." For operatives in industrial plants, "the examples which may be found virtually all show women receiving lower earnings than men."

Such discrimination is harmful to both men and women, the employer and the economy as a whole. For women, who are discriminated against there is not only the economic hardship but also the issue of social justice.

Why is she paid less for contributing an equal amount by way of production or service to the national economy?

From a practical point of view, she must maintain a reduced standard of living which may affect not only the woman herself, but others as well, when we consider that a large proportion of working women are responsible for the support of families, including small children, because of widowhood or broken marriages.

For men, this practice has a tendency toward depressing their own wage scale, due to enforced competition with women working at lower pay.

Likewise, there is a threat of displacement and unemployment in favor of the lower paid woman operative in times of economic retrenchment. This is a particularly vital factor during periods of recurrent depression and recession.

For the employer, the maintenance of discriminatory wage scales tends toward discontentment and bad feeling within the working force, with a probable lowering of production.

The community suffers because of all these factors. Discriminatory wage scales reduce the economic potential in the community.

In a study published by the Institute of Industrial Relations at the University of California, "Wage Structures and Administration," by Harry M. Douty, the following points were made:

Workers often attach as much importance to the fairness of wage rates for difficult jobs within the plant as they do to the general level. Even where the general level of wages is not in question, deep dissatisfactions can develop among workers over job relationships. These dissatisfactions in turn may be reflected in reduced effort and output and in excessive labor turnover.

Increased productivity is a key to higher standards of living. It has been evident for some years that if the United States is to meet its responsibilities at home and abroad a higher rate of economic growth is necessary.

Equal pay for equal work legislation will contribute toward the goals of increased productivity and a higher rate of economic growth by fostering better labor-management relations.

It may be argued that the issue of discriminatory wage scales may be, and is being, corrected by two procedures short of Federal legislation, first State statutes and secondly collective bargaining.

Twenty-two States have such laws and to them we extend our congratulations. However, American industry, as we well know, operates on an interstate basis and application of a remedy in only 22, leaves the evil unrestricted elsewhere.

In fact, manufacturing plants and other hiring establishments in the 22 States having such regulation are penalized as they must compete on unequal terms in this respect with those in the other 38.

We know that much has been said about the constant trend toward

enlargement of Federal functions at the expense of the States. This is a question for students of our constitutional development.

We will say nothing about it except to agree that additional functions should not be sought for the Federal Government unless the objective is sufficiently vital and there is no other practicable means of obtaining it. We think this is the case with discriminatory wages.

Actually, a prohibition against discrimination in payment of wages on the ground of sex is complementary to the minimum wage concept of the Fair Labor Standards Act. That law was passed in implementation of the power of Congress to regulate commerce. We think that H.R. 3861 or H.R. 4269 should be enacted under the same commerce power for the purpose of correcting an evil in the same general area.

Organized labor has done much to improve labor standards. However, it is in the unorganized and low pay fields where the evil is greatest. Women as a sex are weak in bargaining power. While the unions have done much toward mitigation of wage inequality it would be long indeed before they could of their own efforts eradicate it. Organized labor itself favors legislation of this kind.

The plea for equal pay for equal work is not new. For at least 50 years, its proponents have been active. It was urged by the War Labor Board of World War I, by code authorities in the days of NRA and by the National War Labor Board of World War II. The fact that 22 States have enacted legislation in this field testifies to the widespread and deep-seated sentiment behind it.

It has made headway in countries other than our own. Both the U.N. Commission on the Status of Women and the ILO have supported this principle. Article 119 of the Treaty of Rome of 1957, which established the European Economic Community, pledged its member countries (Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands)—

to insure and subsequently to maintain the application of the principle of equal remuneration as between men and women workers.

In these times of the cold war, the democratic nations look to the United States for leadership. We fail somewhat in this leadership when we fail to meet the standards of "equal remuneration" for men and women workers.

It is significant that both the Democratic and Republican Parties in their 1960 platforms supported the principle of equal pay for equal work. In the 87th Congress both Houses passed equal pay bills.

The American Nurses' Association, the National Consumers' League, the National Council of Catholic Women and the National Council of Jewish Women therefore support the principle of equal pay for equal work, and feel that this principle can be attained within the foreseeable future only by enactment of H.R. 3861 or H.R. 4269 in this session.

Thank you, Mr. Chairman.

MR. THOMPSON. Thank you for a splendid statement. I gather that as an economist you do not have any particulars of the effect that this would have within industry if it were enacted.

MRS. NORMILE. I feel that the effect of unequal pay has discriminated against men as well as it has against women and does inevitably lead to supplanting male workers with women. I am very much against the operation of this principle in American industry. American businessmen are very alert to cost situations and when they can get

lower cost by supplanting male wage earners with female wage earners they are alert to take advantage of the opportunity.

I feel that both men and women will have a definite advantage by having the equal pay bill passed.

Mr. THOMPSON. I agree with you.

Mr. O'HARA. Mrs. Normile, I want to compliment you on your statement and particularly to compliment you on the point you have just made in response to Mr. Thompson's question.

Mrs. NORMILE. Thank you.

Mr. O'HARA. I might just say that in a very unprofessional way I have observed that in the small industries with which I am familiar in which women workers have been introduced and have been paid less, it has often happened that almost all the workers in that small industry would be women and the general wage scale is then lower than it was in the beginning.

I want to compliment you on a very fine statement.

Mrs. NORMILE. Thank you.

Mr. THOMPSON. Thank you very much for appearing here this morning.

Mrs. NORMILE. Thank you, Mr. Chairman.

Mr. THOMPSON. The next witness is Mrs. Dorothy Haener who represents the United Auto Workers.

STATEMENT OF MRS. DOROTHY HAENER, INTERNATIONAL REPRESENTATIVE, UNITED AUTOMOBILE, AEROSPACE, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

Mrs. HAENER. Due to illness, which prevents Caroline Davis, director of the UAW Women's Department from meeting here today I am presenting this statement for her on behalf of the United Automobile, Aerospace, and Agricultural Implement Workers of America.

My name is Dorothy Haener. I am an international representative of the UAW from the Women's Department of the UAW.

Mr. Chairman and members of the committee, for over 25 years the United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) has been in the forefront of the effort to establish firmly in its labor contracts the important and basic principle that workers must be guaranteed equal pay for equal work.

We believe that our union has expended as much or more of its resources in money, manpower, and energy toward this end, has conducted more classes, held more meetings and issued more pamphlets, posters, and leaflets on the subject of equal pay for equal work than any other organization or institution in the United States.

Our last 18th constitutional convention in May 1962 again reaffirmed this position in their adoption of a resolution on "Women Workers," which stated in part, as follows:

Studies of the economic responsibilities of women show that women work for the same reasons that men do, to support themselves and their dependents. Widowed and separated women are often the only wage earners in the family and many single women and some married women carry the entire responsibility for family support. In 1961, women were the heads of 4.6 million of the Nation's families.

That this 18th constitutional convention reaffirm the democratic principle that every UAW member be guaranteed complete and equal protection with all rights and privileges and with no exceptions because of sex or marital status.

That the UAW support State and Federal legislation for equal pay for equal work and other legislation designed to improve work standards and equal opportunities in the United States and Canada.

It was on the basis of strong representations by the UAW in a case involving General Motors Corp. that the National War Labor Board, on September 26, 1942, established the equal pay for equal work rule as a precedent for industries working on Government contracts during the Second World War.

At that time the Board held:

This is not a new principle. It was enunciated by the War Labor Board set up in 1917 to deal with industrial problems arising during World War I. The Board has directed the parties to include in their new agreement a provision that wages for women shall be the same as for men where they do work of a comparable quality and quantity in comparable occupations.

This decision was responsible for an award of back pay to thousands of women working for GM who had been victimized by being given less pay than was given men for comparable work. In one instance alone approximately 1,000 women at the General Motors, Melrose Park (Ill.), plant received back pay awards amounting to more than \$600,000.

The Chrysler Corp. has agreed, in its contract with the union, to establish the principle of equal pay for equal work throughout the corporation.

The contract with the Ford Motors Co. also contains an equal pay for equal work provision.

Hundreds upon hundreds of UAW contracts contain a similar provision.

In one situation, at Bendix, the union was put in the impossible position of appearing to be both for and against equal pay for equal work. In this case, male union members, because they feared the competition of women working for less than the contract rate for men, attempted to reserve certain jobs in the plant for themselves.

This led to the establishment of men's classifications and women's classifications for the same jobs in different locations in the plant at different rates of pay.

Dr. George W. Taylor, defining the problem, set down objectively and unemotionally what every impartial observer of the industrial scene believes is the classic formula for establishing wage rates on jobs:

What is obviously needed in this situation is a reevaluation of the job classification on the basis of job content. The job classifications should not be divided on the basis of male and female classifications. They should be evaluated on the basis of skill, effort and job content and classified into various grades of work with appropriate rates for each classification. The rates for each type of job should be made available to every employee on the job whether male or female. In other words, the female classifications for all departments should be eliminated as such.

At the end of the war, an important aspect of UAW's bargaining involved the negotiation of additional wage increases for women over and above the agreed upon general wage increase for the purpose of equalizing wage rates which traditional discriminatory practices had rendered grossly unequal.

In one situation, a very long strike was prolonged by a full week for the sole purpose of securing an additional 15 cents an hour for women workers beyond the 18½ cents that was provided for all the workers in the plant.

The UAW would be gratified to be able to assert that, after two and a half decades of struggle, it has, by hard, courageous and unstinting effort, finally succeeded in eliminating unequal pay for equal work from the industries under contract with it.

But the fact is, this is not so.

While the vast majority of our contracts contain clauses forbidding discrimination based on sex, this principle in some of the plants where our members work is, unfortunately, still tarnished by wage differentials based on sex. An analysis of UAW contracts covering over two-thirds of UAW membership made in late 1962 showed that two-thirds of UAW members are covered by a collective bargaining clause which prohibited discrimination against employees because of sex.

The differentials today are substantially less than they were in years gone by, when they very often amounted to 25 or 35 percent of the prevailing men's wages.

But they still exist in some locations, depriving women of their due, denying justice, creating irritations, suspicions, and resentments. They exist, we should point out, despite the fact that our union, in bargaining power, in resources, in willingness to defend the rights of our members, has worked as hard in this area as any in the United States.

Pay differentials for comparable work still exist in our industries in spite of the acknowledged leadership which the UAW has given to end the immoral economic practice of discriminating against women in their wage payments.

The power and the resources available to a voluntary organization simply are not adequate to the task of dealing across the total economy with a problem which is rooted in tradition, that is reinforced by strongly held prejudices, and whose continuance is encouraged by an economic incentive which induces the least moral, the least sensitive and least responsible of employers to take competitive advantage of competing employers who recognize the injustice of unequal pay for equal work.

Voluntary organizations and individual citizens should no more bear the total responsibility of defending rights of women against wage discrimination than they should be saddled with the burden of defending against price discrimination.

We have our antitrust laws and our interstate commerce act; we have outlawed discrimination in government agencies; we forbid unequal justice in courts. We must take similar action to guarantee against wage discrimination by adopting a universal rule of equal pay for equal work.

It is the Federal Government's responsibility to insure equal justice especially where the interests of a population are involved which is as large as the women's population in the United States. Twenty-two States have acknowledged this responsibility, but the fact is, neither the separate States nor the individual unions are, by themselves, equal to this task.

The UAW, for the most part, is organized in the States where there are equal pay laws, and most of our own contracts provide for the principle of equal pay for equal work.

Based on a small survey of the plants in which our members work we found there were differentials in rates of pay for substantially similar

work, with women receiving from 8 to 15 cents per hour less than men. Company resistance to the equal pay for equal work principle is essentially the reason for this.

The wage differentials that continue to exist represent a residue of unresolved argument after 25 years of bargaining in which the union and its members have applied their energy and resources to grinding the inequity away.

Twenty-five years of direct application to the problem have reduced the differential substantially from its original dimensions, but the disparity and the injustice, though reduced, nevertheless remain.

Progress is still being made, but the inroads on inertia, the resistance offered by the prejudices of management, not always an official policy, very often, in fact, as an obdurate personal eccentricity, even the prejudices of male union members, result in a rate of advance which is far too slow and which indicates that it will be many years under present conditions before this evil, and it is an evil, will be eliminated, if at all.

Continuous improvement, moreover, is put into jeopardy by the persistence of substantial unemployment and the unremitting pressure of automation on factory and clerical employment.

This experience is proof that the usual dog-eared citations of arguments against an equal pay law are, in fact, frivolous.

Education, unless reinforced by the compulsion of law, will not serve to persuade employers or convince working men who are under the illusion that they are enjoying a special privilege in men's job or rates, to recognize or accept that the injustice of wage discrimination must be corrected.

It bears repeating that, willing though the American union movement may be to enforce a rule of morality on American industry, the task of enforcing equal pay for equal work through unions alone is beyond the ability of voluntary organizations to accomplish.

At the same time, once the injustice of unequal pay for equal work is recognized, it is manifestly an impropriety for the community to place on voluntary organizations the burden of enforcing a rule which public morality demands.

It is increasingly evident that collective bargaining alone is not the ultimate answer to this difficult problem. It requires the establishment of public policy through enactment of law.

During the two generations equal pay laws have been pending before the Congress, every argument for them has been made, and the Members of Congress are very likely familiar with them. Nevertheless they bear repeating:

1. Unequal pay is immoral in that it deprives women of what is rightfully theirs. When this kind of immorality exists in other contexts, society deals with it as the evil which it is and outlaws it. For example, railroads and other common carriers may not discriminate against one shipper in favor of another by charging one a higher or a lower schedule of prices. Businesses are protected from price discrimination on the part of wholesalers and manufacturers.

Obviously there is more justification for a dual wage system based on sex than there is for a dual price system based on sex.

2. The inequity is an irritation and a bar to effective employer-employee relations. The wage differential is a source of uneasiness and insecurity to the men on the job inasmuch as the incentive to the

employer to shift work to the low-cost women's classifications is a continuing threat to the jobs of men.

Where the dual wage system prevails there is an inevitable latent volatile instability, which is a hazard and an injury to employer and employee alike.

3. The inequity assesses a penalty upon the workers in the economy who are already as a rule paid the lowest rates, yet these workers have responsibilities that are no less burdensome than those of other workers.

4. Unequal pay results in the uneconomic use of man and woman power in that dual wage classifications interfere with what should be an occupational mobility that allows each person in the plant to work at the job he or she is most capable of performing.

5. An unfair competition in wage costs inevitably results, puts an undesirable pressure on standard wages and creates disadvantages for those employers who do accept the moral responsibility to establish a single wage level for the same work.

The declaration of purpose in the equal pay bill makes each of these arguments. But the bill cannot convey in its legalistic language the personal hurt and abuse which the victims of injustice feel.

There would be no question that the Congress would enact this legislation promptly if each legislator could experience only for a moment the bitterness a woman feels working day by day beside a man who does nothing that she does not do, and yet who receives, 8, 9, 10, 15 cents an hour more than she; and, in plants where progress equal to that of the UAW has not been made, perhaps a third more pay.

No one, however, in stating the moral, social, economic and political case against unequal treatment of women, has improved on the original classic statement by John Stuart Mill almost 100 years ago in his essay on the subjugation of women.

When we consider the positive evil caused to the disqualified half of the human race by their disqualification—

Mill wrote—

one feels that, among the lessons which men require for carrying on the struggle against the inevitable imperfections of their lot on earth, there is no lesson which they more need than not to add to the evils which nature inflicts, by their jealous and prejudiced restrictions on one another.

The Congress, by the enactment of the equal pay bill, is in a position now to discharge a long overdue obligation of conscience and national need. The American community is surely overready to accept it.

The fact is, unequal pay is a form of cheating whose victims include widows and orphans who too often already have too little to maintain a decent standard of life in the United States

The immediate personal quality of the injury to women and children is so great as to entitle the legislation to the highest priority.

The deprivation is not theoretic either in the hurt to the workers affected or to the Nation's economy. Each day until the equal pay bill is passed and provision is made for its enforcement, hundreds of thousands of women will be paid less than they are entitled to and they need, and their dependents will be injured by the deprivation of food, clothing, and shelter their mothers have earned.

Surely, this is a burden that should be lifted without delay from the conscience of the Nation.

Mr. THOMPSON. Thank you very much for a splendid statement. I am sorry that Miss Davis is ill, I hope that she will be feeling better. You have made a splendid substitute.

Mrs. HAENER. Thank you, Mr. Chairman.

Mr. THOMPSON. Mr. O'Hara?

Mr. O'HARA. I just want to say to the witness that because the UAW's activities are so extensive in the State of Michigan, I have had an opportunity to become aware of the UAW's position in this matter which is as you have reported it; that is, the UAW has been in the forefront of those who have sought equal pay for equal work.

I want to compliment the UAW on its position on this matter. I would hope that the Congress can this year catch up with the UAW in its concern with a woman's right to equal pay for equal work.

Mrs. HAENER. Thank you.

Mr. THOMPSON. Our next witness this morning is Mr. Ben Seligman, director of the education and research department for the Retail Clerks International Association.

Good morning, Mr. Seligman. You may proceed as you wish.

You have a prepared statement here. You may read it or synopsize.

STATEMENT OF BEN H. SELIGMAN, DIRECTOR, EDUCATION AND RESEARCH DEPARTMENT, RETAIL CLERKS INTERNATIONAL ASSOCIATION

Mr. SELIGMAN. Mr. Chairman, we have a prepared statement which follows substantially the arguments presented by other spokesmen for labor.

Since it has been already presented to the committee, I wondered if I might not take the opportunity to use whatever time is available to point to a few proposals in the bill that concern us very much?

Mr. THOMPSON. By unanimous consent your statement will be placed in the record in full and also by unanimous consent three statements in the possession of the clerk will be entered in the record following your statement.

Mr. McCORD. Mr. Chairman, those are statements from the American Retail Federation, the General Federation of Women's Clubs and the National Association of Women Lawyers.

Mr. THOMPSON. Thank you.

Mr. Seligman.

Mr. SELIGMAN. My name is Ben H. Seligman. I am the director of the Education and Research Department of the Retail Clerks International Association and have been with this organization since September 1957.

I should like to take a few moments to comment on the several problems which stem from the language of the proposed bills. The definition of "employer" is limited to any person having 25 or more employees in any place of employment. We respectfully suggest that this language is unfortunate and that it would remove from the protection offered in the proposed legislation millions of female employees in the retail industry.

For example, in the supermarket sector in 1961 the typical market employed just about 25 employees. We believe that the 1962 data will show a decline in that figure. Consequently, it is conceivable that on

an employee basis virtually every supermarket in the Nation will enjoy exemption from equal pay legislation.

Moreover, the 1961 figures compiled by the Supermarket Institute & Industry Trade Association reveal that annual sales per employee were \$56,000. Translating the employment criterion into a dollar-volume criterion we find that coverage would not begin until the store had an annual volume of \$1,400,000.

This, too, suggests a rate limited coverage of the proposed legislation since many units of large chains have a volume well under this figure. According to the 1958 census of business of the Department of Commerce there were approximately 4.6 million employees in retail establishments with less than 25 employees.

Now we estimate that approximately 50 percent of the workers in retailing are women, so that 2.3 million would mean employees in retailing would be exempt from the proposed equal-pay legislation.

This is to say nothing of the situation in other industries such as the service industries. We see no reason why the equal-pay criteria should not equate that which exists in minimum wage legislation. In the latter the coverage standard is standardize a sales volume of \$1 million or more for the whole enterprise with particular establishments of that enterprise exempt if the dollar volume is under \$250,000 a year.

If such a standard were utilized we estimate that as far as retailing is concerned, coverage of the equal-pay legislation would be provided to about three-fourths of the women employed in retailing. The remaining one-fourth would be women engaged in smaller independent retail concerns and in the so-called "Mom and Pop" enterprises.

It is kind of—this kind of exemption that is to be found in the minimum wage law, also. Thus far, this approach appears to be working safely for minimum wage purposes and we urge its application for equal-pay legislation as well.

The second point on which we urge reconsideration relates to the definition of "commerce." Again, the precedent of minimum wage legislation seems appropriate. It is not clear from the definition of "commerce" in the proposed equal-pay legislation that retailing, distribution, and services would fall within the scope of the proposal before this subcommittee unless the language clearly specifies the intent of Congress to cover these fields by including the phrase affecting commerce—it is our considered opinion that retailing, which, while conducted in local areas, does, in fact, affect commerce and Congress does have the constitutional right to regulate activities which affect commerce.

But in the absence of clear language on affecting commerce we fear the scope of this legislation will be severely restricted.

Third, we suggest that consideration be given to situations in which unfair employers may utilize equal-pay legislation to transfer men out of job classifications or to redefine job descriptions in ways and would merely maintain women employees at their old salary levels.

Clearly, this does not seem to us to be the intent of the proposed legislation. Yet it would be possible for a supermarked operator to remove the few men at the checkout counter, reassign them to other duties and thus maintain the old female wage scale.

In concluding our statement may I say that we in the Retail Clerks International Association have achieved a fair measure of progress in

eliminating unequal pay for equal work but there is still much to do.

A good deal of progress has been made in other areas as well. Thus, many private employers and others have acknowledged the justice of equal pay for equal work. Nevertheless there are large areas of the economy in which women simply continue to be exploited simply because they are women.

To eliminate such inequities equal pay now seems essential. We therefore support such legislation.

Thank you.

(The statements referred to follow:)

STATEMENT OF BEN B. SELIGMAN, DIRECTOR, EDUCATION & RESEARCH DEPARTMENT,
RETAIL CLERKS INTERNATIONAL ASSOCIATION

My name is Ben B. Seligman. I am the director of the Education & Research Department of the Retail Clerks International Association and have been with this organization since September 1957. I should like to thank the committee for the opportunity to express the views of my organization on the proposed legislation regarding equal pay for equal work regardless of sex as set forth in H.R. 4269 and H.R. 3861.

In presenting this statement we speak on behalf of some 400,000 organized workers in the retail trades, about half of whom are women, as well as on behalf of several million female employees in retailing who do not enjoy the protection afforded by a collective bargaining agreement.

But as a trade union, the Retail Clerks International Association must look beyond its specific organizational objectives to the concerns of the Nation as a whole. In this particular situation, to which your committee has addressed itself, the manpower needs of the country are deeply affected. Yet the archaic, outmoded policies of discrimination in wages based on sex mean a regrettable waste of human resources and consequently represent an impediment to economic growth.

This is a condition we can ill afford at a time when the urgent problems of the world demand that we bend every effort to utilize our resources to the fullest degree possible. Poor use of manpower and womanpower pose handicaps in our race against the Communist bloc of nations. When war struck in 1941, we learned painfully how to employ our capabilities and our manpower resources. Ought we not learn from that costly lesson that in peacetime, too, we need to use our resources effectively?

Discrimination in pay based merely on whether one is a woman or a man is a serious problem, virtually as serious as that of the quality of our educational accomplishments. In fact, we seek to educate our populace and then allow people to waste their abilities by accepting a wage policy that simply serves to depress their position in the workforce. Thus a double waste is the outcome.

Women are an important factor in the labor force today. This statement is incontestable. Our economy cannot function at its present levels without the direct participation of women in economic activity. The urban explosion, the growth of suburbia, changes in technology, the rise of government as an employer, wars, depressions, changes in our social values, the lengthened span of life have all contributed to the revolution in the work pattern now pursued by women. The fantastic spread of mechanical appliances in the home during the last 40 years, the development of a huge ready-to-wear clothing industry and the greater availability of domestic workers have freed women from work in the kitchen and have allowed them to seek jobs outside the home. Yet if women were not required in industry and trade, they would not be employed. The fact is that there is a need for women workers.

The idea that a woman is inferior to a man in certain jobs has long since been refuted by actual experience. We now recognize that the psychological differences between men and women stem from different expectations and cultural experiences rather than innate intelligence and ability. In fact, we do know that there is little difference in general intelligence as between men and women. In certain psychological tests, women do better than men on verbal and clerical aptitudes, while men do better on mechanical aptitudes. The differences however are slight and explained by cultural factors. (National Manpower Council, "Womanpower," New York, 1957, p. 228.) Yet unequal pay for equal

work continues. In retailing, for example, management will seek to justify lower rates for women clerks on the ground that they are physically unable to do heavy stockwork.

Now this may have been a factor 10 or 20 years ago, but it no longer reflects the true conditions of work in retailing today. In department stores, for example, all clerks are expected to do their own stockwork, whether they be men or women. In supermarkets, the work in the backroom has been so mechanized and rationalized, with conveyor belts, palletized operations and the like, that it no longer requires brute strength to do the job. There is substantially little difference between what a man and a woman now does in a supermarket. Yet, management will seek to pay less to women than to men solely on grounds of sex.

The Retail Clerks International Association has for many years opposed this practice. Our constitution contains this clause:

"We denounce the practices of employers who disregard health, safety, and other laws enacted for the welfare of workers, as likewise we denounce discriminatory and unfair practices of employers fixing wages on the basis of sex and we demand that the laws passed for the benefit of the workers be lived up to and enforced and that irrespective of sex, there be equal pay for equal work" (sec. 3, par. F).

It is interesting to note that this statement in somewhat different language is to be found in the original declaration of principles published in our official journal, the Retail Clerks Advocate, in October 1896. The Retail Clerks International Association's concern with this problem indeed has a long history.

We could not help but meet up with this problem at the inception of our organization in the 1880's and 1890's. Even then women workers were to be found in retailing, and they always were paid less for the same work.

Approximately half the membership of our organization is comprised of women. They work in all sections of retailing and at all sorts of jobs. Women are found working in supermarkets, variety stores, department stores, discount houses, apparel shops, and drugstores. They work as salesclerks, checkout clerks, inventory clerks, and of course, in offices. There are over 1,400,000 women sales workers, about 440,000 more women than men (Employment and Earnings, February 1962, Bureau of Labor Statistics). And we must add to the salesclerk, another million women employed in nonselling occupations, giving a total of 2.4 million women in the retail industry. Too many of these, we know, are paid less for the same work that men do.

When we in the Retail Clerks International Association started to organize intensively in the late 1930's and early 1940's, we found unequal pay for equal work to be an almost universal condition. Following the dictates of our constitution and our beliefs, we fought to eliminate this condition. Our collective bargaining agreements all virtually provide for a single pay scale. There are remaining pockets of resistance, we must concede, as reflected in perhaps a fifth of the agreements we have on file at international headquarters. But most of these are to be found in small locals, serving small towns.

In about 20 years, we have successfully eliminated unequal pay scales in a large part of retailing, at least that part which has been organized successfully. But this does not begin to reach the entire female work force in retailing, 85 percent of which is still beyond the protective boundaries of a collective bargaining agreement. Hence, we must support the proposed legislation embodied in H. R. 4269 and H.R. 3861.

Average hourly earnings of women in the retail field are consistently less than of men. This was demonstrated in the June, 1961 study of retailing made by the Bureau of Labor Statistics which showed that in supermarkets women averaged \$1.52 an hour as compared with \$1.77 an hour for men; in department stores the figures were \$1.36 and \$2.01 respectively for women and men; in variety stores, \$1.03 and \$1.38; and in drugstores, \$1.14 and \$1.79.

It is sometimes said that retail wages and earnings are low because productivity in the industry is low. This is a complete fallacy. Productivity in retailing is higher than in the rest of the economy. Our studies, based on data obtained from the Department of Labor and the Internal Revenue Service, show that while output in retailing, as measured by value-added, increased 62 percent from 1947 to 1960, man-hours increased but 17 percent. This means a rise in productivity during that period of time of 38 percent, a rate of increase that was higher than in basic steel and many another industry.

The retail employee consequently has been producing and has been working quite hard at his job. All too often employers pursue a false tradition in dealing

with their female employees. It is said that women prefer to work for a fixed salary rather than sell merchandise on a commission basis or it is said that women do not sell appliances as well as men. This, therefore, supposedly justifies a lower rate of pay for the same work. This is a false and short-sighted outlook. In fact, it is well known that certain department stores will assign women salesclerks working on guarantees plus a small commission to "big ticket" floors, merely as a device to cut costs. The conclusion to which we in the Retail Clerks International Association came a long time ago, is that unequal pay for equal work is merely a device to reduce expenses, a reduction that in the long run services to depress standards and injure the entire economy.

Nor can it be said that women work for "pin money." This notion is false. Studies by competent economists show that the income of a woman worker is essential to maintaining the level of family requirements. (H. Lydall and J. B. Lansing, "Distribution of Personal Income and Wealth," American Economic Review, March 1959.) In a small survey conducted by our organization in the city of Pittsburgh in June 1960, covering almost 600 department store employees, we found only 12 respondents who said that they were working for "pin money." Of the 150 multiple wage earners in the group, virtually all indicated that their earnings were essential to the family income. This was true for both part-time and full-time women salespeople.

Thus, economic considerations are primary in compelling women to enter the work force. Over half the women who work either support themselves or are the major support of their families. While most of the others supplement the husband's income, it is the added earnings brought into the family by the working wife that frequently spells the difference between hardship and getting along reasonably well.

In 1960, according to Census Bureau data, 52 percent of the families with two earners had incomes between \$5,000 and \$10,000 per annum. Those with incomes below \$5,000 comprised 31 percent of the two-wage-earner families. Obviously, the latter group would be much larger if there were no working wives in our society.

With the earnings of women so essential to the well-being of millions of families, we nevertheless continue to tolerate a situation in which a woman—simply because she is a woman—is paid less for the same work than a man. Thus, in 1958, women professionals earned on the average 64 percent of what men earned; women salesworkers were paid 44 percent of what men were paid; and women serviceworkers 53 percent of what men received ("Workers Fact Book," 1960, Bureau of Labor Statistics). In terms of the dollar differences in average earnings, the greatest was to be found among the salesworkers—women received \$3,000 per annum less on the average than men.

Now it is said, this condition stems from the fact that women work only part time. Yet an analysis of the part-time situation itself reveals that in this area, especially, women are paid less than men. In 1958, the average annual earnings figure for men working part time was \$3,948, while for women it was \$1,473. The average working age of both men and women in these groups was the same—40.4 years—and the educational attainments were alike. It is difficult to think of any other reason than discrimination as the basic cause of such discrepancies in earnings.

Part-time employment is quite widespread in retailing and is becoming more so. There is a substantial economic reason for this development: It is not simply a case of people refusing to work a full workweek, as is so often said. Quite simply, selling cost in retailing is a discretionary fixed item. It is fixed, like any other overhead cost, since the weekly salary cannot be related easily to traffic flow. The utilization of a part-time work force, geared to peaks and troughs of customer traffic, on the other hand, allows to retail enterprise to convert selling cost into a variable, that is, to relate the expense item to traffic flow in a very direct way.

Now, when the part-time female employee is paid a lower hourly rate, the enterprise has gained a double advantage. An objective analysis of all the relevant data would sustain the conclusion reached by Prof. Clarence D. Long of Johns Hopkins, that, "Many women and young people work fewer hours than men and most of them earn less per hour * * *". And if we may add to Professor Long's remark, they frequently earn less for doing the same work.

The fact is, as Professor Long points out, wives are less apt to work if their husbands are doing well. (C. D. Long, the "Labor Force Under Changing Income and Employment," Princeton, 1958.) The correlation of work by women with low family incomes was found to be marked. The higher the income level of the

husband, the less likely was there a need for the wife to work. The corollary of this is self-evident—women work because they must. As Professor Long says, it is not simply a matter of job opportunities: a woman who needs a job will seek one whether or not men are employed or on short hours.

Yet traditionally, and only as a matter of tradition, women workers' income has trailed that of men. While the proportion of women to men in the work force began to increase in the 1890's, it was not until the 1920's that their earnings ratio began to move upward. And curiously enough, this ratio actually declined after 1945, from 50 percent to a little over 35 percent in 1951.

Yet the contribution of the woman worker to economic growth cannot be denied. Edward F. Denison of the Committee for Economic Development has emphasized this point in his recent study (*Sources of Economic Growth in the United States*, Washington, 1962). According to his analysis, improvements in the quality of women workers accounted for some 3 percent of total economic growth in the period of 1929-57. Much of this improved quality stemmed from improvements in income payments flowing to women workers. It would not be unfair to conclude that discriminatory practices in wage policies for female workers represents a serious impediment to economic growth.

Before closing, may I take a few moments to comment on several problems that stem from the language of the proposed bill. The definition of "employer" is limited to any person having 25 or more employees in any place of employment. We respectfully suggest that this language is unfortunate in that it would remove from the protection offered in the proposed legislation millions of female employees in the retail industry.

For example, in the supermarket sector in 1961 the typical market employed just about 25 employees and we believe that the 1962 data will show a decline in that figure. Consequently, it is conceivable that on an employee basis virtually every supermarket in the Nation will enjoy exemption from equal pay legislation. Moreover, the 1961 figures, compiled by the Supermarket Institute, an industry trade association, reveal that annual sales per employee were \$56,000.

Translating the employment criterion into a dollar volume criterion, we find that coverage would not begin until the store had an annual volume of \$1,400,000. This too suggests a rather limited coverage of the proposed legislation, since many units of large chains have a volume well under this figure.

According to the 1958 Census of Business of the Department of Commerce there were approximately 4.6 million employees in retail establishments with less than 25 employees. Now we estimate that approximately 50 percent of the workers in retailing are women, so that 2.3 million women employees in retailing would be exempt from the proposed equal pay legislation. And this is to say nothing of the situation in other industries.

We see no reason why the equal pay criteria should not equate that which exists in minimum wage legislation. In the latter, the coverage standard is a sales volume of \$1 million or more for the whole enterprise, with particular establishments of that enterprise exempt if the dollar volume is under \$250,000 a year. If such a standard were utilized we estimate that as far as retailing is concerned coverage of the equal pay legislation would be provided to about three-fourths of the women employed in retailing. The remaining one-fourth would be women engaged in smaller independent retail concerns and in the so-called "mom and pop" enterprises. It is this kind of exemption that is to be found in the minimum wage law also. Thus far, this approach appears to be working satisfactorily for minimum wage purposes and we urge its application for equal pay legislation as well.

The second point on which we urge reconsideration relates to the definition of commerce. Again the precedent of minimum wage legislation seems appropriate. It is not clear from the definition of commerce in the proposed equal pay legislation that retailing, distribution, and services would fall within the scope of the proposal before this committee, unless the language clearly specified the intent of Congress to cover these fields by including the phrase "affecting commerce." It is our considered opinion that retailing, which while conducted in local areas, does in fact affect commerce, and Congress does have the constitutional right to regulate activities which affect commerce. But in the absence of clear language on affecting commerce, we fear the scope of this legislation will be severely restricted.

Third, we suggest that consideration be given to situations in which unfair employers may utilize equal pay legislation to transfer men out of job classifications or to redefine job descriptions in ways that would merely maintain women employees at their old salary levels. Clearly, this does not seem to us to be the

intent of the proposed legislation, yet it would be possible for a supermarket operator to remove the few men at the checkout counter, reassign them to other duties and thus maintain the old female wage scale.

In concluding our statement may I say that we in the Retail Clerks International Association have achieved a fair measure of progress in eliminating unequal pay for equal work, but there is still much to do. A good deal of progress has been made in other areas as well. Thus, many private employers, and the Government, have acknowledged the justice of the principle of equal pay for equal work. Nevertheless, there are large areas of the economy in which women continue to be exploited simply because they are women. To eliminate such inequities, equal pay legislation now seems essential. We therefore support such legislation as embodied in H.R. 4269 and H.R. 3861. Thank you.

STATEMENT OF GENERAL FEDERATION OF WOMEN'S CLUBS

The General Federation of Women's Clubs is an organization of 9 million American clubwomen from every State in the Nation. It is gratifying to us to have the opportunity to present a statement for the record in these hearings in support of the "Equal Pay Act of 1963."

The women workers of America have undeniably contributed immeasurably toward betterment of our living standards and the economy of our country.

Certainly we have no intention or desire to alter the traditional concept of male supremacy. Most women, we believe, are content with and prefer to continue that tradition. But when it comes to the pay envelope, women who are working side by side with men, doing equal work, surely, in all fairness, deserve equal pay.

STATEMENT OF THE AMERICAN RETAIL FEDERATION WITH RESPECT TO EQUAL PAY LEGISLATION

The American Retail Federation, through its 42 State and 31 national retail associations, represents more than 800,000 retail establishments employing about 5 million persons.

The American Retail Federation is deeply concerned over this prospective legislative mandate (H.R. 3861 and H.R. 4269) to pay equally for equal jobs. While we favor the principle involved, there is justifiable apprehension over the problem of converting a principle to specific legislative language in a Federal statute.

How might the Secretary of Labor interpret equal work, equal skills, and so on? Retailing has had considerable experience in living with statutes where departmental regulations bear little resemblance to the law they undertake to apply. The Department of Labor's regulations on certain applications of the 1961 amendments to the Fair Labor Standards Act are a case in point. Retailers are still trying to establish a connection between them and what Congress intended when it passed the amendments.

There has not been a showing of sufficient need for such legislation at the Federal level. Twenty-two States have thus far enacted equal pay legislation—and others are actively considering similar measures. Those States with equal pay laws at present are as follows: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Hawaii, Illinois, Maine, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, Wisconsin, and Wyoming. Note that the list contains most of our key industrial and commercial States.

The retailing industry has long recognized the importance of its women employees. It is natural in this business, employing a considerably large number of female workers, that their importance has been recognized in many ways—including their right to earn as much as men in positions of equal responsibility and complexity. In fact, there are many jobs in retailing—at both the rank-and-file and executive levels—which often are better adapted to women than to men, for example, buying of fashions, personnel positions and in most areas of sales. Therefore, a policy and practice of paying the proper rate for the job, without regard to sex, is generally reflected in women's pay checks in the retailing industry. However, it should be pointed out that very frequently in all industries there are entirely sensible reasons for pay rate

differentials between men and women. Where this is the case, no issue of discrimination is involved.

At the same time, there may be some inequities in an industry as large as retailing. There have been conscientious and voluntary efforts made to correct them. Those isolated instances that remain are not of the scope to require Federal legislation—particularly in an industry so naturally disposed toward the female worker. The American Retail Federation does not believe that the kind of equality this bill ostensibly seeks can be legislated at the Federal level. However, we recognize the popularity of an issue promising equality for our women—and the understandable sensitivity of legislators in this particular area. Therefore, it is important to all concerned to keep a level head so that any such legislative attempt is equitable and fair to business—as well as to the female sector of our economy.

We would recommend to the committee the following specific areas of change or elimination in H.R. 3861 and H.R. 4269:

Section 5, "Administration and enforcement," is a vivid example of placing a law in the lap of the Secretary of Labor, where he may, in turn, exercise the broadest of powers, coupled with an opportunity for subjective interpretation and useless and damaging investigations. Retailing's past experience demonstrates little hope for impartiality on the part of the Secretary's investigative staff. There is, also, justifiable resentment against unnecessary further incursion by the Federal Government into the routine operation of a business, with the attendant danger of increased Federal controls, increased interference with private business, and—most important—further regimentation of the economy.

The language of section 5 grants unbridled and unprecedented authority for the Secretary of Labor to conduct "fishing expeditions." In section 5(a)(1), for example, the Secretary not only has the power to prescribe rules and regulations under the bill, but may include regulations "to protect against the violation of *any other applicable law* * * *" [Emphasis added.] What law: Davis-Bacon, Walsh-Healey, Fair Labor Standards Act, Landrum-Griffin, Taft-Hartley, or any others?

All reference to the filing of a charge by an aggrieved employee, as contained in last year's House-passed bill, H.R. 11677, has been eliminated. H.R. 3861 and H.R. 4269 give the Secretary powers to investigate, in a general way, and issue his own cease-and-desist orders and obtain enforcement in a U.S. district court. His authority in last year's bill was limited to the investigation of a specific charge and the seeking of a conciliatory solution. He had to bring a civil action in a U.S. district court for enforcement, thus providing some measure of legal protection for the employer.

If the committee intends to report any bill, we recommend adoption of language in section 5 which would limit the Secretary's investigative authority to those facts, conditions, practices, and matters as are specified in, and directly related to, a specific charge by or on behalf of an aggrieved employee. Also, the respondent be afforded a reasonable opportunity to reply to the charge before an investigation is undertaken, and that there is a determination made that the charge is true before continuing beyond the investigative stage. In any civil action, the Secretary should be limited to those unlawful discriminatory practices as set forth in the charge.

Section 4, in describing equal pay situations, is equally abhorrent to retailing, insofar as it permits exemptions from those requirements, namely, where the differential results from a seniority or merit increase system. In the case of retailing, and undoubtedly many other industries, the limitation to these exemptions enumerated in the bill is patently unfair and discriminatory and evidences of a lack of understanding of industrial reality. It is a wholly justifiable fact that in retailing there are many situations where there are differentials in wage scales based on experience, hours worked (day or evening) job hazards, physical requirements, and the like. Assurances by the Secretary before this committee that these factors will be considered by the Department of Labor in its regulations and investigations is scant relief. They should be spelled out in the bill.

The next major point is the manner in which unequal rates are to be equalized in the bill. A great deal of discussion was devoted last year during floor debate to language in H.R. 11677 which would have prohibited lowering of wages to equalize them. Proponents stated that the bill was not intended as an extension of minimum wages or wage control. It stated on the other hand that if it were not so intended, the language should be dropped. It was, and thereafter remained, out of the bill. H.R. 3861 and H.R. 4269, however, in

section 4(a) (1), (2) and (3) contain a progressive equalization formula, which, while not specifically requiring the raising of the lower to the higher rate, leaves an employer no alternative. This is in ignorance of an economic fact of business life: the labor cost factor of production. Companies may well be forced into discharging the higher-paid employees of one sex, retaining only the lower-paid of the other sex. In order to correct this fault, additional language will be required to avoid confusion.

These are the major areas of concern to retailing. There are other examples of inequities and language requiring clarification, such as what is meant by "place of employment," the extent of recoverable back wages as damages, the ignoring of the aforementioned State laws—and many more. If the opportunity is presented, we would be pleased to point out additional areas for amendment.

We respectfully urge the committee to examine carefully the points raised in this statement.

DONALD F. WHITE,

Director Counsel, Governmental Relations.

STATEMENT BY MAURINE HOWARD ABERNATHY, PAST PRESIDENT, NATIONAL ASSOCIATION OF WOMEN LAWYERS

My name is Maurine Howard Abernathy. I am a past president of the National Association of Women Lawyers, on whose behalf this statement is made.

The National Association of Women Lawyers would like to bring to the attention of this committee the fact that it has for many years supported bills providing equal pay for equal work, and it still supports such legislation.

It is our sincere hope that your committee will favorably report this long overdue bill, and we respectfully urge it to do so.

We appreciate the opportunity of being permitted to present this statement.

MR. THOMPSON. Thank you very much. We will examine quite carefully the suggestions you have made with respect to the numbers and the commerce clause. Mr. Ashbrook?

MR. ASHBROOK. You mentioned the Minimum Wage Act. Have you given any consideration to, from your union standpoint, to having this incorporated as part of the Minimum Wage Act?

MR. SELIGMAN. Sir, we have not given any consideration along those lines since the Minimum Wage Act is embodied in separate legislation. This has come up as separate legislation. We have gone along with the procedures that have been followed thus far.

MR. ASHBROOK. What about the same commerce standards that are used in the minimum wage legislation?

MR. SELIGMAN. This is the suggestion that we have made, that the language be amended to refer to affecting commerce.

MR. ASHBROOK. Including the exemption?

MR. SELIGMAN. We are accepting that principle. That is to say, then, that the so-called mom and pop stores would have the exemption under this legislation that they enjoy under minimum wage legislation.

As the language now stands in the proposed legislation, virtually every supermarket chain would enjoy an exemption from equal pay for equal work legislation.

MR. ASHBROOK. Thank you.

MR. THOMPSON. When you say "including the exemptions," do you mean all the industry that are exempt in that hodgepodge of exemptions?

MR. SELIGMAN. No, sir, that is a different problem. I am referring solely to the retail industry.

MR. THOMPSON. Thank you very much.

Our next witness this morning is Mr. John G. Wayman, an attorney in Pittsburgh.

Mr. Wayman.

STATEMENT OF JOHN G. WAYMAN, ESQ., ATTORNEY, PARTNER IN LAW FIRM OF REED, SMITH, SHAW & McCLAY, PITTSBURGH, PA.

Mr. WAYMAN. Mr. Chairman, members of the committee, it is a pleasure indeed to be here and I thank you for this opportunity. I have prepared a written statement to submit but not necessarily to read.

Mr. THOMPSON. I will ask unanimous consent that your statement be entered in full and then you may proceed as you wish.

(The statement referred to follows:)

STATEMENT OF JOHN G. WAYMAN

My name is John Wayman. I am a partner in the law firm of Reed, Smith, Shaw & McClay in Pittsburgh, Pa. My remarks do not concern the problems of any particular client, but represent my own views on the proposed legislation as an "expert" in the field of labor law, and especially in the field of wage and hour regulation.

For the past 21 years I have devoted all of my time to the practice of labor law, representing employers.

I seriously question the desirability of Federal legislation in this area. However, if there must be legislation, I suggest that it be a carefully drawn amendment to section 6 of the Fair Labor Standards Act, as amended. If this is not done, then I believe the absolute maximum acceptable legislation would be the Martin bill, H.R. 1936, with amendments and exceptions to make it absolutely clear that only discrimination in wages payment on account of sex is covered, making further provision for administration by the Wage and Hour and Public Contracts Division of the Department of Labor, providing practical effective dates.

Since I am offering this testimony as an "expert," a much abused term, it seems necessary to tell why I am particularly interested in this legislation and why I think I am qualified to discuss it.

My first assignments as a lawyer were War Labor Board cases, and in particular wage and salary controls, upon which I worked almost exclusively during the existence of that Board. To a large extent our present day practices in establishing and administering wage and salary rates reflect the experience of the War Labor Board and Salary Stabilization Board.

Immediately after the War Labor Board days, and for a period of perhaps 5 years, I spent at least 80 percent of my time on cases arising under the Fair Labor Standards Act, which were then both numerous and important. I handled these matters from the investigative stage, in which I came to know and respect the personnel of the Wage and Hour Division, through both State and Federal trial courts to the appellate courts.

As you may recall, the portal-to-portal cases and overtime on overtime cases posed serious problems in those days, both to employers and unions. Both were solved by amendatory legislation. I assisted in preparing the legislation on the overtime on overtime problem and the 1949 amendments to the Fair Labor Standards Act, at the request of Mr. John Wood of Georgia, who was then chairman of the House Labor Committee, with the approval and cooperation of counsel and members from both sides.

I have participated in negotiations, grievance meetings, and tried arbitrations and court and board cases, both State and Federal, with the following unions among others: United Steelworkers; International Union of Electrical Workers (IUE); United Electrical Workers (NE); United Mine Workers; District 50, UMW; International Brotherhood of Electrical Workers (IBEW); Amalgamated Meat Cutters; Glass & Ceramic Workers; United Automobile Workers (UAW); International Typographical Union (ITU); printing pressmen; International Brotherhood of Teamsters; warehousemen; office em-

ployees; National Maritime Union (NMU); marine engineers; carpenters; steamfitters; sheet metal workers; iron workers; retail clerks; restaurant workers; building service employees; and many others.

I have represented basic steel companies, specialty steel companies, electrical manufacturers, department stores, metal fabricators, meatpackers, furniture stores, construction contractors, supply houses, plumbing fixture manufacturers, glass manufacturers, river carriers, railroads, utilities, insurance companies, universities, drugstores, foundries, forge shops, oil companies, chemical plants, ice cream manufacturers, mushroom farms, plastic manufacturers, trucking companies, newspapers, detective agencies, banks, and companies in other industries.

All of these industries and all of these unions, in varying degrees it is true, are concerned with any legislation purporting to provide equal pay for women. Their interest is, of course, almost in direct proportion to the number of women they employ.

This interest became apparent to me because in most of the States in which I have worked: for example, Pennsylvania and New York, they have had equal pay laws for many years. In negotiating with unions and in advising clients, it became necessary to consider these laws and try to comply with them.

The State laws are, for the most part, similar to the Green bill, H.R. 3861, or perhaps the Martin bill, H.R. 1936, which you now have under consideration. For your convenience, a copy of the Pennsylvania law is attached hereto as an appendix.

In my experience, the State laws have been largely ineffective, and I would like to tell you why I think they have been, and why either the Green or the Martin bill is likely to pose some difficult problems, both of fair and efficient administration and in substance.

The indisputable fact is that women differ from men in physical strength, dexterity, endurance, mental application, psychology, and in many other obvious ways. Surely no one would have it otherwise. As the French are supposed to say, "Vive la difference."

On some jobs, for example assembling eyeglasses, women are incomparable, because they are dextrous, patient, and careful. On others, such as lifting, carrying, and laying steel rails in a coal mine, they lack the physical strength and should not be asked to work under the difficult and hazardous conditions accepted by men as part of the job.

This has been recognized for decades by the State laws governing hours of work and types of employment for women.

On some other jobs, women and men hold jobs bearing the same job title, but they do not in fact perform the same work. Again calling on experience, I would say that the number of jobs on which men and women do the same work is extremely small, and, contrary to what seems to be the general impression, on those jobs they generally receive the same pay.

Now let us consider the problem posed by the State laws and the proposed legislation. The proposed act calls for equal wage rates "for equal work on jobs the performance of which requires equal skills."

This means that the State or Federal Government must undertake job evaluation of tens of thousands of jobs, ranging, as the proposed legislation is written, from the bus girl in a restaurant to the president of a cosmetics corporation.

The basic steel industry and the United Steelworkers after the War Labor Board order of November 25, 1944, did not complete the task of evaluating the jobs in that industry until 1947, in spite of intensive study and labor by genuine experts, both employer, union, and neutral, who knew the industry intimately.¹

That task was child's play compared to the one that would have to be undertaken if these laws were to be fairly and conscientiously administered, for they call for, and can only be applied, to each "place of employment" (Green bill) or each "establishment" (Martin bill) in the United States, its territories, and possessions.

Needless to say, the States have not been able to do this within their own boundaries. As a consequence, in my experience in Pennsylvania, enforcement or attempts at enforcement have been infrequent, emotional rather than objective, and generally unsatisfactory to all concerned, including the unfortunates who are expected to administer the law.

¹ Furthermore, application of the resultant system, called the CWS system, to fabricating plants has generally been unsatisfactory, since any meaningful job evaluation system must be tailored to the realities of the industry and the plant.

Freely granting the moral and equitable right of women to receive equal pay when they do equal work, I am concerned with the practical means by which this may be effected without completely disrupting industries, upsetting long-established company-union contractual relationships and practices, creation of more inequities than are cured, and threatening the continued employment of women in "coeducational" industries.

I earnestly submit that neither the Green bill nor the Martin bill will accomplish what all agree is the desired results—fair treatment of women workers—but that they will instead have the undesirable effects suggested above.

Although I am aware of no demand by anyone in the industries with which I deal for such legislation, I will now assume that for some reason it is going to be enacted without further careful study.

If this be the case, I should like to address myself to what I think are desirable changes found in the Martin bill as opposed to the Green bill, and then speak briefly in favor of an alternative.

1. Section 3(e)—Definition of "establishment": The Martin bill contains a definition of "establishment" which is substantially the same as that developed in litigation under the Fair Labor Standards Act. It is essential in the practical administration of the law to know the precise area in which it is to be applied. The word is then used in section 4 with sufficient certainty that much unnecessary litigation should be avoided.

2. Section 4: This, of course, is the substantive heart of the law. The Martin bill more precisely spells out the offense, and includes several additional exceptions, all of which are in my opinion essential:

(a) Job classification program: As the War Labor Board recognized, this is the best and fairest way to eliminate inequities yet devised. Its use should be encouraged.

(b) Payments attributable to ascertainable and specific added costs resulting from employment of the opposite sex: As I understand this exception, it refers to the facts of industrial life concerning employment of women, such as the limitation of their availability for work on certain jobs, turnover due to marriage and childbirth, problems of training, and the like.

(c) Payments attributable to other reasonable differentiation based on a factor or factors other than sex. Anticipating and spelling out all of these factors for each job would be an almost impossible task. Since the purpose of the proposed legislation is to prevent discrimination on account of sex, it logically follows that if the differentiation is for some other reason, the restrictions of this law should not be applicable.

3. Section 4(a) (1), (2), and (3): The Green bill attempts to permit the spread of the effect of adjustments over 2 years. The language is not entirely clear. It seems to call for a reduction equal to 10 percent of the "higher rate," which I think in most cases would be more than the total differential. An adjustment of 10 percent, or perhaps 20 percent, of the differential would be more reasonable and practical, and not so disruptive of established wage rate relationships.

The Martin bill contains no provision for delaying the effect, but one is needed.

I suggest that none of the substantive provisions of the law take effect until at least 1 year from its enactment, and that then stepped adjustments be permitted, much as was done in the Fair Labor Standards Amendments of 1961 for newly covered employees. This will give employers a chance to study the effects of the act on their wage structures, permit review by employers and unions of collective-bargaining agreements, reduce the number of lawsuits, and give the administrator a chance to build up his investigative and enforcement teams, establish rules, regulations, and policies, and decide upon the mechanics of administration.

If all of these tasks are accomplished in a year, it will be at least a minor miracle.

Putting this law in effect in 120 days would result in utter chaos.

4. Section 5, Administration and Enforcement: I find much to criticize in both the Green and the Martin bills in this respect. The Green bill sets up a completely unrealistic system of administration and enforcement centered on the Secretary of Labor. The Martin bill is much simpler and more direct, but still centers upon the Secretary of Labor.

It must be perfectly obvious that the Secretary will not, and could not, begin to attend to all or even any substantial part of the details of administration that will result, and yet no provision is made for an administrator or staff.

Apparently both bills contemplate establishment of some new bureau or division in the Department of Labor.

Apparently under either the Secretary could, if he had a mind to, conduct separate investigations under this act.

The Martin bill would, it is true, restrict these hunting expeditions to situations having something to do with the act, and it is thus infinitely preferable, for one valid criticism by business managers of Federal bureaus is that they are constantly answering questionnaires, undergoing investigations, submitting their books and records for audit and inspection, and generally being harassed, subjected to added costs, and kept from useful work even when they are entirely innocent of any wrongdoing.

It seems incredible to me that Congress should even consider a new bureau or division when one already exists.

The Wage and Hour and Public Contracts Division of the Department of Labor has been in existence for over 20 years. While employers may not enjoy its inspections, they have learned to live with them, and by and large have come to respect the integrity and competence of the personnel of the Division.

In making a Wage and Hour inspection, the field investigators of the Division examine exactly the same records that an investigator under the proposed law would examine—for example, invoices and shipping records to determine engagement in commerce, payroll records, time cards, etc.

Instead of digging out and explaining these records twice, the employer would be subjected to only one inspection, saving everyone's time and money.

Furthermore, the Division has a staff of trained inspectors who know how to read and understand these records. It has field offices and trained supervisors and attorneys. It has had experience in training field men, and in expanding its forces as needed. It has a competent headquarters staff, made up of people trained and accustomed to interpreting, making rules and regulations, and administering and enforcing the Federal laws on wages.

To duplicate this organization, if it could be done in any reasonable time, would cost a fortune in effort and money.

The only logical agency to administer this law is the Wage and Hour Division, and any law enacted should make it clear that this will be so.

This leads me to my suggestion for an alternative to either the Green or the Martin bill. Very simply, it is to amend the Fair Labor Standards Act of 1938, as amended, to include under section 6—minimum wages—of that act the substantive provisions as outlined in the Martin bill, with an appropriate provision for delaying the effective date and impact of any changes required.

This approach has so many obvious advantages that space and time will not permit listing all of them.

First and foremost, it incorporates the result of 25 years of congressional study, administrative rules and regulations, litigation and court decisions on matters such as recordkeeping, exemptions, investigations, definitions, coverage, and the like. The only area for litigation would be the substantive provisions of the amendment.

In the second place, as we have indicated, the administration will be in the hands of an established bureau, generally respected by employers and the public, and, likely to be accepted with a minimum of friction or disruption. The Division has a long record of obtaining compliance without litigation, but also of successful litigation where necessary.

In the third place, costly duplication of administration would be avoided. Furthermore, charges of fishing expeditions and the nuisance and expense of duplicate investigations would be eliminated.

In the fourth place, the administration is virtually certain to be more efficient. This law must be coordinated with the minimum wage and overtime provisions of the other Federal laws. How better can it be coordinated than by administration at the same time by the same people under the same rules?

In the fifth place, the Fair Labor Standards Act already contains alternative remedies, penalties and safeguards, all of which will be available and all of which have been tested in the courts. Under the Green bill, the long and complicated administrative investigation can result only in bitterness and litigation. The informal procedures under the Fair Labor Standards Act are successful in the vast majority of cases.

But when there must be litigation, the Fair Labor Standards Act provides for injunctive relief, suits by the Secretary to recover wages and under certain conditions, suits by employees, with liquidated damages and attorneys' fees in proper cases, criminal penalties for willful and repeated offenders, and a "hot cargo" clause.

Even the stoutest advocate of the Green bill must admit these remedies are superior.

At the same time, all the protections of the Portal Act and the body of law built up under the Fair Labor Standards Act are automatically made available.

Without going further into the advantages of this approach, I am obliged to add this word of caution.

If this method is followed, the amendment will be enforced, and it will have real teeth. Consequently, great care must be taken to create a provision that is carefully restricted to the abuse that is to be corrected.

That abuse is discrimination in payment of wages on account of sex. The amendment, however written, must make it crystal clear that it does not prohibit or restrict differences in wages on any other basis whatsoever.

Establishment of wage rates is such a sensitive subject, involving employers, unions, employees, competing industries, community interests, and almost every aspect of economic life, all tending to arouse emotions to a fever pitch, that any nationwide legislation on the subject is bound to have a profound effect, with repercussions we cannot even foresee at this moment.

In addition to be effective any such legislation is going to require a period of study and adjustment. A year from the effective date is, I should say, a minimum, unless the courts are to be flooded as they were with portal-to-portal and overtime-on-overtime cases.

Nothing can be gained by haste, and everything can be lost in a field such as this.

In summary, I am convinced that Federal legislation in this area is unwise and unnecessary. If there must be legislation, I recommend that it be a carefully drawn amendment to section 6 of the Fair Labor Standards Act. Failing this, I think the absolute maximum acceptable legislation would be the Martin bill, with amendments and exceptions to make it absolutely clear that only discrimination in wage payment on account of sex is covered.

The Green bill, as drawn, would harm industry and employment without, as I sincerely believe, benefiting anyone, and would pose almost insuperable difficulties.

These opinions and views are expressed, not in denigration of the worth of women who work, or with any desire to see them deprived of wages to which they are justly entitled, but rather from the conviction as a practical labor relations lawyer that the cure which is being attempted is worse than the disease. I know the patient will recover from the disease, and is recovering every day. I am not at all sure the patient would survive this cure.

(¶ 44,010)

EQUAL PAY FOR WOMEN

Definitions.—(a) The term "employee" as used in this Act shall mean any person employed for hire in any lawful business, industry, trade, or profession or in any other lawful enterprise.

(b) "Employer" includes any person acting directly or indirectly in the interest of any employer in relations with an employee.

(c) "To employ" shall mean to engage, suffer, or permit to work.

(d) "Occupation" shall mean any industry, trade, business, profession, or any other employment.

(e) "Secretary" shall mean the Secretary of Labor and Industry.

Wage Rates.—No employer shall discriminate in any place of employment between employees on the basis of sex by paying wages to any employee at a rate less than the rate at which he pays wages to employees of the opposite sex for work under comparable conditions on jobs the performance of which requires comparable skills, except where such payment is made pursuant to a seniority training or merit increase system which does not discriminate on the basis of sex.

Powers of Secretary.—(a) The Secretary shall have the power and it shall be his duty to carry out and administer the provisions of this act.

(b) For this purpose the Secretary or his authorized representative shall have the power to enter the establishment of any employer to inspect and copy pay-rolls and other employment records; to compare character of work and operations on which persons employed by him are engaged; to question such persons and to obtain such other information as is reasonably necessary to the administration and enforcement of this act.

(c) The Secretary shall have the power to issue such rules and regulations consistent with the purpose and provisions of this act as he deems necessary to make effective the provisions of this act.

Collection of Unpaid Wages; Limitation of Action.—(a) An employer who willfully and knowingly violates the provisions of this act with respect to wage payments shall be liable to the employee or employees affected in the amount of their unpaid wages and in addition an equal amount as liquidated damages. Action to recover such wages and damages may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. Any agreement between the employer and an employee to work for less than the wage to which such employee is entitled under this act shall be no defense to such action. The court in such action shall, in addition to any wages and damages, allow a reasonable attorney's fee and costs of the action to the employee or employees concerned. At the request of any employee paid less than the wage to which she is entitled under this act the Secretary of Labor and Industry may take an assignment of such wage claim for collection and shall bring any legal action necessary to collect such claim. The Secretary shall not be required to pay the filing fee or other costs in connection with such action. The Secretary shall have power to join various claimants against the employer in one cause of action.

(b) Any action pursuant to the provisions of this act must be brought within one year from the date upon which the violation complained of occurs.

Records and Reporting.—Every employer subject to this act shall make, keep and maintain such records of the wages and wage rates, job classifications and other terms and conditions of employment of the persons employed by him and shall preserve such records for such period and shall make such reports therefrom as the Secretary shall prescribe.

Abstracts of Law.—The Department of Labor and Industry shall prepare an abstract of the provisions of this act. Copies of the abstract shall be printed in accordance with the laws of the Commonwealth regulating printing and publishing and the Department of Labor and Industry shall supply copies to all persons required to post them. Employers subject to the provisions of this act shall keep an abstract posted in a conspicuous place.

Penalties.—(a) Any employer who willfully and knowingly violates any provisions of this act or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, the Secretary or any other person who instituted or caused to be instituted any proceeding under or related to this act or has testified or is about to testify in any such proceedings, shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of not less than \$50 nor more than \$200 and upon default in such fine and costs shall undergo imprisonment for not less than 30 days nor more than 60 days. Each day such a violation continues shall constitute a separate offense.

(b) Any employer who fails to keep the records required under this act or to furnish such records to the Secretary upon request, or who falsifies such records or who hinders, delays or otherwise interferes with the Secretary or his authorized representatives in the performance of his duties in the enforcement of this act, or refuses such official entry into any establishment which he is authorized by this act to inspect, shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of not less than \$50 nor more than \$200 and upon default in such fine and costs shall undergo imprisonment for not less than 30 days nor more than 60 days. Each day such a violation continues shall constitute a separate offense.

Repealer.—The act of July 7, 1947 (P. L. 1401), entitled "An act prohibiting discrimination in rate of pay because of sex, conferring powers and imposing duties on the Department of Labor and Industry and prescribing penalties" is repealed.

All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Effective Date.—This act shall become effective 90 days after the date of its final enactment. Act 694, L. 1959, approved December 17, 1959, effective March 16, 1960.

Regulations Affecting Equal Pay Law.—The Secretary of the Department of Labor and Industry has issued the following rules and regulations to carry out the intent and purposes of the "Equal Pay Law". The regulations become effective April 24, 1960.

SECTION. 1. Definitions.—As used in "Equal Pay Law" (Act No. 694, 1959) and these regulations (a) "Wages" means every form of remuneration or compensation for work or labor performed or services rendered and includes, but is not limited to salary, commissions, drawing accounts, piece rates, stock option plans, profit sharing plans, and bonuses.

SEC. 2. Record Keeping.—(a) Employers shall keep the following records which shall be made available, at the place of employment, upon request to duly authorized employees of the Department of Labor and Industry during the usual business hours of the employer: (1) Name and address of each employee; (2) Rate of wage paid each employee; (b) These records shall be kept for a period of one year unless an action is pending in which these records are relevant.

SEC. 3. Posting.—(a) All employers who employ employees of both sexes shall post the Abstract of this Act provided by the Department of Labor and Industry. (b) The Abstract shall be posted in a conspicuous place at the place of business where all employees shall know of its existence and may conveniently read it.

SEC. 4. Assignment of Wage Claims.—Any employee who is of the opinion that he or she has suffered discrimination in wages based on sex may report the matter to the Department of Labor and Industry, Harrisburg, Pennsylvania, for investigation.

PENALTY: Every person or persons who violate any of the provisions of these regulations of the Department or who interfere with the Secretary of Labor and Industry or his duly authorized representative in the enforcement of these regulations shall be subject to summary proceedings before an alderman, magistrate, or justice of the peace, and upon conviction shall be penalized under the provisions of Act No. 694 of 1959.

PETITION: For the modification of any of these rules the following shall be the method of procedure.

Any employer, employee, or other person interested may petition for a hearing on the reasonableness of a rule or regulation. Such petition for hearing shall be by verified petition filed with the Industrial Board, setting out specifically and in full detail the rule or regulation upon which a hearing is desired, and the reasons why such rule or regulation is deemed to be unreasonable.

Upon receipt of a petition the Industrial Board will determine the merits and if a hearing is necessary, notice of time and place will be given to the petitioner and to such other persons as the Industrial Board may find directly interested.

MR. THOMPSON. You may proceed.

MR. WAYMAN. By way of introduction, my name is John Wayman. I am a partner in the law firm of Reed, Smith, Shaw & McClay in Pittsburgh, Pa.

For the past 21 years I have confined all of my activity to the practice of labor law in a variety of industries representing, always employers, but both large and small employers in Pittsburgh and in the States surrounding Pennsylvania.

I seriously question the desirability of Federal legislation in this field at this time. However, if there must be legislation, I suggest that it be a carefully drawn amendment to section 6 of the Fair Labor Standards Act, as amended. If this is not done, then I believe the absolute maximum acceptable legislation for industry, both large and small, would be the Martin bill, H.R. 1936, with amendments and exceptions to make it absolutely clear that only discrimination in wages on account of sex is covered and making further provision for administration by the Wage and Hour Division of the U.S. Department of Labor.

I am offering this testimony as an expert, whatever that is. I do hold myself out as knowing something about the field of wage regulation and particularly about wage and hour laws and experience with the War Labor Board during the days—if the Government was not establishing wage rates, it was at least regulating them.

To a large extent the practices we have today are based on our experience with the War Labor Board. I think we might profitably call upon them in considering this legislation. Before going into the details of the act, I think it must be awful dreary for the committee to sit here and hear people inveighing against sin since which it seems to me is most of what has been done up until now.

Mr. THOMPSON. That is part of the routine. It is the flag, mother, sin, the family dog, you know that.

Mr. WAYMAN. I am sure that must be so. I do not believe I can add anything much by saying that I, too, am against sin. I would like to be on record.

Mr. THOMPSON. That goes for communism and everything else?

Mr. WAYMAN. Certainly.

Mr. THOMPSON. I don't think American political life can continue if we did not have sin to scream about.

Mr. WAYMAN. I suppose not.

Mr. THOMPSON. And to commit.

Mr. WAYMAN. I refuse to answer that question on the grounds that it might incriminate me. But my interest is not so much in deciding whether or not there should be some kind of law, although I am concerned with that too but rather with suggesting, if I possibly can, a law that is workable and sensible and that might be enforced impartially and fairly.

I am not going into all the different companies and industries that I have represented. I have the advantage, I think, of a broad experience in a great many different companies including the large basic steel companies. Mr. Carey's giants in the electrical manufacturing field, some giants in other fields such as the department store field, also little companies like corner grocery stores, anybody that does business with a union, anybody that has to do with the Fair Labor Standards Act.

Now we have had experience with the State laws in these different industries, particularly in Pennsylvania; also in some other States.

It has been my experience that these State laws, which are almost exactly like H.R. 3861, have been largely ineffective. They are by common consent of all concerned pretty much ignored.

Once in a great while somebody will seek to enforce the law on some employer. Then that enforcement is emotional rather than objective, and it affects only that employer and does not accomplish the result that everybody says they want here.

I think either the Green or the Martin bill is likely to encounter the same sort of difficulty in the form in which it is now presented.

The fact is that women are not the same as men. They are different in physical strength, they are different in dexterity and endurance. I don't really believe that the United States of America would want a law which says they are the same as men. They are different. We are glad of it. As the French are supposed to say, "vive la difference."

On some jobs and plants that I have represented, for example, putting these frames together for these eyeglasses, women are incomparable. We could not, in that plant, put a man on that job because his fingers are big and clumsy, he could not sit there and pay close attention and give the care required to do this job.

The women do it wonderfully well. That is a woman's job. We say so and that contract, incidentally, is with Mr. Carey's union, and Mr. Carey's people have never suggested that we do anything different than what we have done in the past 20 years in that plant. We get along together.

Yet in other instances, for example, in a coal mine or at least in the old days a man used to carry a 50-pound steel rail bent over and lay a track in a coal mine. You would not put a woman on that job. It is a man's job.

Therefore, in industry there are jobs which are logically within the scope of a woman's special capabilities and there are jobs which are within the reasonable scope of a man's special capabilities. That has been recognized for many years in the States which have passed laws and appropriately so, governing the hours that women may work and the jobs that they may do to protect them.

On some jobs women do work which is called by the same job title but which is not, in fact, the same work that is done by men. Calling on experience in, believe me, a substantial number of plants of very different kinds, I cannot recall a single job on which a woman is doing the same work as the man. The reason for that is a very practical reason.

As I have just sought to illustrate, making these eyeglasses, a woman does the job so much better than a man can do it that we use women.

In other jobs the man does it so much better than a women we use the man. That is a problem which is posed in State legislation.

They have in Pennsylvania, for example, equal pay for jobs the performance of which requires equal skills. This is easy to say but it is hard to administer. About the only objective way you can administer a law like that is to make what is called a job evaluation which the IUE speaks very glibly but from my experience the IUE does not have many plants where they have job evaluation.

The fact is, as I recall, Mr. Justice Goldberg last year testified that in the steel industry they had reduced the job classifications to 31. I have in my hand this red book which is entitled "Job Description and Classification Manual," published by the United Steelworkers of America and United States Steel. There are some number of pages, over a thousand in this book, each one of them is a job description and classification.

Now that job evaluation came about as a result of an order by the War Labor Board back in 1944 which says that they should eliminate inequities.

It had nothing to do with women particularly because we don't have many women in the steel industry but it was of the same type that you are now considering.

It took the steel industry—which hired some real experts, and to the credit of the steelworkers they developed some real experts in the field—it took them 3 years to develop this system

They have been working at applying it ever since. They have tried unsuccessfully to apply it in plants which are not basic steel plants, for example, fabricating plants. But that job which took 3 years and work by real, real cooperative work by experts, would be child's play compared with trying to objectively set up and administer equal pay laws for all the industries in the United States.

Yet this is the only way that it can be done fairly. The States have not been able to do it. I have had experience with the attempts of the Commonwealth of Pennsylvania to enforce their equal pay law. They don't have the means. They don't have the skilled people that they need to do a proper job. Consequently, as I say, the companies ignore it, the unions ignore it, the women don't really seem to care that much about it. We haven't had any real pressure on the subject. As a result the laws on the books are disregarded every day, day in and day out. This would be the very wrong thing for the United States to do if it were to pass a law on the subject of equal pay. If we must have a law I strongly suggest we should have a law which is capable of enforcement, in a fair and logical way, and which is within the administration of an established bureau, specifically the Wage and Hour Division of the Department of Labor with which I have had a great deal of experience and with which employers have had a great deal of experience, and while we may not always agree with what they have to say we have come to respect their integrity and their competence.

Mr. THOMPSON. What is there in the Martin proposal, in particular, that makes it susceptible of better administration than the other bill?

Mr. WAYMAN. For one thing the Martin proposal contains a definition of the word "establishment." That definition is substantially the same as the one which was developed over the years in litigation under the Fair Labor Standards Act.

Another thing, the Martin contains what the Green bill does not, that is an exception for job classification programs. I suppose that means job evaluation programs. As the War Labor Board indicated many years ago, and as we have found since, this is the most objective way of measuring the worth of what anybody does.

Now I would not want to sit here and suggest that a job evaluation program is a scientific and infallible approach to equality in paying of wages for work performed but I will say that as long as you have that objective standard and you apply it equally to everybody in a plant the chances are that you will not increase the number of inequities but will eliminate most of them.

In other words it is a yardstick against which we can measure work performance and consequently pay.

The Green bill also contains an exception called Payments Attributable to Ascertainable and Specific Added Cost Resulting From Employment of the Opposite Sex, which I believe would give me some work as a lawyer for some number of years because it would take some understanding but the fact is, again coming back to the undeniable fact of life, women are different than men.

They pose different problems in industry. They have a tendency to be absent more. They have a tendency, thank goodness, to get married and have children.

When they do they don't work, at least not while they are in the process. And this does create a problem in the employment of women.

It is there, there is no use denying it. It does cost more money to train women than it does men because you have to train them more often. They don't stay on as long as the man does. These things would have to be carefully thought out and the administration would not be easy but still there is the difference.

It should be recognized, it has to be recognized as a practical matter unless you are to do a disservice to the men who work.

There is another provision in the Green bill called Payment Attributable to Other Reasonable Differentiation Based on a Factor or Factors Other Than Sex, this is the real heart of the bill.

As I understand the purpose of this bill it is to eliminate discrimination in the form of wage payment to women for the same work performed by men in a different amount.

Mr. GOODELL. Are you talking about the Green bill or the Martin bill?

Mr. WAYMAN. I believe that is the purpose of both.

Mr. GOODELL. I mean your quotation of the provision.

Mr. WAYMAN. The quotation of the provision is from the Martin bill.

Mr. GOODELL. You said Green bill, I think, both this time and the last time. I think you intended to say Martin bill.

Mr. WAYMAN. The Martin bill is exactly what I had intended to say because that is where this is found. It is not found in the Green bill. It is perfectly consistent with the intent of the Green bill but this spells it out. This, of course, is desirable.

But this suggests something else to me that I believe may have been overlooked. From what I have heard in the hearing room and from what I have read in the testimony of last year's hearings, the real purpose or the real concern seems to be that the average wages paid to women are lower than the average wages paid to men.

I haven't seen any figures, and I don't know where you would get them, that would show how much of this difference, if any, is attributable to the performance of the same work.

I don't know where that would come from but it is quite clear to me, from my own experience, and I think from what other witnesses have said, that it is not primarily because of the difference in wage payments for the same work, it is because women generally are placed on jobs of lesser skill, lesser quality, if you please, that for reason pay lesser wages.

This is a problem that would not be solved by the bill which is before the committee. This, I think, should be investigated. And that, I think, you cannot change by a statute of any kind.

Based on my own experience I would say that the percentage of that difference, if any, would be extremely small.

Now there is one thing the Martin bill does not contain that I think it should contain, and that is some provision to spread the effect of any adjustments that must be made over a period of years. That was done in the Fair Labor Standards Act originally, and it was done in the Fair Labor Standards Act Amendments in 1961.

Some such arrangement is desirable. However, in this particular case, no matter what anybody may say to the contrary, you are embarking upon wage regulation and I believe that any labor man on either side, if he is being honest with himself, will say that in a plant every wage rate is related to every other wage rate, whether it be a woman's

wage rate or a man's wage rate. Each one affects every other one to some extent.

Consequently, whenever you go into a plant and arbitrarily change one wage rate, you necessarily affect all of the others. That may be a very severe effect, it may a very small one, depending on the plant.

But an effect it will be. Furthermore, we have worked out collective bargaining agreements in industries, including industries represented by the IUE. We worked one out up in Massachusetts last fall in which this very question was raised, How can we eliminate a differential in favor of men over women? Both the company and the union are working on that in good faith. The best they could do was to make a common hiring rate which was the same. There was no way they were able to find that they could compare the jobs being done by the women with the jobs being done by the men.

Consequently, the only change in the contract was in the hiring rate. That did not have a very disturbing effect, but as soon as you get into the jobs which are above the hiring rate, then you have an effect, if I pay the woman who assembles the eyeglasses \$2.50 an hour and, for some reason, somebody says that has to be raised by 15 cents, the man who has been getting \$2.60 an hour for operating a machine which smooths up these temples is going to want more money.

You can't ignore him. You have a point. For the last 20 years there has been a differential between his rate and the job done by the woman. You will have to have substantial time to work these problems out with your unions and under your union contracts which are in existence.

For this reason I would strongly recommend that the act not take effect at all for at least a period of a year to give people a chance to study this problem and to make adjustments on the assumption that most people, when there is a law, will try to obey it.

That, again, is a common experience. They will try to obey it. But if you were to put this act into effect 120 days, any of these acts, which—whether it be the Green bill, the Martin bill, or the one I would like to see, the amendment to the Fair Labor Standards Act, put them in effect in 120 days and we will have the most awful chaos you can imagine.

For example, I represent some department stores, all of the department stores in that city. We have contracts with 18 different unions. We have 31 contracts. There are many women employed in the department stores in jobs of every sort and industry. To ask us, with the best possible will, to sort these jobs out and comply with the act, as you have written it, is impossible with the best will in the world and the hardest work we can put into it.

We would have to have time to consider the effect of that law, to try to work these things out with the unions and, of course we are not always able to enforce our will on the unions.

Sometimes it works the other way. Sometimes they enforce their will on us. So we must have time, assuming a desire to comply with the law.

The next thing I find to criticize, in either the Green or the Martin bills, is the method of administration:

Here we come to the proposition that you have already established in the Department of Labor, the Wages and Hours Division, with which I have had some 21 years experience, myself.

As I say, I sometimes fight with the Wage and Hour Division, but I have come to respect the competence of the people who work in that Division.

They have, in the Division, field representatives who are people trained in reading and understanding invoices for purposes of coverage, payroll records involving pay rates, hours of work; if that administration were turned over to the Wage and Hour Division, instead of an employer undergoing two investigations he would undergo one investigation by a bureau and representatives he knows already and he has managed to live with, there would be a complete elimination of the duplication of examination of these records which nobody likes and which is costly.

The organization would already be set up. It might be necessary to expand it but that is quite different than starting out from scratch and building an organization. I think that the enforcement of the act would be enormously enhanced in a way that is likely to meet with the very least irritation and opposition from industry which should be desirable.

I do believe that most desirable legislation, assuming there must be legislation, is an amendment to the Fair Labor Standards Act, and I would like, briefly, to say why I think that is so.

I would amend section 6, "Minimum wages." As Mr. Carey just said in his testimony, he looks on this as the same kind of legislation. Actually it is a little bit different kind of legislation but it is of the same nature. That is where it would logically fall. The advantage of placing that provision in the Fair Labor Standards Act is that you have 25 years of experience in exemptions, for example, eliminating the corner grocery store, not covering the president of a cosmetics firm, exempting the artist whose work cannot be measured in terms of sex.

You have the advantage of all these exemptions which have been carefully worked out, not thought over, fought out in the Congress, and passed upon as recently as 1961.

In the second place, you have the administration in the hands of an established and admittedly efficient division of the Department of Labor.

In the third place, you want to coordinate this act, and you must coordinate this act with the other Federal laws. If it is part of the Fair Labor Standards Act, it is coordinated, necessarily, by having had administration in the same place.

There is an additional advantage, I don't know whether employers would consider this an advantage but I should think that the people concerned with the administration of the act would:

Under the Fair Labor Standards Act, you have a well-defined series or means of enforcement. For example, first of all, you have the practice of the Wage and Hour Division in securing compliance by persuasion. They have gotten extremely good at this and they generally do get compliance by persuasion. But when they have to go to court, they have available the injunctive process. They have available, under this act, liquidated damages and attorneys' fees and employees' suits, something of which you have not spoken here.

The Administrator, or the Secretary of Labor, may collect the wages for the employees and in proper cases, under proper authorization. You have criminal penalties for willful and repeated offenders. You

have the hot-cargo clause. If you intend to enforce this act, here is the means ready to handle it and enforce it and a means which it is very difficult to quarrel with because it has been in effect for some 25 years.

However, if you were to place it under the Fair Labor Standards Act, as I think you should, there is this word of caution: If it is placed under the Fair Labor Standards Act it will have teeth, it will be enforced, the means are there, the people are there to do it, and consequently extreme care should be taken to limit the substantive provisions of this act to discrimination on account of sex in the payment of wages.

It should make it crystal clear that it does not deal with any other aspect of wage payment.

You are entering for the first time in my experience, and I think it is the first time in the history of the United States, into the regulation of wages by Federal law. I am not talking about minimum wages, that is easy, and I am not talking about wages on public projects, we already have that, but I am talking about the regulation of every wage in the United States above the minimum wage, having nothing to do with the minimum wage, and you had better have some experienced people to do it and you had better give it some careful study because this can have an effect which we never anticipate at this moment.

That is an extremely sensitive area. The War Labor Board, as you remember, was not empowered to do that. It had plenty of difficulty making suggestions which were not enforceable in the courts.

What you would do by this act is to create a power in the Federal Government to establish wage rates, enforceable in the Federal courts, through the use of force, if necessary. That should not be done without the most careful study and attention.

I think that the act, as proposed, in the Green bill, if it is administered anything like the State laws, would result in pretty much ignoring it by common consent again, because there is not anybody who can tell you what that legislation means as it is written. But if you put it in the Fair Labor Standards Act, it will be enforced just as the Fair Labor Standards Act is. On behalf of industry and while I don't speak for the unions, I think they have the same thing in mind, we want to be awfully careful that it does not permit by some distorted interpretation the entrance into other fields of wage establishment.

You will affect it but limit that effect to the evil you want to eliminate. There is absolutely nothing to be gained by haste in this field.

Now it has been said here that for 17 years people have come here and testified that there ought to be a law and I have no doubt they did, but what they did was to talk about how valuable women are and how much they like women.

I agree with that a hundred percent, but what I am talking about now is a law that will be enforced. Evidently for 17 years talking about this generality has not accomplished anything. If it is placed in the Fair Labor Standards Act it will be enforced. This is quite different than talking about generalities.

You will have to get down to cases then. You will have to get into the actual wage rates in each one of the plants in the United States.

which is not exempt and that is a task that the oldest man in the world would not want to attempt.

But if you place it on them I suppose, I suppose, if you place it on the Division or somebody else they will have to try to do it.

Mr. THOMPSON. We will find some young men.

Mr. WAYMAN. Young men have a tendency to be pretty brash about enforcing things like this until they get into it.

If they really want to be objective and fair about it they will find it is a tremendous task. I assume that they will try to be objective and fair, at least we hope so. It is not a thing to be lightly undertaken.

In summary, I am convinced that no one here, at least in anything I have heard or read, has made a case for Federal legislation on the basis of any objective testimony. We do know that there is a difference between the earnings of women and the earnings of men. How much of this is attributable to the evil that your act would cure, I do not think anybody knows.

I don't think anybody can testify to that and I do not think anybody has. You will not cure the other part of it. I don't think it will be cured in my lifetime. You cannot cure it by a Federal statute. You cannot say: "Well, you must hire women lawyers." We did hire a couple of women lawyers and had a very unfortunate experience with them. On the other hand there are many women lawyers who are entirely capable and just fine.

We just were not lucky enough to get them. Now how can you say you must pay that woman lawyer the same as you pay this man who is a capable lawyer? How can you measure that? Yet another woman lawyer can come into our office tomorrow, do a perfectly fine job, and we would be delighted to pay her the same money that we pay our men. I represent one of the largest banks in the country——

Mr. THOMPSON. May I interrupt you to ask you whether you are here as an individual or are you representing someone today?

Mr. WAYMAN. Congressman Goodell, after I talked to him about this act, suggested I come here if I could. I am professing to speak as an expert in the field. As I said, I don't know what an expert is exactly but I do know something about the subject. I am concerned about it. I am not referring to the problems of any particular employer but I will say that I represent employers in widely diverse fields.

Mr. THOMPSON. My point is, have you been retained to come here this morning?

Mr. WAYMAN. Yes, sir; of course.

Mr. THOMPSON. By whom?

Mr. WAYMAN. By Corning Glass Works. But actually I have no reference to Corning Glass Works problems. They have a job evaluation system which will accomplish exactly what we are talking about. It is not so much the big fellows. The big steel company is not going to be bothered by this very much. But the little fellow, from, let us say, 50 to 1,500 employees, is going to be greatly distressed by this. He has a problem. He does not have a means of going into all of this. Perhaps ever, and certainly not very quickly.

Mr. THOMPSON. Thank you, Mr. Wayman.

Mr. Ashbrook, do you have any questions?

Mr. ASHBROOK. I have one very brief question. You left one area in doubt. You mentioned, several times, the Penn Act; one time I got

it in the light of the fact you thought this was well recommended for us to look at. At another time it seemed like you said it was impossible to enforce. Will you correct me?

Mr. WAYMAN. I sincerely trust that I did not recommend the Penn Act to this committee. The Penn Act has not been enforced.

Mr. ASHBROOK. That is all I have.

Mr. WAYMAN. I had some experience in trying to enforce it in a chain of drugstores and finally everybody threw up their hands and said: "We don't have an objective means of measuring this."

Mr. THOMPSON. We have never had enforcement?

Mr. WAYMAN. I think that is right, sir.

Mr. THOMPSON. I think Miss Cunningham, the competent lady who was here the other day, said that she knew of only two cases, one in Michigan and one somewhere else. We have none that I can find in New Jersey.

Mr. Goodell.

Mr. GOODELL. Mr. Chairman, I will state first that Mr. Wayman's testimony here today was at my request. I believe it is true that your testimony does not represent the viewpoint of Corning Glass Works.

Mr. WAYMAN. That is correct, sir. Corning Glass did not tell me a single word of what I was to say. They did not veto any of my conversation.

Mr. THOMPSON. They are just paying you; that is all?

Mr. WAYMAN. That is all sir, and it is very important to me, of course.

Mr. THOMPSON. It would be to me as a lawyer.

Mr. GOODELL. Mr. Chairman, I requested that Mr. Wayman come. Although I disagree with his initial points, in opposition to any kind of legislation here, I felt that he made some good professional points that should be taken into consideration.

Mr. THOMPSON. I agree too. I did not mean to imply that there is anything wrong with a lawyer being paid to be here. If he were not, I would not have any respect for him.

Mr. GOODELL. I want to make it clear, however, that when and if we enact a law, and I hope we are going to this year in this field, that I want it to be an enforceable law that is going to do more good than harm in trying to help the women.

After talking with Mr. Wayman at some length, I have some doubts with reference to the proposals both in the Martin bill and the Green bill in this respect. I wanted simply to hear him. I thank the chairman for his courtesy and thank Mr. Wayman.

Mr. WAYMAN. With respect to the Penn law, Congressman Goodell and Mr. Chairman, it has not been enforced and yet the Green and the Martin bills, both of them, are so nearly alike the Penn law as to be indistinguishable. If you must have a law, all I suggest is that you pass one which can be enforced by competent people.

Mr. GOODELL. Are you saying, in effect, if we go ahead and pass either the Green or Martin bill that it is not going to do the women much good?

Mr. WAYMAN. That is my judgment if it is passed in the present form; on the other hand—

Mr. GOODELL. The people it is going to help are the people like you who can litigate it for 10 years in the courts, I take it?

Mr. WAYMAN. Seriously, if this bill were passed, which contains so many loopholes and such vague language, that as a lawyer representing a client I think 10 years is a mighty conservative estimate. I think it will be more like 15 years before you find out what it means because you are going into new definitions of interstate commerce, for example.

Mr. THOMPSON. Of course your professional advice might turn out to be quite correct but they have been repeated beginning with the proposal of the Fair Labor Standards Act. These very same arguments have been made in the course of testimony on almost innumerable bills before this committee. What are your standards, how are you going to do it, you will never get it done. You might be perfectly right, I don't know. History will show that. But history has shown that similar prognostications have been inaccurate.

Mr. WAYMAN. By your leave, Mr. Chairman, what I am saying is that it has taken about 25 years of litigation to develop meanings under the Fair Labor Standards Act. You already have this advantage if you amend that act, that is if you put the substantive provisions of the equal pay law in the Fair Labor Standards Act, there is no relitigation of those questions.

They are already settled. You are then limited to the substantive provisions which will take much less time, obviously.

You don't have to argue about what "establishment" means. It is in there.

Mr. THOMPSON. We thank you very much for coming.

Mr. WAYMAN. Thank you, sir.

Mr. THOMPSON. The subcommittee will adjourn. We meet tomorrow but we will have to meet following the executive session of the full committee which is being held just to report on a bill.

(Whereupon, at 12:20 p.m. the subcommittee was adjourned to reconvene at 9:45 a.m., March 26, 1963.)

EQUAL PAY ACT

TUESDAY, MARCH 26, 1963

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 429, Cannon Office Building, Hon. Frank Thompson, Jr., presiding.

Present: Representatives Thompson (presiding), O'Hara, Griffin, Findley and Taft.

Also present: Representatives Green, Holland and Martin.

Staff members present: Robert E. McCord, subcommittee director; Elizabeth Prior, clerk; Richard Burruss, minority clerk and counsel; and Dr. Deborah P. Wolfe, education chief, House Committee on Education and Labor.

Mr. THOMPSON. The subcommittee will be in order.

We apologize for being late. There was a bit of confusion around here this morning.

I understand that our first witness is Mr. William Miller, vice president of Stewart-Warner Corp. He is a constituent of Mr. Findley.

Mr. FINDLEY. Mr. Chairman, Mr. Miller is vice president of Stewart-Warner and has a plant in Springfield, Ill., which is in my district but they also have plants in Spring Valley and several in Chicago, Ill. I am very happy he has taken the trouble to come from Illinois to give us the benefit of his views on this important bill.

Mr. THOMPSON. Thank you, Mr. Findley. Mr. Miller.

STATEMENT OF WILLIAM MILLER, VICE PRESIDENT, STEWART-WARNER CORP., CHICAGO, ILL., ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. MILLER. Thank you very much. I appear today not only as a vice president of the Stewart-Warner Corp. but also for the Chamber of Commerce of the United States. Seated next to me is Mr. George Pantos of the U.S. Chamber Staff. I have been responsible for industrial relations and legal matters for Stewart-Warner for approximately 20 years.

I also am a Democratic member of and chairman of the advisory board to the department of personnel of the State of Illinois. This is a statutory body charged with the responsibility of advising the Governor of the State, the civil service commission, and the department of personnel of the State of Illinois with respect to personnel matters.

I also am chairman of the Industrial Relations Committee of the Illinois Manufacturers Association and a member of the Parallel Committee of the Illinois State Chamber of Commerce. Both of those organizations have requested me to advise you that in appearing today I am also expressing their views on this equal pay legislation.

I am not going to follow completely the text which you have, the prepared text. I will skip some of it. I wish to add a few other things but I will indicate to you when I am departing from it.

MR. THOMPSON. Mr. Miller, we can do this: By unanimous consent I ask that your statement in full be put in the record and then there is no need for you to let us know where you are deviating from it.

MR. MILLER. Thank you very much.

(The statement referred to follows:)

TESTIMONY OF WILLIAM MILLER FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES

My name is William Miller. I am vice president of the Stewart-Warner Corp. of Chicago, Ill., and I appear today for the Chamber of Commerce of the United States.

I have been responsible for industrial relations and legal matters for Stewart-Warner for approximately 20 years. I am a Democratic member and chairman of the advisory board to the Department of Personnel of the State of Illinois. This is a statutory body charged with the responsibility of advising the Governor, the Civil Service Commission, and the director of personnel of the State of Illinois on personnel matters.

I also am chairman of the Industrial Relations Committee of the Illinois Manufacturers' Association and a member of the Parallel Committee of the Illinois State Chamber of Commerce.

The chamber appreciates this opportunity to express its views on proposed, so-called equal pay legislation, H.R. 3861.

Sponsors of this proposal contend that Federal legislation is needed to insure wage justice for women and to eliminate so-called discriminatory wage practices based solely upon sex.

Almost everybody would agree that the woman who is an employee deserves every reasonable consideration and protection. At the same time, we should be aware that the woman employee presents no new problem. Women have always worked, the type of work done varying with the period of history and the mores of the particular society. There have been times in history when women worked in the fields and indeed on occasions they have tilled the soil while the men were hunters, fishermen, or warriors. In our own country's recent history, women workers performed an outstanding service through the contributions they made to production in both World War I and World War II.

The current importance of the role performed by women as employees is shown by the fact that in the Nation's labor force estimated at more than 69 million persons in mid-1962, over 23 million were female workers.

The national chamber has long supported the principle of equal pay to women for equal work performed. Since 1948, the chamber's membership has urged employers to use "such pay practices as will adequately reflect the value of services performed by women for the particular employer."

The national chamber believes at the same time that Federal legislation, however sincere the motives of its sponsors may be, is the wrong way to achieve the objective.

We take this position for the following reasons:

First, the States and collective bargaining already afford an effective way to deal with the question.

Second, the facts don't show the need for Federal legislation.

Third, the proposed law (H.R. 3861) is so drafted as to do harm rather than good.

STATE ACTION ON EQUAL PAY

The States have taken leadership with respect to equal pay through law enacted by Montana and Michigan in 1919. This list of States with such laws grew, so that a decade ago 14 States, Michigan, Montana, Illinois, Massachusetts,

New York, Washington, Alaska (not then a State), California, Connecticut, Maine, New Hampshire, Pennsylvania, Rhode Island, and New Jersey, had equal pay laws. During the decade, eight States have been added to the list: Arkansas, Colorado, Oregon, Hawaii, Ohio, Wyoming, Arizona and Wisconsin. There is thus a present total of 22 States with equal pay legislation. The list includes most of the great industrial States and is likely to grow unless Federal action discourages the States.

Proponents of Federal equal pay at times say that variations in State laws indicate a need for a Federal law which will promote uniformity. Such a contention is unsound. A certain amount of experimentation is desirable to find the type of law which works best. The efforts in the 22 States amount, in effect, to laboratories of experiment, leaving the possibility that where some States may not find the proper approach in legislation, others may find it. This opportunity for the 50 States to learn from one another is highly desirable. It would be forever lost once Federal legislation takes effect.

The approach through State law, moreover, gives leeway for a flexibility which is highly desirable in a vast country such as the United States. For example, whether there is a need for a State law to cover all industry can best be judged by the people of the State involved. If the problem, on the other hand, is confined to certain types of industry, why should public funds be wasted policing all business establishments? The people of the particular State, we stress, know best how broad in scope any law on the subject needs to be.¹

The criticism is sometimes made that the State laws on the subject are ineffective. We submit that the burden of proving this is on those who make this contention. Most of these State laws are worded effectively. For example, the California law recites: "No employer shall pay any female in his employ at wage rates less than the rates paid to male employees * * *". The Connecticut law recites: "No employer shall discriminate in the amount of compensation paid to any employee solely on the basis of sex." The Illinois law states: "Any employer of six or more persons who shall pay any female engaged in manufacture an unequal wage for equal work, by time or piecework, than is being paid to males in such manufacture, shall be punished by a fine of not less than \$25 nor more than \$100." The Massachusetts law provides: "No employer shall discriminate in any way in the payment of wages as between the sexes * * *". The New York law provides: "No employer shall discriminate in the rate of pay of any employee because of sex." The Ohio law provides: "No employer of 10 or more employees shall discriminate between sexes in any way in the payment of wages, salaries, or other compensation in any occupation where males and females regularly perform identical work."

The people of each State, and they alone, are best qualified to judge whether conditions in their own jurisdiction are such that there is social need for an equal pay law. If they decide in their judgment that no such law is needed, such a result should be their privilege. If they decide, on the other hand, that an equal pay law is needed, their judgment should determine its nature and scope. Any view that only the Federal Government can handle this problem shows a distrust of the States and indicates an unfortunate trend toward creating an over-centralized, top-heavy government by bringing all problems to Washington. If Federal legislation is enacted, it will likely preempt the field, and further State efforts will almost surely come to nought.

State legislation, moreover, is supplemented by recognition of the equal pay problem in collective bargaining contracts. It is doubtful that any study has been sufficiently comprehensive to determine just what percentage of all such contracts contain clauses on the subject of equal pay. Organized labor generally supports equal pay, so increased recognition of the principle through collective bargaining is likely.

FACTS DON'T WARRANT FEDERAL LEGISLATION

The facts don't show the need for Federal legislation.

Proponents of equal pay have developed a multitude of statistics to support Federal legislation. Much of this statistical data is suspect, because there is no certainty that the comparisons consistently take into account the many and varied laws or working conditions that apply to women employees, the high turnover of such employees because of marriage, their higher absence rate, or the difference, however slight or considerable, in the tasks actually performed.

¹ See appendix.

It should be recognized in this connection that many payroll situations do not present the equal pay problem. At times men and women are not employed in the same job classifications. The Department of Labor through its Women's Bureau has recognized that "to a large extent, women have different types of jobs than men."² Under such circumstances, the problem may not exist, and there could be no need for its recognition either through law or at the bargaining table.

In point is a statement on the subject by two university professors:

"Variations in practice from the policy of equal pay for women, even though the policy is favored, are explained as due to the factor of permanency (there is a relatively high rate of turnover among female employees for reasons of marriage, housekeeping, and family responsibilities) and the existence of jobs for which men are better suited (in which case the distinction in salary is primarily a difference in individuals rather than a difference based on policy)."³

Monthly Labor Review, volume 78, page 798 (1955), discusses the greater absence of female employees. A company taken as an example had about 50,000 women and 25,000 men employees, but absences per day were about 2,300 women and 700 men at a cost to the company of over \$10 million per year.

Women tend to have more absenteeism than men. They marry, become pregnant, and leave your employ either temporarily or permanently. Women quit and move elsewhere when their husbands get new jobs. Pensions for women cost more because they live longer.

At my company, we have set the rate ranges for jobs by job evaluation, not only for production and maintenance employees (unions represent these employees in all plants) but also for clerical employees and for approximately nine-tenths of our executive, administrative, and professional employees. The more skilled and important the jobs become, the more we exercise our discretion as to the rate to be paid an individual employee within the rate ranges.

When we hire a new employee or consider giving a merit increase to an existing employee, we take into consideration every factor that has a bearing on the value of that employee to the company and some of these factors arise solely because of the sex of the employee.

This legislation would in fact discriminate against both men and women.

Most secretaries are women. We have had several young men start out as secretaries and later rise to positions of importance. Examples in the past include a plant manufacturing manager and two top sales department heads. When these young men started and as they progressed, I am certain that their wages were higher than some female secretaries doing equal or superior work. But we also knew that there was a possible potential of their rising to more important jobs, supervising a large number of other men. If this law is passed, we will hire women for all secretarial positions and be deprived of this avenue of advancement.

Even the State equal pay laws are causing problems for management and discrimination against men. Ohio has an equal pay law. It affected the 350 employees of Hazel-Atlas Glass Division, Continental Can Co., in Zanesville, Ohio. Prior to the enactment of the Ohio law, this company's plants employed about 175 men and 175 women. There are now about six men left on the job—all the remainder are women. Many of the men were higher paid and gradually they were replaced to comply with Ohio law.

The Washington (Pa.) plant of this company has had other unfortunate experiences with the Pennsylvania equal pay law. The plant is organized. With the passage of the Pennsylvania statute, industrial relations conflict arose between management and labor resulting in lawsuits and countersuits. Women employees sued the company for higher pay and the male employees encouraged this with the hope that more men would be hired to replace women. Industrial relations has now become most unstable in this operation. Further, to comply with the Pennsylvania law, the company raised its wage rates for women employees to equal that of its male employees only to discover it was now at a competitive disadvantage because its competitor employs women exclusively at a lower rate.

The passage of this type of legislation would discriminate against women and reduce their job opportunities, particularly in the fields mostly dominated by

² Economic Indicators Relating to Equal Pay, supra, p. 8.

³ Economic Indicators Relating to Equal Pay, supra, p. 7, quoting from a study made by Lola B. Dawkins of Arizona State University and E. Lanham of the University of Texas. See, also, Management of Personnel and Labor Relations, supra, footnote 3, which discusses the problem of greater absence among female employees.

men, because employers in order to reduce competitive costs and potential problems under the new law would hire only men.

But apparently without complete evaluation of such considerations, proponents of equal pay have made an all-out drive for legislation. If such a law is enacted, it would require a bureau or agency with an estimated staff of 240 to administer it. An annual budget of well over a million dollars would be imposed from the outset. We can be sure it would grow. Government agencies that decrease in size are almost infinitesimal in number.

We are asked to add this role for Government at a critical time. The Federal budget is out of balance and under stress. There are many causes, of course. One cause is the expense entailed by the addition one by one of new Government programs.

Nondefense items, such as the one proposed, are currently causing our greatest spending increase. From fiscal year 1954 through fiscal year 1961, Federal defense spending increased only 1 per cent. During the same period, nondefense spending increased 65 percent. Small increases in spending may in themselves seem harmless, but when the many are added together, they add appreciably to Government spending and cause a problem.

The proposed equal pay activity under the Secretary of Labor, we repeat, will mean an added Government bureau or agency. The situation does not justify this increase in Federal Government activity.

HARMFUL EFFECTS OF H.R. 3861

Now I would like to discuss particular sections of H.R. 3861 introduced by Representative Green (Democrat, of Oregon).

We are most concerned that H.R. 3861 has incorporated punitive provisions aimed mainly at management. These provisions are much more harsh than those considered by this committee last year. In effect, H.R. 3861 gives carte blanche police power to the Department of Labor. Congress is delegating its authority and power to an administrative agency to legislate the intent of Congress.

SECTION 4 OF H.R. 3861

1. *Coverage*.—This section prohibits any employer engaged in commerce or in the production of goods for commerce to discriminate in any place of employment between employees on the basis of sex by paying wages at a rate less than the rate paid to male employees. This Fair Labor Standards Act coverage—namely, *engaged in commerce or in the production of goods for commerce*—seems to cover only those employees coming under the Fair Labor Standards Act prior to the 1961 amendments of that act. The bill is not clear as to whether retail service and other employees under the 1961 Fair Labor Standards Act Amendments are covered.

2. *"Any place of employment."*—An employer is prohibited from paying female employees less than male employees for equal work "in any place of employment." This phrase—in *any place of employment*—caused controversy during the floor debate last year. It was agreed by former Congressman Zelenko during this debate that the phrase meant a single establishment and not applicable to multiplant operations of a company which might have operations all over the country. (See Congressional Record, July 25, 1962, p. 13794). Nevertheless, last year this part of H.R. 3861 was not amended either in the Senate or the House, nor has it been clarified under this proposal.

3. *What is equal?*—The word equal is the nub of this entire proposal. Congress and not the Labor Department should make as clear as possible its intent with respect to the application of the word. What is equal pay? What is equal skill? Certainly, the proposed bill does not answer these questions. It merely gives the Department of Labor discretion in the development of standards and criteria.

4. *Exemptions from H.R. 3861*.—Only two exemptions are made to the requirement for equal pay—(1) seniority; and (2) merit increase systems. Equal pay does not have to be paid if there is a seniority or merit increase system which does not discriminate on the basis of sex. Does this mean that all other systems of job classification programs are not exempt? It would appear so. The question is also raised as to what criteria and standards will be set by the Labor Department as to a merit increase or seniority system to comply with the requirements of H.R. 3861.

5. *Cutting pay of male employees*.—H.R. 3861 does not specifically provide against cutting the pay of male employees to avoid a violation of the law, but

it appears to do so indirectly by providing only one means of compliance; namely, the adjustment of the lower wage rate. The formula is spelled out in section 4(a) (1), (2), and (3) which would give a maximum of 2 years to eliminate a differential. We urge this committee to consider the impact of this proposal if there are 1,000 women employees being paid a certain rate and two or three male employees being paid a rate that is higher. Does this mean all these women employees must be raised to the rate of the male employees? This would appear to be the intent of H.R. 3861.

3. "*Labor organization*" omitted.—Section 4(b) prohibits an employer from discharging, causing the discharge or discriminating against any employee who attempts to invoke the provisions of H.R. 3861. It is unfortunate, and I hope inadvertent, that the phrase "or labor organization" has been omitted. The latter phrase was included in last year's legislation.

SECTIONS 5 AND 6 OF H.R. 3861

1. *Sweeping powers given to Labor Department.*—This entire section causes us great concern because it would give the Labor Department sweeping powers over industry involving wage fixing legislation.

Section 5(a) (1) gives the Labor Secretary power to prescribe rules and regulations "*as he deems necessary and appropriate*" including regulations to protect against violation of wage standards of "*any other applicable law.*" We submit that no administrative agency should be given such powers as it "deems necessary and appropriate."

Does H.R. 3861 give the Labor Department power to issue regulations involving the Walsh-Healey and Davis-Bacon Acts? This blanket authority given to the Secretary of Labor to issue regulations regarding wage standards of any other applicable law is an arrogation of congressional prerogatives.

2. *Procedures making Labor Department prosecutor, judge and jury.*—The remaining subdivisions of section 5 of H.R. 3861 do not detail the procedures whereby the Labor Department would initiate its investigation. They appear to give power to the Labor Department to go anywhere on its own whim and its own volition.

Like wise, section 5(a) (2), (3), (4), and (5) of H.R. 3861 gives, among other things, broad investigatory and prosecution powers to the Labor Secretary.

Unfortunately, section 5 enables the Secretary of Labor to proceed without the necessity of a charge being filed by the person aggrieved. It gives such broad hearing powers to the Labor Department, the net result is that the Labor Secretary has powers which make him prosecutor, judge, and jury.

3. *General comments.*—We likewise thing it unnecessary and repressive against management that injunction procedures be instituted by the Labor Secretary as proposed in section 5 (c) and (d).

Last year's proposal placed a 1 year statute of limitations upon the filing of a charge. H.R. 3861 becomes even more onerous by extending it to a 2-year limitation.

SECTION 7 BLACKLISTING PENALTY AGAINST EMPLOYERS

Section 7 of H.R. 3861 again incorporates the requirement set forth in last year's proposal that employers who violate this legislation are subject to blacklisting from all Government contracts. Section 5(a) (4) and (5) subjects an employer to a double back-pay requirement.

SUMMATION

There is no necessity for H.R. 3861. We believe its enactment would be a disservice to the economy as a whole, destroy better job opportunities for women and further diminish the power of States to handle their own affairs.

APPENDIX A

Some of the varying State laws and other varying requirements that affect the employment of women follow:

Females were singled out as early as 1879 when Massachusetts regulated the hours of work for women. Today, 43 of the States have standards governing the female worker's *hours of employment*. Twenty-four of the States have maximum hours of 8 a day and 48 a week or less.

Twenty-two States have established a maximum 6-day workweek for women employed in some or all industries; in six of these States this standard is appli-

cable to both men and women. The remaining other States have laws which prohibit employment on Sunday with certain exceptions, or have legislation which prohibits the performance of Sunday work by women.

Twenty-six of the States provide meal periods up to an hour in duration for women, whereas the remainder provide for meal periods applicable to both men and women and which combine meal and rest periods.

With respect to rest periods, 11 States have provisions exclusively for women. Many of the other States have statutes which cover a variety of industries. Most of the provisions are for a 10-minute rest period within each half-day of work.

In 20 States nightwork for women is prohibited and/or regulated in certain industries or occupations. Twelve States prohibit nightwork for women in certain occupations or industries or under specified conditions. In a number of other States nightwork is regulated either by maximum hour provisions or by specified standards of working conditions.

Miscellaneous state laws have set minimum wage orders, employment standards for women and other regulations relating to plant facilities such as seats, lunchrooms, dressing rooms and restrooms, toilet rooms. Eleven States have laws or regulations which specify the maximum weight women employees are permitted to lift or carry. In California and Oregon 25 pounds is considered the maximum a woman can lift.

In the leading study of physical differences between men and women, relevant to their suitability for work, Prof. Anna Baetjer, of Johns Hopkins Medical School stated in 1946 in her book, "Women in Industry: Their Health and Efficiency", on the basis of data from World War II and earlier, that:

"Women are on the average only 85 percent as heavy as men and have only about 60 percent as much physical strength. Therefore, they cannot lift or hold as heavy weights, they cannot direct as much weight or strength to the pushing or pulling of loads and their grip is not as strong.

"Women are built on a small anatomical scale than men, their standing and sitting height, arm length, and size of hands and feet all being smaller."

Mr. MILLER. The chamber appreciates very much this opportunity to express our views on the proposed so-called equal pay legislation. The major bill I believe is House bill 3861 although there are others pending. The sponsors of the proposal contend that Federal legislation is needed to insure wage justice for women and to eliminate so-called discriminatory wage practices based solely upon sex. The national chamber has long supported the principle of equal pay for equal work performed. Since 1948, the chamber's membership has urged employers to use such pay practices as will adequately reflect the value of services performed by women for the particular employer.

They also, however, in their statement state that they do not believe that the Federal Government should intervene in this field and no matter how sincere the motives of the sponsors may be we believe that Federal legislation is the wrong way to achieve these ends for three reasons, at least.

First, the States and collective bargaining and the marketplace already afford an effective way to deal with this question.

Second, the facts don't show the need for Federal legislation.

Third, the proposed law is so drafted that it will do more harm than good.

Now, in my prepared statement I incorporate a lot of language about the various State actions on equal pay and also attached as an appendix is a statement of State laws with respect to women, 8-hour law, rest-period laws, and things of that nature.

By reference to that you can find what the various States have done in this field with respect to special legislation insofar as women are concerned.

Going over to page 3, toward the bottom of the page, in my prepared statement. The basic principle is that the people of each State and they alone are best qualified to judge whether conditions in their own jurisdiction are such that there is social need for an equal pay law. If they decide in their judgment that no such law is needed such a result should be their privilege.

If they decide on the other hand, that an equal pay law is needed their judgment should determine its nature and its scope. Any view that only the Federal Government can handle this problem shows a distrust of the States and indicates an unfortunate trend toward creating an overcentralized, topheavy Government by bringing all problems to Washington.

If Federal legislation is enacted it will likely preempt the field and further State efforts will almost surely come to nought. We don't think that the facts show the need for Federal legislation.

Proponents of equal pay have developed a multitude of statistics to support Federal legislation. Much of this data is suspect because there is no certainty that the comparisons consistently take into account the many and various laws or working conditions that apply to women employees, the high turnover of such employees because of marriage, their higher absence rate, or the difference, however slight or considerable, in the task actually performed.

I now want to depart from the prepared text to discuss briefly a fundamental question which was alluded to in the first day's hearings. It was discussed to some extent yesterday but I still think it has not been covered completely.

I understand in the first day's hearings Representative Goodell suggested the bill might boomerang against women. He said that requiring employers to pay women more is not a way to increase their employment opportunities.

Mrs. Esther Peterson, I believe from the Department of Labor, replied that a woman does not want to be hired as a bargain.

Going directly to Mrs. Peterson's testimony on March 15, she said and I quote:

I am filled with dismay at the thought that our college girls now diligently applying themselves in meeting the highest standards of academic excellence in many cases will have to face in their future work the disheartening experience of job rejections because of being a woman.

Mrs. Peterson then went on and referred to a Wall Street Journal survey which showed that the business upturn which was then prevalent, I think it was in 1962, meant some new jobs for women but they would not benefit nearly as much as women graduates from the improvement in business. Then she quoted the final thing in the Journal article as follows:

Starting salaries for women will edge upward this year but will still lag by \$50 to \$100 a month behind offers to men for equivalent positions.

Now, I assume that a typical goal of the proposed bill would be to eliminate that \$50- to \$100-a-month differential referred to by Mrs. Peterson. But I submit to you that if the bill did this it would eliminate thousands and even hundreds of thousands of job opportunities for women and I will try to give you the reasons why this result automatically will flow from the passage of this bill.

Now, at the outset I want to explain that our company believes in the principle of paying people in accordance with their worth and potential future worth to the company. Rate ranges for our jobs have been set by job evaluation for all production and maintenance and clerical jobs but also even for about nine-tenths of our executive, administrative, and professional jobs.

However, the more important and the more skilled a job becomes the more we exercise our discretion as to the rate of pay to be paid an individual employee within the rate range. Where we think a woman can do a better job for us we hire a woman for that job. As a matter of fact, the same thing is true with respect to orientals, Negroes, and anybody else. We are looking for the best value for our money. We have women supervisors both in the factory and in the office. We even had a woman personnel director in one of our manufacturing plants, one of the Illinois ones. That is one of the top four or five or six jobs in the plant.

But think of the handicaps nature and the various State legislatures have placed on a woman who is seeking employment in a field where men traditionally have operated.

First, hours of employment are limited in most States or in most industrial States. The typical one being a limit of 8 hours a day and 48 hours a week. A man can work any hours necessary. That fact alone in many jobs is extremely important because we have to get the work done, we have to satisfy our customers.

There are various other State laws. In appendix A to my testimony they are listed but they deal with special provisions for women with respect to meal periods, rest periods, nightwork, and things of that nature. That is what these legislatures have done.

MR. THOMPSON. Of course these conditions exist now, do they not?

MR. MILLER. Yes.

MR. THOMPSON. And you are under whatever restraints are imposed by these laws at the present time?

MR. MILLER. That is correct.

MR. THOMPSON. What effect do you fear this will have on those restraints?

MR. MILLER. Because at the present time if we are going to hire—let us say we are going to hire an engineer and we are looking for the person who is best for us. We already have a lot of engineers. If we hire a woman for that job we take into consideration the fact that she may very well get married and leave our employ either because of the birth of a child or because her husband moves to another place. But we decide we will evaluate that in determining the rate of pay we will pay that engineer. Using the figures that were referred to here we may decide that it is worth running that risk if we pay \$50 to \$100 a month less. If, however, we have to pay the same rate of pay and we have a choice between a man and a woman, it would not be worthwhile to hire that person.

Of course, if we have the additional problem that the Department of Labor is going to come in and look over our shoulders and interfere with our discretion as to the rate of pay that we are going to pay, it is going to be a great problem for us.

MR. FINDLEY. Before the hearing began, Mr. Chairman, Mr. Miller gave a specific example of this problem that had occurred in this plant.

If you are agreeable, I would like to have him relate it to the committee. I am sure it will be of benefit to us.

Mr. MILLER. You will remember I spoke of the fact that we had this woman personnel director, one of the top four or five jobs in the plant. She had some very definite advantages. One, she was in the community where she lived. One of the problems we were thinking about was, is she going to stay with us? She was married 7 years and they thought they could not have any children. Her husband was very likely to stay in the community. So, we decided that that particular fear was nonexistent and so we hired her for the job. We spent a lot of time and money training her and she became a really topnotch personnel director.

Then, to her surprise she did become pregnant and had a child. We gave her a 6-month leave of absence and that is not an easy thing when you have a top job such as personnel director, finding a new person to come in for 6 months. She came back. Then later she decided she wanted to leave to take care of her child. But that is a factor that you have to evaluate when you hire any woman.

In that case our evaluation turned out to be wrong. We thought there was no risk. It turned out there was a risk.

Mr. FINDLEY. Mr. Chairman, may I ask a question at this point?

Mr. THOMPSON. Yes.

Mr. FINDLEY. Would it be helpful if women in professional categories such as the personnel director or perhaps the entire salaried categories were excluded from this act? Would that make it more workable?

Mr. MILLER. It would eliminate this problem that I have spoken of, that there would not be the automatic discrimination against women in these classes. However, it is also possible to have—

Mr. THOMPSON. Let us take that personnel director. In her case there would be in that place of business no other equal work. Therefore, you would not have any fear that this would apply.

Mr. MILLER. In that particular case this is true. But if you take the lawyer, the engineer, the scientist, the psychologist, you do have it.

Mr. THOMPSON. No. That is what I am going to get to. I think that in the case of professional people, whether they be physicians, dentists, lawyers, or engineers; in view of the basic nature of those professions or occupations they do similar but not equal or not precisely the same work, and I do not think we would have any problem of interpretation there.

Maybe it might be well in the event that this legislation passes to have the legislative history indicate that there should not be any arbitrary lumping simply because 10 people are lawyers or engineers into an equal category because of the basic difference in what they do. Engineers working side by side may work on different projects.

Mr. MILLER. Yes, sir. From the language of your act the Department of Labor could very easily hold that when you are hiring two new engineers that they would have to be hired at the same rate of pay if the sex were different.

Mr. THOMPSON. I think we should give this thought so that if possible the legislative history our intentions can be very clearly indicated in this regard. We do not intend that there be an arbitrary and, indeed, unfair lumping into a category.

Mr. MILLER. If you really want to have that intent carried on, the way to do it would be to follow Congressman Findley's suggestion to except the executive, administrative, and professional employee.

Mr. THOMPSON. We want to draft a good bill. This legislation passed last year. I see no reason why it should not this year. I see no reason why the bill should be reported precisely as it was introduced if in the amending process we can improve it. I have a suggestion or two, myself, with regard to it.

Mr. MILLER. I would like to answer your question a little bit further, however. There are still other women besides the executive, administrative, and professional type that will be discriminated against. We can't tell who they all are but we did find one example of it from a company in Pennsylvania. They originally hired all men to do some manufacturing of some type. They then decided with respect to certain operations women could do just as good a job as the men could do, possibly even better. So they decided to start hiring women for those jobs.

Under the Pennsylvania law the women had to have 30 minutes a day more free time than the men. I don't know exactly what the provision of the law was, whether it was rest periods, meal periods, or something like that. So they evolved a wage structure which reflected that.

In other words, they were getting $7\frac{1}{2}$ hours of production from the women and 8 hours of production from the men and it added up to an 11-cent differential.

Then the Pennsylvania equal-pay people said, "No, you are wrong in that theory; you have to eliminate that 11-cent differential." So now they are in the process of replacing all those women with men just because the law provided that equal pay meant the same thing there.

So it can hurt other people besides the top people.

Mr. FINDLEY. Would that not work the other way, too? They might decide to make all of those jobs open only to women.

Mr. MILLER. That would inevitably happen. Once you pass this equal-pay law you will sort of create an artificial barrier because the employer does not want the Department of Labor bothering him all the time. So we make them all women's jobs or make them all men's jobs and then the Department of Labor can't bother us.

Mr. FINDLEY. Do you think that is apt to occur in other plants than your own?

Mr. MILLER. I think so. You see, most of our larger companies, and I hope most of industry, believe in paying people what they are worth and they like to obey the law and they don't like to have the Department of Labor coming in and finding out they are violating the law.

What is the best way to avoid it?

Mr. THOMPSON. They have it both ways?

Mr. MILLER. Just because we think we are obeying the law does not mean the Department of Labor is going to agree with us, particularly under the wide discretion it has.

Mr. FINDLEY. If that development does occur and if industry generally classifies jobs as being either for women or for men and not for both, this act is a futile exercise in legislation, would it not?

Mr. MILLER. I think it is worse than futile. I think it is harmful because it does not permit us to hire the best people for the jobs. I think it is harmful.

Now I had spoken or was speaking of the handicaps that the State legislatures have made on women. Then, of course, there are some physiological differences which cause absenteeism more and then, of course, the question of permanence which I have reflected.

Now in Mrs. Peterson's statement she said that this Wall Street Journal either in spite of or because of these handicaps, employers are willing to hire women at \$50 to \$100 a month less than the salary paid to a man in an equivalent position. This evidently is the salary differential that places a monetary value on these handicaps as developed in the marketplace.

If, however, the employer is not permitted to evaluate these handicaps and must pay an equal salary, as I pointed out it is not worth while to hire a woman. Now in this connection the chamber received a letter from an employer who had needed a psychologist. This was in their personnel department. They thought a woman could do the job fine. They hired three women psychologists in succession. Each one got married and left the employ of the company.

Finally, in desperation, they hired a man to do the same job. All of them were equally competent. But the interesting thing about this letter was the postscript:

P.S.—My secretary commented that a law of this kind would work against women employees. If I had a choice between hiring a man or woman at the same rate of pay I will inevitably hire a man because of his permanence. She believes this will result in a situation arising in which women will find it harder than ever to get jobs and I agree with her.

I think more and more women are beginning to realize that the more you legislate specifically with respect to women the more you hurt their job opportunities. A woman member of the Illinois Legislature, Mrs. Frances Dawson—I think you know her, Congressman Findley—at the request of a number of women's organizations recently introduced a bill to modify the Illinois 8-hour law for women because it caused employers to discriminate against women in the hiring of women.

Another Illinois woman legislator, Maude Peppers, always opposed equal pay legislation for the same reason. I think all women Members of Congress particularly should take a long look at this legislation and see if you may not be causing more harm than good for your sex.

But there is another strange effect of this legislation. In some cases it can cause discrimination against men. You referred to one example earlier where you just had a few men and a lot of women, obviously you would move the men out. Mrs. Peterson in her March 15 testimony said:

We ask, Why should an employer offer \$3,600 a year for a male clerk-typist but only \$3,000 for a female clerk-typist? We have been unable to think of any rational answer.

I think the reasons I outlined a few minutes ago are rational answers, at least from the employer's point of view. But here is another one based on my own experience: Most secretaries are women. But we have several young men start out as secretaries and later rise to positions of importance. Generally they were secretaries in the fac-

tory area but we also had women secretaries in the factory area. But these men have come up—well, we had a plant manufacturing manager and a couple of sales department heads. When these men started and as they progressed, I am certain that their wages were higher than we were paying some of the female secretaries who at that time were doing equal or superior work. But we also knew that there was possible potential of these young men rising to positions where they could be supervising a large number of other men.

If this law is passed that avenue of advancement would be blocked for us and for future young men who want to start off in the manufacturing field that way.

As I said before, I think the inevitable result of this legislation will be that conscientious employers will have to divide jobs into women's jobs and men's jobs. We like to pay people a salary which we think is appropriate, taking into consideration a great many factors. If we have all men or all women in a particular job classification we can exercise that discretion and the Department of Labor cannot come in and say we are doing it wrong.

However if we have both men and women we are faced with the fact that the Department of Labor can come in and upset our judgment as to the proper rate of pay for the individuals in that job classification.

Mr. THOMPSON. In connection with the pay, yesterday a gentleman testified on behalf of Owen-Illinois Glass Co. Your testimony has somewhat of the same business in it about absenteeism and the fact it cost the company an extra number of dollars a year because of this absenteeism.

The fact is that under existing circumstances there is no extra cost to the company, if the company is administering its own business as it should. Because of the disparity in wages they more than make up for any absenteeism there is. Statistics which the witness submitted yesterday said it cost 30 cents an hour on the average for things necessary for women, not provided for men.

For instance, rest facilities, lounge facilities, which I think any working person ought to have, man or woman, anyway, and other benefits totaling 30 cents.

Then it develops that the disparity in wages is 72 cents. So they are now making a 42-cent net profit, using his data, for each woman that they have. Obviously the problems exist. Someone pointed out also that woman's life expectancy is longer and therefore it costs more to pension them.

This is so, but is there a sensible businessman on earth who, before arranging for a company pension and retirement plan, does not have the whole plan actuarially looked into? Of course not. Therefore there is no additional cost because the disparity is taken up in the rates established by the actuary. Anyone who employs women today has all of the problems that he is going to have if this becomes a law. And any statement to the effect that this will deprive great numbers of women of employment will not hold up in view of the increasing need for women in industry, steadily increasing.

Now it might well be in a section of a plant, for instance, in a plant that I am familiar with because I worked in one, in a metals fabri-

cating plant, we had about 150 punch presses of various sizes. The production rate for the plant for men and women alike was 500 an hour. The difference was apparent as soon as one walked into it. The women handled lighter presses with pneumatic devices to blow the stamped metal away. The men handled the heavy things.

In some cases, of course, automation has changed the heavy presses so that they are worked by dials now and a woman can do it perhaps even better than a man but there would not be any question about who was doing equal work in a situation like that.

Mr. MILLER. By that you mean there is no equal work as far as the men and the women are concerned?

Mr. THOMPSON. There is some but not in a situation where they have all women on one line and all men on another. Remember, equal pay for equal work. Equal work must contemplate also the time that a person works. If a man works 8 hours a day, a woman works 7, they are not doing equal work. They are doing an identical job but not an equal number of hours.

I think some of the fears you are expressing with respect to the effect of this legislation are groundless. You have the problems today.

Mr. MILLER. You brought up a question. You started off by saying that women's jobs are paid a lot less than men's jobs. You gave the 72 cents' differential.

Mr. THOMPSON. Do you have the statistics for your company?

Mr. MILLER. No, I do not. I can get them for you if you wish.

Mr. THOMPSON. It is not necessary.

Mr. MILLER. We set up a job evaluation system by labor grades and it is very simple to show them.

This legislation does not contemplate, does it, that the Department of Labor will be able to go in and say that those women's jobs are evaluated incorrectly in relation to the men's jobs and therefore they should be raised, assuming there are no men on those jobs?

Mr. THOMPSON. No.

Mr. MILLER. Because I was very much interested in Mr. Carey's testimony which I read last night. It seems to me that you should give very careful attention to this question of defining what you mean by equal work and equal skills and that if you do not define it you may open up a real Pandora's box.

Mr. GRIFFIN. Do I understand that you agree that this bill would not permit the Secretary of Labor to do that?

Mr. MILLER. Yes, but Mr. Carey says to the contrary. I would like to refer to something he said yesterday.

Mr. GRIFFIN. What would you do if the Secretary of Labor came in and looked at these two machines and said they are substantially equal?

Mr. MILLER. Let us take the case that the chairman spoke of. You have the women doing the light punch press work. You have the men doing the heavy punch press work.

Mr. GRIFFIN. And you consider they are not equal jobs?

Mr. MILLER. That is right.

Mr. GRIFFIN. What if the Secretary of Labor disagrees with you?

Mr. MILLER. Then we have to go to court.

Mr. GRIFFIN. Yes, and you would have a hard time getting into court under the bill as drafted because the Secretary of Labor makes

the determinations, issues the cease and desist order, and you can get into court only on a review of an administrative tribunal's finding, and if there is substantial evidence to support his finding—not a preponderance of the evidence—just substantial evidence, you can't do anything about it because the court can't reverse a finding by an administrative agency.

Mr. THOMPSON. It might well be that we should use section 601(a) of the Landrum-Griffin Act for enforcement of the section, an established section which we have had 3 or 4 years' experience with.

Mr. GRIFFIN. I think the problems are a little different, Mr. Chairman, but we will be glad to look at that.

Mr. THOMPSON. I think you will find it an awful lot stronger.

Mr. MARTIN. I would like to point out that the bill I have introduced on this subject provides that in regard to disputes of this nature, as you illustrated it would go into the U.S. District Court and would be handled through regular court procedure.

Mr. GRIFFIN. We had a very good witness last week, Miss Cunningham, a woman who represented the National Federation of Business and Professional Women's Clubs. She made a very strong point to make sure that these questions can be reviewed in court, not just on the surface review, but actually tried in court if there is some substantial question involved.

This is where the question is going to be all the time. You don't have any idea and we don't either, if this bill were to pass, what the Secretary of Labor would say is equal work. There are thousands and thousands and thousands of job classifications which would be hanging in the balance until some representative of the Department of Labor came in and decided, himself, or on the basis of some general rule which the Department might try to lay down, which are difficult to apply, whether or not a classification, even though you agree with your union on it, is reasonable.

Mr. FINDLEY. Would it not follow from that that during this long prolonged period of uncertainty that the managers of the industries would find it to their advantage for self-preservation, if for no other reason, to reclassify as many jobs as they could as either female jobs or male jobs so that they would not have that uncertainty?

Mr. GRIFFIN. I think if there were any gray areas they would certainly move the employees out of them and try to anticipate any question. This may or may not be advantageous to women in a particular instance.

It may result in women losing their jobs. I want to make it clear that I am, myself, supporting the general principle of equal pay for women. But I want to make sure the legislation is drafted in a way that will give the people involved some protection against what could be arbitrary abuses.

Mr. MILLER. I think the point you raise, that the definition of equal work and equal skills should be written into the act, is extremely important.

I want to quote Mr. Charles Carey from yesterday to show you what may happen if you just use this broad, general language. He told you:

Equal work requiring equal skills does not mean an absolutely identical job. We interpret this language to mean what the women in a collective bargaining contract, substantially equal value of work requiring equal value skills.

Now to the average person that is kind of fussy language. I don't know exactly what it means and I think the average person would not know exactly what it means. But Mr. Carey told us what it means. He explained further the effect of the passing of this law.

An effective Federal equal pay law will do much to reinforce our position in collective bargaining. It will end the kind of discrimination that I have described here.

So then I looked to see what has he been describing. That is pages 13 and 14 and he is not complaining because of failure to pay equal rates for equal work. He is complaining because he thinks that the rates of pay for the women, and evidently those companies, GE and Westinghouse, had divided jobs pretty much into women's jobs and men's jobs—but the rate of pay for women should have been higher because these value skills he referred to were in his opinion higher than the men's value skills.

Now job evaluation is not an exact science. It involves judgment.

Mr. O'HARA. Might I correct the record a little bit? I have reviewed Mr. Carey's testimony. One of the examples he gives on page 14, to which you refer, is as follows:

The highest rate paid any female plant employee at GE's Fort Wayne, Ind., plant is \$2.415 an hour. The job grade is R-14. The title is Synthetic Motion Instructor. There are about a dozen women who hold the job. Male employees with the identical title, Synthetic Motion Instructor, do the same work as female instructors. Men and women receive the same training and do the same work. Male Synthetic Motion Instructors are in grade S-19 and are paid \$2.935 an hour.

Mr. MILLER. I saw that in Mr. Carey's testimony. I would be willing to bet dollars to doughnuts they do not do the same.

May I make this suggestion, that you write that particular plant and ask them for the job descriptions of those two jobs because I know enough about the way that industry in general handles its job evaluation that those two jobs are different even though they have the same title. I would suggest that you do this or I would be glad to do it if you would like me to.

Mr. O'HARA. I would like to suggest that if we adopted the practice of checking testimony we would have to check more than Mr. Carey's and it would take the rest of this year.

Mr. MILLER. That is the only example in Mr. Carey's testimony that has the same job title and where he claims they do the same work.

Mr. O'HARA. You brought up Mr. Carey's testimony. Let us assume for the purpose of our discussion that he is correct in these two paragraphs at the bottom of the page 14. Would you not consider that pay problem to be one that ought to be covered by legislation, one that ought to be corrected, or would you feel that it is something that ought to be left alone?

Mr. MILLER. I think it is something that should be corrected. We don't follow those principles, ourselves, and I don't think anybody else does. I don't think General Electric follows it either. I just challenge the accuracy of Mr. Carey's testimony.

Mr. THOMPSON. I tell you what I think we had better do since we have these other witnesses. I think we will have you complete your testimony and then we will have a brief question period. Some people have come from quite some distances. We want to hear you fairly and fully. I think we are grinding out too much time.

Mr. MILLER. My point is that we negotiate with the union, we discuss the question of value skills and everything else, and we end up with agreement on the rates of pay for particular jobs. But Mr. Carey proposes that the U.S. Government, through the Department of Labor, with its broad powers, either before or after a contract is signed, can go in and interfere with a negotiated agreement.

I think it will be a tragic day when such a thing is permissible.

Now, in connection with this question of definition, many of the States have attempted to solve this problem. I would suggest that if you decide to pass some legislation that you look at some of the State statutes to see how they have defined this question of equal work.

I am now going to go over to page 6 of my prepared statement, in the middle of the page.

If the equal-pay legislation is enacted, we estimate it would take—I think this estimate came from the Department of Labor—a bureau or agency with an estimated staff of 240 and an annual budget of well over a million dollars, and the tendency for these things is to grow.

We again ask, "Are we going to increase the cost of Government at this time, with the Federal budget out of balance and are we going to increase again the nondefense costs?"

Now I have some comments in connection with the specific language starting on page 7. I won't read them all but let me point out that No. 1 on page 7, that the definition of who is covered is not clear. I think that has been pointed out to you before and it should be clarified.

Second, the question of what is a place of employment has not been clear. I have discussed, already, this question of the definition of what is equal work and equal skills. I think that should be in the legislation.

The question of whether the exemptions on seniority and merit increase systems, are those the only ones? For example, if we have a collective bargaining agreement, are you going to interfere with that? Also the question of whether you can cut the pay of male employees.

But most I think on page 8, the sections 5 and 6, which give such sweeping powers to the Labor Department. I think that has been covered, and you know our feelings on that. Also, this gives the Secretary of Labor the right to issue regulations on any other applicable law. Does this include the Walsh-Healey law and so forth? That should be cleared.

But the major problem is that the Labor Department is the prosecutor, judge, and jury.

Incidentally, the California law puts a burden on the person who claims that there is discrimination on account of sex. The burden of proof is on the person making the claim. I think you might give some consideration to that. We also think the whole provisions against blacklisting employees are uncalled for in such legislation.

I am sorry to have taken so much time. I appreciate, very much, the opportunity of coming before you.

Mr. THOMPSON. We are delighted to have you. You took time only because we wanted to discuss it with you.

Now, for a very brief time, if the members would like, if they would ask only a couple of questions each, I would appreciate it. Mr. Griffin?

Mr. GRIFFIN. I do not think I have any questions.

Mr. THOMPSON. Mr. O'Hara?

Mr. O'HARA. No, sir.

Mr. THOMPSON. Mrs. Green?

Mrs. GREEN. I have a couple of questions. At one point in your testimony you said women are realizing more and more that legislation will discriminate against women.

You gave examples of two women who oppose it. Your statement is beyond my comprehension because I know of no women's organization in the country that does not support the equal pay for equal work bill.

Mr. MILLER. These are the ones that happened to be within my own knowledge in the State of Illinois. I have not made any survey of women's organizations.

Mrs. GREEN. Two women who oppose it.

Mr. MILLER. Two women in the State legislature; yes. Wait just 1 minute. Mrs. Dawson who introduced the bill a month or so ago to modify the women's 8-hour law in the State of Illinois did so at the request of a number of women's organizations.

Mrs. GREEN. To amend the 8-hour law?

Mr. MILLER. That is right; because it caused employers to discriminate in the employment of women.

Mrs. GREEN. But you have given, from your personal knowledge, only two women who would oppose the equal pay bill.

Mr. MILLER. That is right.

Mrs. GREEN. I would like to have the women's organizations supply you with information on how many support such legislation. I am confused about another point.

On the question that Mr. O'Hara discussed in Mr. Carey's testimony, did I understand you, correctly, to say that if this discrimination were in fact true, then it should be corrected?

Mr. MILLER. Yes, but not by a Federal law.

Mrs. GREEN. But it should be corrected?

Mr. MILLER. Yes. I say that in a case, in a factory job where you have two people doing identical work, you normally should pay them the same. We do that under our system of job evaluation.

Mrs. GREEN. You do that in your factory in all work, if they are doing the same work?

Mr. MILLER. Yes. In other words—

Mrs. GREEN. If I may turn to your statement, on page 5, you say you have had some young men start out as secretaries and, quoting you, When these young men started, and as they progressed, I am certain that their wages were higher than some female secretaries doing equal or superior work.

Mr. MILLER. Yes. My answer to your question was on factory work.

Mrs. GREEN. You would just limit it to factory work?

Mr. MILLER. I said what our practice is. In factory work, where we have a job classification, we pay people in accordance with that. But in the clerical field we will have a rate range and pay people, with our judgment as to what they are worth in that, and these young male secretaries were paid more, I believe, than female secretaries because they had the added potential of being leaders in our plant.

Mrs. GREEN. And no woman has the chance of being a leader in your plant?

Mr. MILLER. I have yet to see a woman in a manufacturing establishment who has been able to rise to the top in a manufacturing job.

Mrs. GREEN. In your plant?

Mr. MILLER. Yes. And I haven't heard much of it in industry. It may have occurred, but I haven't heard of it.

Mrs. GREEN. There are quite a few instances if they were given the same opportunity. It is quite obvious in your plant you do not give them that opportunity.

Mr. MILLER. It is not us. It is because men in general, I think, like to be supervised by men rather than women in factory jobs. Maybe I am wrong in that but that is the way it is.

Mrs. GREEN. This is the same argument which has been used against paying equal wages for equal work. At one point, I thought you gave a very revealing bit of testimony when you said that you considered jobs for women on merit the same as you did for orientals and Negroes.

Mr. MILLER. Yes.

Mrs. GREEN. In other words, you like to be as fair to orientals and Negroes as to women?

Mr. MILLER. I was making no slam.

Mr. THOMPSON. You meant oriental women, I suppose?

Mr. MILLER. I was making no slam about that. If you thought I was doing it, I certainly wish to apologize but the charges of discrimination have been made on the grounds of sex as well as race, creed, and color.

Mrs. GREEN. Do I understand you correctly that in secretarial or professional work you obviously pay men more than women?

Mr. MILLER. In some cases. That does not mean every man gets more than a woman. My secretary gets more than any male secretary we have.

Mrs. GREEN. You do admit you have a double standard in your professional jobs?

Mr. MILLER. We do not have a double standard. We take into consideration all the factors.

Mrs. GREEN. But you say here you pay women who are superior less than you pay the men.

Mr. MILLER. Because the man has a greater potential worth to us.

Mrs. GREEN. How do you decide that a man has greater potential?

Mr. MILLER. Our experience has shown that. That is the way men have progressed to top positions in manufacturing. They come in as a secretary or a factory operator and by virtue of that they learn more and more and go to top positions.

Mrs. GREEN. You do, of course, give the women equal opportunity to advance like this?

Mr. MILLER. We have never yet found any woman who wants to have a top factory job.

Mrs. GREEN. I see. Very interesting. You say that in your plant the starting salaries—was it in your plant where the starting salaries for women were \$50 to \$100 below the men's salaries?

Mr. MILLER. No, that was the testimony of Mrs. Peterson quoting a Wall Street Journal survey based on the offers that were being made.

Mrs. GREEN. And you approved of this?

Mr. MILLER. I said that this is what the marketplace has placed as the value on the difference between men and women. Actually, that is not a true statement. You may find some woman who is so superior because of her background that you would want to hire her and pay her more than you would a man. That is all a part of your judgment. You don't have any separate starting rates in this type of job. You pay each person what you think he is worth and based on his potential worth to the company.

Mrs. GREEN. But the potential worth of a woman is considerably less than the potential worth of a man?

Mr. MILLER. It may be in some circumstances.

Mrs. GREEN. In your judgment is that true?

Mr. MILLER. It may be in some circumstances. For example, if we are not satisfied that that woman is going to stay with us for a long period of time, she is not worth as much to us as if we are satisfied that that woman is going to stay with us for a long period of time.

Mrs. GREEN. You have argued that women should be paid less than men because they might leave their jobs.

Mr. MILLER. Yes.

Mrs. GREEN. Do the men in your plant ever leave the jobs?

Mr. MILLER. Not as frequently as women.

Mrs. GREEN. Do they ever?

Mr. MILLER. Yes.

Mrs. GREEN. On that basis, do you pay them less because they might leave their jobs?

Mr. MILLER. We don't know in advance whether a particular person is going to leave or not. We just know that the probabilities are that the woman is going to leave more often than a man.

Mrs. GREEN. So at the outset you assume that the woman is more likely to leave and you pay her less?

Mr. MILLER. That is one of the factors. For example, in this personnel director that I spoke of, we eliminated in our own minds the possibility of her leaving. If we had thought she was going to be leaving we would not have hired her because we needed a permanent person there.

Mrs. GREEN. Why don't you put out a questionnaire before you hire employees, asking them if they are going to leave?

Mr. MILLER. If you can develop such a questionnaire I would like to have it. That is one of the factors you look into when you hire a person. You look over their past history and see, are they a job hunter? If they are a job hunter, you don't hire them.

Mrs. GREEN. May I quote to you a study? As far as turnover is concerned, a special study over a 5-year period showed a quit rate for women of 24 per thousand employees as against 18 per thousand male employees. Now that this is a fairly narrow margin.

How can you contend that you automatically will pay a woman less because you assume she is going to leave than you would pay a man because you assume he is not going to leave?

Mr. MILLER. According to your figures there is a greater chance. When you are taking an important position it is extremely important.

Mrs. GREEN. There are 24 as compared to 18 out of a thousand, do you think that is a big difference?

Mr. MILLER. I think it is when we are talking about a permanent position. I don't know the reasons for those figures.

Mrs. GREEN. The study has been made. It is not somebody's opinion. It is information obtained from a study.

Mr. MILLER. I am not challenging it. It does prove that women are more likely to leave and that is one factor particularly in an important position because in an important position you want to have somebody who will stay with you. You spend a lot of time, money, and effort in training that person so that he or she will be a valuable employee, and you want that employee to stay with you.

Mrs. GREEN. There is one important factor that I do not find in your statement, and that is that the reason there is discrimination, by and large, against women, is the same reason that there has been discrimination against Negroes over the century—because they are a source of cheap labor and the plant can pay them less and make more profit.

Mr. MILLER. I don't think that is true in our situation because our rates of pay are established by job evaluation and through negotiations with the unions.

Mrs. GREEN. How can you say they are by job evaluation when in your own statement you say you pay male secretaries that are not as good more money than you pay women secretaries? What kind of job evaluation is that?

Mr. MILLER. The job evaluation establishes a rate range. Your judgment and discretion determines what you are going to pay within the rate range.

Mrs. GREEN. What do you manufacture in your plants?

Mr. MILLER. It is a metal-manufacturing plant. We have a large number of different products.

Mrs. GREEN. Such as?

Mr. MILLER. Alemite lubrication equipment, instruments for automobiles and machinery, heating and air-conditioning equipment, casters, furniture hardware, things of that nature.

Mrs. GREEN. I was about to say that if you were manufacturing things that women buy, I would strongly recommend that the women be informed of the discrimination against women workers and use the same discrimination in buying products.

That is all, Mr. Chairman.

Mr. MILLER. We do not discriminate against women and that has not been our policy.

Mr. THOMPSON. Thank you very much. Mr. Findley?

Mr. FINDLEY. I have no questions.

Mr. THOMPSON. Mr. Martin?

Mr. MARTIN. No questions.

Mr. THOMPSON. Thank you very much.

Before calling the next witness, I would like unanimous consent to include several letters, communications, and statements from other members and from groups into the record.

I would also ask unanimous consent that Mr. Martin be permitted to include a statement in the record at his convenience. I have here a

letter dated March 20 from Dr. Minnie C. Miles, president of the Business & Professional Women's Clubs, Inc. She is anxious that the record show, and she states:

I would like to bring to your attention and that of your committee the fact that the personal opinions and thinking expressed by Miss Cunningham were strictly her own and not that of the National Federation of Business & Professional Women's Clubs. Naturally in an organization with a membership as large as ours there will be many different personal ideas and opinions.

Then there is appended to that a copy of their national legislation program. Without objection, that may be included in the record.

(The documents referred to follow:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 15, 1963.

HON. FRANK THOMPSON, Jr.,
House Office Building, Washington, D.C.

DEAR FRANK: I am writing to you, as the chairman of the subcommittee of the House Education and Labor Committee which is charged with jurisdiction over equal pay legislation, to forward to you the enclosed letter to me dated March 14, 1963, from Andrew D. Farrell, Washington representative of the Bendix Corp., one division of which is located in the congressional district I represent in South Bend, Ind.

Mr. Farrell's letter deals with one aspect of this proposal which I think should be drawn to the attention of your subcommittee and I am for this reason taking the liberty of forwarding his views and those of the Bendix Corp. to you.

I enclose certain supporting material which he has sent to me as well.

With kindest regards.

Sincerely,

JOHN BRADEMAs, Member of Congress.

THE BENDIX CORP., BENDIX PRODUCTS DIVISION,
South Bend, Ind., March 14, 1963.

Re Equal Pay Acts.

HON. JOHN BRADEMAs,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BRADEMAs: The Bendix Corp. believes that the objective of the currently proposed legislation of equal pay for equal work without discrimination because of sex is very laudable. Particular care, however, must be exercised in the passage of this type legislation lest it create greater injustice than it may eliminate.

It is not our intention to register any protest against the general purpose of this legislation. Our objections to the present proposals rests upon their failure to recognize the fundamental distinction between women's wages which have been set as part of the collective bargaining process and those whose wages are set solely at the discretion of an employer on an individual basis.

Although on the surface there may appear to be a wage differential when women's rates are set via a union contract, such inequities do not in fact exist at Bendix. It is common knowledge that in collective bargaining a wage increase is often relinquished in order to gain some other benefit. In order to gain a true prospective, it is essential to consider the entire employment relationship and not merely consider the wage rates alone, as do the many proposals in this area.

Bendix experience affords an excellent case in point. Since 1937 the rates and working conditions of Bendix employees have gone through a continuous process of revision both in day-to-day negotiations and periodic contract revisions. Although women are now paid a lesser rate of 5 or 10 cents per hour in certain classifications than their male counterparts, such differentials are the result of their choosing other working benefits in lieu of equal pay. Among these benefits are the exclusive rights of women, paid rest periods in the morning and afternoon, valet service in the furnishing of parts and materials, machinery setup, and the right to refuse certain undesirable jobs in their classification due to weight, cleanliness, location, etc. All of these rights arise from the Bendix-UAW contract and not from any government legislation.

In an equal pay bill is passed in its present form without exempting rates set by collective bargaining agreements, it will create a gross injustice, not only to the Bendix Corp. but also to our male employees.

Bendix has in good faith bargained away the foregoing benefits for a lower rate in order to cover the cost of these benefits. Federal legislation could wipe out this lone benefit to Bendix without removing the benefits we have contracted away. The proposed legislations would also create a grossly unjust situation for our male employees. These men freely accepted a higher rate in lieu of receiving the foregoing benefits. If any of the proposed bills are passed in their present forms, these male employees will be performing work at the same rate as women without receiving the collateral advantages that women now receive. Thus the end result will be that in operation this law would discriminate against male employees. Obviously such a situation is not conducive to harmonious industrial relations and may well be the cause of labor unrest.

Any legislation which superimposes a wage rate by legislative fiat over those negotiated via collective bargaining is completely contrary to the often-stated policy of both the Republican and Democratic administrations to foster free collective bargaining. Neither management nor labor can effectively sit at the bargaining table and negotiate a fair contract if there is a realistic fear that their agreements may be nullified by subsequent legislation such as equal pay bills. This is particularly true if such legislation affects only the benefits of one side of the table.

In light of the foregoing, we respectfully submit that any equal pay bill should be amended to exempt those rates which have been freely negotiated into a collective bargaining agreement. Basic justice necessitates such an exemption to those rates which have been negotiated prior to the enactment of this law. We respectfully submit that such an exception would not in any manner defeat the basic objective of this bill, rather it would merely prevent certain classes of women from being unjustly enriched at the expense of others.

Ample precedent for such an exception can be found in the general area of Federal wage legislation as well as the specific area of equal pay for women. As examples we would like to cite and have attached:

- (a) Section 7(2) : Maximum Hours—Fair Labor Standards Act.
- (b) Section 2(a) : Existing Claims—Part II, Portal-to-Portal Act of 1957.
- (c) Chapter 48, section 4A : "Wage Discrimination" Illinois Annotated Statutes.
- (d) Volume 5, chapter 3, 28-6-18 : "Wage Differential Based on Sex Prohibited," General Laws of Rhode Island.

We respectfully suggest the following amendment:

"Provided, That nothing herein contained shall prohibit a variation in rates of day as between the sexes where the same is provided by a bona fide contract between an employer and the representatives of the employees certified by the National Labor Relations Board."

Bendix would also strongly recommend that a change be made in the present coverage to "equal work." If the original wording of "work of a comparable character" is used, it would create an impossible situation of determining which of the numerous operations within Bendix would fall within the nebulous field of "comparable work." This would suggest that Bendix would have to evaluate each of our varied manufacturing functions in each classification to establish which were comparable.

May we propose that your office call to the attention of the Special Subcommittee on Labor considering this legislation these facts recited above. We would welcome the opportunity of personally expressing these facts to any legislator to whom you might direct us.

Sincerely yours,

ANDREW D. FARRELL,
Washington Representative.

Fair Labor Standards Act, as amended—"Maximum Hours", Section 7(b)(2):

"In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall

receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed ; or”.

Portal-To-Portal Act, Part II—Existing Claims, Section 2(a) (1) :

“PART II—EXISTING CLAIMS

“SEC. 2. Relief from Certain Existing Claims Under the Fair Labor Standards Act of 1938, as Amended, the Walsh-Healey Act, and the Bacon-Davis Act.—

“(a) No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act (in any action or proceeding commenced prior to or on or after the date of the enactment of this Act), on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any activity of an employee engaged in prior to the date of the enactment of this Act, except an activity which was compensable by either.

“(1) an express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer ; or”.

Chapter 48, Section 4A—Smith-Hurd Illinois Annotated Statutes (approved July 22, 1943) :

“Section 4a. Wage discrimination—Penalty

“Any employer of six or more persons in this state employing both males and females in the manufacture of any article, who shall pay any female engaged in such manufacture an unequal wage for equal work, by time or piece work, than is being paid to males employed in such manufacture, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars ; provided however that nothing herein contained shall prohibit a variation in rates of pay based upon either difference in seniority, experience, training, skill or ability, or difference in duties or service performed (whether regularly or occasionally) or difference in availability for other operations, or any other reasonable classification, except difference in sex. *Provided, further, that nothing herein contained shall prohibit such variations where the same is authorized by a contract between an employer and a recognized bargaining agent*” (1943, July 22, Laws 1943, vol. 1, p. 743, sec. 1). [Emphasis added.]

Bobbs-Merrill—General Laws of Rhode Island—Vol. 5, Chapter 3, Page 261 :

“28-6-18 Wage differential based on sex prohibited—No employer shall discriminate in the payment of wages as between the sexes or shall pay any female in his employ salary or wage rates less than the rates paid to male employes for equal work or work on the same operations ; provided, however, that nothing herein contained shall prohibit a variation in rates of pay based upon either difference in seniority, experience, training, skill or ability, or difference in duties or service performed, either regularly or occasionally, or difference in the shift or time of the day worked, or difference in availability for other operations or any other reasonable differentiations except difference in sex ; and *provided, further, that nothing herein contained shall prohibit a variation in rates of pay as between the sexes where the same is provided by a contract between the employer and the recognized bargaining agent of the employes.*” [Emphasis added.]

STATEMENT BY HOWARD COUGHLIN, PRESIDENT OF THE OFFICE EMPLOYEES INTERNATIONAL UNION

The Office Employees International Union, AFL-CIO, is gratified that the House subcommittee has undertaken an investigation to look into a problem that has deeply concerned our union.

It is our earnest hope that as a result of the work of this subcommittee, legislation will be recommended which will help to accomplish an objective which our union has pursued and attained in collective bargaining ; that is, the elimination of discriminatory wage practices based on sex.

The Office Employees International Union actively supported a proposition several years ago which called for tax deduction for the expense of child care for working mothers. We were happy to see this piece of legislation passed by both Houses of the Congress and signed into law by President Truman.

As representative spokesman for over 65,000 white-collar workers throughout the United States, Canada, and Puerto Rico, the Office Employees International Union, AFL-CIO, strongly advocates the elevation of female officeworkers from the second-class status to which they have been relegated by the Nation's employers, both large and small.

We welcome the committee's investigation, hopeful that these longstanding inequities will be remedied by Congress.

It should be noted that the principal beneficiaries of legislation prohibiting wage discrimination practices; namely, the working women of the Nation, represent a very substantial part of our working force. There are today over 24 million women in the Nation's labor force, making up one-third of our entire work force. They are playing a most significant role in our national economy, and it is indicated that they will play an even greater part in our Nation's future.

The occupations in which women are most frequently employed are the very areas which have demonstrated steady growth in recent years and which the experts predict will continue to assume greater importance as the trend from a blue-collar to a white-collar work force accelerates. Typical of these occupational fields in which women predominate include the clerical, retail sales, health services, and teaching.

The pressing need for legislative assistance for our working women is dramatically emphasized when it is realized that these women are employed in the work force as the principal or essential income producers not only for themselves, but also for dependent family members. Contrary to some popular misconceptions, these women are not at work to fill idle hours, or merely to acquire nonessential luxuries of life, but more often than not, because they are the heads of households, the sole support of a family, or providing needed income for the mounting costs of education, medical care, and housing.

There are today over 2¼ million women who are the heads of their families, and are employed in the work force. Over 7½ million working mothers are employed to provide support for children under 18 years of age, frequently because of the absence of a male breadwinner. There are presently nearly 5 million mothers at work supporting children between the ages of 6 and 17 years, and over 2½ million working mothers supporting children under 6 years of age. In the nearly 1½ million cases where a mother has joined the work force, she has been compelled to do so due to the absence of a husband.

In view of the clearly established economic reasons for women workers, can the continuance of wage income discrimination be justified on any grounds? Studies by the Department of Labor on the subject of output per man-hour indicate that the output of female workers compares quite favorably with that of their male counterparts. Results of these studies indicate that little variation exists between the sexes in average output per man-hour.

The considerable experience of our own organization in the field of white-collar employment has revealed not only that women officeworkers are clearly the equal of their male coworkers, but indeed, their performance is superior and preferred by employers in numerous clerical classifications. We have found that in the area of automation and electronic equipment occupations, female workers have established their ability to perform with outstanding reliability and accuracy. This reputation for excellent work performed in these occupations of the future has gained management recognition as reflected in a recent survey of employers indicating no appreciable preference for male employees in their electronic data processing departments.

In spite of the ability of women workers to perform on a par with the male labor force in several employment areas, we nevertheless frequently encounter the widespread policy of wage differentials based on sex. The extent of this general acceptance of such a policy was disclosed in a recent study undertaken by the National Office Management Association. Thirty-three percent of 1,900 companies included in the study frankly reported a double-standard pay scale for male and female officeworkers.

We feel that this extensive practice of wage discrimination must be remedied, not only for purposes of correcting prevailing inequities, but also to eliminate the practice of replacing male workers with women at lower wages.

While it is gratifying that the talents of the working women are being recognized by the national economy in the production of goods and services, and thereby the Nation's standard of living has been raised, the task of fully integrating women into the working world will be unrealized as long as existing wage discrimination is tolerated.

Over the years, more and more women have entered the labor force and occupied positions of increasing responsibility. On their own initiative, they have improved their skills and education in order to take up positions in the business, industrial, and professional world. Bureau of the Census projections indicate that this trend will be stepped up due to the impact of the low birth rates of the depression years. Added to this influence on the labor force is the continuing steady drain on available manpower asserted by the needs of the Armed Forces.

In order to encourage the continued service of women to the welfare of the country, it is imperative that national legislation be enacted to supplement existing laws in 22 States, making it mandatory that the payment of a wage rate be based on the job and the ability of the individual worker and not on the sex of the worker.

STATEMENT OF J. A. BEIRNE, PRESIDENT OF COMMUNICATIONS WORKERS
OF AMERICA

We should like to present, on behalf of 380,000 workers represented by the Communications Workers of America, some brief views on H.R. 3861 "Equal Pay Act of 1963."

This subject has been included in the platforms of both major American political parties for many years. Hearings have been held several times in both Houses of Congress. Further, spokesmen from almost every important segment of our society have indicated their support of the concept of equal pay for equal work. Despite this seeming unanimity of opinion, there is still no significant Federal equal pay legislation.

In the communications industry, we have partially resolved the problem through collective bargaining. In addition, managements have evaded the problem through some very interesting machinations. A careful check of our industry indicates that, for the most part, the problem of equal pay for equal work is of relatively minor proportions. This means that we are not able to find any significant number of males and females doing the same job and being paid different wages. However, a related problem has developed, in part, because of legislative indifference. This problem is more subtle and will be much more difficult to resolve. Managements have adopted procedures to avoid any charge that the equal pay for equal work principle is being violated without actually embracing or practicing the equal pay for equal work principle. Instead of crudely assigning men and women to the same job paying them different wages, or assigning females to work previously done by males and paying them a lower rate of pay, companies have diluted male jobs by some small degree, assigned the work to females and are paying them substantially lower wages.

We have in mind, for example, one case where certain work on blueprints was performed by men. The job underwent a change involving the introduction of a machine. As a result, women were assigned to the machine operation and were paid substantially less than the men who had formerly done the work. There is no doubt that the job operation had changed and perhaps should have not commanded precisely the same wage rate as formerly when men did the work. However, the wage offered by the company in no way reflected the change in skill level required in the job and it was only after vigorous collective bargaining that a more realistic relationship was established between the new female wage rate and the old male rate.

The answer to these kinds of problems, in our opinion, do not lie entirely in legislation but rather in vigorous collective bargaining. However, we hasten to add, that the job of collective bargaining would have been considerably eased had we been operating within the framework of a national statement supported by effective legislation that equal pay for equal work was public policy.

Further, we recognize fully that there may be instances of unequal pay for equal work in our industry, that we are unable to uncover. There may be a certain reluctance on the part of women employees to protest their unequal pay status. If there were a law indicating that they were legally entitled to equal pay, this might assist in uncovering the remaining cases in the communications industry.

We are fully aware of the fact that many other industries are not in the same position as the communications industry and are still suffering from unequal pay situations which could be rectified by legislation.

We think it is significant also that the major communications and other companies have been reluctant to negotiate equal pay clauses into agreements despite their protestations that they are not violating the equal pay for equal work concept. If they are not violating the concept, it would seem to us that they would readily agree to a contract clause supporting the principle.

We should like to point out, although it may not be construed as the area of responsibility of these particular hearings, that the issue of equal opportunity for women is a very pressing contemporary problem. It is one thing to refuse to pay women the same rate of pay as men doing the same work but is doubly oppressive to deny them educational on-the-job training and other opportunities to equip them to perform the higher paying jobs which we all know are still held to be, for the most part, "man's work."

We think the psychological as well as practical benefits of equal pay legislation are obvious. We earnestly recommend that Congress, at long last, incorporate into law the equal pay principle; a principle which has the support of every self-respecting American.

THE NATIONAL FEDERATION OF BUSINESS AND
PROFESSIONAL WOMEN'S CLUBS, INC.,
Washington, D.C., March 20, 1963.

Mr. FRANK THOMPSON, Jr.,
Chairman of the Select Subcommittee on Education and Labor,
House Office Building, Washington, D.C.

DEAR MR. THOMPSON: I am enclosing the approved copy of the National Federation of Business and Professional Women's Clubs statement presented by the National Legislation Chairman, Miss Sarah Jane Cunningham, at the hearing before your select subcommittee on Friday, March 15, relative to equal pay for men and women.

I would like to bring to your attention, and that of your committee, the fact that the personal opinions and thinking expressed by Miss Cunningham were strictly her own and not officially that of the National Federation. Naturally, in an organization with a membership as large as ours there will be many different personal ideas and opinions.

You will note in the enclosed statement that I have added the following words, "with a club in each of their Congressional Districts". I would appreciate having you see that this is included in the record.

Sincerely,

MINNIE C. MILES, *National President.*

NATIONAL LEGISLATION PLATFORM, 1962-63

Adopted by the Annual Convention, July 15-19, 1962, Los Angeles, Calif.

To provide a more effective means of implementing our legislative program, the 1962 convention body adopted action to divide the legislative platform into two sections, i.e., action and policy.

The action items require that concerted and continuing effort be made to have bills introduced covering these items and the subsequent support of the membership to insure their enactment into law.

The policy items are measures that will receive legislative support.

ACTION ITEMS

Item I. Advance the position of women through support of legislation to provide:

A. The equal rights amendment to the Constitution which should read: Equality of rights under the law shall not be denied or abridged by the United States or by any State, United States territory or possession, on account of sex.

B. Equal pay for comparable work.

C. Uniform benefit provisions for men and women under the Social Security Act.

D. Equal pension rights, retirement and health benefits for men and women in Government employment.

E. Removal of and prevention of discrimination on the basis of age, sex, or marital status in government, professions and industry.

Item II. Support of equitable tax adjustments including:

A. Allowance of an income tax deduction to an employed person for costs of the care of dependents because of said employment.

B. Allowance of double income tax exemption for a dependent over 65 or any totally disabled dependent regardless of age.

C. Removal of limitation on the amount of earned income permitted to a person receiving social security benefits.

Item III. Oppose legislation directed toward compulsory Government-controlled health insurance and medical care.

POLICY ITEMS

Item I. Advance the position of women through support of legislation to provide:

A. Uniform jury service for men and women.

B. Equal educational opportunities for men and women.

C. Uniform retirement age for men and women under the Social Security Act.

Item II. Implementation within the framework of the U.S. Constitution of foreign and domestic policies which promote peace and strengthen national security.

A. Assure internal and external national security for the United States.

B. Make the United Nations more effective.

C. Safeguard the security of the United States and the nations of the free world through improving mutual security programs, technical assistance, military aid, and mutual trade essential to the national economy and to the maintenance of peace, including use of all psychological means to secure and maintain freedom.

Item III. Support of legislation to strengthen measures to promote public health and safety.

In addition to the adoption of the legislative platform, the following additional policy statement was adopted by the 1962 convention body:

1. To elevate the standards for the employed women, to promote her interests, to create a spirit of cooperation, to expand opportunities through industrial, scientific and vocational activities, to secure equal consideration under the law and to establish conditions which assure both men and women the fullest opportunity and reward for the development of their capacities to the maximum potential.

2. To consider the place and responsibility of the employed woman as a concerned citizen in the complex, democratic society of the United States, and to strengthen the role of this Nation in the scheme of world affairs.

Attention is invited to the action of the 1961 convention which permitted clubs to submit changes to the national legislative platform directly to the national legislative chairman for publication in the March National Business Woman. The 1962 national convention body rescinded this action and adopted the following procedure:

All clubs should review the national legislative platform as published in an early fall issue of the National Business Woman.

Any suggestions for change (deletion, addition) in the national legislation platform by any club shall be submitted to its State federation for review and possible recommendation. State federations, the national executive committee, the national board, and the national legislation committee should study and review the national legislative platform.

Any suggested changes by State federations must be submitted to the national executive office in writing, signed by the State president, within 10 days following that State's annual convention adjournment.

Suggestions for change in the national legislative platform by the national executive committee, the national board, or the national legislation committee shall be submitted in writing, properly signed, at least 30 days prior to the meeting of the national legislative platform committee, except in cases of emergency.

Mr. THOMPSON. Our next witness this morning is Fred C. Edwards, director of industrial relations of the Armstrong Cork Co.

Will you identify both yourself and the gentleman accompanying you and proceed as you wish?

STATEMENT OF FRED C. EDWARDS, GENERAL MANAGER, INDUSTRIAL RELATIONS FOR ARMSTRONG CORK CO., LANCASTER, PA.; ACCOMPANIED BY RICHARD B. TILLSON, ASSISTANT GENERAL MANAGER OF INDUSTRIAL RELATIONS, ARMSTRONG CORK CO.

Mr. EDWARDS. My name is Fred C. Edwards. I am general manager of industrial relations for Armstrong Cork Co. in Lancaster, Pa. My associate is Mr. Richard B. Tillson, assistant general manager of industrial relations, Armstrong Cork Co.

Mr. Chairman, I would like your leave to stick close to my testimony. In that way I can cover this in 12 to 14 minutes covering the points I would like to bring to your committee's attention.

Armstrong Cork Co. was founded in 1860 and manufactures flooring and building products, packaging materials, industrial specialties, and consumer products.

We have 17 plants located throughout the United States. We have approximately 16,000 employees, 8,800 of whom are on the hourly payroll, consisting of 7,300 men and 1,500 women.

I have been employed by Armstrong Cork Co. for over 20 years in sales, production, and industrial relations work.

EQUAL PAY PRINCIPLE

In all my years with Armstrong I have known it to be a matter of company principle that hourly wages should be based upon the job rather than the identity of the person performing the job. We clearly subscribe to the principle of equal pay for equal work.

So it isn't any disagreement with the principle behind the legislation you are considering that brings me here today. I would simply like to raise certain questions for anyone, however well-intentioned, who might consider adopting a simple, doctrinaire solution to a complicated question which requires a pragmatic approach.

The principle of equal pay for equal work sounds as simple as it is just. To anyone experienced in industrial relations matters, however, the application of the principle is difficult. We cannot ignore the variables inherent in our private enterprise system, or give all discretion in resolving them to some single group or agency such as the Department of Labor, if we are to continue as free men and women.

Even that agency cannot know intimately every individual situation of each of the thousands of employers who would be affected by this legislation.

Employers need to know how legislation will affect them if they are to operate successfully. The only way they have a chance of knowing is if you will spell out in this legislation exactly what you mean, and not leave the interpretation to a Federal agency or a court 2 years or 5 years from now who may not know what you meant. As has often been said, our Government should be of laws, not men.

WAGE DEFINITION

Let me cite some of the areas where I think clarification is necessary, starting with the definition of pay itself. The bill under consideration defines "wage" as including board, lodging, or other facilities—but it does not define "wage" itself.

The term "wage" means different things to different people. For example, the union leader bargaining with an employer may be primarily interested in negotiating high rates for the jobs covered in a collective bargaining agreement. Individual employees may be more interested in their actual take-home pay, and the employer is most concerned with the overall cost of labor including all the fringe benefits paid by him.

Actually, compensation is highly flexible. It may be based on payment by the piece, payment by the hour, or participation in a complex profit-sharing plan. It may or may not include group insurance, pensions, and other similar fringe benefits.

There is often as much friction generated in collective bargaining with respect to the form of wage payment as with regard to wage levels. In some recent wage negotiations, the unions decided that their wage demand involved the "equivalent of" so many cents per hour increase in wages. The protracted bargaining which followed concerned the manner in which the additional pay might be divided between higher hourly rates and added fringe benefits.

Because of this natural inclination to use this term "wage" as if it were a rather simple component, and as if the only variable which had to be decided in determining the "wage" was its amount, it is my belief that the bill under consideration should define this term "wage" more clearly.

To give you an example from one of our own plants, 70 percent of the women are on jobs which include incentive bonuses, but only 16 percent of the men are on incentive jobs. The women are on jobs which, on the average, have a lower hourly base rate—most of them on jobs known as gasket and washer preparation. This job currently pays a base of \$1.95 per hour plus incentive. Some women on their jobs had weekly earnings in January 1963 as high as \$2.60 per hour, including incentive.

How do we determine if this constitutes "equal pay" under the proposed law compared to some man's job which looks the same but does not offer the opportunity for incentive pay? Are incentives part of wages or are they not? You should spell this out.

EMPLOYMENT COSTS

In addition to defining what you mean by "wages," I think you should recognize the problem of cost differences in employing men and women.

Our records show that women have a much higher rate of absenteeism and turnover than do men. We also find that fringe benefits, such as pensions, temporary disability income, and medical care benefits are more expensive for women employees than for men.

In some States women must be given longer lunch and rest periods, and restrictions are placed on the number and specific hours of work, weight limitations, and other health limitations.

To be specific, in our plants that employ women there are consequential additional costs per hour in absenteeism, turnover, accident and health, and hospital insurance in employing women instead of men. I have some figures to support this.

Mr. THOMPSON. Would you give them to us now?

Mr. EDWARDS. Yes.

Mr. THOMPSON. You had an actuary set up your pension plan, did you not?

Mr. EDWARDS. Yes, indeed.

Mr. THOMPSON. Who did?

Mr. EDWARDS. Connecticut General.

Mr. THOMPSON. Did he do as an actuary would be expected to do, study the age and so on of your employees?

Mr. EDWARDS. Yes.

Mr. THOMPSON. So that actually in your rate there was accounted for this question of longevity, was there not?

Mr. EDWARDS. Yes. My statement says I am taking certain items of cost.

Mr. THOMPSON. You say here that it costs more for pensions. That can't be so.

Mr. EDWARDS. In our plants we are talking about absenteeism, and turnover, and I then go further in my statement and point out there are additional costs such as pensions referring to the figures as such. Actually, on the turnover—I am taking two plants which employ two-thirds of our women employees—and it shows in turnover, that is quits—these two plants, women: 2.42 women quits to 1 man quit, which is about $2\frac{1}{2}$ to 1.

In regard to the absentee rate, we have $2\frac{1}{2}$ woman-hours lost to 1 man-hour lost. Which is a ratio of $2\frac{1}{2}$ to 1 women versus man-hours lost in absenteeism.

Mr. THOMPSON. What is the difference in average hourly wage rates?

Mr. EDWARDS. In the one plant the minimum is 12 cents and the other is 16 cents.

Mr. THOMPSON. Per hour?

Mr. EDWARDS. Yes.

Mr. THOMPSON. Based on a 40-hour week?

Mr. EDWARDS. Yes.

Mrs. GREEN. You say that your average for quitting is 2.4 for women?

Mr. EDWARDS. 2.42 for women quits.

Mrs. GREEN. And one for men?

Mr. EDWARDS. As compared to one for men.

Mrs. GREEN. Could the possibility be that lower wages and no room for advancement would account for more women quitting and seeking a place where there would be room for advancement and higher wages, and this would not be true for the man?

Mr. EDWARDS. That would be a rather difficult question to answer specifically.

Mrs. GREEN. Would you say that might be a possibility?

Mr. EDWARDS. I think based on our experience these quits are primarily for the reason for leaving the area, for pregnancy leaves, and quitting for other reasons.

Mrs. GREEN. This is all on the pregnancy leave?

Mr. EDWARDS. No, I say quitting to leave the area or for other reasons for quitting including pregnancy.

Mrs. GREEN. Are these the only two reasons? Do you not know that some leave for higher wages elsewhere?

Mr. EDWARDS. There may be some that leave for higher wages.

Mrs. GREEN. To have a fairer statement, would you not have to include those, too?

Mr. EDWARDS. I am not not prepared to tell you in what proportion. Our rates are such that we have a large waiting list of women who seek employment in our plant. So it is not that wages are too much of a factor, I think.

Mr. THOMPSON. You still have a plant in northern New Jersey?

Mr. EDWARDS. Yes, in Keyport.

Mr. THOMPSON. Do you still employ a number of British West Indian Negroes there?

Mr. EDWARDS. No. I think we did before. We had some Negroes there. I don't think they were British West Indians, to my knowledge.

Mr. THOMPSON. I was representing an insurance company at that time and had considerable dealings with your plant at Keyport and found a very high number of British West Indian Negroes.

Mr. EDWARDS. I am not aware of that.

Shall I continue, Mr. Chairman?

Mr. THOMPSON. Yes.

Mr. EDWARDS. And there are other differentials, such as the fact that pensions for women cost more because life expectancy for women is longer after retirement than for men.

If this legislation ignores the existence of such employment cost differentials, you may find yourselves reducing employment opportunities for women. To avoid these additional costs, employers would hire men to meet their needs because they are more versatile and are not subject to as many restrictive State laws as are women.

COLLECTIVE BARGAINING

The third safeguard I'd like you to consider for inclusion in this legislation is recognition of the validity of agreements legitimately reached through collective bargaining. Much has been made of the fact that women on the average receive less pay than men.

The typical, and legitimate, explanation given by others is that this results because women usually occupy lower base rate jobs because of their lesser seniority, skills, and training.

However this can also result from collective bargaining agreements, honestly arrived at to solve specific problems. Let me cite our experience.

In our plants employing women in production we have created jobs suitable for women by eliminating the elements of push, pull, lift, stretch, and so forth, that can be easily performed by men but become burdensome to women. This has been done through considerable capital investment for modern machines and equipment that make jobs easier.

Mr. THOMPSON. Gentlemen, it would be great if they could eliminate "push" everywhere.

Mr. EDWARDS. It certainly would. I hope they do—and the "pull."

Mr. THOMPSON. It is the "push" that bothers me.

Mrs. GREEN. Mr. Chairman, eliminate the "push" by women and the "pull" that men have?

Mr. EDWARDS. Shall I continue?

Mr. THOMPSON. Yes. Let us have no more puns.

Mr. GRIFFIN. I do not have a pun, Mr. Chairman, but I think it is interesting to note that they do create jobs especially for women. This in and of itself I suppose would be considered a discriminatory practice by some women's organizations.

Mr. EDWARDS. I think further than that, Congressman Griffin, we are very much concerned that this bill under consideration would be discriminating against that practice; yes, it could be.

Mr. GRIFFIN. We have not had any testimony along this line. I do not know whether they would complain because you have created jobs and hired women or whether they would say there should be no such jobs since they want equal opportunity to work on all jobs.

There are women's organizations who take such an attitude even though in some instances it is unrealistic to expect that women can do all jobs that men can do. Society would not stand for it in the first place, and State laws prohibit it.

Mr. EDWARDS. That is right.

Mr. GRIFFIN. In many instances.

Mr. EDWARDS. Yes.

Mr. O'HARA. I would like to ask the witness about this business of creating jobs specifically for women.

Mr. EDWARDS. May I interrupt at this time, Congressman O'Hara? I cover this more specifically. Would you rather ask the question now? I haven't covered the point yet.

Mr. O'HARA. I will hold the question.

Mr. EDWARDS. I cover it specifically later on.

Women's jobs are not the same jobs as men's jobs in our plants. Their jobs are clearly distinguished from men's jobs in each of our plants.

Moreover, through the process of collective bargaining, we have built into our labor contracts proprietary rights to these jobs for women. A typical expression of this is the following provision taken from the labor agreement negotiated with the Rubber Workers Union covering the employees of our Lancaster (Pa.) closure plant:

Men and women shall be divided into separate seniority groups and no employee in one group can acquire or assert seniority in the other group.

So, although women's jobs by their very nature, having been relieved of the burdensome elements generally connected with men's jobs, receive lower base rates generally than men's jobs, certain jobs have been designated and set apart exclusively for women.

Men and women hold separate jobs—and transfer is not permitted between jobs in the two groups. You might say this is unfair to women—but actually it was designed to protect them and has protected them, and they like it that way.

If it were not for these clauses, during layoffs our men would "bump" women out of their jobs—because our men generally have substantially greater seniority than our women. Because of these clauses, it is not unusual for a senior man to be on layoff while a junior woman is at work.

To realize how fair this is, you must recognize that without these clauses, bumping would be permitted but it would not work both ways, because high seniority women could not take the higher paying men's jobs because they could not perform the physical and skill requirements. So our women have exclusive rights to certain jobs, free

of competition from long-service men, in exchange for making no claim to the men's jobs—which they could not perform.

It seems like a fair arrangement—once you understand it.

Speaking practically, and as an industrial relations man, I can tell you we have never had a labor dispute based on the differences between our assignment and compensation of men and women—and this is one of the things the “purposes” of this bill has in mind.

As a matter of fact, there have been only rare mentions of this subject at negotiating sessions ever since these practices were adopted—and in several of our plants there are women on the bargaining committees, in fact in one New Jersey plant there is a woman union president.

We feel we have worked out our problems to suit the needs of our work and our people—and they seem to agree. A doctrinaire decision by a Government agency could undo all this work which has evolved through collective bargaining over the past 25 years for us and which has resulted in the employment of more instead of fewer women.

I urge you to amend this legislation to recognize that it is in women's interests that special women's jobs be established—at a wage which takes into account their higher employment costs—when the women are given special seniority rights to their jobs.

I would like to clarify that point by saying that I feel that legislation should not prohibit the establishment of special women's jobs with seniority rights; in other words, should not eliminate this and it should take into consideration the higher cost in the employment of women.

My plea is that you consider the variables—the variety of needs and situations and solutions that represents the genius of American business and the difference between a free society and absolute State control.

If our collective-bargaining agreement establishing men's jobs and women's jobs could be set aside by a Government agency, we would find fewer and fewer women in our plants, as men with greater seniority bumped them from their jobs.

When unions and management negotiate an agreement with regard to wages, they are both concerned with the total earnings that will result, rather than only “base” wage rates. Female jobs generally fall into the lightweight repetitive category which is the type of work that lends itself to increased earnings through incentive or bonus plans.

Male jobs, on the other hand, are usually of the heavier type and more technically skilled which do not lend themselves as readily to incentive or bonus plans.

Therefore, when wage negotiations are being conducted, this total pay relationship is taken into consideration where, for example, women have the opportunity to increase their base earnings by 15, 20, 30, or 40 percent while men generally do not have this opportunity.

Thus, it is of great importance to both unions and management to have applicable laws clearly state whether “equal pay” means solely base rates or total earnings.

I've spent most of my life trying to work with variables such as these. I've learned that solutions must be tailored to problems—and that nothing but confusion results when the rules of the game are suddenly changed to achieve some theoretical consistency.

Operating a business under a Federal agency with full leeway to change the rules as to what constitutes equal pay at its own discretion would be about the same as you gentlemen facing the possibility of having your constituencies redistricted every time you come up for reelection.

SUMMARY

I am convinced that our company provides equal pay for equal work—but I don't know if we or anyone else would meet the requirements which could be read into this bill if its requirements are not spelled out.

I know that there are variables from plant to plant and business to business, and that if an attempt is made to regiment all industrial relations, individual businesses will suffer—their employees, especially women, can face unemployment—and the national economy will be weakened.

If we are to have this type of legislation, I urge you to give full consideration to spelling out then in the "Equal Pay Act" the rules with regard to:

First. What constitutes wages, the job base rate alone, total earnings, or the overall cost of labor including the fringe benefits.

Second. Added employment costs that result from increased absenteeism, turnover, accident and health, and hospital insurance costs, because of the employment of women.

Third. Collective bargaining agreements that have evolved over many years and presently accommodate or provide for specific seniority rights, job rights, and other acceptable operating practices that are mutually satisfactory and necessary to successfully operate a profitable business.

Only in this way will we know where we stand.

Mr. THOMPSON. Thank you very much. Yours is a carefully drawn statement. While I do not find myself in complete agreement with it, I think you are worried unnecessarily about these women's jobs. If they are women's jobs there can be no question but since there are no men on them they would not be altered.

Mr. EDWARDS. Mr. Chairman, the thing that concerns us is that the way this bill is written the Department of Labor could make some decision which would say we are not in compliance with the law, we are not paying equal pay for equal work.

Mr. THOMPSON. Now we are going to have a very brief question period because we have two more witnesses and we must finish at 12 o'clock.

Mr. O'Hara?

Mr. O'HARA. On page 5 of your statement you spoke of creating jobs suitable for women by eliminating the element of push, pull, lift, and stretch. You say this has been done with considerable capital investment that makes jobs easier?

Mr. EDWARDS. Yes, sir.

Mr. O'HARA. Why did you do that?

Mr. EDWARDS. We got the added benefit out of improvement, the capital investment we spend to make jobs easier. In making them easier you invariably make them more efficient. You are doing two things at one time. You are making the jobs easier and you are making your operation more efficient.

I think they go hand in hand. In eliminating this pull and push you accomplish it through expenditure of capital investment, you make the jobs easier and you operate more efficiently.

Mr. O'HARA. You imply, with respect to these jobs, that they are exclusively for women. You say you don't permit transfer and that if it were not for the clauses in your collective bargaining agreement during layoffs, men would bump women off the jobs.

In other words, men could fill these jobs. The elimination of push, pull, lift, and stretch has not made them unsuitable for men, has it?

Mr. EDWARDS. No. It is a case where we are developing new jobs all the time in our manufacturing process. As we spend capital investment on improvement we are adding more employment and also we are adding more jobs women can do which they may not have been able to do before.

Mr. O'HARA. These are jobs that can be done by men, though?

Mr. EDWARDS. Yes.

Mr. O'HARA. Yet, you went to the trouble of some capital investment to make them suitable for women and you hire women exclusively in these jobs. Is it because the Armstrong Cork Co. has strong feeling about women's rights? Is one of the purposes of your articles of incorporation to provide jobs for women? As a man I am a little worried about that.

Mr. EDWARDS. No. I think we are extremely fond of women. We can't get along without them.

Mr. O'HARA. Do you think this is fair to your stockholders? Here you have gone into a big investment just to create jobs for women.

Mr. EDWARDS. I tried to make it clear that the dual results you get from spending money was to make these jobs suitable for women at the same time you are improving the efficiency of your operation.

I don't want you to get the idea, Congressman O'Hara, that we are spending all this capital money necessarily just to provide women with jobs but as result of doing this and making the jobs easier, the women on those jobs become more efficient.

If we take out the lift, push, pull, stretch, out of jobs, we make those jobs more efficient, more women can be hired on those jobs.

As I say, we are expanding our operations continuously and by this procedure we are employing more women. Our records show that the percentage of women has increased substantially.

Mr. O'HARA. I wonder if making the jobs suitable for women did not permit you to employ women at a lower wage rate on the jobs than is paid to men. You are in business to make money, aren't you?

Isn't that one of the factors that went into the decision of the company to make these changes in production methods?

Mr. EDWARDS. No. We deal with unions which I am sure would not ever be accused of being company dominated. These arrangements and rates we work out for both men and women are on some basis which is generally on the basis of rates paid for the type of work in the area where we operate our plants.

We have a policy, as a matter of fact, to having our rates in line with rates paid for similar types of work in the area where we operate our plant. As a matter of fact, we are the average or above the average in most of the areas.

Mr. O'HARA. I won't prolong the questioning, but I think we are all familiar with the fact that, generally speaking, women can be hired to perform a job for less than a man can be hired to perform the same job. One of the results of this has been the introduction of women into the work force to do jobs that could be done by either a man or a woman. One of the principal reasons we have seen this is because women can be hired for less. This is one of the things that concerns us.

Mr. EDWARDS. I would not say that is our motive for hiring women; it is not our reason for hiring women.

Mr. THOMPSON. Mr. Griffin?

Mr. GRIFFIN. On page 2 you make a statement, which is often repeated and it sounds right. You emphasize that our Government should be of laws and not of men. This is the key to the concern that I have about the legislation in the form in which it is presented to the committee.

We will be doing a great service if we can somehow tighten up the standards and spell out in legislation what we mean, and leave less to the discretion of the nameless, faceless people in some bureau who are going to go out and administer it.

It disturbs me, frankly, that in the Congress, in this committee perhaps as much or more as any other committee we seem to be tending more and more toward writing legislation in general terms and leaving the standards to some administrator to decide and to determine where the line shall be drawn.

Some of those who support such an approach at this time may live to regret some of the legislation they have put on the books when some other administration comes into power and has all of this discretion and arbitrary authority and may not use it in the way we think is right.

In fact, it disturbs me that even in statutes where Congress has specifically defined standards we still find administrators, in effect, defying the standards that Congress has drawn.

We have had an experience this past week in my State. The legislature passed a bill to comply with an ADC program for children of unemployed parents. In the Federal statute that Congress passed we specifically say that unemployment shall be defined by the State. Even though our State defined unemployment, the Department of Health, Education, and Welfare has determined that it is not a reasonable definition and so they have refused to approve the State law.

Even when we are specific and draw up standards we still find the bureaucrats throwing them out or disregarding them.

When we don't provide standards we just create a jungle where no one knows what the law is. It would take 10 or 20 years before you would know what this law means in many instances.

Mr. EDWARDS. There is no more uncomfortable feeling than being in business and trying to anticipate what some Government agency, or how they are going to interpret a law. It is a field day for lawyers.

Mr. THOMPSON. Are you a lawyer, sir?

Mr. EDWARDS. No, I am not.

Mr. THOMPSON. You have had considerable experience?

Mr. EDWARDS. Yes.

Mr. THOMPSON. Listen to this language and see if this is a rather broad and strong grant of power.

Mr. GRIFFIN. It is probably the Landrum-Griffin Act.

Mr. THOMPSON. Yes, it is.

The Secretary shall have the power when he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of this Act to make an investigation. In connection therewith he may enter such places and inspect such documents, records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto.

Then he has the subpoena power of all the books, records, and so on. Now, you compare that provision with the enforcement provision in this proposal and see which you think is the strongest.

Mr. GRIFFIN. I would like to pose one important distinction. Under the wage-hour law now the employers are subject all the time to inspectors from the Department of Labor coming in and checking to see whether they are paying the minimum wage.

Mr. THOMPSON. That is right.

Mr. GRIFFIN. As far as I am concerned, I am not complaining about that power or this kind of authority being in this bill. But I do object, and this is not in the law to which you are referring, to the Department of Labor itself making final determinations, issuing cease-and-desist orders and then being able to upset them only by going to a court. The Secretary of Labor under the wage-hour law has to go into court to enforce his determination. So there is an important difference.

Mr. THOMPSON. Maybe we need a clause like this. I share to some extent your trepidations. On the other hand, experience has shown really that there is no need really to fear the Federal Government, as so many people seem to do, and its agencies have had broad powers for a long, long time.

Mr. EDWARDS. May I speak to that point? We don't fear Government agencies but in this law you have before you you say equal pay for equal skill in effect.

It is very difficult for the Secretary of Labor or the Department of Labor to come into a plant and say one job is equal to another.

Mr. THOMPSON. I can see he is going to have some problem.

Mr. EDWARDS. I think it is a job for a trained industrial engineer.

Mr. THOMPSON. Thank you very much.

Mr. EDWARDS. Thank you.

Mr. THOMPSON. Mr. James E. Fagan, attorney from Newark, N.J., representing the Council of State Chambers of Commerce. It is nice to see you.

STATEMENT OF JAMES E. FAGAN, ATTORNEY, NEWARK, N.J., ON BEHALF OF THE COUNCIL OF STATE CHAMBERS OF COMMERCE; ACCOMPANIED BY THOMAS MILES, SECRETARY OF THE LABOR COMMITTEE OF THE COUNCIL OF STATE CHAMBERS OF COMMERCE

Mr. FAGAN. Thank you, Mr. Chairman.

Mr. THOMPSON. Will you identify the gentleman with you, please?

Mr. FAGAN. This is Mr. Thomas Miles, secretary of the Labor Committee of the Council of State Chambers of Commerce.

Mr. THOMPSON. I dislike urging too much speed but there is one witness to follow you. We consumed more time with the earlier witnesses than we expected.

Mr. FAGAN. Thank you, Mr. Chairman.

With your permission and, frankly, with your suggestion, I will paraphrase what I have here and not read the entire statement.

Mr. THOMPSON. Would you like your whole statement in the record?

Mr. FAGAN. I would.

Mr. THOMPSON. I ask unanimous consent that it be entered into the record at this point.

Mr. FAGAN. Thank you.

(The statement referred to follows:)

STATEMENT OF JAMES E. FAGAN ON BEHALF OF MEMBER STATE CHAMBERS OF THE
COUNCIL OF STATE CHAMBERS OF COMMERCE

My name is James E. Fagan. I am a practicing attorney in Newark, N.J. For a number of years I have specialized in labor law. I appear before you today in behalf of 21 State chambers of commerce which are affiliated with the Council of State Chambers of Commerce. The member organizations for which I am specifically authorized to speak are listed at the end of my statement.

Members of the Council of State Chambers of Commerce do not argue with the principle of equal pay for equal work. However, they have consistently advocated and endorsed a policy of home rule. State legislation on such subjects is preferred to Federal legislation whenever practical. Twenty-two States have enacted equal pay bills. This in itself in the opinion of the council indicates that States can adequately cover this subject, and no need exists for additional Federal legislation.

The number of bills already introduced in Congress in the current session on this subject and the interest displayed indicates that Congress may not be content with State legislation. It is evident that Congress is giving serious consideration to enactment of Federal equal pay bill.

In any deliberations the council urges that the subject be considered strictly on its merits. Care must be exercised that unnecessary and unjustified powers are not granted to an administrative agency under the guise of an equal pay bill.

In this testimony I offer a critical analysis of H.R. 3861. This includes six very serious substantive defects in section 4(a) and three instances where sections 5 and 6 are unnecessarily stringent and punitive. I list eight principles which in our opinion should be incorporated into any equal pay bill which is to be fair and workable.

Section 4(a) of H.R. 3861 has several substantive defects

Section 4(a) of H.R. 3861 provides:

"No employer * * * shall discriminate * * * between employees on the basis of sex by paying wages *at less than the rate at which he pays wages to any employee* of the opposite sex in such place of employment for *equal work on jobs the performance of which requires equal skills* except where such payment is made pursuant to a *seniority or merit system* * * * provided that an employer who * * * on the date of this enactment is paying a wage differential which would be in violation of the Act * * * *may adjust the lower rate as follows:* * * *

"(1) On effective date * * * all wage rate differentials be reduced by an amount equal to *10 per centum of the higher rate in effect* on date of enactment;

"(2) One year from effective date * * * remaining wage rate differential shall be reduced by an amount equal to *15 per centum of the higher wage rate in effect* on the date of enactment;

"(3) Two years from effective date *any remaining wage differential shall be removed* * * *"

It is to be noted that the foregoing proposed section of H.R. 3861:

1. Limits standards for applications of the bill's broad powers to: (a) equal work; and (b) jobs * * * which require equal skill (p. 5, lines 6 and 7).

2. Limits exceptions from its provisions to " * * * a seniority or merit increase system * * *" (p. 5, line 8).

3. Limits any adjustment required by the Act on the effective date to " * * * the lower wage rate" only (p. 5, line 12).

4. Requires within two years the "higher wage rate in effect on date of enactment" be paid to the applicable job (p. 5, lines 15 through 23).

H.R. 3861 goes beyond its objective to " * * * prohibit discrimination on account of sex * * *" and would as presently written require the fixing and raising of wage rates without regard to economic realities.

Firstly, the bill's application of the aforementioned standards is not limited to "a particular job classification." It could require a comparison and determination between several different jobs which purportedly require " * * * equal skills * * *" in order to determine if a discrimination on account of sex existed between the two jobs (p. 5, lines 5 through 8).

Secondly, the bill's application is not limited to "an establishment of the employer." The bill, as written, could apply to " * * * any place of employment * * *" of a covered employer regardless of location and thus require a comparison of jobs and conditions in various plants of an employer (p. 5, lines 1 through 7).

Such a comparison would have to take into consideration area and geographical economic differences before it could be determined whether or not there was a discrimination on account of sex.

Thirdly, H.R. 3861 ignores essential economic factors which may vary because of sex and contribute to and affect the cost of the employment relationship. These include:

1. *Cost of training and average duration of employment to amortize this cost.*—Some jobs require relatively little training to reach what might be considered "journeyman status." Others require training of several years duration. Many jobs require a background of lower level jobs to develop the skills and the experience needed as a basis for the exercise of judgment. When an employer anticipates a permanent lifetime duration of employment of from 25 to 45 or more years, it is obvious that the amortized cost of training will be lower per week or per hour than if the probable duration of employment is 2.5 or even 10 years.

2. *Absenteeism.*—The efficiency of any business is impaired by absenteeism. Dependability of attendance increases efficiency. Absences may have many causes and may be for a day or for long periods of time. They may be due to health, or to the emergency needs of a family. Maternity leaves are included. Average attendance or perhaps we should say average lost time is a factor in the employer's cost.

3. *Statutory provisions in State laws.*—Most States have laws or wage orders which are designed to protect working women and minors. Some of these have a cost effect.

Forty-four States restrict the hours which women may work.

Six States restrict night work for women.

Eight States require the employer to furnish transportation for women who work beyond a specified time.

Six States require premium pay for overtime for women but not for men.

Six States require maternity leaves and specify when women must stop work as well as when they may return after childbirth.

Six States limit the weight which women may lift.

Fourteen States set a minimum call-in-pay for women.

One State requires a paid vacation for women.

Twelve States require an extra payment for split shifts for women.

Sixteen States require rest periods for women.

Nineteen States regulate meal periods for women workers, some specifying more than 30 minutes.

These provisions are mentioned not by way of objection but to demonstrate that the flexibility sometimes required is limited to male employees. This has an effect on cost. These provisions are also worth noting because it seems unlikely that a Federal equal pay law would be intended to automatically require that men be paid premium overtime in States which now require it only for women, or that men shall also get a paid vacation in Utah.

4. *Availability for emergency overtime.*—In most businesses there are emergency periods when overtime work is required. In some lines of work seasonal or periodic peaks are a factor. In most cases women's main interests and duties are not job-oriented and they are not as likely to be available for emergency overtime assignments as men.

5. *Value of long service.*—Long-term employment has a value beyond mere seniority. Most employers try to promote from within rather than seeking new employees for higher rated, more responsible jobs. There is therefore an eco-

nomie justification for inducing employees to seek permanent, life-time careers. This may justify premium pay to those whose average employment expectancy is longer.

6. *Red circle rates.*—Many employees are paid at a premium rate, a higher rate than the job normally justifies, for many valid reasons. The term "red circle rates" is borrowed from War Labor Board parlance and is used here to describe those unusual, higher than normal rates which cannot properly be used in establishing "equal pay" standards. Consider several examples. It is not uncommon for an employer who must reduce help in a skilled job to transfer employees to other less demanding jobs but pay them a premium rate in order to cushion their adjustment to a lower income level or to have them available when they are again needed for their former jobs. Or if a long service employee must be transferred or given a less strenuous job for reasons of health or age, employers feel justified in maintaining a higher pay rate than the new work calls for under the most generous seniority consideration. Premium rates to such superannuated employees must be recognized and must be exempted from "equal pay" determinations.

7. *Part-time employees.*—Employers who use short hour employees often have a narrower range of wage rates for such employees than for the full-time employees with whom they work. This narrower range is based on many considerations such as availability and primary responsibility to school, home or to a full-time job elsewhere. As an example, in retail stores which are big users of short hour workers, part-time employees do not have the same responsibility for stock care, reordering merchandise, setting displays and helping to train new employees as regular full-time employees. In most cases the top of the wage range for part-timers is less than the top for full-timers. These differentials do not represent discrimination but are justified. It should be made clear that such traditional differentials will not be upset by or affected by an equal pay law.

The foregoing are some of the economic factors which affect a proper wage rate determination and which are not recognized in H.R. 3861.

Fourthly, the limitation of the exception to section 4(a) to instances where the wage differential is " * * * made pursuant to a seniority or merit increase system * * *" is too stringent (page 5, line 8). The term "system" connotes a recognized pattern, an established regular order or method of granting seniority or merit increases.

To assume that businesses, particularly small enterprises, have planned established systems of merit review or seniority progression, ignores the facts of industrial life.

Recognition of the "personal or random" method of businesses in making wage adjustments was made by the Wage Stabilization Board in its General Wage Regulation No. 5 (issued Feb. 5, 1951, revised July 31, 1951). It found many companies had no formalized wage or salary payment plans and issued a specific regulation to set forth the manner to handle random or personalized wage rate adjustments.

By H.R. 3861 limiting its exceptions to established seniority and merit systems, it discriminates against a substantial portion of American industry which still operates on a personal random method of wage adjustments.

Further, these personal and random rate structures are not necessarily unsound or discriminatory. Varying situations within a plant can justify personalized wage differentials.

Fifthly, H.R. 3861 limits any adjustment on its effective date to "the lower wage rate" (page 5, line 12). Consequently, the differential must be eliminated by an "upward adjustment."

The declared objective of the bill is "To prohibit discrimination on account of sex * * *."

A wage discrimination can be eliminated by any adjustment of the disputed rate, either upward or downward, whichever is economically justified.

H.R. 3861, as written, is designed to increase wage rates. It is not limited to prohibiting discrimination on account of sex. It would make mandatory upward wage adjustments if a prohibited discrimination is established.

Sixthly, H.R. 3861 requires that the highest rate paid to "any employee" in the applicable jobs (page 5, lines 3 through 7) shall be the rate for the job. A discriminatory wage differential on the enactment date of the bill has to be recovered within 2 years by paying the " * * * higher wage rate in effect on the date of enactment" (page 5, lines 16 through 21).

The bill assumes the highest wage rate paid to any employee in a job requiring equal skills and for which equal work is rendered is the proper wage rate and is economically justified.

Again, the bill fails to recognize the random nature of many wage structures.

Uneconomic maximum wage rates exist which have resulted from innumerable influences in industrial and economic life. To require these isolated personalized rates to be the established rate for a job could ruin a business. An isolated personalized rate paid to an individual in a job can be absorbed, but to compel adoption of that wage rate for every employee in the job could destroy the enterprise.

Red circle rates have long been recognized as part of wage administration. Such personalized rates should not be used as a standard for any other rates. H.R. 3861 makes no provision for excepting such rates from "equal pay" determination.

Prior to any wage adjustment to reduce a wage differential based on sex being made, the proper job economic wage rate must be determined.

For Congress to endeavor to legislate a "proper economic wage rate" for a job classification is an insurmountable task. It would create impossible administrative problems and raise constitutional questions. It would interfere with free collective bargaining which Federal legislation has long encouraged.

Congress must recognize and make clear in any equal pay bill that cost and other factors or circumstances do and can properly affect wage differentials and that these do not constitute discrimination on the basis of sex. To leave this entire responsibility to the authority of the Secretary of Labor without qualification or limitation is an unthinkable delegation of power.

Sections 5 and 6 providing for enforcement of the bill are unnecessarily stringent and punitive

There is no need for the stringent administrative and enforcement provisions of sections 5 and 6 of the bill.

Firstly, section 5(a) (1) grants authority to the Secretary of Labor not only to prescribe regulations and rules to protect against violation of this bill, but further grants authority to make such rules and regulations to protect against violations of wage standards "* * * of other applicable laws * * *" (page 6, lines 12 and 14). No identity of other applicable laws is made. Such broad grant of a general administrative power should be avoided.

Secondly, section 5(b) gives the Secretary of Labor extremely broad power to investigate and gather data not only in regard to alleged discriminatory wage differentials but also "wages, hours and other conditions and practices of employment in any industry subject to the Act * * *" (page 6, lines 17 and 18).

This section 5(a) (2) is patterned after section 11(a) of the Fair Labor Standards Act (29 U.S.C. 211). It would grant the same investigatory powers under this "discrimination on account of sex" bill as it does to the Minimum Wage and Hour Act which was designed to eliminate "conditions detrimental to the maintenance of minimum standards of living necessary for health, efficiency and well-being of workers" (sec. 2(a) Fair Labor Standards Act).

To treat as equals a bill designed to correct an alleged inequity based on sex, and another act designed to eliminate subminimum living standards is unwarranted. No need is established to justify this broad investigatory authority in the Secretary of Labor in this discrimination bill.

Thirdly, section 5(a) (4) (B) grants authority to the Secretary of Labor to order an employer, after hearing, to pay back wages, plus an equal additional amount as liquidated damages; and section 6 provides a period of 2 years for such recovery from the date of commencement of administrative or judicial proceedings by the Secretary of Labor (page 7, lines 17 through 21; page 11, lines 23 to 25; page 12, lines 1 and 2). Again this double recovery provision is patterned after section 16(b) of the Fair Labor Standards Act; and the retroactive provision after section 6 of the Portal-to-Portal Act (29 U.S.C. 255).

Although the employer may be paying fair and prevailing wage rates for a job, the fact that he is paying some individual employee a higher personalized rate for the same job, this bill would impose the same stringent penalties a subminimum wage law provides. Such punitive provisions are not warranted or justified in a bill of this nature.

Principles necessary for any workable and fair bill

The foregoing comments have been a critical analysis of H.R. 3861.

If Congress should determine that Federal legislation is necessary to eliminate wage discrimination on account of sex we urge that the following essential principles be recognized and incorporated in any bill considered:

(1) Application of the bill should be limited to an establishment of the employer, which establishment shall be defined to be a distinct physically separated place of employment of the employer.

(2) Justifiable differences in pay should be recognized and provided for in the bill when they are attributable to added costs resulting from employment of the opposite sex, or where such differences are attributable to factors or circumstances other than sex.

(3) Recognition should be given to random or personalized wage structures and red circle rates and the problems created by the same.

(4) Any adjustment of a wage rate necessary to remove a prohibited discriminatory differential should be permitted to be either upward or downward according to the reasonable determination of the employer.

(5) Any investigation under this act should be made only on the basis of a written complaint of the person aggrieved and should be limited to the facts set forth in the complaint.

(6) Limit the power of the Secretary of Labor to prescribe rules and regulations by first providing as complete and clear guidelines and restrictions as possible in the bill; and, second, specifically confine rulemaking to those necessary to administer and enforce equal pay bill and not other applicable laws.

(7) Limit retroactive provisions, if any, to a reasonable period not to exceed 6 months from the date of commencement of any administrative or judicial proceedings.

(8) The bill should impose no punitive features such as "an equal amount as liquidated damages."

On behalf of the State chamber of commerce organizations listed below, I have offered a critical analysis of H.R. 3861 and I have enumerated provisions which in our judgment are essential to a fair and workable equal pay law.

The State chambers for which I have been authorized to speak are:

Alabama State Chamber of Commerce.
Arkansas State Chamber of Commerce.
Florida State Chamber of Commerce.
Indiana State Chamber of Commerce.
Kansas State Chamber of Commerce.
Kentucky Chamber of Commerce.
Michigan State Chamber of Commerce.
Missouri State Chamber of Commerce.
Montana Chamber of Commerce.
New Jersey State Chamber of Commerce.
Empire State Chamber of Commerce (New York).
Greater North Dakota Association.
Ohio Chamber of Commerce.
South Carolina State Chamber of Commerce.
Greater South Dakota Association.
West Texas Chamber of Commerce.
Lower Rio Grande Valley Chamber of Commerce (Texas).
Salt Lake City, Utah Chamber of Commerce.
Virginia State Chamber of Commerce.
West Virginia Chamber of Commerce.
Wisconsin State Chamber of Commerce.

Mr. FAGAN. Mr. Chairman, members of the committee; my name is James Fagan. I am a practicing attorney in Newark, N.J. For a number of years I have specialized in labor law. At the outset, Mrs. Green and members of the committee, I want to emphasize that I am not against equal pay for equal work and the council of the State chambers of commerce that I represent are not against that principle.

It is the accomplishment of the principle, the means of accomplishment of the principle that we are here to discuss with you today. You

have already heard testimony from other gentlemen about the fact that 22 States have equal pay. We, too, our council, prefer State enforcement of this provision. We think that States can adequately do the job when it is necessary.

I might say, Mr. Chairman, I believe when you were a member of our legislature in New Jersey we passed an equal pay bill. Despite my practice I have never run across an occasion when that bill has caused any undue concern to any people in our State.

It is administered by the department of labor in our State and very fairly understood the provisions of that law. However when I look at the bill that is before us today I have several substantive—I find several substantive defects in it.

I refer particularly to H.R. 3861. I limit my comments to that particular bill. I would like to approach it more as a lawyer, a reading of the bill, and ask questions on interpretation. Some of the questions I raise you might be able to answer but the Congressional Record will be helpful for subsequent interpretation of this particular provision as to the intent.

When I read it as a lawyer certain doubts come up in my mind as to the meaning of some of the provisions. Those provisions I would like to go over with you.

In my statement I referred particularly to section 4(a) of the bill and I have quoted pretty much at length from the same.

With your permission I will skip reading and emphasize the portions of the section I want to comment on and I will just point out what I think are objections, substantive defects in the present bill as written, referring to 3861.

Mr. THOMPSON. I think we would prefer at this time to have your comments and you are welcome to make them.

Mr. FAGAN. Thank you, sir.

In section 4(a) of H.R. 3861 I find these particular objections: One, the standards are limited for the application of the bill to two broad principles and ignores other principles which I think have to be given equal consideration.

The two principles that the bill adopted as standards are equal work and jobs which require equal skill.

Second—my second objection would be to limit the exceptions to the broad provisions of this bill to seniority or merit increase systems. I find particular question to the word what is meant by systems, seniority, or merit increase systems.

Third, my objection is that the bill as presently written limits any adjustment required by the act on the effective date to the lower wage rate.

Specifically in section 4(a) it refers to the lower wage rate.

Fourth, it requires, within 2 years, that the higher wage rate in effect on the date of the act be paid to the particular job. Without looking at economic realities the bill assumes that the highest wage rate paid for any work, for equal work and equal pay is the proper rate.

As I go on a little later I hope to convince the committee that this is not realistic. There might be an illegitimate rate paid, an improper rate, a "red circle rate" as we used to know it in War Labor Board days and Wage Stabilization days.

In my opinion the object of the bill is very successfully stated in its opening paragraph where it says its purpose is to prohibit discrimination on account of sex. But as presently written it would require the fixing and raising of wage rates without examining economic realities and might do substantial damage to a business where it is trying to remedy a wrong.

First, the bill's application of the aforesaid standards is not limited under section 4(a) to a particular job classification. It could require a comparison and determine between several different jobs which purportedly require equal skills in order to determine if a discrimination on account of sex existed between the two jobs.

To make a study between two jobs requires a job evaluation, a job analysis. A great portion of American industry does not have that type of personnel and those capabilities and it would pose a tremendous burden to compare jobs to determine if there is equal skill required for an equal rate.

In my opinion, it should be a study, if at all, of any one particular job to see if in that job equal pay is given for equal work.

Mr. GRIFFIN. If I might interrupt there, I think that point is an important one. It bears on some of the exchanges that we have had with previous witnesses.

As I understand it, you are concerned that if you have in one department certain kinds of machines and certain kinds of operations, and all women employees there would be no problem because only women are involved, but if there were another department somewhere and you have all men and they do a different job, the test isn't whether they are the same skills or the same work but it is whether it is equal skill.

In other words, do I understand your concern is that a Labor Department inspector could come in and say even though this is a different job, it is equal skill or equal level of skill?

Mr. FAGAN. Mr. Griffin, it is. It would require a determination by a Labor Department representative that this job is equal to the other job. It would require an expert in the trade. It would require a knowledge of the business.

Now I am not equipped to give you the details of a job evaluation. I just know generally and I never get in the position of advising the committee on a job evaluation but I do know we have to have a job description to start with.

Then we have to agree on certain factors and different weight to the factors. There is a discretion in it in giving that weight.

I might say that when I am involved and I negotiate quite a bit of labor contracts, I never have had a contract which gave a job rate for women and job rate for men. There is a job rate in the contract negotiated and it is paid to whomever goes in that particular job.

But I say when we start comparing jobs, Congress has given an insurmountable administrative task to the agency in whom it confers the duty and in addition, it is imposing a real obligation on industry to study various jobs. Not only that, Mr. Congressman, but the next point says that we wouldn't compare the jobs in any one establishment. It might be that it would be in any place of employment of the covered employer. The covered employer might have a place of employment in California and might have a place of employment in

New Jersey and would have to, if there was a different rate for another job that allegedly required the same skill in California, he would be held responsible for a breach of the act.

Mr. GRIFFIN. I want to say that we have had the Secretary of Labor before us and also Under Secretary Peterson. They were questioned specifically on this point. I do not think there is any question but that they indicate this is not the intent and they would agree to amendments to make it clear that it is one establishment, or one particular place, to be considered and not different parts of the country or different parts of the State.

Mr. THOMPSON. That would be true with even two plants in the same community.

Mr. GRIFFIN. I do not think that would warrant a great deal of discussion at this point in view of the Secretary's statement.

Mr. FAGAN. I appreciate that. But I am concerned when you start comparing jobs. The economic factors would be the next point. Frankly, I have enumerated them. They have been covered by other gentlemen. You people have heard stories about absenteeism so much that it would be beating a dead horse to death.

I would defer on those points with one exception: I would like to call this committee's attention to a term we call "red circle rates." I am certain you gentlemen who have had experience with War Labor Boards and Wage Stabilization Boards are acquainted with the meaning of that term.

In "red circle rates" many employees are paid a higher rate than the job normally justifies for many valid reasons. This term "red circle" is borrowed from War Labor Board parlance and is used to describe unusually higher rates which cannot properly be used in establishing equal pay standards.

Consider several examples: It is not uncommon for an employer who must reduce help and have skilled employees with years of seniority to transfer the other employees with automation to less demanding jobs and continue to pay them the premium rate even though the less demanding job has a lower rate and with people being paid the lower rate, both male and female.

Again, we have long-service employees or people who may have been disabled as a result of a compensable injury in a plant where we have moral obligation. We transfer them to less strenuous jobs. Now the employer feels justified in paying these people a higher rate because of these conditions, these other conditions that influence, moral obligation. He is paying them less than the females and males in the same job.

Under this bill that legitimate, that "red circle rate," would be taken as the highest rate and the standard that everybody had to meet.

Mrs. GREEN. Is this covered by the seniority and merit provisions in the bill?

Mr. FAGAN. No, it is not. Respectfully I say that, Mrs. Green. With your permission I will skip to that particular point. This exception that is provided in section 4(a) of the bill is made pursuant—the exception for wage differentials is made pursuant—to a seniority or merit increase system.

Now this term system is too tight, not realistic. The term system connotes a recognized pattern, an established regular order or method of granting seniority or merit increases.

Now to assume that all businesses, particularly small enterprises, have or must have an established system of merit review or seniority progression ignores the facts that exist in industrial plants and in the economic stream.

Recognition of this fact that there isn't established rates and systems for incentives and merit increases can be found in the personal or random rate method of businesses in making wage adjustments that was established by the wage regulation No. 5 which was issued in February of 1951 and revised July of 1951.

It was found many companies had no formalized wage or salary payment plans and the Board issued a specific regulation to set forth the manner to handle random or personalized wage rate adjustments. They said here is the way to do it, when you random, when you personalize.

Mrs. Green, I go into a good many plants, they grew like Topsy grew. Seniority, this gentleman has been here for years. In our first contract, Mrs. Green, we have the development to go through because there are inequities. There are not only inequities against males and females, because of seniority, length of time, I would not want to liken it to Congress but after you are in Congress a long time you have a wonderful position on committees. The same way may be in a plant. The seniority is recognized in these plants and these inequities are not without sin, that is what is wrong with this life. Everybody has sin and to try to cure it with one stroke of a pen causes so many other economic streams to start running that we don't know the influence it will have in our economy itself.

Unfortunately, that word "system" limits us too much. Respectfully I say that, Mrs. Green. We have to recognize that a lot of organizations have no system. They are the personal or random structures that the Wage Stabilization Board, recognized in the forties and in the early fifties. Does that answer your inquiry?

Mrs. GREEN. It answers it but I think we are in disagreement.

Mr. FAGAN. Thank you.

Next I would like to point out that under this particular bill it limits any adjustment that might be made to the lower wage rate.

Consequently, the adjustment can only be eliminated by an upward adjustment. The declared objective of the bill is to remove discrimination on account of sex but a wage discrimination can be eliminated by an adjustment either upward or downward whichever is right, whichever is economically justified, whichever is proper and economic.

I am not saying to reduce for spite, but I am not saying to increase and create an uneconomic condition.

H.R. 3861 as written is designed to increase wage rates. It is not limited to prohibiting discrimination on account of sex. It would make mandatory upward wage adjustments if a prohibited discrimination is established. It requires that the highest rate paid to, and I quote: "any employee" in any applicable jobs shall be the rate for the job.

A discrimination wage differential on the enactment date of the bill has to be removed within 2 years by paying "the higher rate in effect on the date of enactment of the bill."

The higher rate in effect on the date of the enactment of the bill is taken as the economic rate. Now this is a false assumption. This rate might not be the proper rate. It might be a "red circle rate," an illegitimate rate. A rate that would destroy a business. It fails again to recognize the random nature and the personalized nature of many wage structures. Uneconomic wage rates exist which have resulted from innumerable influences in industrial and economic life.

To require these isolated personalized rates to be the established rates for a job could ruin a business. An isolated personalized rate paid to an individual can be absorbed. There might be reasons, it might be a brother-in-law, it might be a sister-in-law, in order to live with the woman, your wife, you have to put a brother-in-law on the payroll. You are giving him a high rate. But I am not saying it is the right rate but I say don't take it as the rate for the business.

Mr. THOMPSON. In other words, that might not be economically justifiable?

Mr. FAGAN. That is it exactly.

Mr. THOMPSON. There is always the son-in-law problem, too.

Mr. FAGAN. The same thing. We can't ignore that because that is part of life. This life is not without sin. But if we ignore it and we make that personalized rate the rate of the business, we might well destroy a business.

Let us find what the economic rate is. If we are going to remove this discrimination that proper economic rate as the proper rate but then we get into a real task. Can we legislate an economic rate for a business, a job rate?

I would raise constitutional questions about that. Besides the administrative task of Congress delegating, either doing or attempting to delegate to an administrative agency such as the Secretary of Labor to set a rate in the plant, not only would it be an insurmountable task and great burden and present constitutional questions, but it would interfere with this free collective bargaining that you have so long and so capably encouraged.

We get into tasks when we start saying what rates are proper rates. We can destroy a business and we, in my opinion—I would love to discuss it with you at another time, how we could ever fix a proper rate for a business itself.

I will move on. With your permission on sections 5 and 6 I take issue with 5(1) because it gives a broad power. It says the—

grants authority to the Secretary of Labor not only to prescribe regulations and rules to protect against violation of the bill but further grants authority to make such rules and regulations to protect against violations of wage standards or other applicable laws.

Any investigation should be limited to this particular bill. Not to other applicable laws. Section 5(b) gives extremely broad powers to investigate and gather data not only in regard to this bill but to wages, hours, and other conditions and practices of employment in this industry subject to the act.

I know your Landrum-Griffin provision. Any time a law is passed, it is the declared policy of Congress, I say it is proper, I accept it. Since the Landrum-Griffin is the declared policy of the Congress, I

bow to it and its provisions. This bill that we are considering now I don't think that the record warrants this power, this broad power.

I call your attention to the fact that we are not here—when we go to the Fair Labor Standards Act that this is patterned after, the language of section 5(a)(1)—when we go to these two acts we find they were dealing with subminimum wage laws when Congress found that there were conditions detrimental to the maintenance of minimum standards of living necessary for the health, efficiency, and well-being of workers.

You found that these standards were necessary for the well-being of people and you properly enacted such legislation but here we are not finding subminimum wages, we are finding a discrimination. Even if we were discriminating it can be that with this discrimination the employer may be paying fair and prevailing rates for a job. He might be paying a fair rate and a prevailing rate.

This act does not say that those rates that are being paid are subminimum. They just say there is a discriminatory basis.

We might nevertheless be paying a fair and a prevailing rate for a job. Now it might be that we have the brother-in-law. I use that as an example because it is personal, it drives home a point. It might be we have the brother-in-law. Are we going to depart from the fair and prevailing and go to the personalized?

Mr. GRIFFIN. Mr. Witness, the Secretary of Labor was presented with that example. He said, "Well, you should fire the brother-in-law." That is a good answer in that particular situation.

Mr. FAGAN. But he can't live with the woman.

Mr. GRIFFIN. What if the man does not happen to be the brother-in-law and you have made a mistake? Under this bill as it is proposed, there is only one way you can comply. I will use the example of 50 women and 1 man working on a line and the man makes 25 or 50 cents an hour more than the women. A Labor Department inspector comes in and says they do equal work.

It may be you have a good agreement because perhaps the man is taking boxes at the end of the line and stacking them on the floor in addition to the other things, but the Labor Department says this is not enough of a difference to make it unequal.

So they say this is a violation. It may very well be that to require you under these circumstances, to raise all of the women in your plant by 25 or 50 cents an hour would put you out of business.

Mr. FAGAN. That is right.

Mr. GRIFFIN. It may very well be that the union in this situation would agree that on these facts either they should lower the man's wage or they should arrive at a wage in between and they might be perfectly willing to do it but the bill as presented would not even allow them to do it. Is that correct?

Mr. FAGAN. You are correct. Also in labor contracts that we negotiate, particularly on the first contract, after an organizational campaign, either by recognition or NLRB certification, we make the first deal, all these personal and random rates structures exist.

In our first contract when we are trying to get into line have job classifications and rate ranges and have equal pay for equal work we recognize, the unions recognize, the personal wage structure and permit red-circle rates to exist with full realization that it takes time to cure inequities.

Mr. THOMPSON. Excuse me, Mr. Fagan, we are getting very close to our closing time.

Mrs. Green, do you have any questions?

Mrs. GREEN. I have one comment and one question if I may, Mr. Chairman.

I have introduced equal pay legislation for 9 years, and through these 9 years I have been very much interested in hearing not only in the chamber of commerce but the man who preceded you, Mr. Edwards, and some of my colleagues in the Congress say: "Well, now really, I am in favor of the principle of equal pay for equal work, but," it always reminds me of the statement: "Well now, some of my best friends are Jews or some of my best friends are Negro, but," and then they go on.

It seems to me that the discrimination against Negroes over the last hundred years parallels the discrimination against women, or vice versa, that has existed.

I do not think that any woman can grow to maturity and want to enter the business world or professional world and not be keenly aware of the fact that there are not only Jim Crow laws in this country but there are also Jane Doe laws and women must operate under them.

You spoke against Federal legislation but you seem to be in favor of the State legislation and you referred to the New Jersey act.

Mr. FAGAN. Yes, ma'am.

Mrs. GREEN. As a representative of the chamber of commerce, could you tell me whether the chamber of commerce as a matter of policy, supported the Equal Pay Act in New Jersey or in any other one of the other States? I happen to know you opposed it in Oregon. Did you favor it in any one of the States?

Mr. FAGAN. Frankly, I am talking for the New Jersey State. I am not certain, Mrs. Green. I can't answer your question. Personally, I am here before you in favor of equal pay for equal work legislation and attached to my statement, with deference to time I won't go over it, are eight proposals we ask that you give consideration to. We are with you.

Mrs. GREEN. You are for the bill if there are no enforcement procedures and if it eliminates most of the persons covered.

Mr. FAGAN. A body without teeth is unenforceable. We want enforcement procedures, but they have to be fair. Mind you, we are not dealing with discrimination laws. We are not dealing with the subminimum standard. There is no need of enforcement to enforce penalties.

Mrs. GREEN. Let us go back to the subminimum standard. When you have unequal pay—women are paid 80 cents and the men are not—you do not think that is subminimum?

Mr. FAGAN. Mrs. Green, we have the dollar minimum. It is going to \$1.15 minimum.

Mrs. GREEN. There are lots of places where women are not covered under the minimum wage law.

Mr. FAGAN. I come from an industrial State. Our industrial State has mandatory wage orders that are quite effective for women and minors. I find that there are cases in the equal pay law now under mandatory orders and equal pay are working to the advantage of men instead of to the women.

Mrs. GREEN. Could you go back to my question. Could you supply for the record whether the chamber of commerce has supported an equal pay for equal work law in any State in the Union?

Mr. FAGAN. I will endeavor to do that.

Mr. THOMPSON. Mr. O'Hara?

Mr. O'HARA. I have noted your eight recommendations, Mr. Fagan. Of course everybody is against discrimination against women. You set up eight recommended changes. I wonder if it would be possible for you, acting on behalf of the State chambers of commerce, to provide us with some legislative language in the form of proposed amendments to this bill which, if adopted, would take care of these eight requirements?

We might understand it a little bit better if we saw it in that kind of language.

Mr. FAGAN. Thank you, sir. I did not want to be presumptuous to do that but with your permission I will be glad to recommend them to my clients that they do it.

Mr. THOMPSON. Thank you. You have been a fine witness.

(The following proposed amendments were submitted by Mr. Fagan.)

PROPOSED AMENDMENTS TO EQUAL PAY BILLS H.R. 3861 AND S. 290 IN BEHALF OF THE COUNCIL OF STATE CHAMBERS OF COMMERCE

[Omit the part struck through and insert the part printed in italic]

A BILL to prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce and to provide for the restitution of wages lost by employees by reason of any such discrimination

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Pay Act of 1963."

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex—

- (1) depresses wages and living standards for employees necessary for their health and efficiency;
- (2) prevents the maximum utilization of the available labor resources;
- (3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
- (4) burdens commerce and the free flow of goods in commerce; and
- (5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

DEFINITIONS

SEC. 3. When used in this Act—

- (a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.
- (b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.
- (c) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.
- (d) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an em-

ployee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(e) "Employ" includes to suffer or permit to work.

(f) "Employer" means any person having twenty-five or more employees in any ~~place of employment establishment~~ and includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including any person having the authority to hire, dismiss, and control the work of such employee, but shall not include the United States or any State or political subdivision of a State.

(g) "Employee" includes any individual employed by an employer.

(h) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wages paid to any employee.

(i) "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone and Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act.

(j) "Secretary" means the Secretary of Labor.

(k) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(l) "*Establishment*" means a distinct physically separated place of business.

SEC. 4. (a) No employer having employees engaged in commerce or in the production of goods for commerce shall discriminate, in any ~~place of employment establishment~~ in which his employees are so engaged, between employees on the basis of sex by paying wages at a rate less than the rate at which he pays wages to any employee of the opposite sex in such ~~place of employment establishment~~ for equal work on jobs the performance of which requires equal skills, except where such payment is ~~made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, factor or factors other than sex, when exercised in good faith:~~ *Provided*, That an employer who, on the date of this enactment, is paying a wage rate differential which would be in violation of the Act on its effective date may adjust the ~~lower~~ wage rate as follows:

(1) On the effective date of this Act, all wage rate differentials shall be reduced by an amount equal to 10 per centum of the higher wage rate in effect on the date of enactment;

(2) One year from the effective date of this Act, remaining wage rate differentials shall be reduced by an amount equal to 15 per centum of the higher wage rate in effect on the date of enactment;

(3) Two years from the effective date of this Act any remaining wage rate differential shall be removed.

(b) No employer shall discharge, cause to be discharged, discipline, or otherwise discriminate against any employee on account of any action taken by such employee to invoke, enforce, or assist in any manner in the enforcement of the provisions of this Act. No labor organization, or its agents, representing employees of such an employer shall cause or attempt to cause such an employer to discriminate against an individual in violation of this Act.

ADMINISTRATION AND ENFORCEMENT

(Section 5 should be stricken in its entirety and in lieu thereof the following should be inserted.)

SEC. 5. (a) The Secretary shall have authority to prescribe rules and regulations necessary for the administration of this Act. In any action or proceeding based on any alleged violation of this Act, a person charged with such alleged violation shall have all defenses otherwise available, and no person shall be subject to any liability or punishment for or on account of the commission by such person of an unlawful discriminatory practice prohibited by this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, or in reliance on, any written interpretation or opinion of the Secretary or his representative. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) Whenever it is charged in writing under oath by a person claiming to be aggrieved that an employer or a labor organization has engaged in a discriminatory practice prohibited by section 4, the Secretary shall file a written charge (setting forth the facts upon which it is based) and shall furnish such employer or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall, after the respondent has been accorded a reasonable opportunity to reply, make an investigation of such charge. If the Secretary determines, after such investigation, that the charge is true, he shall endeavor to eliminate such unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion.

(c) If the Secretary has failed to effect the elimination of such unlawful discriminatory practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances warrant, he shall have the power to bring a civil action to prevent the respondent from engaging in such unlawful practice.

(d) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this Act. Such actions may be brought either in the judicial district in which the unlawful discriminatory practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such civil action shall be based on an unlawful discriminatory practice occurring prior to the effective date of this Act or more than six months prior to the filing of the charge by the Secretary and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from making a complaint by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six-month period.

(e) If the court finds that the respondent has engaged in or is engaging in an unlawful discriminatory practice as charged, the court may enjoin the respondent from engaging in such unlawful practice, and shall order the respondent to take such affirmative action, including the payment of back wages, plus a reasonable rate of interest not to exceed 6 per centum per annum on the back wages found to be due, as may be appropriate. No order of the Court may issue if the wage discrimination was based on some factor other than sex.

(f) In any case in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

(g) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

(h) Attorneys of the Department of Labor may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General.

(i) In connection with any investigation of a charge filed by the Secretary under this section, the Secretary or his representative may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, and matters as are specified in and directly relate to such charge.

(j) For the purposes of any investigation conducted under this Act, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), shall be applicable to the jurisdictions, powers, and

duties of the Secretary or any officers designated by him, except that the attendance of a witness may not be required outside of the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

(k) The remedies provided in this section for violations of this Act shall be exclusive.

SUPERVISION OF WAGE PAYMENTS

SEC. 6. (a) The Secretary of Labor is authorized to supervise the payments of any amounts owing to any employee which have been withheld in violation of this Act. Any sum owed an employee and paid to the Secretary under this Act shall be held in a separate account and shall be paid, on order of the Secretary, directly to the employee. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury as miscellaneous receipts.

(b) No wage restitution shall be required with respect to any violation of this Act for any period which preceded by more than two years the date of commencement by the Secretary of Labor of the first administrative or judicial proceeding relating thereto.

(c) No person shall be subject to any liability for the commission of any action prohibited by this Act if he pleads and proves that the action complained of was in good faith and in conformity with and in reliance on any written interpretation or opinion of the Secretary.

GOVERNMENT CONTRACTS

SEC. 7. (a) Except as hereinafter provided in this subsection, in any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all of the stock of which is beneficially owned by the United States (all of which are referred to hereinafter as agencies of the United States), for the manufacture or furnishing of any materials, supplies, articles, or equipment, in any amount exceeding \$10,000, there shall be included stipulations under which the contractor (1) is required to compensate all persons employed by him in the manufacture or furnishing of such materials, supplies, articles, or equipment, in conformity with the requirements of this Act, and (2) shall be subject to all other provisions of this Act. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including the provisions of this subsection in any specific contract.

(b) No contract shall be awarded by the United States or any agency thereof to any person finally determined to have violated any of the provisions of this Act or any stipulation entered into in compliance with subsection (a) of this section, or to any firm, corporation, partnership, or association in which such person has a controlling interest, until or unless the contractor has satisfied the Secretary of Labor that he is complying with his obligation hereunder and that he has in good faith established and will carry out wage policies and practices to assure future compliance. The Comptroller General is authorized and directed to distribute to all agencies of the United States a list containing the names of persons ineligible for contract awards under this section. The Secretary of Labor shall cause the names of persons whom he determines to have made a satisfactory showing of present and future compliance with this Act to be removed from this list.

POSTING

See: 8. Every employer subject to this Act shall keep a copy of this Act posted in a conspicuous place in or about the premises where any employee is employed. Employers shall be furnished copies of this Act by the United States Department of Labor on request without charge.

SEC. 8. Every employer subject to this Act shall keep posted in a conspicuous place in or about the premises where any employee is employed such excerpts from this Act and from the regulations issued pursuant thereto as will provide information adequate to inform employees of their rights under this Act.

EFFECT OF OTHER LAWS

SEC. 9. *No employer to whom section 4 applies shall be required to comply with any law of any State, or political subdivision thereof, prohibiting discrimination in rates of pay on account of sex. The Secretary is empowered by agreement with any agency of any State to cede to such agency jurisdiction over any cases where such State has a statute applicable to the determination of such cases the provisions of which are not inconsistent with the corresponding provisions of this Act or has received a construction not inconsistent therewith.*

APPROPRIATION

SEC. 9: 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 40: 11. This Act shall take effect one hundred and twenty days after the date of its enactment.

Mr. THOMPSON. The subcommittee will adjourn until tomorrow morning at 9:45 at which time our first witness will be Sonia Pressman representing the American Civil Liberties Union.

Miss Pressman, thank you for waiting until tomorrow. I am sorry it worked out this way.

(Whereupon, at 12:05 p.m., the subcommittee recessed, to reconvene at 9:45 a.m., Wednesday, March 27, 1963.)

AMERICAN MEDICAL ASSOCIATION

The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It is composed of members who are physicians, dentists, and other health care professionals. The Association's primary concern is the advancement of the medical profession and the improvement of the health of the people. It does this through a variety of activities, including the publication of journals, the holding of conferences, and the provision of educational programs. The Association also advocates for the interests of the medical profession in the legislative and executive branches of the federal government.

The Association's activities are carried out through its various departments and committees. These include the Department of Public Affairs, the Department of Education, the Department of Research, and the Department of Statistics. Each of these departments is responsible for a specific area of the Association's work.

The Association's work is supported by the contributions of its members. These contributions are used to fund the Association's various activities and to maintain its facilities. The Association also receives financial support from the federal government and other organizations.

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EQUAL PAY ACT

WEDNESDAY, MARCH 27, 1963

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10:05 a.m., pursuant to recess, in room 429, Cannon Office Building, Hon. Frank Thompson, Jr., presiding.

Present: Representatives Thompson (presiding), O'Hara, Sickles, Ashbrook, and Taft.

Also present: Representative Goodell.

Staff members present: Robert E. McCord, subcommittee director, and Richard Burruss, minority clerk and counsel.

Mr. THOMPSON. The first witness this morning will be Sonia Pressman and Lawrence Speisser, of the American Civil Liberties Union.

Good morning. Please proceed as you wish. Once again, our apologies for bringing you back here today.

STATEMENT OF SONIA PRESSMAN, ATTORNEY, ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION; ACCOMPANIED BY LAW- RENCE SPEISSER, AMERICAN CIVIL LIBERTIES UNION

Miss PRESSMAN. That is quite all right. It is a pleasure to be here twice.

I prefer to make a statement and then I shall be glad to answer any question.

My name is Sonia Pressman, an attorney, and I am here today on behalf of the American Civil Liberties Union in support of H.R. 3861, which would prohibit discrimination against women by providing that they receive for the same work as men, the same pay as men.

Our concept of civil liberties has broadened since the day when a Bill of Rights was passed to protect Americans from their Government.

In those days, the primary concern in setting forth specific rights of citizens was to insure that they were to be forever free of Government encroachment; today this concern has also been expanded to include an affirmative obligation on the part of the Government to protect these rights from encroachment by others. We think that the right of women to work on an equal basis with men is not among the least of these.

The administration's proposal is H.R. 3861, introduced in the House by Congresswoman Edith Green, of Oregon, a member of the President's Commission on the Status of Women.

In essence, H.R. 3861 provides that any employer of 25 or more employees who is engaged in commerce shall compensate all his em-

ployees equally for equal work on jobs requiring equal skills, and contains a 2-year period within which all wage rate differentials shall gradually be eliminated; the Secretary of Labor is given authority to prescribe regulations and conduct investigations in connection with his administration of the act; prior to taking any formal action, he is instructed to attempt to eliminate discriminatory practices by informal methods of conference conciliation, and persuasion; only when such methods fail, and a violation is found to exist, is he authorized, after notice and hearing in accordance with the Administrative Procedures Act, to issue a cease and desist order requiring restitution of wages with an additional amount as liquidated damages not to exceed the back pay; he may, moreover, order the reinstatement to employment and the restitution of wages for discharge or other discrimination taken against employees for their invocation of the protections of the act.

He may appeal to the Federal district court which has jurisdiction over the violation or the employer for appropriate temporary relief or a restraining order, and to secure enforcement of his orders. The employer may likewise appeal to the district court for review.

Special provisions are included for those contracting with the U.S. Government in amounts exceeding \$10,000.

This then is H.R. 3861—a bill which is novel neither in its purposes nor in its methods. The prohibition against discrimination for unjustifiable reasons has long been a part of this Nation's heritage.

The 14th amendment to our Constitution provides that no State shall deny to any person within its jurisdiction the equal protection of the laws. The Supreme Court, in interpreting that amendment, the Congress, in passing civil rights legislation, and the municipalities and States, in enacting fair employment practices measures, have all reaffirmed the principle that discrimination for reasons of race, religion, creed, or national origins is abhorrent to our concept of democracy.

H.R. 3861 is an attempt to give to women, who constitute the majority of our population, the same rights which have already been given to our various minority groups in this limited field.

In its passage of the Wagner Act, Congress again demonstrated its opposition to discrimination for irrelevant reasons, the discrimination in that instance being based on whether or not the individual involved chose to affiliate himself with a labor organization. Congress has thus seen fit to protect the individual who voluntarily chose to affiliate himself with an organization. Shouldn't it likewise protect the individual who without any volitional action on her part finds herself in an association—an association based on sex?

Not only do we have precedent for passage of a bill prohibiting discrimination; we even have precedent for passage of a bill providing for equal pay for women. This principle is already a part of the Federal Civil Service law and other similar laws relating to Federal employees.

Women, particularly in the professions, are drawn to Government because of its reputation for nondiscriminatory practices. We don't believe the United States has suffered for having them in its ranks. H.R. 3861 is, then, no more than an attempt to give to women in industry and commerce those rights already enjoyed by women employed by the Federal Government.

As stated above, there is nothing novel about the procedure established in H.R. 3861. Many of them can be traced to antecedents in other bills. The authority given to the Secretary of Labor to conduct investigations and initiate proceedings is similar to that granted to him by the Fair Labor Standards Act of 1938 for the regulation of wages, hours, and other conditions of employment and the Landrum-Griffin amendment.

Similar authority is granted to Fair Employment Practices Commissions under some of the FEPC bills. In those statutes, as in H.R. 3861, the purpose of such provisions is to guarantee that those employees for whose benefit the particular act was passed are actually protected by it.

Some of the FEPC legislation provides, in addition, for the investigation of complaints filed by individual employees. In this connection, it might be noted that H.R. 298, introduced by Congressman Bow; H.R. 409, introduced by Congressman Roosevelt; and H.R. 644, introduced by Congressman Multer, all provide that the machinery of the act may be set in motion, not only upon the Secretary's initiative, but also upon the filing of an affidavit on behalf of the aggrieved party or a charge.

It might be well for H.R. 3861 to be amended so as to include this alternative method.

The restitution of wages provided for by H.R. 3861 is familiar as a remedy for discrimination or unlawful wage patterns under the National Labor Relations Act. The Fair Labor Standards Act, like H.R. 3861, has provisions for the payment of liquidated damages in addition to back pay.

The provision that the Secretary first attempt to secure settlement is to be found in many of the FEPC bills. In addition, many of the State FEPC statutes provide that what takes place during the conference on conciliation shall be strictly confidential. Perhaps such a clause could be inserted into H.R. 3861 to give this additional protection to employers.

One could go on and on enumerating precedents for the procedures contained in H.R. 3861. The administrative proceeding conducted in conformance with the Administrative Procedure Act, the Secretary's right to appeal to the district court for temporary restraining orders and enforcement of his orders, the employer's right of review, the special provisions for Government contractors—all of these may be found in one or more of the other statutes discussed above.

In addition, the Fair Labor Standards Act and some of the FEPC bills carry criminal penalties with fines up to \$10,000 or imprisonment or both. Putting teeth such as these into H.R. 3861 might prove an effective measure in securing compliance with its terms.

We have, then, here nothing new or radical to propose. We simply ask that those methods which have been found meritorious to combat discrimination based on race, religion, creed, national origins, and union membership be applied to an area where discrimination is equally invidious—discrimination based on sex.

The marvel is not that a bill like H.R. 3861 is up for passage by this Congress but that its merits must still be debated long after so many other similar measures have become an accepted part of the American system.

This is all the more remarkable since H.R. 3861 is only a first step in equalizing employment opportunities for women in this country. It will, of course, assist the approximately 24 million working women to secure equitable compensation on the jobs they now have. But it will not assist them in being considered on an equal basis with men when opportunities for transfers or promotions arise.

Nor does this bill offer any relief to the millions of unemployed women of working age in this country today, many of whom remain unemployed because discriminatory employment practices based on sex are so widespread. And in this era of the cold war, we cannot afford to waste any of our human resources.

However, while we feel strongly that legislation which outlaws discriminatory hiring practices is just as vital as legislation which outlaws discriminatory wage policies, we support H.R. 3861 as a move in the right direction of equalizing women's rights. We think that what is significant about this bill is that it only provides equal pay for equal work.

There are, of course, some who contend that women never can perform work equivalent to that of men on the grounds that women are intellectually and emotionally inferior to men, and it costs more to employ women because they take more sick leave and are more prone to leave employment because of the demands of marriage and raising a family.

None of these contentions are significantly borne out by the facts.

With regard to sick leave, the latest Public Health Service study, which was conducted for fiscal 1958, showed that the average amount of time out for sickness and injury was 7.5 days a year for women, and 7.2 days a year for men.

With regard to tenure of employment, the result of a 5-year study of factory workers performed, we admit, by the Women's Bureau of the Department of Labor, demonstrated 24 quits per 1,000 women to 18 per 1,000 men. We don't think 6 quits per 1,000 justifies significantly different wage scales.

There is some support for the theory that women are intellectually, emotionally, and even physically superior to men—as reported by Prof. Ashley Montagu in his book, "The Natural Superiority of Women." However, we don't suggest in the light of this that legislation be passed requiring a higher wage scale for women than men.

Mr. THOMPSON. That will be the next one.

Miss PRESSMAN. We have to start somewhere.

All we ask is for equality of treatment, nothing more, nothing less.

Mr. THOMPSON. Now.

Miss PRESSMAN. Of course, no one would contend that women can perform all jobs, such as those requiring masculine brawn, as well as men, any more than men can perform all jobs as well as women. Even the American Civil Liberties Union is aware of the distinctions between the sexes and joins the French in saying "Vive la difference." But let's face it, gentlemen, that "difference" isn't really the significant factor in the performance of most jobs. Except for the oldest profession, it rarely comes into play until after regular working hours.

As with any socially desirable legislation, the argument will be made that Congress has no business passing laws to combat an evil

that lies in the minds and hearts of people—and that we must wait until education and greater insight and, perhaps, the Messiah, will change mankind.

We agree that statutes do not at the moment of their passage effectuate changes in the individuals whose conduct they attempt to regulate. But legislation does have a very definite effect on the climate of opinion, and this in turn does play upon the minds and hearts of the people.

Congress has a role to play in this area. If an employer pays some of his employees less money than others for equal work because they belong to a union, he knows that he does so in violation of the laws of the United States.

If an employer pays some of his employees less money for equal work because they are women, let him likewise know that he is in violation of the laws of the United States.

Samuel Johnson is reported to have said in the 18th century, "Nature has given woman so much power that the law cannot afford to give her more." I would ask you to consider whether, in this 20th century, it might not be more appropriate to say, "Nature has given woman so much power that the law cannot afford to give her less."

Mr. THOMPSON. Thank you. That might make a good preamble for the bill, "Whereas nature has given women so much power that the law cannot afford to give her less." That is a fine statement.

Mr. SICKLES, do you have any questions?

Mr. SICKLES. I have no questions, Mr. Chairman.

Mr. THOMPSON. I am glad that you included absenteeism and quit statistics. I have been getting a bit weary of pious assertions from employers of women to the effect that it costs so much more to hire a woman. They only tell half of the economic story, of course, and only by questioning in this department can we realize that actually there is—you use the word "discrimination" which is accurate I suppose, in the light of what I have heard I prefer to use the word "exploitation"—it costs so much more they say because women live longer and are harder to train.

When they tell you that pension plans call for more, they don't tell you that of course these plans are actuarially worked out and any differentials are picked up in the establishment of the rates.

If we accept the figures of one of the employers who was here, there is a differential in cost according to many of 30 cents per hour to hire a woman and yet he pays them 72 cents less than he does the men. So, he makes himself a 42-cent-per-hour net profit.

Now, somewhere along the line these people are going to have to realize that anyone can do tricks with statistics but that after hearing them, a great number of times I think it is obvious that those aren't very sound arguments.

There can be, I suppose, arguments made with respect to the difficulties of administering a law such as this. The statement that it might be difficult to do is probably true, but I think it is entirely possible this will not be by any means the most difficult law that Congress has passed.

Thank you very much for your statement.

Miss PRESSMAN. Thank you, Mr. Chairman.

Mr. THOMPSON. Our next witness this morning is Mr. William F. Schnitzler, secretary-treasurer of the AFL-CIO.

You are particularly welcome, Mr. Schnitzler. It is always nice to have New Jersey people come. We had a very able witness for the other side from New Jersey yesterday.

STATEMENT OF WILLIAM F. SCHNITZLER, SECRETARY-TREASURER, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AND THOMAS HARRIS, ASSOCIATE GENERAL COUNSEL, AFL-CIO

Mr. SCHNITZLER. Does that suggest that there may be some difference of opinion in New Jersey about this legislation?

Mr. THOMPSON. Occasionally. Please feel free to proceed as you wish.

I see you are accompanied by our former colleague and friend, Mr. Andrew J. Biemiller and by Mr. Tom Harris.

Mr. SCHNITZLER. Thank you, Mr. Chairman.

My name is William F. Schnitzler. I am secretary-treasurer of the American Federation of Labor and Congress of Industrial Organizations.

I am accompanied by Andrew J. Biemiller, director of the Department of Legislation, and Thomas Harris, associate general counsel of the AFL-CIO.

I notice you examined this team rather closely as we came up here. It may seem strange to the chairman that in talking about equal pay for equal or comparable work, particularly for the women in America, that there is no woman gracing this table with me this morning. But I want to quickly say that Miss Ann Draper of our research department would have been here with me this morning. So one of these two gentlemen is a substitute for her. She is presently in New York attending a United Nations Commission on the Status of Women and she thought it was important enough to continue that work. I say one of these two is the substitute. You can take your pick.

Mr. THOMPSON. I will take Mr. Biemiller for that. [Laughter.]

Mr. SCHNITZLER. I am happy to be here today in support of Federal equal pay legislation for women and to testify particularly on the administration's bill, H.R. 3861, introduced by Mrs. Green of Oregon, and H.R. 4269, introduced by the chairman of this subcommittee.

The AFL-CIO is a federation of national and international unions, with total membership of approximately 13½ million workers, of whom an estimated 2.6 million are women.

At the outset I should like to submit for the record a copy of a statement on equal pay for women issued by the AFL-CIO executive council on February 23, 1963, in the course of its recently concluded winter meeting.

Mr. THOMPSON. Without objection, that will be accepted and made a part of the record following your statement.

Mr. SCHNITZLER. The statement calls for speedy consideration and enactment of a comprehensive and effective Federal equal pay bill in this session of the Congress. Equal pay legislation has, of course, been

endorsed by every convention of the AFL-CIO, the most recent of which was in December 1961.

Our present concern is for prompt action, but we certainly do not want prompt action at the expense of effective action.

The record of hearings last year developed substantial evidence of the continuing existence of unequal pay practices for women in this country, and we will not attempt to recapitulate it here. We have had statistical documentation and graphic examples brought forward by trade unions, by women's organizations, by State government officials, and by the U.S. Government.

It has been demonstrated that the combined effects of collective bargaining, voluntary employer action, and State legislation have not been enough to eradicate this evil.

Distinguished citizens have testified as to the moral and economic injustice of unequal pay practices. One of the last public statements of the late Mrs. Eleanor Roosevelt, was testimony in behalf of Federal equal pay legislation.

In her testimony before a select subcommittee of the House Education and Labor Committee less than a year ago today, Mrs. Roosevelt stated:

It seems almost incredible that there should still be need for a Federal law to protect women workers from such a form of discrimination and exploitation as exists in the payment of an unequal rate for equal work. It is obvious, however, that such need exists.

The President's Commission on the Status of Women, of which Mrs. Roosevelt was chairman until her death and on which I have the honor to serve, last month formally endorsed Federal legislation to implement the principle of equal pay for comparable work.

The equal pay principle has widespread support, and in many areas of working life it has become a concrete reality. It remains now for the present Congress to build upon the real progress that has been made and to translate this widely accepted principle into equally widely accepted practice, by enacting a Federal law which concretely forbids discrimination in wage rates on the basis of sex.

We believe that the bill now offered by the administration as H.R. 3861 and H.R. 4269 is aimed in the right direction. We want to make a number of specific comments, however, to clarify our views and to indicate where we believe the bill should be strengthened.

1. COVERAGE OF EMPLOYERS

The coverage of this bill is limited in section 4(a) to employers "having employees engaged in commerce or in the production of goods for commerce." Commerce is defined in section 3(b) as meaning interstate trade, commerce, transportation, or communication.

Our careful study of the language, taking into account the history of the Fair Labor Standards Act and court interpretations with respect to its coverage, has led us to the conclusion that coverage in such industries as hotel, retail, service, construction, and local transit would be erratic and doubtful under the proposed Equal Pay Act.

Technicalities as to whether a place of employment directly received goods shipped in interstate commerce or received them only indirectly would be controlling, for example, as to whether a retail store or a service establishment would be covered under the act.

This type of coverage would be arbitrary and capricious at best, and at worst could result in large-scale exclusions.

We see no need or justification for taking chances with the coverage of this law and suggest that the language be amended so that all industries are brought clearly and unquestionably under the act.

This broad coverage can easily be attained simply by using the definition of employer found in the Labor-Management Reporting and Disclosure Act of 1959, that is, any employer "engaged in an industry affecting commerce."

If it is deemed necessary to exclude small employers, specific, uniform provision can be made to exclude them by a simple size-of-employer test. Such provision has evident advantages from the viewpoint of ease of administration and of avoiding litigation over coverage.

Conversely, the requirement that a particular place of employment must have employees engaged in commerce or in the production of goods for commerce presents administrative difficulties and arbitrary results. It will unquestionably produce a large volume of litigation.

We would, of course, regret any reduction in the prospective coverage of Federal equal pay legislation. In principle there is no reason why the number of employees involved should in itself constitute a special license to engage in discriminatory pay practices.

If a cutoff is necessary, however, we would suggest that coverage of the bill be limited to employers of 10 or more.

The present bill combines a dubious general coverage provision with a further limitation that restricts coverage to employers who have 25 or more employees "in any place of employment."

We take this to mean that if an employer has at least 25 employees in a single place of employment, all of his employees anywhere are covered. The phraseology, however, is ambiguous. It could mean that coverage is limited to those establishments in which there are at least 25 employees and that other employees of the same employer are not covered.

Again, it might conceivably mean that if an employer has a total of at least 25 employees, whether or not located in a single place of employment, all of his employees are covered.

We most emphatically oppose a size-of-establishment or place-of-business cutoff. If there must be a restriction it should be on the basis of overall size of employer.

Under a 25-worker size-of-establishment test, for example, large interstate chains in the retail and service industries, which are definitely in interstate commerce, might nonetheless escape coverage under this bill for all or most of their establishments. Very few trade and service outlets, regardless of the overall size of employer, have as many as 25 workers in them.

According to the 1958 Census of Business there were about 825,000 year-round retail establishments in the United States with more than one paid worker. Of these only about 50,000—or about 6 percent—could possibly be covered by this bill.

The Census of Business total for what it calls "selected services," was about 275,000 year-round establishments with more than one paid worker. Fewer than 20,000 are estimated to employ as many as 25 people.

A 25-worker cutoff, whether applied to a single employer or to a single place of business, would in either case exclude fairly large numbers of retail and service workers. However, the "place of employment" cutoff is unduly severe and goes much beyond any necessary or reasonable basis for an exclusion under interstate commerce coverage.

We therefore urge the subcommittee at the very least to apply the worker cutoff to the employer rather than to particular establishments or places of business of the employer and to reduce the number of workers required for coverage to 10 in lieu of the presently contemplated 25.

It should be pointed out that under a size-of-establishment cutoff, an anomalous situation might exist if the same employer has some of his units covered by the law while others are exempt.

This change in the bill would in no way affect the limitation on pay comparisons for particular jobs to jobs within a single place of business. No one has suggested nor does the bill provide that job comparisons be made between establishments either of the same employer or between establishments of different employers.

We emphasize this point because there may have been misunderstanding of the effect of making the general coverage of the bill applicable on an employer basis rather than on a place of business basis.

2. COVERAGE OF LABOR ORGANIZATIONS

We have no objection to the inclusion of labor organizations in the bill.

3. DETERMINATION OF EQUAL WORK

The present administration bills, H.R. 3861 and H.R. 4269, provide in section 4(a) that equal pay shall be accorded for "equal work" on jobs requiring "equal skills." The AFL-CIO believes the word "comparable" is preferable to "equal" in this context, and it is a more customary term in past Federal equal pay bills.

We take it, however, that Congress intends the term "equal" to be interpreted in a reasonably flexible manner. For example, it should not be construed to require that jobs must be literally identical in content. This would make it only too easy for employers to evade the intent of the law by making minor and inconsequential changes in the duties or requirements of particular jobs.

Furthermore, the concept of "equal" should be adaptable to practices within particular plants and places of business. Some employers, and some collective bargaining agreements, for example, provide very elaborate systems for classifying and grading jobs in relation to each other, while others do not.

The type of job comparisons that can appropriately be made and the methods of making them will vary in different situations. The concept of "equal" should be understood to be broad enough to meet the realities of a variety of practical circumstances.

4. METHOD OF EQUALIZING PAY RATES

Section 4(a) contains special provisions which are designed, on the one hand, to meet business objections that immediate application of

the bill's requirements to eliminate discriminatory pay differentials would have a damaging effect on many businesses, and on the other hand, to meet the objection of the labor movement to any language permitting wage reductions as a means of eliminating wage discrimination, as would have been possible under last year's House-passed bill, and as would appear to be possible under the interpretation of the present bill expressed by the Secretary of Labor in his testimony before this subcommittee on March 15.

The whole intent of the bill, of course, is to raise the wages of workers underpaid in relation to other workers of the opposite sex for comparable work, not to cut the wages of the higher paid workers.

The preamble to the bill notes that the existence of wage differentials based on sex "depresses wages and living standards for employees necessary for their health and efficiency."

Wage-cutting is certainly no means of relieving this condition. Equalization through wage-cutting would simply be a mockery of the purpose of equal pay legislation.

In this connection we must take exception to the testimony presented by Secretary of Labor Wirtz before this subcommittee a week ago last Friday as to the manner in which he, as administrator, would interpret the provisions of this bill.

In his answers to questions put by members of this subcommittee, he indicated his view that he considers the proposed Equal Pay Act to be primarily a wage equalization bill and not necessarily a wage-raising bill. He expressed himself as agreeable to "adjustments" under which wage rate reductions would be accepted as meeting the requirements of the act if a "mutually satisfactory arrangement" had been reached by the parties concerned.

However happy an outcome this might be from the viewpoint of an arbitrator in a sticky situation, we submit that it has no proper place in the interpretation of a statute and is not a proper rule of law. Employees have definite rights under laws and cannot be compelled to waive them under a "mutually satisfactory arrangement."

It is anyone's guess as to just how mutually satisfactory such arrangements are, particularly where the employees are not represented by a collective-bargaining agent.

The practical situation in which wage cutting is likely to be attempted is when the act first goes into effect and an employer finds himself suddenly faced with a large bill to right past wrongs. He then pleads hardship in absorbing the cost.

The language of the present bill most particularly takes account of this plea by its special proviso in section 4(a) for a step-by-step elimination of existing pay differentials over a period totaling 2 years and 4 months immediately following the date of enactment. The special proviso spells out the upward adjustment that must be made in the lower rates.

We are reluctant to endorse deferment of the full elimination of pay differentials but we are willing to accept it as a guarantee against wage cutting and as a means of enabling the employer to meet his obligations under this act without using methods that work hardship on his employees.

We interpret the specific proviso for gradual upward adjustment of rates to prohibit wage reductions, but in view of the remarks of the

Secretary of Labor we are very concerned as to what might become of it in actual application.

We note, for example, that the bill is silent as to what action an employer may take to eliminate discriminatory wage differentials if he decides not to use the three-step process permitted by the special proviso.

Under the present language of the bill it would appear technically possible for an employer, without using the proviso, to immediately raise the lower rate to the higher rate or to immediately cut the higher rate down to the lower rate or to both raise the lower rate and cut the higher rate.

Although section 5(a) directs the Secretary of Labor to issue regulations "to safeguard wage levels in the elimination of wage rate differentials under section 4(a)" the testimony of the Secretary appears to make it necessary to add specific clarifying language prohibiting wage equalization by means of wage cuts.

We therefore urge that the bill either include a specific provision forbidding any reduction in wage rates as a means of complying with the requirements of the act or that the language otherwise be amended so as to leave no loophole through which wage reductions can be put into effect under the act.

5. ENFORCEMENT

We are pleased that this bill provides effective means of enforcement through the Department of Labor, with provision for administrative hearings and administrative orders to halt discriminatory pay practices where they are found to exist.

We cannot overemphasize the importance of this feature of the bill. Without a specific enforcing agency, legal rights accorded to individuals by labor legislation are usually rendered nonexistent for all practical purposes.

For such specialized areas as pay rate inequalities, an administrative procedure is best adapted to a speedy resolution of the matters at issue. The courts come into the picture only as a last resort, either to enforce the Secretary's orders or to review appeals from the Secretary's orders.

Of course, we hope that satisfactory settlements will usually be made without involvement in the complexities and delays of formal court proceedings. To minimize long delays and lengthy stretchouts of cases that do go to court, we urge that enforcement of the Secretary's orders or appeals from them to be taken directly to the circuit courts of appeals rather than to the district courts.

We take specific note and objection, however, to the qualification accepted by the Secretary of Labor and the Assistant Secretary of Labor at the hearing on March 15 on restoring a provision of last year's House-passed bill to the effect that no order of the court may issue if wage discrimination was based on some factor other than sex.

The bill itself is directed solely to wage discrimination on the basis of sex, and therefore no specific additional language is necessary to cover differentials based on other factors.

If such additional language is included, it may invite abuse by employers seeking technicalities through which to avoid complying with the act. It almost suggests that the employer find some other

way in which to discriminate which will not appear to be sex discrimination.

A release of the Women's Bureau issued back in 1946 entitled "What You Don't Want in an Equal Pay Bill" includes a list of "Things To Avoid in 'Equal Pay' Bills." It points out that "it is not necessary to list grounds on which wage differentials are permitted because the bill applies only to differentials based on sex." The release advises among other things against inclusion of catchall phrases such as "any other reasonable differentiation," and goes on to say:

While this does not suggest specific "ways out," as does a list, it is an all-inclusive invitation to the ingenuity of unscrupulous employers to find ways of evading their obligations under the law.

Conceivably, even differences based on physical characteristics or on size of family could be made under this proviso. At the very least, it creates confusion as to what the law really does require.

In addition, we wish to note that sections 5(c) and 5(d) as now written raise certain technical points:

(1) Who is the "person" referred to in the third and eighth lines of section 5(c)? The only person named in the section is the Secretary of Labor, but he is obviously not the "person" to whom the bill intends to refer.

(2) We urge that the bill specify that orders of the Secretary of Labor will be stayed only when certain conditions are met; such as, filing of a bond or providing other reasonable assurance that any unpaid back wages and liquidated damages found due will be paid.

Sections 5(a)(4) and 5(a)(5) provide that where the Secretary of Labor finds that employees have not been paid in compliance with the act he may issue an order awarding back pay, "plus up to an additional amount as liquidated damages not to exceed the back wages found to be due."

I stress the words "up to." We believe that the liquidated damages awarded should in every case be made "equal to" the back wages due.

A provision along the lines of section 16 of the Fair Labor Standards Act, which as long ago as 1938 under the New Deal fixed the amount of liquidated damages under that act as an amount "equal to" any unpaid wages found to be due, should be substituted for the present inadequate provision of the bill.

The present wording seems excessively flabby, especially since the bill establishes no criteria for determining the amount of liquidated damages in particular cases.

6. GOVERNMENT CONTRACTS

Since the legislation is designed to express basic national labor policy, we see no need or justification for the provision in section 7(a) that authorizes the Secretary of Labor to exempt a contracting agency from the requirement of including substantive provisions of the bill in any "specific contract."

Mr. Chairman, this concludes our specific comments on this bill. We wholly endorse the purposes of the bill and we hope that it can be made into a fully effective instrument for eliminating pay discrimination on account of sex.

In closing, let me quote one paragraph from the AFL-CIO Executive Council resolution on equal pay to which I referred at the beginning of my statement :

We especially urge the Congress to reject all efforts, either open or concealed, to undercut the substance of the hope held out to workingwomen through enactment of anything less than a comprehensive, enforceable, effective bill. A pious statement of principles, shot through with exceptions of application, and obstructions to enforcement, will not be acceptable, nor will any shabby attempts to equalize women's wages by reducing those for men be acceptable.

The main difficulties that can be anticipated in securing enactment of adequate Federal equal pay legislation will not come, we are sure, from outright opposition to its principles. Its principles command very wide support. The task will be to see that the detailed specifications for putting the principles into practice are kept intact.

(The statement of the AFL-CIO Executive Council on Equal Pay for Women, referred to previously, follows:)

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL, BAL HARBOUR, FLA.,
FEBRUARY 23, 1963

We urge the present session of the Congress to consider and to enact promptly comprehensive Federal legislation to forbid discrimination in pay rates on account of sex.

We believe there is no excuse for further delay. It is for this reason that we are making a special statement on the issue at this time.

We reaffirm the traditional demands of the labor movement that unequal pay practices for women be brought to an end. Economic injustice to working women has already too long a history and has waited too long to be corrected.

Fair wage standards for women are essential to the maintenance of fair wage standards for all workers. For women, the rate for the job is a simple matter of justice. For men, protection of women's rates is a protection for men's rates as well. Employers should not be allowed to underpay women in relation to men and thereby undermine wage standards for both sexes.

Nothing could be more shortsighted as a matter of public policy than to tolerate the continued existence of discriminatory pay practices based on sex. There is no one who benefits from these divisive tactics except employers attempting to gain unfair advantage, at the expense of their workers, over their more enlightened business competitors.

We especially urge the Congress to reject all efforts, either open or concealed, to undercut the substance of the hope held out to working women through enactment of anything less than a comprehensive, enforceable, effective bill. A pious statement of principles, shot through with exceptions of application, and obstructions to enforcement, will not be acceptable, nor will any shabby attempts to equalize women's wages by reducing those for men be acceptable.

Equal pay legislation is only one part of what should be the beginning of a modern broad scale attack on employment discriminations against women and other limitations on their opportunities to share fully in the benefits of our democracy. Enactment of this legislation will be a significant step forward. It will give concrete evidence of this Nation's good faith in attempting to insure justice for all its citizens.

Mr. THOMPSON. Thank you, Mr. Schnitzler. As usual, this is a very well prepared and thoughtful statement. I assure you that we will look carefully at your specific suggestions.

There is one that I would like to discuss for a moment with you. On page 9 you say: "To minimize long delays and stretchouts," you urge that appeals go to the circuit courts. We have had a great deal of discussion of this particular type of thing in other legislation in this committee. As a result of that discussion I find myself in disagreement with this suggestion of yours.

The district courts are those which are closest to the workers. There are infinitely more of them than there are circuit courts.

In the West, for instance, if a dispute were to arise in Montana you would have to go to San Francisco to the circuit court. The distances, the delays, the possibility of any extensive litigation would lead me to think that the action through the district court, even though, of course, there is the appeal to the circuit court, would be the more expeditious course.

Furthermore, the district court judge is much more used to and much better equipped to take testimony whereas in the circuit court the matters are handled in briefs.

So I do not agree with that. I suppose you urge it but would not insist upon it; is that right?

MR. SCHNITZLER. Mr. Chairman, I think as you look at our statement it kind of points out, if not in the direct language, in the use of language, our anxiety to get these grievances adjusted as quickly as possible. It may be that to some extent we were looking at some cases in which workers are represented by unions and the problem that you point out would not be a distinct handicap.

But listening to what you had to say I got to thinking of some workers who may be in an unorganized establishment that do not have a union to represent them and this could get to be a hardship if they could not get to the nearest court in the quickest possible time.

However, our associate counsel, I know, would like to say a word on this and add to it but I want you to feel that as we went into this we realized that once you have got an established grievance you had better start doing something about it because in an unorganized establishment you can get rid of the worker but you are not rid of the grievance.

MR. HARRIS. Mr. Chairman, the bill at present does not authorize the individual worker to go into court, anyway. If the change as suggested by the American Civil Liberties Union were made it would. But as the bill stands, only the Secretary or the employer may go into court. So we are not faced with the problem of the worker in Montana who must file his petition in the Court of Appeals for the 9th Circuit. Even if we were, that court does not sit simply in San Francisco. It sits as far north as Seattle, for example. The extra step of going to a district court instead of directly to a court of appeals would mean an average delay of a year if the employer wanted to produce the delay because each tier of judicial review averages out to about a year's time.

Another reason why we have thought it would be better to go directly to the court of appeals is to secure some uniformity of interpretation. The standard of equal pay for equal work is quite general. It is to be hoped that the Secretary's determinations will be given substantial weight but in order to secure any body of law of a uniform character, a certain amount of judicial review will be necessary over a period of years.

If the review starts in approximately 100 district courts it will take much longer to secure a uniform body of accepted principle than if it can simply start at the court of appeals level where there are 11 different courts with review in the Supreme Court by certiorari.

There has been some experience with this sort of thing both in the Fair Labor Standards Act and the Labor Relations Act. I believe

the National Labor Relations practice of direct review by court of appeals has proven more satisfactory.

Finally as regards the question of facility for a trial, there is not under this bill any trial *de novo* in court. The court hears the case simply on the record made before the Secretary of Labor and the findings of the Secretary if supported by the evidence as a whole are conclusive.

Mr. THOMPSON. Of course I have in mind the possibility of offering an amendment giving the individual the right to go to court. I think in view of all the circumstances that this might be desirable. There are actually a relatively small percentage of women who work in organized labor. Those who have not been fortunate enough to be organized, I think need additional protection.

I have one more question: Assuming that this law were to be passed, signed, and go into effect hypothetically on January 1, 1964, there would be a great number of workers working under collective bargaining agreements. Do you think that this should include a proviso delaying the effect of it on workers where they do have a collective bargaining agreement? Otherwise I can envision great chaos if on the effective date a great many people working under collective bargaining agreements have those agreements, in effect, nullified by Federal law.

What are your thoughts on that?

Mr. SCHNITZLER. We say "No." There are not a great many people, as you say. There are some but not a great many working under collective bargaining agreements. The abuse in this area is mostly confined to those who are not protected by a collective bargaining agreement.

Mr. THOMPSON. I agree with that, but there has been testimony of rather large wage differentials among workers presently covered by the collective bargaining agreements, particularly with Westinghouse and General Electric, according to Mr. Carey.

Mr. SCHNITZLER. It would be no different from increasing the minimum wage.

Mr. THOMPSON. In other words, you do not anticipate that that would be a difficulty?

Mr. SCHNITZLER. No. It would be a help, Mr. Chairman, it would be a help to eliminate that which we have not been able to eliminate in the past for whatever the reason may be.

Mr. THOMPSON. Obviously our purpose, at least mine and—I am sure it is the purpose of most of us here—is the same as yours—to have passed legislation which will effectively and fairly eliminate the problem which we are trying to get at.

I am not interested, as some people seem to be, in just the principle. Otherwise we could pass a resolution by unanimous consent saying it is the position of the Federal Government that there shall be no discrimination against women. That would be just peachy, but it would not do the women much good. We do want something that is going to be workable and especially is going to be effective.

Now if you will excuse me, Mr. Schnitzler, I am going to turn the chair over to Mr. O'Hara, of Michigan. I have another committee meeting to attend briefly.

Mr. O'HARA (presiding). Mr. Ashbrook?

Mr. ASHBROOK. Thank you, Mr. Chairman.

On that last point, Mr. Schnitzler, would it be your judgment or the judgment of your council that the passage of this law would automatically reopen contracts, whether they are large or small—we assume they are small—where contracts do provide for discriminatory wage rates?

Mr. SCHNITZLER. You would have to look at each individual contract. I don't know what each one contains. I don't see where there would be any great difficulty because you have a group represented by an organization, and with the passage of this law it brings it to immediate discussion for adjustment of the contract because the contract itself is a living document. Too often too many men look at a contract for a fixed term as something that is concrete and lose sight of the fact that there are human beings involved and there are constant changes going on in which parties can get together and make adjustments based on the circumstances as they find them.

Mr. ASHBROOK. What I was thinking more particularly was the recent pronouncement of the NLRB, and I guess all our people at the national level, for stability in contracts. I think they recently came forward with a document for a two or three bar so far as contracts are concerned. Everything seems to point in the direction of wanting stability.

Mr. SCHNITZLER. We were way ahead of the NLRB and everybody else on that score. Where a satisfactory agreement was reached between the union and employer we had been extending the life of the contract. The NLRB is now only picking up what the unions had been doing. Where they had a 2-year contract bar, as they examined the great majority of contracts that were written between employer and unions and finding that they went way beyond 2 years, they now moved to a 3-year contract bar before there can be a petition filed for certification.

Mr. HARRIS. If this bill were passed it would automatically invalidate any provision in collective bargaining agreement which provide for discriminatory wages.

Similarly, whenever the minimum wage in the Fair Labor Standards Act is increased it automatically invalidates any provision in the collective bargaining agreement providing for a wage below that required by Federal law.

When your minimum wage goes to a dollar and a quarter that automatically invalidates any provision in the collective bargaining agreement which provides for a lower wage.

I don't see that any different or additional problem would be created by a law of this sort.

Mr. ASHBROOK. I have one other question.

Mr. Schnitzler, you mentioned the restoration of some provisions of last year's bill. I would like your opinion on one provision of last year's bill, in section 4 which, as I recall, prohibited labor unions from disciplining or discriminating against members who filed charges. Would it be the position of your organization that they would be favorable or unfavorable to that? Or do you believe it is necessary?

Mr. SCHNITZLER. I think I said here that we were ready to include labor unions.

Mr. ASHBROOK. You made a one-sentence statement.

Mr. SCHNITZLER. I still don't know what you are getting at. That I couldn't figure out. You may have had some little isolated case somewhere that you particularly knew of.

Mr. ASHBROOK. I did not put the provision in. As I recall, your statement only mentioned in the definition of the employer that you would certainly be amenable to having included unions under the definition of "employer."

Mr. SCHNITZLER. I can't for the life of me understand or believe that there is any place in America where an officer of a union would discriminate against a member. They spend their lifetime fighting against discrimination by employers.

Mr. ASHBROOK. As I recall, in the State of Ohio in the Bendix plant they discriminated more or less against members who were trying to earn a little bit more under the incentive program.

Mr. SCHNITZLER. You are injecting something entirely different. There has been substantial difference of opinion about these incentive plans. You certainly must have heard about the old Bidaux system. We fought that for many, many years. It certainly is not impossible to conceive that maybe one or two workers out of a thousand may think this is good but we are governed by majority rule in our organizations.

Once the organization sets a policy you would expect its membership to follow policy.

Mr. ASHBROOK. You do not feel the provision is necessary but you do not at the same time have any great objection to it if there is demonstrated need.

Mr. O'HARA. Could you yield to me for a point of clarification? As I understand the provisions of the bill, labor organizations are included within the definition of the term "employer."

Mr. SCHNITZLER. That is right.

Mr. O'HARA. Section 4(b) at the bottom of page 5—

prohibits any employer from causing to be discharged, disciplined or otherwise discriminate against any employee on account of action taken—

and so forth.

And then the last sentence of that subsection :

No labor organization or its agents shall cause or attempt to cause such an employer to discriminate against an individual in violation of this Act.

Now I think that pretty well covers the role of the labor organization but I am sure that, if it seemed that there was some loophole, you would have no objection to amending the bill in such a way as to make sure that there could be no discrimination on the part of the employer, the labor organization or anyone else against people asserting rights under this act.

Mr. SCHNITZLER. You are absolutely right. There is no objection to this. They are looking at something that may not even exist, it may be hypothetical. Let me tell you this, Mr. Chairman: We are not here talking about discrimination of labor union officials against members of the union.

We are talking about this age-old problem of employers discriminating against women workers. We don't want to turn the emphasis on the consideration of this entire bill to one little insignificant part and forget the big thing that we are all working toward.

The chairman, before he left, talked about passing resolutions in principle. Unfortunately, it would mean bureau has not had enough

money to make a survey of all of the organizations in America over the last 30 or 40 years that passed resolutions in their conventions or congresses or meetings or whatever they are called in which they all unanimously adopt a resolution in principle.

Nobody has ever done anything, however, to eliminate the practice. That is the thing we are talking about, the practice.

Mr. HARRIS. I don't think there could be any objection to a provision such as Representative Ashbrook describes. There is already a similar provision in section 101(a) (4) of the Landrum-Griffin Act which provides that a union may not discipline a member for resorting to court or to any administrative agency.

There is a provision in section 8(a) (4) of the Taft-Hartley Act that an employer may not discriminate against an employee for instituting proceedings under that act. I can't see any objection here.

I would agree with Mr. Schnitzler that it is not necessary. For one thing the Landrum-Griffin provision would apply anyway. But I don't see any objection to it.

Mr. O'HARA. If Mr. Ashbrook cares to draft such an amendment and it is drafted in legally acceptable terms, I would certainly support his amendment when we get to that point.

Mr. ASHBROOK. There is no pride of authorship. I just noted that was one of the areas where it wasn't in this bill.

Mr. O'HARA. Mr. Sickles?

Mr. SICKLES. Mr. Schnitzler, or your counsel, because this may have some legal implications, I am told that there are 22 States which have some type of equal legislation.

Mr. SCHNITZLER. Very ineffective.

Mr. SICKLES. That is perhaps the answer to my question. I do not have any direct information about any of them. We have tried to get this kind of legislation in Maryland for many years and could only get it half way through, get it through the House of Delegates. But you do raise some objections to the bill under discussion and note some areas where you think there might be some clarification.

My concern is that I am assuming that if this bill passes under the doctrine of Federal preemption, existing the State laws on the subject would no longer be effective.

Is that a correct assumption?

Mr. HARRIS. I would not think that it would preempt the field. There is no specific provision in it one way or the other. But I don't believe that the Fair Labor Standards Act has ever been held to use the State jurisdiction. If a State, such as the State of New York, wants to put in a higher than the Federal, I think it is free to do so.

Mr. SICKLES. Maybe there is no reason for concern. My concern was that if it did preempt the field and if this bill were weaker in some respect than a particular State law, if that is the case and I do not know what the State laws provide, that we might end up lessening the remedies or lessening what is a good situation in a particular State. But if there is no preemption resulting from the passage of this bill, then we just do not have that problem.

I would appreciate your putting your thinking cap on and following through on this so that we do not end up with a preemption matter when we think we are not.

I have one other questions: On page 4, Mr. Schnitzler, you set out some figures in which you cite that as a result of using a 25-worker

cutoff coverage there is dramatic reduction in the number of establishments, it goes from 825,000 to 50,000 in one category, and 275,000 to 20,000 in another category, ending up with only 70,000 out of about a million.

Would you have the figures or could you develop the figures as to how many of those establishments would be covered if we used the cutoff of 10 because the comparison is 1 to 25 and I am wondering what the effectiveness of the law would be.

Mr. SCHNITZLER. We can get that for you. Let me make this point clear: The cutoff should be two. Understand where you have a little "Mom" or "Pop" establishment there is only one person employed there certainly can't be any discrimination on the basis of sex.

The minute you go to two employees, one is male and one is female, then we get right to the heart of our problem. Now where the suggestion here in the bill is 25 we got down to 10, reluctantly I went along with 10. Because all this legislation is based on a principle, on a grievance we have been talking about.

I don't see how you can legalize discrimination based on sex when it starts going over 2 up to 10, certainly not up to 25, because either it is there or it is not there. If we are going to tackle this problem of discrimination we had better get right to the very core of it. You can't do it by States because each State will be setting up different standards.

It can only be done by Federal legislation. This can't be brought into consideration that it is so clear as between 8 hours a day and 9 hours a day, it is not quite that way. It gets right down to an actual discrimination because of sex.

Mr. SICKLES. I agree with your basic premise that we are talking about a matter of principle and any of these cutoffs at 2, 5, or 10 are artificial at best. I just wanted the figures as to the effect of the number of people covered by the bill.

Mr. SCHNITZLER. Those figures will be made available, Mr. Congressman.

Mr. SICKLES. Thank you very much.

Mr. O'HARA. Mr. Schnitzler, we have had objections voiced by representatives of State chambers of commerce and the U.S. Chamber of Commerce with respect to a number of provisions of the bill.

I would like to mention just one of these objections at this time. A fear has been expressed by these witnesses that we would get into the problem, if this bill were passed, of comparing the skills required to be a clerk-typist or a stenographer in a business office with the skills required for a male operator of a drill press or some other job which is not really comparable; and that the Secretary of Labor in the enforcement of the act would be put in a position of having to equate these entirely different kinds of jobs in terms of their skill content.

The AFL-CIO has been one of the leading advocates of this legislation and I would like to ask if you understand that the bill before us requires such evaluations?

Mr. SCHNITZLER. Well, Mr. Chairman, if you did not tell me about the organizations who have come here with some opposition I would not even feel at home here this morning. I expected that. There is nothing in this bill to start comparing I think what we might call classifications of work. That isn't so. It is workers doing the same job, comparable job.

Let me say that in 1963 too many of us have lost sight of this problem and, as to how this problem got started. Now there is quite generally, throughout the national community, certain types of work that you call woman's work. There is no doubt but what there is some dissatisfaction on the part of the women with the earnings they get from this type of work.

This is something the women are going to be struggling with for years. An easy way out is for all of them to join a union and they have somebody to do the job for them. However, we are talking about discrimination on the basis of sex. I don't think this was too much of a problem prior to maybe 1910 or 1915. As I noticed the introduction of the women into the industrial complexes, more so during the first war when there was a shortage of men, we brought women into the factory and started putting them on work which was normally done by men when the men were not available; they were in the Armed Forces.

Too many of us have forgotten, too many of us who are talking today about the great things for the women, weren't around these years, and I remember the horrible experiences where women were put to work around machinery with long belts, gears, and cogs turning, and the long hair they had at that time got caught and sometimes ripped their whole scalp. I have seen all this. I testified on this. I fought for safety standards.

Those who talk about equal pay for equal work today were on the opposite side of the fence when we fought for safety standards to at least protect them when we were in an emergency sort of situation during the period when our country was involved in war. Then we went into aprons; I don't know whether the Hoover apron came out before Hoover was President or after. That was not satisfactory because that, too, got caught in a lot of these machines that weren't properly guarded.

We led the fight, small as we were at that time, very few women union members in those days. Nevertheless, we saw this and went about correcting it as best as we could. That, to a great extent, is where you started this unequal pay thing because the employers, right after the war, found that they could get women to do the work cheaper than men could do it and, in an unorganized establishment, they became introduced to this.

I am not talking about whether a woman should work or not. It is for her to make that decision. But the AFL-CIO says when she does go to work and she does work comparable with a wage classification that is established for a certain job, she should get that wage.

Mr. O'HARA. Mr. Schnitzler, I wish to thank you for taking the time to appear and give your testimony this morning. I think it has been very helpful. I want to assure you that we will carefully consider the point you have raised before proceeding in executive session with this bill.

I express the thanks of this committee to you and your colleagues for coming before us this morning.

Mr. SCHNITZLER. Thank you.

(The following letter and table were received for the record:)

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., April 4, 1963.

Hon. FRANK THOMPSON,

Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Supplementing our testimony of March 27, 1963, we are happy to furnish additional information on potential coverage of the proposed Equal Pay Act if applied to establishments of 10 or more employees instead of 25 or more employees.

According to the 1958 Census of Business, approximately 157,000 year-round retail trade establishments employed at least 10 workers. This would represent nearly 20 percent of the 824,000 establishments with more than one paid worker. The potential coverage of retail trade establishments would thus be about three times as great under a 10-worker cutoff as under a 25-worker cutoff.

Similarly, the total of year-round establishments engaged in "selected services" would come to over 52,000 on a 10-worker basis as compared to about 19,000 on a 25-worker basis. The percentage potentially covered under the act would be close to 20 percent instead of about 7 percent.

Our proposal, of course, is to apply the 10-worker cutoff to single employers rather than to single establishments, so that the potential coverage would be larger than indicated by the figures cited above. We are unable to estimate, however, just how large the difference might be, since the figures in the Census of Business are on an establishment basis only.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

Year-round establishments in retail trade and selected services, 1958

Retail trade	Number		Percent	
	Establish- ments	Workers	Establish- ments	Workers
Total with more than one worker.....	824,300	7,133,000	100	100
With 10 or more workers.....	156,600	4,528,000	19	63
With 25 or more workers ¹	53,500	2,609,000	6	37
Services:				
Total with more than one worker.....	273,400	2,576,000	100	100
With 10 or more workers.....	52,200	1,758,000	19	68
With 25 or more workers ¹	19,300	1,281,000	7	50

¹ Estimated by AFL-CIO, on basis of establishments with 20 or more workers.

Source: U.S. Census of Business, 1958.

Mr. O'HARA. The next witness will be Mr. Ezra Hester, director of industrial relations of research of Corning Glass Works.

Mr. Hester, I understand that Corning is geographically located within the congressional district represented by our good friend and very able colleague, Mr. Goodell. So I thought it might be appropriate if before we let you do any talking, we let the man who talks for you customarily down here to say a few words.

Mr. HESTER. Very good, sir.

Mr. GOODELL. Thank you, Mr. Chairman.

I won't take the time of the subcommittee except to say I am very proud of the Corning Glass Works, proud that their main offices are located in my district. I think you will find the testimony of Mr. Hester very constructive and very helpful to the objective we have in mind on this subcommittee.

We are pleased to have you with us and Mr. Bell Knapp both.

Mr. HESTER. Thank you.

Mr. O'HARA. Mr. Hester, you may proceed with your statement in whatever manner you wish.

STATEMENT OF EZRA G. HESTER, DIRECTOR OF INDUSTRIAL RELATIONS RESEARCH, CORNING GLASS WORKS, CORNING, N.Y.; ACCOMPANIED BY WILLIAM BELL KNAPP, DIRECTOR OF GOVERNMENT SERVICE, CORNING GLASS WORKS

Mr. HESTER. Thank you, Mr. Chairman. In the interest of saving the committee's time I can condense my presentation somewhat as it is presented in the testimony here.

However, I would like to place the testimony in the record as it is written.

Mr. O'HARA. Without objection, your testimony will be included in the record at this point.

(The statement referred to follows:)

TESTIMONY OF E. G. HESTER FOR THE CORNING GLASS WORKS

My name is Ezra G. Hester. I am employed by Corning Glass Works as director of industrial relations research and am here to testify for my company on the equal pay bill now before this committee.

Corning Glass Work's headquarters is located in Corning, N.Y. The company manufactures 35,000 different products for science, defense, industry, and the home in the field of specialized glass and related products. We employ approximately 16,000 people, about 11,000 of whom man the factories, of which about one-third are women. We use about 1,500 different job classifications due to the great variety of products and processes. Our domestic facilities are located in 21 communities in 11 different States.

As for myself, I have been continuously associated with problems of wages and salaries since 1936. During the last 16 years I have worked for Corning Glass Works where I have been chief industrial engineer until my recent appointment as director of industrial relations research.

At this point, I would like to make it clear that I am here to testify in behalf of a good equal pay bill. My company endorses the principle and has conscientiously attempted to practice equity in respect to this issue. We are, however, concerned about the criteria in the proposed bill, H.R. 3861, in section (4) a which states, if I may paraphrase:

"No employer * * * shall discriminate * * * between employees on the basis of sex by paying wages at a rate less than the rate at which he pays * * * the opposite sex * * * for *equal work* on jobs the performance of which requires *equal skills* except where such payment is made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex."

On the surface this statement appears to be one about which there could be little question; however, I believe that it could give a great deal of difficulty to that large part of American industry and business which has relied upon the systematic methods of job evaluation for establishment of equitable rate relationships. Such job evaluation plans depend for their reliability upon other factors than skill, alone.

Job evaluation, or classification as it is sometimes called, has been in use for a great many years. The first plan was put in effect in 1908. Its use was greatly accelerated during World War II by Executive Order No. 9250 of October 3, 1942, on stabilization of wages and salaries. This order was supplemented by War Labor Board directives which supported continuation of existing evaluation plans as the basis for wage determination, and War Labor Board and Treasury Department approval of new job evaluation plans. Many companies undertook such programs at that time; among these was Corning Glass Works which retained the services of a well-known, reputable consulting firm to install a job evaluation plan throughout the company. The War Labor Board required recognition of other concepts than just skill, seniority, and merit rating.

Again in 1952, action taken in connection with economic stabilization resulted in the Wage Stabilization Board approving the adoption of new job evaluation plans that met its requirements. Additional companies installed plans at that time.

It is important to recognize that these two Government actions accelerated adoption of job evaluation as the basic tool for wage administration. It existed

prior and has continued to exist as a practice because it is truly the best known way to achieve equity of pay, and is accepted by both unions and management as being fairest to all concerned.

The use of job evaluation is prevalent in industry. The plan developed by the National Metal Trade Association is in general use throughout its membership. A similar plan developed by National Electrical Manufacturers Association is also in broad use in that industry. A common plan is in almost universal use in the steel industry. Many companies have developed their own plans or retained consultants to do so.

I would like to refer you to the most recent text to come to my attention. This text, "Wage and Salary Administration" written by Dr. David W. Belcher, professor of management at San Diego State College, cites statistics related to the prevalence of job evaluation in industry on page 181. The most recent survey appears to have been made by George Fry & Associates in 1960; they "found that 65 percent of the employees of over 500 responding companies were covered by job evaluation programs." "A Bureau of National Affairs survey in 1955 found formal job evaluation plans in six out of every seven firms." Other and similar statistics are set forth in this reference.

With this general acceptance of job evaluation throughout industry on the part of both management and labor, we feel it most desirable that legislation related to the equal pay principle incorporate in its language, recognition of job evaluation (or job classification) principles that have been developed, accepted, and are in general use.

Now, let me discuss briefly the philosophy of wage relationships and some specifics concerning job evaluation.

Acceptance of wage relationships as to whether they are "right" or "wrong" is dependent upon whether the people affected think them to be right or wrong. This is to a large extent tempered by the customs and mores of the specific industry and company. For instance, in the glass industry the head of a hand blowing shop is considered the kingpin job and this has been true for hundreds of years. Therefore, any rate structure in our company must reflect this, to be felt correct by our employees.

No single evaluation plan for all industry can accomplish this because each industry has its own peculiarities and customs. For this reason, we must say that an evaluation plan is a reasonable, systematic empirical formula that reproduces, for new and changed jobs, the pattern of job relationships to which the employees in the given industry subscribe. Job evaluation, then, is not a precise science governed by natural laws; rather, it is a systematic approach to establish relative job worth.

As an example our own history demonstrates this. The plan originally installed in our company was one that had been designed for use in a variety of industries. Its evolution in our company has been largely a process of accommodation to the particular customs and traditions of our company as well as the changing job content and surrounding conditions of work.

What criteria does job evaluation employ in addition to skill as proposed in this legislation?

Job evaluation is customarily made up of four major factors, of which skill is one. The four factors embrace those aspects of job worth that are always considered by people, the employees, and the union as being important. These are: Effort, skill, responsibility, and working conditions.

Each of these are in turn comprised of subfactors because the four major factors are in themselves too broad to use objectively. Determination of the total relative value of a job results from the aggregate points from all the subfactors. The appropriate rate range of pay for the job is selected from a wage schedule using the total points. Individual rate of pay will lie within the rate range according to the individual's seniority and performance.

In chart I attached to my statement you will find the list of factors used in our plan, classified by the major factor of which they are a part.

The language of the proposed bill places emphasis upon equity of pay regardless of sex of the employee. Job evaluation plans have been developed and adopted as the means for attaining equity of pay as between jobs and, as such, are subscribed to by management, unions, and employees, both men and women. A sound evaluation plan determines job worth on the basis of the factors in the plan and not on any characteristics of the jobholders. This will be observed from chart II, attached, which is a standard form used in our company to

gather data upon which the evaluated points are based. Other companies use similar job analysis sheets.

To summarize:

Job evaluation is an accepted and tested method of attaining equity in wage relationship.

A great part of industry is committed to job evaluation by past practice and by contractual agreement as the basis for wage administration.

"Skill" alone, as a criterion, fails to recognize other aspects of the job situation that affect job worth.

We sincerely hope that this committee, in passing legislation to eliminate wage differences based on sex alone, will recognize in its language the general role of job evaluation in establishing equitable rate relationship.

CHART I.—*Corning Glass Works job evaluation plan—Factors, degrees, and points*

Major factor and subfactor	Number of degrees	Span of evaluated points
Effort:		
Manual effort.....	6	60-160
Visual effort.....	3	45-110
Skill:		
Manual accuracy.....	5	125-310
Manual complexity.....	6	105-250
Job knowledge.....	9	115-325
Responsibility:		
For problem solving.....	7	155-305
For materials or products.....	4	110-180
For tools and equipment.....	4	100-150
For direction of others.....	(¹)	0-115
Working conditions:		
Surroundings.....	5	30-110
Hazards.....	4	40-120

¹ Calculation.

NOTE.—Each degree of each factor is explained by definition and illustrated by standardized benchmark jobs (or key jobs). Addition of all allocated points for the 11 factors establishes the total points allowed for a given job. The rate of pay is determined from a wage schedule using the total points.

CHART II

HOURLY JOB ANALYSIS DATA SHEET

Q-38 (rev.)

Location: _____ Analyst: _____ Date: _____
 Job Title: _____ Job Code No.: _____

Analyze the job - NOT the employee

EFFORT REQUIREMENTSMANUAL EFFORT:

Weight Handled: Under 15# _____ 16# to 50# _____ 51# to 80# _____ Over 80# _____
 Frequency of Handling (% of Shift): Under 25 % _____ 25 % to 50 % _____ Over 50 % _____
 Working Position: Sitting _____ Standing _____ Walking _____ Climbing _____ Other (specify) _____

Describe, include listing of several examples which support the above:

VISUAL EFFORT:

Intensity: Ordinary _____ Newsprint Level _____ Minute Detail _____
 Frequency (% of Shift): Under 25 % _____ 25 % to 50 % _____ Over 50 % _____
 Describe:

SKILL REQUIREMENTSMANUAL ACCURACY:

Describe typical tolerances and difficulty of obtaining them:

Reaction Time: Normal _____ Fast _____ Explain basis for **FAST**

MANUAL COMPLEXITY:

Describe briefly the various manipulative skills required:

Explain coordination required for the most difficult skill:

JOB KNOWLEDGE:

Specific knowledge of equipment, processes, methods, materials, locations, etc.

Computation required:

What type of drawings, diagrams, blueprints, must be interpreted:

(OVER)

RESPONSIBILITY REQUIREMENTSPROBLEM SOLVING:

Typical examples of work problems regularly encountered:

Discuss the analysis and reasoning which must be applied to resolve problem:

Discuss speed of reaction if it is considered above normal:

RESPONSIBILITY FOR MATERIALS AND/OR PRODUCT:

Discuss nature of probable loss:

Discuss care necessary to avoid loss:

Discuss size of probable loss:

RESPONSIBILITY FOR EQUIPMENT AND/OR TOOLS:

Discuss nature of probable loss:

Discuss care necessary to avoid loss:

RESPONSIBILITY FOR DIRECTION OF OTHERS:

Number of people directed: - Classification title of those directed: - Part or full time direction: -

JOB CONDITIONSSURROUNDINGS:

List elements regularly encountered: - Intensity: - Frequency: -

HAZARDS:

List hazards regularly encountered: - Severity of Injury: - Frequency: -

Mr. O'HARA. Mr. Hester, before you begin your formal remarks, will you identify yourself for the record and the gentleman who is accompanying you?

Mr. HESTER. I am Ezra G. Hester, director of industrial relations research for Corning Glass Works.

This is William Bell Knapp, director of government services for our company, my associate.

As you can see from the first page, Corning makes a good many products, employs many people in a number of different locations. I have been in wage and salary administration for a long period of time, since 1936.

At this point, I would like to make it clear that I am here to testify in behalf of a good equal pay bill. My company endorses the principle and has conscientiously attempted to practice equity in respect to this issue.

We are particularly concerned about the words "equal work with equal skill" with the only reference to the system being that of seniority and merit rating. The reasons for our concern will be brought out in my testimony as it follows:

At the bottom of page 2 and on pages 3 and 4, I point out the history and growth of job evaluation which was simulated by Government action in World War II and the Korean war. From my own experience I know that the Government recognized other criteria such as effort, responsibility, and working conditions during such periods of wage stabilization.

I have a book here that is probably the most recent text on the subject of wage and salary administration, written by a college professor, and he has accumulated considerable data concerning the prevalence of plans.

If the committee would like I would be happy to leave it with them. The reference is marked in the books, sir.

Mr. O'HARA. Thank you.

(The following excerpt is from "Wage and Salary Administration.")

The Bureau of Labor Statistics in 1956 found that nine-tenths of the production workers in the machinery industries in Milwaukee and one-half to two-thirds in Baltimore, Chicago, Houston, and three New England areas were covered by job evaluation. The National Industrial Conference Board in 1947 found 57 percent of 3,498 companies using job evaluation. Cohen, in a study of 135 companies in Pittsburgh in 1948, found that 17 percent of firms with less than 200 employees and 52 percent of companies with over 200 employees had such plans. Lanham, in a series of studies between 1950 and 1954 found that out of 1,265 firms, 322 had job evaluation plans, 56 were installing one at the time of the survey, and 181 were considering installing a plan. A Bureau of National Affairs survey in 1955 found formal job evaluation plans in six out of every seven firms. A survey by the same organization in 1957 found that all but one-seventh of larger firms (over 1,000 employees) and one-quarter of smaller ones report job evaluation plans. A 1960 survey by George Fry & Associates found that 65 percent of the employees of over 500 responding companies were covered by job evaluation programs. While such surveys cannot provide solid conclusions on the prevalence of job evaluation in this country because of their limited coverage and differing populations, it appears that formal job evaluation plans are to be found in the majority of large firms and that the use of job evaluation is growing.

Mr. HESTER. Corning Glass Works adopted job evaluation with the Government's approval under the War Labor Board in 1943.

With this general acceptance of job evaluation throughout industry on the part of management and labor we feel it most desirable that legislation related to the equal pay principle incorporate in its language recognition of job evaluation or job classification as some call it—incorporate those principles that have been developed, accepted and are in general use.

Now let me discuss briefly the philosophy of wage relationships and some specifics concerning job evaluation. Acceptance of wage relationships as to whether they are right or wrong is dependent upon whether the people think them to be right or wrong.

This is to a large extent tempered by the customs and the mores of the specific industry and the company. For instance, in our

industry, the glass industry, the head of the handblowing shop is considered the kingpin job and anything we do with regard to rates certainly must emphasize this point. Therefore, any rate structure in our company must reflect this and certain other conditions of rate relationships.

No single evaluation plan for all industry can accomplish this because each industry has its own peculiarities and its own customs.

For this reason we must say that an evaluation plan is a reasonable, systematic, empirical formula that reproduces, for new and changed jobs, the pattern of job relationships to which the employees in the given industry subscribe.

Job evaluation then is not a precise science governed by natural laws. Rather, it is a systematic approach to establish relative job worth.

As an example, our own history demonstrates this. The plan originally installed in our company was one that had been designed for use in a variety of industries. Its evolution in our company has been largely a process of accommodation of that plan to the particular customs and the traditions of our company as well as the changing job content and the surrounding conditions of work.

What criteria does job evaluation employ in addition to skill as proposed in this legislation?

Job evaluation is customarily made up of four major factors, of which skill is one. The four factors embrace those aspects of job worth that are always considered by people, the employees and the unions as being important. These are effort, skill, responsibility, working conditions.

Each of these in turn is comprised of subfactors because the four major factors in themselves are too broad to use objectively. Determination of the total relative value of a job results from the aggregate points from all the subfactors. The appropriate rate range of pay for the job is selected from a wage schedule using the total points. Individual rate of pay will lie within the rate range if the particular company uses a rate range according to the individual's seniority and performance.

In chart 1, which is attached to my statement, you will find the list of the factors used in our plan, the subfactors, classified by the major factor of which they are a part.

The language of the proposed bill places emphasis upon equity of pay regardless of sex of the employees. Job evaluation plans have been developed and adopted as the means for attaining equity of pay as between jobs and, as such, are subscribed to by management, by unions, and by employees, both men and women.

A sound evaluation plan determines job worth on the basis of the factors in the plan and not on any characteristics of the jobholders. This will be observed from chart 2, which is also attached. This is a standard form used in our company to gather data upon which the evaluated points are based. Other companies use similar job analysis sheets.

Then to summarize, job evaluation is an accepted and tested method of attaining equity in wage relationship.

A great part of industry is committed to job evaluation by past practice and by contractual agreement as the basis for wage administration.

Skill alone, as a criterion, fails to recognize other aspects of the job situation that affect job worth.

We sincerely hope that this committee in passing legislation to eliminate wage differences based on sex alone, will recognize in its language the general role of job evaluation in establishing equitable rate relationship.

Thank you, sir.

Mr. O'HARA. Thank you. Mr. Sickles?

Mr. SICKLES. I have no questions, Mr. Chairman.

Mr. O'HARA. Mr. Goodell?

Mr. GOODELL. I would just like to ask Mr. Hester if he will tell us what the situation as far as employment of women is concerned in responsible jobs in Corning Glass?

Mr. HESTER. Mr. Goodell, the women have a great deal of opportunity with our company. I would like to mention just a few of the occupations that they hold. One of our vice presidents in Steuben Glass is a woman, Miss Sally Walker. The manager of accounting and personnel in Steuben Glass is also a woman. The Corning Glass Works cashier, that is for the entire company, is a woman. Several women are in charge of operating sections of a given division of our company. One of them handles a group of people who are engaged in audit entry and planning. They manage that department. Another woman also is invoicing for that major division. Our director of home economics is a woman. She has working for her 10, 12, 15 home economists.

Incidentally, this is an interesting situation in that I doubt very much if we would consider a man for such a job. I think maybe there might be some discrimination under the bill here.

We have women engaged in product design in both the consumer product line and the Steuben Glassware line. Some of our draftsmen are women. We have a personnel administrator who is also a woman.

I think you might also be interested, Mr. Goodell, in the fact that we have an educational assistance program and women are large participants in this and we are very happy to see it happen because by means of this device where they can take work in college they can improve their standing within the company and become better employees for us.

Under this program we defer a large part of the cost of their education.

Mr. GOODELL. Thank you, Mr. Chairman. I did want to have that emphasized because I do believe that Corning Glass is an extremely progressive company.

Mr. O'HARA. Mr. Hester, the point you raised is the point I raised in my questioning of Mr. Schnitzler.

Mr. HESTER. Yes, sir.

Mr. O'HARA. It is one that concerns all of us who are dealing with this legislation. I think I can speak for all members of the subcommittee when I say that we have no desire to disturb job classification rates established in a particular industry based upon the factors that you have described.

However, we do not want to foreclose the Department of Labor from investigating arbitrary or capricious job classifications where the

differences between the work done are inconsequential and the difference in job classification and in rate of pay arises from the pretty-well established fact that in many places, in many jobs, you can hire women to perform substantially the same work for less.

If we might take a hypothetical example, we could take a job classification system where one person might be classified as an inspector and another as a quality control man and they would be doing substantially the same work and be paid different rates, one group being women, one group being men. We don't want to foreclose going into that kind of situation. Although I don't think any of us want to get into a kind of situation where we are trying to equate skill and work input into entirely different kinds of jobs.

For example the clerk-typist or the stenographer in the business office and the drill press operator in the shop. None of us wants to get into that. Perhaps you can give us some suggestion how we could make it clear that we do not intend to go around disturbing these relationships based upon the factors that you have described in your testimony while retaining enough leeway to go into capricious or discriminatory job classification.

Mr. HESTER. I think that is a thought that should bear some exploration. Yes, there may be some classification systems that are of the nature you described. Usually not, however, I think.

Mr. O'HARA. I don't say that it is usual but I am afraid there are some instances.

Mr. HESTER. Usually the logic of the system has to appeal to two or three sides, not only the management but also the union and also the employee. He has to agree with it. I think, first, that language as I have suggested that would be permissive for the use of classification systems or job evaluations as you may term it should be incorporated in a bill.

There is no restraint then upon the Department of Labor, the women to me, to stress the equity of the plan that is used for that purpose to see whether it does contain discriminatory language or does contain loosenesses such as you fear.

Mr. O'HARA. It presents us with a rather difficult drafting problem. I don't believe it is the intent of anyone on this subcommittee to get into a review of job classifications, a general review, on the basis of the skill input and work input of jobs that are really not comparable in which we substitute our judgment or the judgment of the Secretary for the judgment of management.

I want to thank you, Mr. Hester, for your thoughtful testimony. I assure you that we are going to be wrestling with this problem as we progress.

Mr. HESTER. Thank you, sir.

Mr. O'HARA. The next witness will be Mr. Jerry Markham, of the Thatcher Glass Manufacturing Co.

Mr. Markham, can you identify yourself for the record and then proceed with your statement?

**STATEMENT OF JERRY N. MARKHAM, DIRECTOR, INDUSTRIAL
RELATIONS OF THATCHER GLASS MANUFACTURING CO., INC.,
NEW YORK, N.Y.**

Mr. MARKHAM. Yes, sir. My name is Jerry Markham. I am director of industrial relations of Thatcher Glass Manufacturing Co., Inc., headquartered in New York City.

Mr. Chairman and gentlemen, before I read my statement I would like to comment that I have endeavored to be as brief as possible by touching on two major concerns that we have as a company in reviewing this proposed legislation. We have others but I think the records and the hearings so far indicate that they are being well covered and brought to your attention, so I will not enlarge on those.

Yesterday I heard testimony here that raised some questions in my mind that perhaps some erroneous impressions were left with the committee here in regard to pensions, for example, not having any effect on the overall cost of an employer where he has women as part of his work force. I think if the question was put in the right context no one could disagree that where an employer has a percentage of female employees as part of his total work force, as compared to total male work force, then the cost of pensions is going to be greater as well as insurance. I just could not help saying that at the outset. However, I am not enlarging on pension costs.

The Thatcher Glass Manufacturing Co., has 7 manufacturing plants employing approximately 3,300 employees and are primarily engaged in producing glass containers and plastic packaging products. Our plants are located in seven States: California, Florida, Illinois, Indiana, Iowa, New York, and Ohio.

My company appreciates this opportunity to appear before this committee on the proposed "equal pay" legislation; particularly the proposals contained in H.R. 3861.

We do not disagree with the principle embodied in the proposal for equal pay for workers where a differential exists primarily on the basis of sex for discriminatory purposes.

However, we do not feel that Federal legislation is necessary to deal with this problem. It is our belief that the States could provide an effective way to deal with this problem and that the proposed law (H.R. 3861) would do more harm than good in its present form.

I will try to be brief by pointing out two of my many objections:

(1) The proposed law does not recognize or make an exception for a pay differential based on sex that has been negotiated by collective bargaining.

(2) It does not recognize or make exception for differences in pay based on the demonstrated additional cost of hiring females, as compared to the cost of an all-male work force.

This proposal (H.R. 3861, sec. 10), provides that "this act would take effect 120 days after the date of its enactment." If the law is passed in its present form it would find my company in this situation: The vast majority of our employees are presently covered by labor union contracts with expiration dates of January 31 and March 1, 1965.

To demonstrate our predicament, I want to detail the facts of one of many such problems which this act would force upon us.

In one of our plants we employ approximately 1,100 employees, of whom about 300 are females. This plant operates 24 hours a day, 7 days a week. Therefore, we have four shifts of employees to cover this continuous operation. Many years ago, a State law prohibited the employment of females at night.

For this reason night shifts were manned, on jobs usually held by females, by males and the males were paid at a higher rate of pay, due, primarily, to the fixed night-shift work. The State law was relaxed some years later to allow females to work nights.

However, during this interim period, these male employees had acquired, under union contract, seniority rights and could not be replaced with females at that time. The company and the union agreed, through negotiations, to replace these male employees through normal turnover, after the union would not agree to reduce the male rate to the female rate. This attrition has been a long and slow process.

Today, there still remain approximately 10 male employees working in these female jobs and being paid at a higher rate.

What remedy would we have to correct this situation in complying with this proposed legislation? It is not practical to assume that our union would agree to reopen the contract and to negotiate away the seniority rights of these male employees or to reduce their rate of pay to the female rate.

It is not practical, either, to assume that the union would agree to such a proposal even at the expiration of a contract. The union would unquestionably take the position that the company must conform to the law and raise all the female rates to the male rate.

Our female employees are represented by the same union which represents male employees, and they trust their union, through the normal workings of collective bargaining, to obtain for them the maximum wage attainable from the company.

These problems are best left to the process of collective bargaining, where the interests of all parties are represented. This law would place both the employer and the union in a straitjacket in trying to negotiate equitable solutions to problems of this kind.

If my company were compelled to raise all of our female rates in this plant to the male rates in question, it would seriously jeopardize the competitive position of this plant with its competitors located in other States employing all females in these jobs, at the prevailing female rate of pay.

Further, as the cost figures which I am about to cite show, the natural tendency of any employer would be to replace females with males whenever possible.

Such a result hardly appears likely to achieve the stated purposes of the act, one of which is to encourage the maximum utilization of available labor resources.

The proposed legislation does not recognize any justifications for differences in pay other than seniority or a merit increase system. It should provide exemptions where a difference in pay is attributable to the specific added costs based on experience in employment.

Through many years of collective bargaining in my company, such costs have been recognized by the unions and have played a major role in the final determination of how general wage increases and benefits were to be apportioned among all employees.

To illustrate the cost in question, we selected two of our glass container manufacturing plants and made an analysis of some of the additional costs of having women as part of our work force for a 2-year period, 1960-61. The following is the result of our study:

	Per hour	Per year
1. Absenteeism—Females were absent an average of $20\frac{1}{2}$ days more than male employees per year. The average yearly cost for excessive female absences as compared to males was.....	\$0.074	\$75,000

This is excessive cost for excessive absenteeism as compared to male absenteeism for this 2-year period.

	Per hour	Per year
2. Turnover—Female turnover was more than twice (2.25-1) that of the male resulting in an additional excessive cost per year of.....	\$0.02	\$20,000
3. Insurance—Based on figures submitted by our insurance carrier, the excessive cost per year of insurance covering female employees for maternity benefits is \$11.49 per employee, equal to.....	.005	5,000

That using only the maternal part of our whole insurance program as applied to females our costs were half a cent more or \$5,000 a year.

	Per hour	Per year
4. Rest and relief—Females are given an average of twenty (20) minutes more paid relief per day than males. This excessive annual cost is.....	\$0.10	\$102,000
5. Female facilities—Excluding the cost of providing additional restroom facilities for females, we find the excessive cost of service and maintenance per year to be about.....	.01	10,000

I won't attempt to give you the capital cost for providing separate additional locker rooms, lounges and what have you, but we do point out that the extra facilities require additional service and maintenance costs which we feel would not be a necessary cost if we were an all-male work force in our operation.

This cost is estimated at 1 cent an hour or approximately \$10,000 a year. We may refer later to the appendix here which details more on points one and two if you like. We endeavor to show how we arrived at this cost to try to clear up some serious doubts I have heard expressed here as to the cost of hiring females versus an all-male work force.

This study reveals an additional yearly cost of over \$212,000, or approximately \$0.21 an hour additional cost for employment of females.

The above costs to our company are, we believe, applicable to industry in general. It is an established fact that it costs my company more to employ females than it does to employ an all-male work force. To disregard his fact would be unfair. Unless some form of relief is granted under the proposed law, it is impossible to visualize an expanding female work force.

On the contrary, the basic economics involved would force employers eventually to replace female employees with males.

(Further details on labor turnover and absenteeism follow:)

Labor turnover, 1960-61

	Female	Male
Average number of employees.....	513	1,264
Average yearly terminations.....	185	211
Average terminations per 100 employees.....	36	16.5
Ratio of female to male labor turnover.....	2.25	1
Cost per hour.....	\$0.042	\$0.022

NOTE.—Excessive female cost per hour, \$0.02. The Department of Labor has estimated that on the average it costs between \$275 and \$550 to train and hire a new employee. We have computed our cost to be \$225. Female turnover was more than twice (2.25 to 1) that of the male, resulting in an additional excessive cost computed as above.

Absentecism, 1960-61

	Female	Male
Average number of employees.....	513	1,264
Number of days absent.....	28,885	19,155
Average days absent per employee (1960-61).....	56.1	15.1
Average per year.....	28	7.5
Average cost per absence.....	\$6.75	\$5.66
Total yearly cost per employee.....	\$189	\$42.45
Cost per hour, per employee.....	\$0.095	\$0.021

NOTE.—Excessive female cost per hour, \$0.074. These figures indicate that female employees were absent on the average 20.5 days more per year than male employees. We have computed the average cost of a male absence to be \$5.66 and a female \$6.75. This cost is predicated on the expense of premium to hold an employee over for a second shift, amount of wages paid for idle time to employees who are regularly scheduled to work specifically for the purpose of replacing an absent employee, extra supervision, personnel required to maintain records, etc.

Mr. O'HARA. Mr. Taft, do you have any questions?

Mr. TAFT. No questions at this time.

Mr. O'HARA. Mr. Goodell?

Mr. GOODELL. I have no questions. I think the testimony is very helpful in presenting the factual background to this. I do not know exactly what workable solution in terms of drafting language we could come up with for you. Your major recommendations seem to be, although you agree with the principle you do not think we ought to have any legislation.

Do you have any suggested language, if we are going to have legislation, that might make this more workable?

Mr. MARKHAM. I wrestled with that problem, Mr. Goodell. I could probably provide some with the advice of more qualified people if it would be helpful.

I am not as concerned with recommending language to the committee as I am having the assurance that the committee understands some of the basic economic realities of this law. Its present form would certainly create havoc and serious competitive problems of many, many employers, including my own company, if there are not some clearly defined definitions of what constitute wages, what constitute costs so far as determining proper wages and proper wage structures.

There have been a number of suggestions made. The gentleman before me I think, gave a very good suggestion and criteria as to how these things can be properly weighed and evaluated, as to whether or not there is a violation. Our greatest problem is fear now, the way the law is written. We have no feeling of what is going to happen. We are not sure anywhere that we are right about something,

that we may not be found to be in violation of this law because of its lack of clarity and definiteness.

I think if it is left this way it will certainly negate the purpose of the law. Many employers will begin to hire males instead of females. It will have quite the opposite effect of hurting the female rather than helping them.

Mr. GOODELL. Thank you.

Mr. O'HARA. Mr. Markham, you gave an example from your own plant with regard to a wage differential presently paid. On page 2 you explain that differential by saying that, and I quote:

The males were paid at a higher rate of pay due primarily to the fixed night shift work.

Is it your interpretation of the language of this bill, that it would not permit differentials in pay, shift differentials?

Mr. MARKHAM. I think it would if it were uniformly paid to all working on a fixed shift at nights versus the day shift but that does not happen to be my situation here, Mr. Chairman. We paid this higher rate primarily at the time of manning these night shifts with males because we could not use females.

However, since we have replaced these with males through attrition they are interspersed with all the females and no longer work fixed night shifts. All females rotate night shifts. Among them are these 10 males.

So, the original reason for giving the higher rate has been eliminated. This is what bothers us because we can't point and say these 10 men among these 250 women are being paid a higher rate because they work a fixed shift. They do not work a fixed shift now. They did at one time. We have no comfort that any recognition would be given to the circumstances of how this situation was created.

I had an experience in another State other than this State in question with a State law which just said that is very unfortunate but the law says today you must raise all the rates regardless of how you got into this mess, regardless of whether it was willfully done to discriminate, as your chairman said to make a profit out of wages. Regardless of whether these things are proved or not my experience is that under legislation of this type you pay.

Mr. O'HARA. It is my interpretation that a shift differential would be permitted. However, if these men are paid more than women working the same shifts, I agree with you if the bill became law, this specific practice would be in violation of the law.

I had assumed that you had kept the men on the night shift and were paying a night shift differential. You have them on both day and night shifts and you pay them more?

Mr. MARKHAM. We pay a night shift differential to these men as well as women, the same amount of shift differential. These men have had a higher rate initially. Because of the State law the women were not allowed to work nights. We had a fixed rate for that. Now we wind up with this situation.

Incidentally, this very State also has an equal pay law that recognizes situations of this kind.

Mr. O'HARA. What does it do?

Mr. MARKHAM. I should have read it in more detail. It does allow that where an employer and a union are working these problems out

and they are covered by contract, that they can be resolved through that process. That is my understanding of it.

Mr. O'HARA. I think it might be considered by the advocates of this legislation, of whom I am one, to permit some leeway in working these problems out where progress is being made in working them out. But other than that the type of situation you have found yourself in, without regard to how you got there is exactly the type of situation to which this bill is directed.

Mr. MARKHAM. I don't understand that, Mr. O'Hara.

Mr. O'HARA. Without regard for how you got into the position where you are paying men more for the identical job than you are paying women.

Mr. MARKHAM. Yes. If I understood the bill it was to prohibit willful discrimination against females. There is no evidence of that here.

To the contrary, yet you say with no comfort to me that I would be in violation of this bill. Even at the risk of making this plant noncompetitive and jeopardizing 1,100 jobs.

Mr. O'HARA. I think the best you can hope for would be the kind of provision you have in your State law, that is that if progress is being made toward eliminating a pay differential which had a historical origin other than sex discrimination, that you would not be held in violation.

Certainly if no progress were being made and no effort were being made after the reasons for the differential had ceased to exist, you would be in violation of the law.

Let me ask a question; with respect to your statistics on absenteeism and turnover. It was indicated yesterday by the author of this bill that, nationwide, the differences in absenteeism were rather small. I think 18 per thousand as compared to 24 per thousand. Your figures would indicate more than that. Before you respond to the question, let me put it to you this way: I would like to know what jobs they are. It may be that executives are absent less than hourly paid workers whether they are men or women. It may be that among hourly paid workers the skilled are absent less than the unskilled or semiskilled. It may be that with regard to unskilled or semiskilled, those in repetitive tasks or tasks in which there is very little chance of advancement, may be absent more than those who do have repetitive tasks or do have opportunities for advancement.

It does not seem to me that absenteeism and turnover rates are going to mean much until we adjust them for these other factors which might well account for some of the differentials between men and women.

Mr. MARKHAM. In response to this, the employees covered in this analysis are hourly employees. There are no salaried employees. On the national figures I am in the same quandary as you are in. I don't know what they are measuring. It might be comparing peaches and bananas. I don't know what it is. But I do know this: This is our actual experience. We have as I pointed out here, a 7-day continuous operation which requires four shifts of employees to man them. These shifts rotate. Now, our turnover, I believe by national average industrial figures, is perhaps a little greater. I think it is the nature of our operation that prompts this. People don't like to work nights, particularly the female workers. This accounts a great deal for the excessive absenteeism and turnover.

I am sure that you are right when you say that you have less turnover in your higher skilled workers because usually a worker starting at the bottom of a job progression program who spends years learning the trade or craft or skills peculiar to your operation, and moving up in the higher wage brackets, are certainly not going to walk out and go job hunting tomorrow after putting all that effort and time in that.

So the greatest turnover is in the bottom rates of jobs. This is where your experience is. We have a great deal of seniority in these two plants. These two plants are over 50 years old, to give you an idea of what continuous operation does to turnover. We have over 200 people in these two plants with over 25 years of service.

I would say the average seniority of the people in these two plants would be better than 7 years, which is remarkable. It is indicative that it is not a bad place to work. But you do have trouble in the low level of jobs with the continuous shift changing and what have you, particularly where females are involved.

Mr. O'HARA. I am just attempting to suggest that these absenteeism and turnover figures, and incidentally, counsel advises me that I gave you the turnover figure rather than the absenteeism figure, would be more meaningful to the committee if they could be adjusted to eliminate these other variables.

Now perhaps you could help us in that regard. You have given us absenteeism and turnover figures for hourly rated workers. I wonder if, after you return to your company, you could, without too much difficulty, find, in your records, a comparison of absenteeism and turnover by job classification as among men and women.

I think that might be a lot more meaningful figure than one which just lumps all hourly rated together because of the factors you have just mentioned in your testimony.

Mr. MARKHAM. I think that would be possible. It would take a great deal of research and detail work to do this.

Mr. O'HARA. We won't ask you for it. We will just say that if when you return home it appears to be something that could be done without too much difficulty, something you would want to attempt in order to help us and feel you can do so, we will appreciate having them.

Mr. MARKHAM. I will be glad to try to put them together and submit them to you.

Mr. O'HARA. If it turns out to be too much of a job and you are busy with other things, we will understand.

Mr. MARKHAM. This is the very reason why I brought this here to this committee today. I think this bill should provide, should define that these types of costs of employment should be determined before anyone is charged with being guilty of discriminating against females. I am glad that you are interested in getting more facts and figures. I will be glad to do what I can.

Mr. O'HARA. We thank you very much for your testimony.

Mr. TAFT. Mr. Chairman, might I ask one or two questions?

Mr. O'HARA. Go ahead.

Mr. TAFT. Mr. Markham, have you reviewed the provisions on the administration and enforcement of this act?

Mr. MARKHAM. Yes, sir.

Mr. TAFT. Do you have any comments with regard to those sections?

Mr. MARKHAM. Well, I have been talking about them without men-

tioning them specifically. I think they have been well covered by those before me who feel the way I do and I did not want to take up any more time. Yes, I have concern about the way, I think it has been called the police power of the Secretary of Labor's office to administer this bill to determine in his discretion and judgment as to what is a violation and what is not a violation. This has caused me great concern because, particularly, the bill is wanting in other areas in defining more clearly what is wages, what is equal work, what is discrimination, or what is a violation.

Yes, I think that this should be looked at very seriously, and something should be provided there to more clearly define the intent by definition and by exclusions as to what and how this bill should be administered by the Secretary of Labor.

Mr. TAFT. Are you aware that, under the provisions of section 5(a), subsection 2, that the Secretary or his representative can, apparently, without any court proceeding or any complaint being filed or any notice to you, enter your plant and question the employees, investigate facts, conditions, practices, and matters that he may deem necessary and appropriate to determine whether there has been a violation or to get anything which may aid in the enforcement of the act?

Mr. MARKHAM. Yes, I am aware of that. I feel that this should be limited to the Secretary of Labor's Department being allowed to do this only when a legitimate protest or claim has been made by an employee—not allowing him to just come wandering in at any time during the night.

Mr. TAFT. What is the procedure, in your plant, if some representative of the Government does show up and asks for facts and figures, and some information, and asks to be permitted to inspect the plant?

Mr. MARKHAM. Well, our usual experience is that we get advanced inquiry as to when it would be convenient for them to come. We extend the courtesy due them by meeting with them and making available to them the information that they are entitled to under whatever purpose they are there for.

Mr. TAFT. Does his refer to counsel on your staff or independent counsel?

Mr. MARKHAM. Only if we are not sure what they represent or what they are there for. I don't think I am being very helpful.

Mr. TAFT. I am just curious as to what your procedures are.

Mr. MARKHAM. Actually, we have had so little experience with it we don't have a clearly defined procedure, but the practice and the experience that I have had is that they will notify you some times, on arrival, that they want to come in and talk to you or someone who is responsible and in charge of sanitation, safety, or wage-and-hour law, or something like that. More frequently, though, they give us some advance notice, but they never tell you what until they get there. We feel if we have some idea what it is, frequently we will have counsel meet with them to see just what they are after. But more than that, we usually have the personnel director or the plant manager, or whoever is appropriate to talk to them, meet with them on these things.

Mr. TAFT. You mentioned, Mr. Markham, in your testimony, that the plants might even become uneconomic. Would the costs that might be involved in this kind of change in your operating procedures make these plants uneconomic?

Mr. MARKHAM. I understand that if we had to raise all the female rates up to these male rates it would certainly create a serious economic problem for that plant as far as its competitive position is concerned.

Mr. TAFT. Would it not appear that most of your competitors would have to do the same thing?

Mr. MARKHAM. I doubt that very seriously, because our competitors in other States, through limited inquiry, made by myself, have not been faced with State laws that created the situation we got into. All of their jobs comparable to ours are manned by females. They would have the advantage of the lower cost while we would be straddled with the higher cost and no remedy to offset it in any way.

The answer is "No," it would not apply to other competitors or to other plants of our own.

Mr. TAFT. So that you might close some of your own plants and put more efficient production in other plants?

Mr. MARKHAM. We would be forced, immediately, to assign production to other plants from this plant; eventually, maybe close the plant.

Mr. TAFT. Am I correct in assuming that some of the plants which have this situation are located in the State from which I come?

Mr. MARKHAM. No, sir; you have another company in mind. We do not have a plant in Ohio; we don't have a glass plant in Ohio. We have another operation which would not be involved in this. It is not a glass company.

Mr. TAFT. I thought that might be the case because we do have these labor laws of which you are making mention.

Mr. MARKHAM. That is right. I have had experience in those States with that law. It seems to be very fairly administered there in working out these problems.

In fact, prior to my going with Thatcher, I helped resolve one of those serious problems in a plant in Ohio.

Mr. TAFT. You are talking about a provision where they are allowed to work it out over a period where there is a particular inequity?

Mr. MARKHAM. That is right.

Mr. TAFT. Thank you.

Mr. O'HARA. Thank you, Mr. Markham, for your testimony here today.

The subcommittee has four witnesses yet to be heard. It is now a quarter past 12. If the witnesses could do us the favor of reappearing this afternoon, we would prefer to hear them this afternoon.

The committee will now adjourn to meet again at 2 o'clock this afternoon.

(Whereupon, at 12:15 p.m., the subcommittee recessed, to reconvene at 2 p.m., of the same day.)

AFTERNOON SESSION

Mr. SICKLES. The hearing will continue this afternoon.

Our first witness is a representative of the Continental Can Co., Mr. Arnold G. Becker. Will Mr. Becker come forward and have a seat.

On behalf of the committee I welcome you and ask you to proceed as you wish.

STATEMENT OF ARNOLD G. BECKER, SUPERVISOR, LABOR RELATIONS, HAZEL-ATLAS GLASS DIVISION, CONTINENTAL CAN CO., INC.

Mr. BECKER. Thank you. I shall read my statement and make comments as I go along, if necessary.

Mr. THOMPSON. That is perfectly satisfactory.

Mr. BECKER. My name is Arnold G. Becker. I am supervisor of labor relations of the Hazel-Atlas Glass Division of Continental Can Co., Inc. I have been employed by Continental Can in various phases of industrial relations in several product divisions of the company for 13 years. Continental Can is engaged in producing packaging materials of various kinds including metal, glass, plastic, and paper containers. We have manufacturing plants in 29 States.

It is my purpose to state what we consider to be undesirable features of the proposed Equal Pay Act of 1963; i.e. features which we think will harm, rather than aid, the economy of the country and which will tend to cause labor disputes instead of diminishing them.

The company which I represent, the division, has recently spent 3 years trying to come into compliance with a so-called equal pay law in Pennsylvania, during which time we have been engaged in three lawsuits, of which two were brought by individual employees and one by the collective bargaining agent for our employees. Needless to say, these suits have kept us busy constantly and have added much to our burdens, not to mention the actual cost in money.

In this respect I would like to point out that the wage differential which we were discussing was brought about by the very reasons mentioned by Mr. Markham in his previous testimony, that is, shifts and other matters of that nature.

From this experience we would like to point to the following provisions of the act which we think are undesirable:

First, the act will tend to cause labor unrest and labor disputes and disrupt collective bargaining agreements. In virtually every industry of any size, employees are represented by a collective bargaining agent which has negotiated an agreement with the employer covering rates of pay and conditions of employment.

It is well known to all of us that the collective bargaining agents must be able to speak for its members and abide by its contracts. Otherwise there can be no permanent industrial peace. Yet this act would permit the Secretary of Labor forthwith (upon receipt of complaint or even without one) to investigate and order compliance with the act; that is, to increase in certain instances wages of female employees covered by labor contracts now in effect.

Under the act the employer must eliminate all or major portions of any differential forthwith (by paying an increase equal to 10 percent of the higher wage; 15 percent at the end of a year; and all of it at the end of 2 years). Many collective bargaining agreements extend for 1, 2, or even 3 years.

If this act is passed in its present form, many female employees, whether under contract or not, will, in our opinion, demand that the Secretary of Labor order an increase in their wages forthwith. They will do this, in our opinion, even if they have through the collective bargaining process agreed to rates of pay for individual jobs. They

will do this, in our opinion, even though equal pay for equal work has never been a major issue in their contract negotiations. They will, we believe, disagree with their collective bargaining agent unless the agent agrees to proceed at all costs in this matter.

In one of our plants in Pennsylvania certain female employees did just this. They disregarded their union and the collective bargaining processes and sued the company, on their own, alleging a violation of the act. They did this while their local union representatives were negotiating with the company to perpetuate the existing wage differentials. By subsequent testimony in court the local union representatives were aware that the suit was being filed and they did not notify the company.

Mr. THOMPSON. What union was that?

Mr. BECKER. The Bottle Blowers Association. This caused bitter intraunion conflict. It is still going on and has prevented, to date, a satisfactory determination of the problem, despite the fact that the company and the international union have an agreed-upon settlement of this matter.

Of course, it has been a hardship on the company because, having negotiated a contract and having figured our costs under the contract, we find we must now negotiate upward to satisfy our female employees or face labor unrest, even though we believe there has been no violation of the law. We were also faced with this intraunion problem which made it virtually impossible to negotiate a mutually satisfactory settlement.

Therefore, we would recommend that if you pass this law, the law specifically exclude those rates of pay established through the collective-bargaining process. As a minimum alternative, make the provisions of the bill effective no less than 120 days following the expiration date of existing labor contracts, in order to permit employers and unions to negotiate themselves into compliance, with an opportunity to spread this cost impact over several years as part of the negotiated wage package.

We submit it is an open invitation to labor unrest to require that any portion of any differential be paid forthwith.

Secondly, we believe it is manifestly unfair to any employer to require such 10 percent adjustment forthwith and full compliance at the end of 2 years. It will be admitted, I think, by all persons familiar with labor negotiations that this act means that a raise in wages must be given to certain women. It is obvious that men won't take a cut to compensate for a raise in women's wages. In fact, the act requires a raise for women. It is a raise which employers have not counted on and which many of them simply cannot meet without some extended notice. These raises, again, should be planned for over a period of time and not suddenly forced upon employers upon the effective date of the act.

Again, we would recommend that sufficient time for planning be permitted to allow employers to foresee and prepare for these costs and that the effective date be made to fall sometime in the future—not within 120 days certainly.

In the third place, we find no opportunity in the act to permit adjustments of women's wages to reflect the increased costs of employing women which can be proven to exist. Our studies in 1961

placed these costs at 23 cents per hour. Virtually every State has legislation which imposes upon employers certain restrictions in the employment of women. These take the form of limited shifts, extended pregnancy leaves, prohibition against the lifting of weights in excess of certain limits, stipulated rest periods, and other restrictions. On page 5, line 8, it would be fair and prudent to say that male and female wages should be equal except where such payment is made pursuant to a seniority or merit increase system or because of other reasonable differences which do not discriminate on the basis of sex. Contrary to the purpose of the bill, we believe that to ignore these additional costs will result in fewer employment opportunities for women.

We believe that the process of collective bargaining will eliminate wage differentials based on sex more effectively and at far less cost than Federal legislation will. We do not believe it necessary to spend \$1½ to \$2 million per year and establish a Federal bureau to force a result that has been, and is being, approached with ever-increasing frequency in American industry through collective bargaining.

Mr. THOMPSON. Thank you, Mr. Becker.

Mr. Taft.

Mr. TAFT. Mr. Becker, what is the administrative procedure in the Pennsylvania area provision? Are you familiar with it?

Mr. BECKER. Comparable pay for comparable work, I believe. Is that what you are discussing?

Mr. TAFT. No. I am interested in that. The language in the Pennsylvania statute is comparable pay for comparable work?

Mr. BECKER. I believe so. I am not sure.

Mr. THOMPSON. We have a copy of the Pennsylvania law here, Mr. Taft.

Mr. TAFT. I was referring more to the administrative procedure, findings by the Commissioner.

Mr. BECKER. The employee can bring suit or the employee can turn the matter over to the Secretary of Labor of the Commonwealth of Pennsylvania.

Mr. TAFT. Where is suit brought?

Mr. BECKER. These suits were brought in the county courts.

Mr. TAFT. Do they go to an administrative tribunal first?

Mr. BECKER. No.

Mr. TAFT. So your experience has been purely with the court hearings?

Mr. BECKER. Well, Miss Johnson, I believe it is, of the Commonwealth, spent time with us discussing the matter after the suit had been brought and advised us that she felt we were in violation of the law and that it was necessary for us to come into compliance with the law within a matter of months or less than that.

Mr. THOMPSON. Mr. Taft, Miss Johnson is here and she was responsible for the administration of the Pennsylvania law. She is to testify, but it might be helpful if we could ask her to come up now and assist us with this question.

This is Miss Elizabeth Johnson of Grantham, Pa., who is here actually to represent the American Association of University Women. She can be quite helpful to you in this context.

Mr. TAFT. Miss Johnson, did you hear my questions as to what the procedures are?

STATEMENT OF MISS ELIZABETH S. JOHNSON, AMERICAN
ASSOCIATION OF UNIVERSITY WOMEN, WASHINGTON, D.C.

Miss JOHNSON. Yes.

Mr. TAFT. Is it a court proceeding initially?

Miss JOHNSON. The procedure that the law provides is that the Department, on finding a violation, if it determines it necessary and cannot obtain compliance voluntarily within a reasonable time, may prosecute. Actually, we did not bring a prosecution in the case that Mr. Becker is talking about because we felt that the company was making reasonable efforts to come into compliance. So that the case he is referring to is one which is initiated by employees. We declined to take a case in behalf of the employees in this situation because we thought that the company was making reasonable efforts to comply in relation to the adjustments that were necessary.

Mr. TAFT. And that is optional with the Department then.

Miss JOHNSON. That is correct.

Mr. TAFT. But if action was to be taken how would it be initiated?

Miss JOHNSON. It would be filed with the lowest court, usually the justice of the peace or the magistrate, alleging or bringing the facts of the violation. Then it would be entirely up to the judicial officer to make the final determination as to whether there is violation and how the case should be disposed of.

Mr. TAFT. Is there any provision in the Pennsylvania law relating to making allowance for increased cost on account of employing women?

Miss JOHNSON. There is no such provision in the Pennsylvania law.

Mr. TAFT. Do you take it into account when you are administering the law?

Miss JOHNSON. We have taken the language of the law and we have looked at the situation as a whole, and if there appears to be discrimination in rate within that, that is determined to be a violation. If there does not appear to be a discrimination based on sex then we consider there is not a violation.

Mr. TAFT. Is there some provision in the Pennsylvania law which grants authority to make this determination as to whether the particular discrimination is on account of sex or attributable to some other cause?

Miss JOHNSON. The Department has no authority except to ascertain facts. What it judges to be the fact it then presents to the judicial officer. It is the judicial action which finally determines whether or not there is a violation.

Mr. TAFT. Are you aware of any case having been brought in Pennsylvania in which the differential between the wage rates of men and women in a particular given plant has been shown to be attributable to additional costs in the employment of women?

Miss JOHNSON. I have no definite knowledge on that. There was no such case in which the Department of Labor had any part. I know there were some discussions along that line in a case that was brought by the employees in Washington County, but I never saw their brief and I do not know exactly what was under consideration in that case. That was not the issue in that case primarily. As I recall, the issue was whether the worker had the right to collect back wages, the issue of the violation apparently was not a part of the court decision.

Mr. TAFT. How many court cases have been brought by the Department?

Miss JOHNSON. The Department has brought none. We have felt that we have gotten voluntary compliance and where voluntary compliance was not immediate that the employer was making reasonable progress in making an adjustment.

Mr. TAFT. Mr. Becker, would you care to comment on it?

Mr. BECKER. I might comment that the case brought by our employees of Washington County has never been heard in the lower court. We argued that under the law the collective bargaining agreement represented a waiver of the employees which was permitted under the 1947 act. This matter was appealed to the circuit court and then to the Supreme Court, and the Supreme Court remanded it back to the lower court for trial on its merits and that trial has never taken place.

Mr. TAFT. How long has it been?

Mr. BECKER. In 1960. The original suit was filed on February 29, 1960. The Supreme Court issued its decision in early April of 1962. The case is not yet on the docket of the lower court or the county court.

Mr. THOMPSON. What was that Court's decision?

Mr. BECKER. The Supreme Court?

Mr. THOMPSON. Yes.

Mr. BECKER. The Supreme Court held that the collective bargaining agreement was not per se a waiver of the employees' rights.

Mr. THOMPSON. You maintain that it is?

Mr. BECKER. We have several defenses, one of which is—

Mr. THOMPSON. Is one of them that it is a waiver?

Mr. BECKER. We maintained this, yes. Under the 1947 act this was allowed, we feel. The lower court agreed with us. The 1959 act which is now in effect in Pennsylvania has eliminated this provision from the law.

Mr. TAFT. Mr. Berger, in your statement on page 3, at the bottom, you state:

As a minimum alternative, make the provisions of the bill effective no less than 120 days following the expiration date of existing labor contracts * * *

Suppose, if that suggestion was taken, a present contract runs out, that a new contract or an extension of the old contract is entered into, would that contract, too, be exempted under that suggestion from the provisions of the law?

Mr. BECKER. We would be faced then with the problem of negotiating this matter in the new contract and would be setting provisions in the new contract to equalize any differential.

Mr. TAFT. What you mean, in effect, then is that the present contract should be permitted to run out, any new contracts would be contracted under the provisions of the bill?

Mr. BECKER. We point out that these rates were not established unilaterally. They were established through collective bargaining. In the situation of Hazel-Atlas the female employees represent over 50 percent of the bargaining unit. They have negotiated these rates and agreed to them. We feel that this will be a tremendous cost burden for the manufacturer, and that he ought to be allowed or permitted to spread this impact over several years through a negotiated wage package.

What has happened now, we have negotiated, let us say, for a 3-percent wage increase. If you add this burden on top of that it could be sufficient to force many out of business.

Mr. TAFT. Mr. Becker, do you have any cost figures for your company showing the differential in cost between employment of women and men, and also the differential in such items as absenteeism?

Mr. BECKER. We had a study that was made in 1961 in connection with this case, this lawsuit, and that study was made and supported a 23-cent-per-hour cost figure.

Mr. THOMPSON. What is your differential in wages between men and women?

Mr. BECKER. This varies from plant to plant and location to location.

Mr. THOMPSON. You have it statistically on your cost? You must have it statistically on your differential in wage rates. What would the average differential between men and women be?

Mr. BECKER. In the city of Washington, Pa., our wage differential was 19½ cents.

Mr. THOMPSON. What was the male wage average?

Mr. BECKER. First, we do not have an average wage by male and female.

Mr. THOMPSON. How did you arrive then at the 23-cent differential?

Mr. BECKER. This was made on a formula similar to what was given in the statement by Mr. Markham earlier. What is the cost of absenteeism, what is the cost of labor turnover? We used the figure for employing new employees as \$200. The cost of absenteeism, using the War Labor Board figures as double the wage of the employee, absenteeism is costing you twice as much.

Mr. THOMPSON. That is fine. Now do you have the statistics to support the differential in wages? I want to know what the differential in wages is so that we can arrive at some intelligent conclusion.

Mr. BECKER. You mean what is the existing wage differential?

Mr. THOMPSON. Yes.

Mr. BECKER. I pointed out that it is different from plant to plant.

Mr. THOMPSON. Is it the difference in the cost of hiring women, does that vary between plants?

Mr. BECKER. No. I pointed out that these wages were negotiated wages.

Mr. THOMPSON. That does not alter the fact. You made a statement that it costs you X number of cents more to hire a woman than a man.

Mr. BECKER. That is true.

Mr. THOMPSON. How can you make this statement unless you know in each instance what the difference between what you pay the man is and what the woman gets paid?

Mr. BECKER. These cost studies were made in Washington, Pa., where the wage differential was 19½ cents per hour.

Mr. THOMPSON. What was the Washington, Pa., wage differential?

Mr. BECKER. 19½ cents an hour.

Mr. THOMPSON. What is the average hourly wage for a man in Washington, Pa.?

Mr. BECKER. I do not have that figure.

Mr. THOMPSON. You do not?

Mr. BECKER. No.

Mr. THOMPSON. Then how can you tell us that you know what the increase in cost is?

Mr. BECKER. We compared the rates on the jobs where the men and women were working on the same jobs.

Mr. THOMPSON. Give me those rates.

Mr. BECKER. At that time?

Mr. THOMPSON. At the time you arrived at this statistic.

Mr. BECKER. It was based on an hourly wage for 3 years, taking the years 1958, 1959, and 1960. At that time the average base hourly wage for females was \$1.45 per hour. The average base hourly wage for males on the same job was somewhat less than 19½ cents per hour more because in the interim there have been percentage increases.

Mr. THOMPSON. Somewhat less than 19½ cents an hour more is fine with me provided you tell me what "somewhat less" is and provided further that you explain why you have this worked out precisely for the women and not for the men.

How can we arrive at an equitable solution to your problem if you do not know what really the differential is? Somewhat less than 19½ cents an hour more.

Mr. BECKER. I said less than 19½ cents more.

Mr. THOMPSON. Would it be 19¼ cents or 19⅙ cents or what?

Mr. BECKER. Make it 19½, I have no objection.

Mr. THOMPSON. I will make it \$2.80 if you have no objection, but that is not what I am trying to get at. I am merely trying to help you.

Mr. BECKER. I do not have the rate of the male employees because this was not a factor in making the determination.

Mr. THOMPSON. If it was not a factor, how can you sit there and tell us that there is a specific differential? Is it on something less, or not more than which you hope it might be?

Mr. BECKER. Our formula is such the females had 16.2 days more absenteeism than the men.

Mr. THOMPSON. You must have a lot of ill women there. That is the highest statistic yet. I will correct that statement. We had 20 days this morning.

Mr. BECKER. The average base hourly wage for the 3 years of 1958, 1959, and 1960 was \$1.64.

Mr. THOMPSON. For the women?

Mr. BECKER. For the women, right—\$1.54 is times 2, because we use the formula that it costs us twice as much—

Mr. THOMPSON. That is \$3.08.

Mr. BECKER. Right—\$3.08 is 15 cents per hour.

Mr. THOMPSON. I am corrected by the gentleman from Ohio who says it is \$3.18. I think it is \$3.08, but in New Jersey we use a different arithmetic primer.

Mr. BECKER. This was the figure that was used for absenteeism—15 cents per hour.

Now the turnover we had, a termination of 8.93 females for every 100 employees, a termination of 6.52 males per 100 employees, which would indicate that our female turnover was 36.96 percent greater than the turnover for male employees. We have modestly set the price or cost of \$200 to employ a new employee, which is low because that is given most often at \$500.

Mr. THOMPSON. Is this for both male and female?

Mr. BECKER. Yes, in this job, this group, \$200.

Mr. THOMPSON. What is the wage differential?

Mr. BECKER. 19½ cents.

Mr. THOMPSON. 19½ cents, and the cost differential is about 13 cents?

Mr. BECKER. No, it is 23 cents.

Mr. THOMPSON. 23 cents?

Mr. BECKER. 23 cents. At that point we used four factors, increased absenteeism, labor turnover, the excess cost of insurance, and the excess cost of providing facilities and care for those facilities which are required by State laws.

Mr. THOMPSON. I am coming back to you in a minute.

Mr. BECKER. This is 23 cents an hour.

Mr. THOMPSON. You think?

Mr. BECKER. We know.

Mr. THOMPSON. You know?

Mr. BECKER. We know it is 23 cents an hour based on our 1958, 1959, and 1960 experience.

Mr. THOMPSON. That is 23 cents. What is your pay differential?

Mr. BECKER. 19½ cents.

Mr. THOMPSON. Why should it not be 4 cents?

Mr. BECKER. What is 4 cents? Where does this come in?

Mr. TAFT. Mr. Becker, do I understand then that the net of your testimony is that even with the wage differential it costs you 4 cents more per hour to employ a woman on a particular job than a man?

Mr. BECKER. That is correct.

Mr. TAFT. 3½. I guess you said 19½ and 23.

Mr. BECKER. That is correct, sir.

Mr. TAFT. I think that is the net sum of it. Does this mean that under this proposal, if we had a cost differential factor like this, the man could ask for a 3½-cent increase so he could be equally treated with the women?

Mr. BECKER. Let us say this, Mr. Taft: We are not opposed to the principle of equal pay, but we do think that these matters ought to be considered. I think Continental Can has an excellent history of negotiating with their labor unions to eliminate wage differentials where they exist and where equal work for equal pay becomes a major issue in contract negotiations. With our union in the Hazel-Atlas Glass Division equal pay for equal work has never been a major issue.

Mr. TAFT. Mr. Becker, would it be possible from the data that you—I do not want to put you to gathering additional information, but from the court case you must have additional data—would it be possible for you to prepare specific identical job classifications, some figures showing the cost of the man on that job and the cost of employing a woman? And showing specifically what the present pay is of a man or woman on that particular job?

Mr. BECKER. It would require an accumulation of data. I would point out that in the case where this information was developed this was in 1958, 1959, and 1960, and that would have to be updated.

Mr. TAFT. I am not so concerned with its being updated. If you have such information I would be interested in seeing it.

Mr. BECKER. It would be far simpler to give you the excess cost of employing females on a plantwide basis.

Mr. TAFT. The only difficulty with that, Mr. Becker, and it seems to me it is a disrupting factor, is that the number of females employed in particular job classifications and the number of males employed in particular job classifications obviously are not going to be equal on each job classification. That is the problem you get into. Do you have any figures which would get away from that difficulty?

Mr. BECKER. I could search for them. I do not know of any figures. We do not break the costs down in that manner.

Mr. TAFT. If you could get them and submit them to the committee, they might be helpful, perhaps more meaningful than an across-the-board figure.

Mr. Chairman, with your leave I would also like to ask Mr. Markham if he has any specific comment from his own company's experience on this problem which we are presently trying to cope with.

Mr. MARKHAM. Yes.

STATEMENT OF JERRY MARKHAM, THATCHER GLASS CO.—Recalled

Mr. THOMPSON. Excuse me. Mr. Markham, I think you should be identified as Mr. Jerry Markham of the Thatcher Glass Co., at this point.

Mr. MARKHAM. That is right, Mr. Chairman. I can speak as an associate to Mr. Becker here with some experience because I formerly worked for Continental Can and was personally involved in some of the problems which he is talking about—so it is not a matter of hearsay—up until June 1 of last year.

This study here is a reflection of the cost of hiring females as part of a work force as compared to an all-male work force. It was only put together to illustrate that the employment of females as such as part of a work force, based on actual experience, not theoretical experience, creates an added cost which is apparently inherent with female workers.

The question, Mr. Chairman, what is the differential between female rates and male rates has no bearing on this experience.

Mr. THOMPSON. Why not?

Mr. MARKHAM. Very simply, sir, because you measure the cost of replacing female or male employees, you use the same cost factor. Then you take the excessive absenteeism of the female and that is the added cost. It has nothing to do with the rate.

Mr. THOMPSON. Nothing to do with the wage differentials?

Mr. MARKHAM. No, sir.

Mr. THOMPSON. Then why don't you pay them the same?

Mr. MARKHAM. Because it costs you 23 cents an hour to have females as part of your work force.

Mr. THOMPSON. How can you say out of one side of your mouth the differential makes no difference and out of the other side of your mouth say it does cost you more?

Mr. MARKHAM. Mr. Chairman, I am not talking out of either side of my mouth.

Mr. THOMPSON. I know. I said both.

Mr. MARKHAM. I am trying to make clear something that is apparently confusing, that the difference in pay—for example, if a female gets \$1.75 an hour and a male gets \$1.95 an hour, the base for computing absenteeism is twice the rate of pay. The turnover is an

arbitrary figure used at \$200 to replace an employee, retrain them, recruit them, and so what have you? It has nothing to do with the rate of \$1.75 and the rate of \$1.90. It is an experience factor. If you want to come back to the differential in pay you come back to the two rates of pay. You say, "Why are you paying the female \$1.75 and the male \$1.95?" We point out to you that female experience over the years has cost us 20 to 23 cents an hour to maintain them as a part of our work force due to experience in employment, maternity, facilities.

Mr. THOMPSON. Is this not why you pay them 20 cents an hour less?

Mr. MARKHAM. Yes, sir.

Mr. THOMPSON. Then it does have a relationship, does it not?

Mr. MARKHAM. Yes, but not in the way you were trying to arrive at it a moment ago.

Mr. THOMPSON. Well, maybe not.

Mr. MARKHAM. You said something about one company, which happened to be a glass company; that perked my ears up, when you mentioned that they testified and you figured they were making 40 cents an hour profit on the employment of females.

Mr. THOMPSON. That is right.

Mr. MARKHAM. I was very curious because they are a big competitor of ours. I wanted to make sure we were competitive with them. So I checked their figures. If you will pardon me, I could not find any 40 cents profit. What had happened was that you had taken the average rate, actual rate of all male employees as compared to the actual rate of all female employees, and subtracted the difference, and came up with 40 cents, after discounting the cost of hiring females.

Mr. THOMPSON. There was 72-cent difference.

Mr. MARKHAM. Yes, sir.

Mr. THOMPSON. Now we did not discuss efficiency, productivity, and the man brought in an argument which was constructed especially for this purpose and which was not all-inclusive. I admit that my deductions were all-inclusive in the absence of any specific information on his part. Now the gentleman at your left is sitting here, he knows precisely, or he says he does, and you accept it, precisely the difference as it affects his negative argument, but he does not have the precise figures for the male. He is not here really to do anything but say, "Well, we do not want to pay them as much."

Mr. MARKHAM. I do not think that is the point at all.

Mr. THOMPSON. I am very confused. Incidentally, if your competitors vary as much as the various industries do, I can understand the need for a very careful cost analysis, job evaluation, and, perhaps, outside people to come in and look and see whether your personnel programs are as efficient as they should be in an industry.

Mr. MARKHAM. Mr. Chairman, let me see if I can clear this up. The average rate of male employees as compared to an average rate of all female jobs will differ. Now if you say in the situation mentioned a moment ago it was 72 cents an hour, and I think the company said their cost of hiring females was 30 cents an hour, and if you subtracted the 30 cents, you would come up with 40 cents, and I believe this is what you said represented profit.

The only way you can come to that conclusion is to assume that all the male jobs are identical to all female jobs, that there are no skills, there are no higher classifications, and so forth.

Mr. THOMPSON. But the purpose of this legislation, sir, is equal pay for equal work, and, therefore, when there are larger differentials we are not interested.

Mr. TAFT. Mr. Chairman, that is not the point the witness is attempting to make. The point that the witness is attempting to make is taking the average pay of all the men in a given plant and the average pay of all the females, the figures have no relation to each other. All the women could get paid better than the men in all the categories, and you would be getting that differential because there are a lot of jobs where there are women who are paid a lot more than men and maybe a lot of jobs where men are paid more in the other categories.

Mr. THOMPSON. I am trying to be specific where they are equal.

Mr. TAFT. That is what I am trying to do, too. I do not think making a comparison between the overall average paid to all men and all women has any meaning at all.

Mr. THOMPSON. I agree with you; it has no meaning any more than it has any meaning for them to come in here and say it costs 23 cents an hour more to hire a woman than a man.

Mr. TAFT. Why not? When you are talking about a specific category—

Mr. THOMPSON. They aren't.

Mr. TAFT. These expenses of hiring particular employees break down on a per employee basis. The other figures do not break down on a per employee basis.

Mr. THOMPSON. You are being very helpful to me. You are clarifying my thinking. Let us assume hypothetically that they have 50 women and 50 men doing the same job, or an equal or a comparable job. This is what we are trying to legislate.

Mr. TAFT. Right.

Mr. THOMPSON. I want to know from them specifically the differential, including all factors, for those jobs where men and women are doing equal work, but not getting equal pay. This is the only way we can do it intelligently. Is that right?

Mr. TAFT. I think that is right. If you do not have the figures available, you can attempt to arrive at some conclusions without them. But certainly if you have them it would be better.

Mr. THOMPSON. That is what we are trying to do. I realize, for instance, having worked in a factory myself, that the machinist was getting \$3 and some cents an hour while I was working on a punch press for 25 cents an hour. He had had an apprenticeship, a long period of training, was doing skilled work, and I was a donkey, which I still am in a sense. There was that enormous differential attributable to that.

I am not trying to compare a production worker who is a woman in the factory with the most highly trained and skilled worker in the factory. That is patently unreasonable. What I am trying to get him to do is to tell me if he has workers doing identical work or equal work or comparable work, what the differential is, and why he opposes giving the women as much, except for the general statement that it costs more to hire a woman. I do not think that is unreasonable. I do not mean it to be.

Mr. MARKHAM. Mr. Chairman, may I try to add to the confusion or clear it up? It has been testified to, and I testified as to the cost

due to actual experiences of having females as part of your work force. Now, in reading the testimony of some of the union officials here, I have noted that they have complained that females make up the bottom part of a wage evaluation program.

I think you will find this practically prevalent in any wage structure you set up, and I think the influencing factor over the years with those males on the same job as females, you will find the female jobs at the bottom of the wage curve, the factor being the experience, the cost experience of hiring females, this is the factor that determines the wage rates for the jobs and also determines the wage relationships to each job up the line.

Now this is a point we are trying to get some recognition for. To suddenly come in and say that here is a female classification and here is a male classification way up the curve that are comparable in, say, skill, or comparable in training requirements, but there is a 20- or 30- or 40-cent an hour difference in pay, your whole evaluation program is subterfuge, now get all of these female rates up to the rate up here. This is what we are fearful of. This is what we are asking you to recognize, that the cost of hiring females is a real tangible experience factor and can be justified by any employer who has females as part of his work force. It is not a gimmick to try to justify chiseling on female employees by paying them low wages. It is a real tangible factor. That is the one argument.

Mr. TAFT. Mr. Chairman?

Mr. THOMPSON. Yes, Mr. Taft.

Mr. TAFT. I believe I understand the problem. I think probably the chairman does, too. At this point I would like to go on and ask Mr. Becker if he has an opinion as to what the effect on employment would be if he were required to raise all female pay in his particular company to an equal level with all male pay for equal jobs?

Mr. BECKER. We would probably undoubtedly hire more males because the male group is a group that advances itself into the skilled jobs. Because of the peculiarities of the glass business, for example, the skilled jobs are in those areas that women cannot, for all practical purposes, work, and many times because of the State law which will not permit them to work. They are very hot areas, handling the molten glass, doing very heavy lifting work. These are the highly paid jobs. We would employ more men to have a pool from which to get people to advance into these skilled units. I am sure that the fact of the matter is that we would probably employ more men and reduce the number of women.

Mr. TAFT. Would there be any effect upon your total employment?

Mr. BECKER. We point out that women represent about a third of our work force. In most of our plants we have no men in the one or two job classifications that the bulk of these females work in. This is because of this cost factor and because of other considerations.

For this reason we would probably hire men, or more men, to get a pool from which to get people to move up in the normal job progression system to higher skilled jobs.

Mr. TAFT. My question was, Would there be any effect on the total employment of both men and women in the aggregate?

Mr. BECKER. Well, we can get by with fewer men than women for many reasons. We would probably reduce the number of females and

we would probably in the end reduce the total number of employees, the total employment in a given plant.

Mr. TAFT. Why would that occur?

Mr. BECKER. Because of the factors of enforced rest periods—

Mr. TAFT. I mean reduce the total number of men and women.

Mr. BECKER. Well, where you have a woman doing a job and there is any heavy lifting involved, then you also have to employ a man to do the lifting job. If you had a man who was doing both jobs, you would probably reduce the number of employees because the man could perform several tasks, many of which are now prohibited by State law for women to perform.

We feel, Mr. Taft, that four men can normally replace five women on these jobs because they can do these many different tasks that men now perform.

Mr. TAFT. Thank you. That is all.

Mr. THOMPSON. If it is so under existing circumstances that four men can replace five women, why don't you now have, in the interest of operating your company more efficiently, the four men rather than the five women?

Mr. BECKER. First, let us say that because of World War II and the Korean war we employed many women on these jobs that were formerly done by men. With the passage of time, the men left the jobs and we hired women on these jobs. At the present time we could not get rid of the women because of the seniority factor.

Mr. THOMPSON. That negates your earlier statement that you would reduce the employment of women, does it not?

Mr. BECKER. Well, it is also a factor many times, frankly, a decision that a woman is capable or more capable in performing a different job.

Mr. THOMPSON. You have a great many women called selector packers, do you not?

Mr. BECKER. That is correct.

Mr. THOMPSON. Do they do the job, everything else being equal, setting aside the differential in cost and the fact that you have to give them a decent restroom and so on, setting all those things aside, who does the selector packer job more efficiently, the man or the woman?

Mr. BECKER. This is a matter of management opinion because we have certain manufacturers that use all men on these jobs, we have certain manufacturers who use all women, and we have certain manufacturers that have a divided group.

Mr. THOMPSON. Now what do you do?

Mr. BECKER. We have plants where we have both men and women. We have plants where we have only women.

Mr. THOMPSON. Now on the basis of that experience, since you have both, which is more efficient?

Mr. BECKER. The present management would probably continue to employ women on the selector packer jobs.

Mr. THOMPSON. Because they are more efficient? You reduce the extra cost of employing women by the increased efficiency that they have?

Mr. BECKER. Would you repeat your question, sir?

Mr. THOMPSON. Yes. Do you reduce that 23-cent-an-hour cost of employing women by the product of their greater efficiency?

Mr. BECKER. No.

Mr. THOMPSON. Have you given any thought to that?

Mr. BECKER. Yes.

Mr. THOMPSON. What was your conclusion?

Mr. BECKER. These factors are still there, the factors of turnover and absenteeism.

Mr. THOMPSON. Yes, but the cost of efficiency is still there too, is it not?

Mr. BECKER. A man can do this job as well as a woman, but a woman is better adaptable to that job.

Mr. THOMPSON. What does a man do? Does he overcome some inability that he has? How can he, being less well adapted, do it as well?

Mr. MARKHAM. Mr. Chairman, may I answer that? To give a better perspective of what you are pursuing, this particular classification happens to be a machined-based job. In a glass plant there are various types of glass containers moving down these conveyors. Some run fast, some run slow, depending on the size and weight. Some have greater specifications as far as quality inspection is concerned than others.

We have found that the greater productivity and efficiency of male versus female to be relatively little, little difference at all. We do find in some cases that the female is more adaptable to the monotony of the job than the male is.

Mr. THOMPSON. The repetitive work?

Mr. MARKHAM. That is right. But we do not gain anything in the form of additional productivity or efficiency, male versus female or female versus male.

Mr. THOMPSON. Why not?

Mr. MARKHAM. Because our quality control rechecks every bit of this work after it is inspected and we find only in a small area where women can attune themselves or adapt themselves to monotony we have less reselection, less effective work, but believe me, you could put the dollar value of this in your eye so far as making a case out of it.

The real truth about this situation is that over the many past years, labor markets, world wars, defense problems being what they were, many manufacturers as well as glass container manufacturers were forced to use women in these jobs where traditionally for many years they used all males.

Mr. THOMPSON. Yes, but you are not forced now, are you?

Mr. MARKHAM. Yes, sir, because we have contracts. These female employees have rights, seniority rights. They cannot be arbitrarily discharged, replaced, but I assure you, based on the statistics of turnover, it would not be a difficult job in a period of years to replace them through turnover with males in this company or any company that is forced to pay them a male rate of pay.

Mr. THOMPSON. Let us get to the turnover for a second. We know that statistically not less than 20 percent of all the American people move each year, whether it be upstairs to downstairs, or vice versa, from one block to the next, from one city, county or State to the next. I cannot be persuaded, especially with conditions existing in the area in which Mr. Becker's company operates, that if everything else is equal, and if they are equally efficient at the job, which you claim

I could put in my eye, I cannot be convinced that for a net cost, in his case, of 23 cents an hour, he would not have availed himself of the provisions of the collective bargaining agreement, and every time a woman moved who is senior, he would not have replaced her with a man and saved himself 23 cents an hour net.

Now you are like everyone else. I hope that you take this in the spirit in which it is offered. You people come in here and you talk about the disparity because of the physiological, psychological, and physical differences between men and women, the turnover. But you do not talk at all, none of you has talked about, except so far as you admit, sir, that I can put in my eyeball the difference, the difference between the efficiency of the male and female worker.

Now I worked in a factory on a production line and I know perfectly well that there are any number of jobs, and so do you, where, because of physical differences, dexterity versus strength, the man can do more work on one line where the heavier stuff is and the woman can do more work on the lighter line because she is more dextrous and more patient. Yet you come in with how much it costs you to put a door on a john and a lounge and other things, most of which I suppose are sold through coin dispensers anyway, and you attribute this as a big cost.

I just do not believe that you are telling us the complete story when you came in and you have precisely the cost for every item except you ignore, even if it is a 10th of a cent, what I can put in my eyeball. The fact is that we are not trying, and this legislation would not cause you to raise the wages of these jobs on which you employ women virtually 100 percent because there isn't an equal situation between what they do and what the man does who lifts something much heavier and who does other things.

Now we are not trying to destroy your industry, but this gentleman's company has plants in Clarksburg, W. Va. What is your hourly wage in Clarksburg? Do you have a plant there?

Mr. BECKER. Yes.

Mr. THOMPSON. What is your hourly entering wage for male or female in Clarksburg?

Mr. BECKER. I am not sure, sir. It is about \$1.95.

Mr. THOMPSON. What is it in Washington, Pa., 65 miles away?

Mr. BECKER. At the present time, 1.94½.

Mr. THOMPSON. What is it in Wheeling, W. Va?

Mr. BECKER. No plant in Wheeling, W. Va.

Mr. THOMPSON. I thought you had a plant there.

Mr. BECKER. We have a plant there. It is populated by men.

Mr. THOMPSON. You have no problem there.

Mr. BECKER. That is right.

Mr. THOMPSON. Well, I thank you for coming. I am very much aware of the interest of all of industry.

Mr. BECKER. May I make one more statement, Mr. Thompson?

In Zanesville, Ohio, we have 6 men remaining on a job that is now populated by 250 women. The female rate is comparable to what the industry is paying for that job, in fact, it is more than comparable. Yet these women could file suit against us alleging that they should get the male rate, a male rate that was developed over many years of bargaining based upon fixed shifts; women could not work from 6 to 6 in the morning and men were employed on those shifts.

Mr. THOMPSON. That is not equal work in my definition.

Mr. BECKER. These men are now performing the same job.

Mr. THOMPSON. Six of them?

Mr. BECKER. Six of them. And they are in many instances long-service employees who would like to work out the rest of their days in that job.

Mr. THOMPSON. Of course, and I think they should. Now could they not work on a different shift?

Mr. BECKER. No, because the shifts rotate. This is a 24-hour a day, 7 days a week operation.

Mr. THOMPSON. Can the women work all three shifts?

Mr. BECKER. They work all shifts now.

Mr. THOMPSON. Now?

Mr. BECKER. That is right.

Mr. THOMPSON. In other words, they have an equal situation, don't they?

Mr. BECKER. Yes, but we point out that if we were required to increase female wages in that plant to the male wages we would be forced to move our operation someplace else because of the cost disadvantage.

Mr. THOMPSON. You have a seniority question there, obviously. What is the differential in pay between the six men and the women?

Mr. BECKER. 19½ cents.

Mr. THOMPSON. Do you have anything further?

Mr. BECKER. No.

Mr. THOMPSON. Thank you very much, gentlemen, both of you.

Our next witness is Miss Elizabeth Johnson.

Thank you for coming back.

STATEMENT OF ELIZABETH S. JOHNSON, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN—Resumed

Miss JOHNSON. My name is Elizabeth S. Johnson. I am a labor economist and former director of the Bureau of Women and Children, Hours and Minimum Wages, Pennsylvania Department of Labor and Industry. In that capacity I administered Pennsylvania's equal pay law. I am appearing on behalf of the American Association of University Women.

The AAUW has a membership of over 150,000 university women graduates organized in over 1,500 branches throughout the 50 States and the District of Columbia, and Guam. From its founding 80 years ago the association has supported legislation to eliminate discrimination on the basis of sex, and since 1945 has included in its legislation program an item specifically in support of Federal equal pay legislation. At its last national convention, in 1961, this item was adopted by convention delegates with no dissenting votes. In 1962 an opinion poll was conducted in our branches as background for preparation of a program to be presented at our next biennial convention.

Ninety-four and seven-tenths percent of the branches recorded as participating in the poll voted to retain this item in the AAUW legislative program. By far the greater number of the other 5.3 percent of these branches suggested redrafting the item or expressed no

opinion. A very small number of branches voted to drop this item from our program.

The association supports the principle of equal pay for comparable work because it is just to the worker and it is economically sound. It supports Federal equal pay legislation because the record shows that reliance on voluntary compliance, collective bargaining, and State legislation has not effectively met the several problems created by unequal rates of pay, based on sex, for comparable work.

Since the first State equal pay legislation was adopted in 1919, only 22 States have adopted equal pay laws. It is undeniable that these State equal pay laws have brought relief. But in some of these States large groups of workers are exempt by law, or coverage is limited to workers in specific industries. In some other States it is reported that these equal pay laws are poorly enforced.

Furthermore legislation equalizing pay for men and women, legislation which affects payroll and competitive costs, need to be federally based. Otherwise firms in a State enforcing equal pay legislation face unfair competition. The prospect of such unfair competition operates not only where two independent businesses are in competition across State lines, but where one parent corporation operates establishments in several States and will be making economic decisions as to where it will be placing new orders and new investment.

Harassed by the stubborn problems of unemployment, States and communities are competing to keep and attract business and so jobs.

The rights of men and women as people, rights which are invalidated in discrimination in rate of pay between sexes, should not be a pawn in the battle for economic survival and expansion.

Equal pay legislation protects men's jobs. The employer who pays a woman a lower wage for the same work will also hire the "cheap labor." In areas of chronic unemployment, equal pay legislation will protect men's jobs as well as assure a fair wage to women who must work.

Fair treatment in wage policy is an important factor in employee morale and so in productivity, and adequate wages stimulate the economy generally.

Inequality in wage levels deters many trained women who might otherwise enter the labor market, in many instances to the detriment of society. We speak in particular of the many trained women who are now qualified, or who could easily become qualified teachers, whose entrance into the teaching field would contribute toward meeting present and predictable shortages of able teachers, but who now feel the financial gain involved scarcely worth taking on the dual responsibility of jobs and of running households.

Enactment of a Federal equal pay bill will set a pattern which will affect, even if indirectly, employees outside the scope of Federal legislation.

There are almost 25 million women in the labor force or more than one-third of all women over 14 years of age. Most work to contribute to essential living expenses, in fact it is estimated that 90 percent contribute regularly toward meeting family expenses.

We are told that over 6 million live alone and hence are wholly responsible for their own support; most of the other 6 million single working women are in large part responsible for their own support;

over 2 million working women are heads of families, others are the primary wage earner in the family although not technically the family head; married women who are not the primary wage earner in the family work to raise family living standards and to help send children through college. I might note college tuition to State residents at major public universities has increased an average of 71 percent in the period 1952 to 1960. Since 1940 older women have become an increasingly prominent group in our labor force. Almost 4 out of 10 women workers are 45 years of age or over, many self-sustaining. At the same time, working women are more often in the lower wage brackets in rate of pay. Any differentiation in rate of pay is to them not just a matter of injustice, but has serious consequences on their standard of living.

A report from the Bureau of the Census shows that women have earned in the period from 1955 to 1961 on the average less than two-thirds as much as men. But the basic costs of living are the same for the head of a household whether man or woman.

A study reported February 1, 1962, in the Wall Street Journal stated that women graduates as they left college could expect a wage differential of from \$50 to \$100 per month behind offers made to men for equivalent positions. But as members of this committee who have had the experience of comparing the cost of sending a girl and a boy through college are aware, it usually costs more to send a daughter through college than a son. A study of basic student charges in higher education released in 1962 by the Department of Health, Education, and Welfare states that the average institutional charges for dormitory rooms are \$189 for men and \$193 for women in public institutions; and \$231 for men and \$249 for women in private institutions. Food service charges for women enrolled in private institutions are also shown to run higher than for men.

Another interesting study on the expenses and sources of income of the university's student body was conducted in 1961 at the University of Wisconsin under the direction of Prof. L. J. Lins. The following chart on the mean cost of attendance of single undergraduate students demonstrates the point.

(The chart follows:)

Mean cost for university attendance of single undergraduate students divided by resident status and sex

Cost item	Residents		Nonresidents	
	Men	Women	Men	Women
Room and board.....	\$729.20	\$809.01	\$802.67	\$1,007.16
Books and supplies.....	87.07	83.14	87.65	87.54
Travel in Madison.....	17.20	6.98	20.42	10.12
Travel to and from home.....	35.00	23.61	130.77	163.66
Clothing.....	76.13	151.04	105.77	228.69
Laundry and cleaning.....	22.24	19.48	52.13	36.51
Tuition and fees.....	220.00	220.00	600.00	600.00
Health.....	15.97	24.10	16.32	34.72
Recreation and entertainment.....	128.53	43.88	163.84	56.55
Fraternity, sorority, resident halls dues.....	35.32	55.54	56.44	62.23
Other ¹	95.94	92.90	105.50	121.92
Total.....	1,462.60	1,529.68	2,141.51	2,409.10

¹ Student activities, personal items, gifts, etc.

Miss JOHNSON. For the State residents, the total cost for the men, this is including tuition and so forth, come to \$1,462.60. For the women who are State residents, \$1,529.68. For the men who are not State residents, those from out of State, the cost adds up to \$2,141.51, and for the women \$2,409.10.

Not only are some basic costs higher but the opportunity for a girl to earn as much as a contribution toward the costs of her education is not as great as for a man.

An Office of Education report released in 1957 showed that after the freshman year 45 percent of men and 25 percent of women undergraduates earned a part of their college expenses. These figures, which are not out of line with current reports from institutions, suggest fewer job opportunities and lower pay scales. Financial assistance from the family available to undergraduates is about the same for men and women. But scholarships and loan funds are more limited for women than for men, possibly because of their frequent tie-in with postgraduation activity and the fact that women graduates under present conditions do not have the same opportunities to obtain jobs or to earn as much as their brothers. In fact, a report not yet released in which figures from more than 200 institutions are included, will show that outside financial aid at the present time available to women from scholarships, jobs, and loans is approximately half as much as to men.

Although the fact that dormitory, travel, and clothing expenditures and the inability to earn as much toward her university expenses is taken into account by some major scholarship fund programs and by many institutions supplying student aid funds in making awards to women—some add an additional \$200 to the grant going to women rather than to men—it is now and will become increasingly difficult for girls in the middle and lower income groups to aspire to college. I am sure you can see the concern of our association.

In this situation, too, the importance of equal pay for comparable work becomes a matter of concern not only to the individual but to society as the need for more and more persons, men and women, equipped with a college education continues to increase.

That concludes my statement representing the voice of the American Association of University Women. I would be glad, if you would like me to, to make a few observations out of my personal experience in State equal pay administration.

Mr. THOMPSON. I think that would be very valuable, Miss Johnson. You would be the first witness who has had the responsibility of administering the State law. Would you like to proceed? I have some questions.

Miss JOHNSON. Perhaps I might open by identifying what our State law was in Pennsylvania and pointing out the standard which is similar to the bill before you, but is not precisely.

The standard in our State law is that no employer shall discriminate in any place of employment between employees on the basis of sex by paying wages to any employee at a rate less than the rate at which he pays wages to employees of the opposite sex for work under comparable conditions on jobs the performance of which requires comparable skills, except where such payment is made pursuant to a seniority, training, or merit increase system which does not discriminate on the basis of sex.

You see, our law uses the concept of comparable. This law became effective in March 1960 and we were very pleased in our efforts through the Department of Labor and industry in Pennsylvania that we found for the most part that employers were already complying with the standards and that we had no problem.

At other places we did find that there was a problem and some difference in rate. In those cases, with very few exceptions, the employers immediately, and without great delay, came into compliance by equalizing the rates between the men and the women.

Mr. THOMPSON. Did you find that this was fairly extensive, this adjustment of wage rates following enactment of the law?

Miss JOHNSON. I would say in some instances the wage rate would cover a number of women, perhaps several hundred in a cigar factory. In that particular case it was a nickel difference. So that the burden of that was not great.

In many of the situations the adjustment may have involved a half dozen or a dozen women. Now probably many of the situations would not have come to our personal attention because our chief effort was to educate industry and the public on the new law, and we had a number of meetings, clinics, as it were, to discuss the law with people in the business and trade associations, and the unions, so there was an extensive voluntary effort on the part of the people in the State to come into compliance.

Mr. THOMPSON. Did you find the impact of the law in Pennsylvania, with which there was apparently quite wide compliance, caused a loss of job opportunities to any extent for women?

Miss JOHNSON. I would say negligible. There may have been a few places where perhaps gradual replacements—I think I was aware of perhaps one or two places where women's employment perhaps slackened off by half a dozen or a dozen jobs, but by and large, there seemed to be no effect.

I would say the women were replaced by men, but by and large, we were not aware of any shrinkage of jobs for women. I might add that in Pennsylvania we very much feel that one of women's rights is for their husbands to have a job, and that is often just as important, or more important, for the woman that her husband have a job rather than she have one herself.

Mr. THOMPSON. Do you fear that the enactment of the proposed bill would deprive great numbers of women of job opportunities if there were a Federal law?

Miss JOHNSON. I do not think it would deprive many women of job opportunities. On the other hand, I think it would be a very wholesome influence in, what you might say, retarding what appears to be a trend toward more shrinkage in men's opportunities through automation which has caused a lightening of work, and there is a tendency for women's employment opportunities to be increasing as automation lightens jobs that used to be heavy jobs and now they become jobs in which women can become employed. So without this legislation I think we will find it more difficult to obtain a proper balance between men's and women's employment.

Mr. THOMPSON. You heard the last witness and my colloquy with him. I have come to the conclusion that in some cases they seem to ignore differentials in skills and efficiency in favor of differentials in cost of employment women.

Do you have any comment with respect to that?

Miss JOHNSON. I rather noted that almost all of these comments in regard to differences in cost have come from the glass industry. Now I personally have been out and visited some of these plants that have been referred to and watched this operation. I was told in several places by the management that they felt for the kind and quality of work that they had, and the emphasis that the industry was putting on quality output, that they would like to have the women in the jobs.

It is also true that sometimes the women would defend and say that the men are just as good as we are, but the general trend, as I have observed it and consulted with other people, is that this selector packer job is rather naturally a woman's job with the current laborsaving devices so that it is not too heavy for women to do.

Mr. THOMPSON. In other words, as one witness testified yesterday, the push and pull and lift and tug has been eliminated, in which case they could employ women who were to some degree or another more efficient?

Miss JOHNSON. What I was told was that this detection of these flaws in the glass is a visual detection that they do at this particular stage, and that the women seemed to have a more consistent attention and do a higher quality of selection where quality is important, as it seems to be to most of them.

Mr. THOMPSON. These factors, I think, do enter in. I was somewhat surprised a few years ago in a visit to a part of New Jersey south of where I am from, where there was a great poultry industry, hatcheries, that there was an enormous demand for Japanese workers who sexed the chickens. Somehow or other, they have a peculiar talent for being able to do it with almost unerring accuracy, and much more quickly than any locally available worker, male or female.

In the pottery industry, which is quite large in the district which I represent, we find, and I talked with the employers, that in the more painstaking work such as the application of cobalt for designs for pottery, that the women who earned just slightly less than men doing the same job do more efficient and more productive work. I think this is a factor which should be weighed at least in our consideration.

Miss JOHNSON. I think it is a very important factor in any business decision as to the qualifications that they want on the job. I think certainly the women quite definitely feel that when the employer hires them he has the right to pick the qualifications he wants. If they have the qualifications they are glad to have the job, but they do not want it just because they are cheaper than the men.

Mr. THOMPSON. Will you give us your experience with pension plans, for instance, where there is alleged to be a great differential in cost?

Miss JOHNSON. It just happens in one of the glass plants that is organized by the same union group which has been involved in these plants discussed here was inquiring about the financing, about their pension program, and found that there was a fixed contribution per employee into the fund and 40 percent of the employees were women. So that 40 percent of what went into the fund—this was an all employee contribution in this particular case—came in on the basis of women's employment, and the other 60 percent on the basis of the men's employment. Then I asked, how many men and women are

drawing benefits? From this fund 60 men were being paid current benefits and 2 women were being paid current benefits.

Mr. THOMPSON. What was the proportion of employment in the plant?

Miss JOHNSON. Forty percent were women, and then I guess as you compute who was drawing benefits, it would be 3 percent of the women were drawing benefits, but 40 percent were contributing.

Then I asked, did the women get any contribution back if they left before they retired and I was told that there was no refund and no benefit to any one who quit, man or woman.

Mr. THOMPSON. Do you happen to remember which plant that was?

Miss JOHNSON. I do not know whether I should give the name of the plant or not on the record. It was not one of the plants who had a spokesman here. It was in a plant that happened to be using all women in these jobs that we were talking about, in Pennsylvania.

Mr. TAFT. The pertinent questions seems to me to be, with regard to that particular plant, wherever it may have been, that there had been a large shift at some particular time over a period of years from men to women in order to get that kind of result on the retirement plan. So I do not know that there is really any great significance to be drawn from that.

Miss JOHNSON. There is a very strange coincidence, because I was going to say in my youth the very first job I had was in the Pennsylvania Department of Labor and Industry. My first assignment was to go out to some of the glass factories. I went to this firm and they were one of the relatively few who were using women in 1926.

Mr. TAFT. So there was a shift over from men to women in this area?

Miss JOHNSON. No, they had been having women all the time. I think that relatively few were women who will stay, it appears, and I can't draw any conclusion from this, this is one case, that few were women who will reach retirement age, stay in the job to retirement age. That may be also an asset to an employer.

Mr. TAFT. That means, of course, there will be a considerable larger turnover of women. That is what it means? How could it be else?

Miss JOHNSON. I would not deny there is probably somewhat greater turnover. On the other hand, the employer feels it is an advantage if the worker leaves before retirement. Then they don't have to pay them any pension.

Mr. TAFT. A good many of them leave to get married. That is the experience I have had in my office with my secretaries.

Miss JOHNSON. In the glass plant many of these women are not the younger ones. They are the women in their forties.

Mr. THOMPSON. I believe the point that you are trying to establish, as Mr. Taft points out, is that obviously these situations occur because of the turnover in office staff and elsewhere. None of it, of course, is attributable to him. [Laughter.]

Miss JOHNSON. I think the fact that you can arbitrarily say that a pension system is expensive for women, because women live longer, does not necessarily mean that it makes an added expense to the employer as a pension cost. This type of pension program is apparently common to a number of glass factories.

Mr. THOMPSON. In other words, a woman or a man might work for 10 or 12 years and be part of this peculiar type pension plan, peculiar to this industry, and upon leaving forfeit his or her contribution.

Miss JOHNSON. That is right. Well, the contribution was paid by the employer, but you might say when he is employing a woman if she is less likely to ultimately draw on this pension it means that it is cheaper to hire a woman in terms of pension cost.

Mr. THOMPSON. This is a very interesting point, and it has not been raised before. I think we will ask the Department of Labor to provide for us information with respect to pension plans and what savings might be effected by the turnover to the company which contributes; that is, with respect to the employer contribution.

Miss JOHNSON. Now, I also asked about the health and welfare contribution and in relation to the pregnancy costs and so forth. And there would appear to be in terms of the employer, a uniform cost per employee for the base benefits, and then the individual employee contributes from his payroll deduction the variable which relates to dependent benefits or to pregnancy benefits. Those dependent benefits would include pregnancy to wives of its men employees?

Mr. THOMPSON. Yes, but not necessarily wives working in the plants.

Miss JOHNSON. If the wife was working in the plant, she would probably carry it in her own name, but there was a system of adjusting the amount of contribution from the worker according to, you might say, the probability that he would be charging up expense to the fund.

Mr. THOMPSON. I was asking Mr. Burress whether in the Government, for instance, we have a Blue Cross plan or another company plan showing that the rate varies between men and women, in other words, whether I would pay more if I were just covered rather than one of my secretaries would pay herself. I think it is the same.

Miss JOHNSON. I think there is a great variation in how all of these plans are developed, whether it is collective bargaining or individual, the employer buys what he wants, and they don't have to buy what they don't want.

Mr. THOMPSON. Miss Johnson, I do not know whether you were in the room at the time yesterday but the representatives of the Council of State Chambers of Commerce, a lawyer from New Jersey, with great experience in the labor relations field, talked about red circle jobs.

Miss JOHNSON. I had to learn what a red circle job was when I went into Pennsylvania. You want to know how we dealt with the red circle jobs?

Mr. THOMPSON. How you defined them and how you dealt with them, yes.

Miss JOHNSON. We would find not infrequently that there was a situation where a man would be temporarily placed in a certain spot because the plant was not busy where his ordinary skill level was. This would be where a man was relatively high skilled. They were not busy over in his spot. He would be put to perhaps helping on the line where women were working on a lower rate. He could be working where a man would otherwise be working at a lower level.

This red circle rate means that the person in that job is being paid at a rate which is not the rate for the job but is a rate which he inherited from some other status that he had in the company and where we found that situation we considered in the light of the purpose of our law, which is no discrimination, that he was not being paid the

the rate for the job that he was temporarily in and you might say he got that differential as a kind of bonus so that he would be available to go back to his other job, so that he would not have to be laid off.

We thought that was good employment policy and that it was not the intent of the law to disturb it. So we recognized these red circle jobs as a circumstance which was beyond and outside the application of the law.

Mr. THOMPSON. I see. Well, I was not familiar with the phrase, but had a personal experience, I believe in 1940, when I worked for the General Motors Corp. and was a machine operator. I think it was all of \$1.20 at that time. When they had a layoff because of the seniority status which I had I was able to survive what they called the changeover layoff, which is peculiar to the automobile industry, and was assigned at the same rate of pay to a stockman's job.

In other words, that was a red circle job. Normally that job paid about 80 cents an hour but I was paid at my regular rate because of my seniority, I guess it was.

Mr. Taft, do you have any questions?

Mr. TAFT. Mr. Chairman, let me ask first, is there anything in this bill at the present time which would take care of the red circle jobs?

Mr. THOMPSON. No.

Mr. TAFT. Miss Johnson, continuing on the red circle job situation, would this in your opinion also apply to situations where, say, a man was employed with the intention and expectation because of his background, ability, and education that he was going to be advanced rapidly but they wished to give him training in a particular department to give him background and therefore had him working in a particular department?

Miss JOHNSON. There would be two ways in which that may be used. If the actual work he was doing, the supervision he was getting, the things he was performing, were exactly the same as the woman's, we would say that was contrary to our standard of equal pay. However, if he was being given special training and part of his time was devoted to training over and above the ordinary functioning of the job, we would consider his whole total situation.

Mr. TAFT. How would you feel about a lady employed in the same category paid more than the others? Do you feel we should not do that? Suppose you hired a girl that you expect to promote but you temporarily put her in some particular job in order to give her some experience in that job before you promoted her and then in another department and perhaps another department and eventually filled up a vacancy along the line, do you feel he should not pay her more than any other women on the job?

Miss JOHNSON. Yes, if she were given no more than ordinary supervision. Sometimes in a concern you will have what they call an intern program where people are given supervision and training so they learn faster.

Mr. TAFT. Suppose the plant decides the way to give them intern training is not to give them special training but to put them in one department for 6 months and another department for 6 months and another department for 6 months and then decide whether they are to become a junior executive. Suppose this is a woman, do you not suppose under the circumstances you should not pay her more than the other woman working there?

Miss JOHNSON. Briefly as you have outlined that, under the Pennsylvania law we would have said that the law did apply in terms of the equal rate of pay.

Mr. TAFT. There would not be any differential?

Miss JOHNSON. Our law applies equally to men and women.

Mr. TAFT. I mean supposing all the other persons on this job were women. You want to take one woman in there and pay her more than the other woman. There is nothing in the Pennsylvania law that prevents that?

Miss JOHNSON. There is no application in the law that prevents that.

Mr. TAFT. Why should there be discrimination against the men by preventing them from having the job that the women have at a higher rate?

Miss JOHNSON. There would be no application of the law. If all the groups you are talking about are men, there is no application of the law.

Mr. TAFT. That is true but you can have the discrimination going both ways.

Miss JOHNSON. The thing that it was always important to watch out for in administering was that there was not, you might say, a subterfuge because many employers make the general statement because the person is a man, why, we are going to be giving him consideration for more advancement, maybe it is in some bookkeeping job or accounting job or maybe a banking job.

Mr. TAFT. And sometimes it is true and when it is true there would be no way of proving it under the circumstances that I have outlined, would there, unless we make some provision as in the red circle job provision in this legislation, is that the case?

Miss JOHNSON. I think you are making a somewhat theoretical situation. In terms of administering a law, this kind of law, I would say in my experience that you look at the total situation and there is no single factor that you can look at alone and say positively you either have discrimination or do not have discrimination.

Mr. TAFT. This becomes, then, just purely a matter of administrative discretion.

Miss JOHNSON. There must be discrimination. The mere difference of rate of pay is not violation. It is the discrimination by paying different rates of pay. That is the reason that sometimes you will have different rates of pay but there is no discrimination.

Mr. TAFT. Miss Johnson, in your opinion would the elimination or has the elimination or the legislation in Pennsylvania aimed at the elimination of the discrimination raised the cost of doing business in Pennsylvania?

Miss JOHNSON. I would say very negligibly. I think I might say it has very slightly and that is one reason that we in Pennsylvania feel this should be Federal and not merely State legislation because there is competition, it goes across State lines in a very fluid way.

Mr. TAFT. You say it is negligible at one point and then you tell me it is not negligible, that you ought to give consideration to it because you are placed in an unfavorable competitive situation. What position are you taking?

Miss JOHNSON. I do not think it has determined any major issue of volume of business or existence. I know it has not affected the

existence of any plants in our State. However we do run in a problem where an employer is worried for fear it may cause him harm. So I think it is the prospective worry that may affect his competitive situation. I think once he had adjusted to the equal rates of pay he finds he has a better managed plant than he did before but in the process of that there is a little worry for fear he may be putting himself in a competitive disadvantage.

Mr. TAFT. It is just a little worry, it is not something that he should really pay much attention to, is that right?

Miss JOHNSON. If a person is worried, he is worried.

Mr. TAFT. Either there is a difference or there is not a difference. If there is no particular difference here and if there has been no particular difference in Pennsylvania, do you see that your argument that Federal legislation is necessary has much merit because there is not any competitive disadvantage under those circumstances?

Miss JOHNSON. I think compared to the total economic factors it is very slight. However there can be situations where businesses are fearful that it may cause a competitive disadvantage while they are in the process of adjustment.

Mr. TAFT. Do you think that this slight difference that they are worrying about then is sufficient to justify imposing the Federal Government into this regulatory process and bringing them in?

Miss JOHNSON. Yes, I do.

Mr. TAFT. Is it not true that the 22 States—do you have the list of the 22 States which have adopted laws of this sort? Is it not true that most of them are the larger industrial States?

Miss JOHNSON. Do you have the list there?

Mr. TAFT. No; I do not.

Mr. THOMPSON. I think if that is true, of course Alaska was one of the earlier ones even before it was a State, but I think in general that is true. We might be arriving at a "protect Ohio" thing now.

Miss JOHNSON. I have the list here: Alaska, Arkansas, California, Colorado, Connecticut, Hawaii, Illinois, Maine, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, Wyoming.

I think one of the real problems here is that the fact that a State has a neighboring State or its competitors are in neighboring States that have no equal pay law makes it an uphill job for a State administration to try to get adequate enforcement of their own State equal pay law because employers will bring up this question, it is endangering their competitive position and it is hard for the administrative agency to know whether there is anything to it or not.

Mr. TAFT. As someone coming from the State which has such a law—yours—and my coming from one, too, I have a little difficulty in understanding why you are trying to promote yourself out of a job.

Mr. THOMPSON. Governor Scranton promoted her out of a job.

Mr. TAFT. Perhaps that is the answer.

Miss JOHNSON. I say it was the position of our department that we were going to be very grateful if this law passed because it was going to mean that where you do have this interstate influence that it could be handled in an equitable way across State lines without having State lines complicate the administration. So it was the position of our department that we favored a Federal law. At the present I do not think the new administration has gone into this to formulate a position.

Mr. THOMPSON. You are talking about the position of the Lawrence administration?

Miss JOHNSON. That is right. There is one other little point just on a detail of the law, just before I leave, although I don't want to interrupt if you have another question.

Mr. TAFT. Go ahead.

Miss JOHNSON. One small specific suggestion I would like to make. In the language of section 8 for your consideration, page 13 it is the one in regard to posting the law at the workplace. This section's purpose is to make information on standards and rates under the law readily available to both employers and employees.

In my experience this purpose would be better served through acceptance of a summary of the law for posting instead of requiring the complete copy of the law. It would be more understandable for the workers and the employers because of the difficulty that a layman has in reading legal language as well as plowing through the length of a law.

This might be done by substituting for the words of section 8, which now read: "A copy of this act posted in a conspicuous place in or about the premises where any employee employed," language to the following effect: "A summary of the major provisions of that act posted where all employees may easily read it."

Mr. THOMPSON. I think we ought to say that it must be posted in plants employing females in the ladies' room because according to the testimony that is where they spend most of their time.

Miss JOHNSON. This is just out of my own practical experience. It is all right in the ladies' room and men's room, then they have two of them.

I would also suggest that in that last sentence of section 8 that copies be available on request without charge to employees as well as employers and that of course would refer both to the summary and the copy of the act.

Mr. TAFT. Miss Johnson, one area that I am afraid that I didn't quite follow is this question of the cost of college education. As the father of a college student, one male and one female, I am aware of the problem you are talking about. But I do not quite see what that has to do with this provision. Is it your thought that the provisions of the law that we have before us, the bill that we have before us and also the provision of the Pennsylvania law would have any particular application to persons with college educations?

Miss JOHNSON. It would apply to any level of position and it was our thought—well, for instance, a woman might be going back into teaching. Now, particularly in higher education, I think quite often a woman may be paid less than a man.

Well maybe the reason she is going back to teach very often is in order to get money to put the kids through college. In a sense the woman's investment in getting her education is substantial and she therefore should not be paid less when she presents it to the employer.

Mr. TAFT. Do you seriously believe that you can prove teachers, college graduates, are really doing equal work on the job, and you can show this is a job which requires equal skill although they are teaching different people, different classes and so forth?

I am getting to this question: "What is an equal and comparable skill?" and whether we should have in this bill an exemption of professional employment and if so, why not, because it seems to me it

just becomes so difficult that it is meaningless anyway, we might as well not clutter up the law anyway.

Mr. THOMPSON. Of course this would not include teachers, Mr. Taft.

Mr. TAFT. Why not?

Miss JOHNSON. It would not be in commerce. Perhaps I should not use the example of a teacher. I should have used an example of some other profession. I feel that there are professional situations where there is, well, say, a draftsman or a beginning engineering operation or accountants, statisticians, the men and women might be doing precisely comparable work but you would not simply put all the women and say, "We are going to pay you a thousand dollars less than we are going to pay all the beginning men." I would say in a case of that kind that law would come into operation.

Mr. TAFT. Did your department in Pennsylvania ever attempt to take any step of this sort in this kind of situation where professional people were involved?

Miss JOHNSON. There has been no enforcement case involved that I recall. We did look into some.

Mr. TAFT. The answer is pretty practical. The person is going to be without a job pretty quickly if they raise this too often.

Miss JOHNSON. I think you can be assured that the university women are willing to take a chance on their capacity to offer employers something of value to them.

Mr. TAFT. I am sure of that but I do not see what that has to do with this bill.

Mr. THOMPSON. Thank you very much, Miss Johnson.

Miss JOHNSON. Thank you, Mr. Chairman.

Mr. THOMPSON. Our next witness is our last witness except for the fact that I will ask unanimous consent that the records be kept open for a period of 1 week for the submission of any additional statements by members or by anyone else wishing to be heard and any agenda which anyone might want to add.

Mr. TAFT. Mr. Chairman, I am rather short in staff. I am in the process of writing a youth employment report. If we could extend that by 10 days it might suit my convenience.

Mr. THOMPSON. I will ask unanimous consent that the record be kept open for 2 weeks.

The last witness will be Mr. John Olverson of the Electronic Industries Association.

Mr. Olverson, if it would not upset you too much, I would appreciate it if you would summarize your testimony. By unanimous consent I will ask that your testimony in full be put in the record.

STATEMENT OF JOHN B. OLVERSON, ON BEHALF OF ELECTRONIC INDUSTRIES ASSOCIATION

Mr. OLVERSON. I think that can be done, Mr. Chairman.

(The testimony referred to follows:)

TESTIMONY OF JOHN B. OLVERSON, IN BEHALF OF THE ELECTRONIC INDUSTRIES ASSOCIATION

My name is John B. Olverson. I am general counsel of the Electronic Industries Association and appear today representing the membership of that association. I wish to express our appreciation for the opportunity to testify on this issue.

The Electronic Industries Association (hereinafter referred to as EIA) is a national business organization representing approximately 340 manufacturers of electronic products and components. The majority of our members fall within the category of "small business."

The subject matter of this bill has been carefully reviewed by our industrial relations department and our views have been approved by our board of directors.

Our position on H.R. 3861 may be summarized as follows:

(1) We support constructive legislation directed at removing discriminatory wage practices against employees on the basis of sex; we do not believe, however, that section 4 of this bill sets forth adequate legislative standards to accomplish this objective without disrupting and doing serious harm to employer-employee relations;

(2) We recommend revision of section 4 to make it clear that the enforcement provisions of this bill apply only to a single plant location; and

(3) We recommend revision of section 5 to limit the broad and sweeping rule-making and investigatory authority, and the elimination of section 7 which would blacklist employers engaged in U.S. Government contract work in the event of violation.

1. The legislative standards are inadequate to accomplish the major objective of the bill

May I say at the outset, our industry is not opposed to fair, reasonable, and realistic policies directed at producing fair and equitable employment practices. Corporations, large and small, would find it difficult to survive in our free society if they failed to develop and maintain sound employment practices that would make them competitive in the present labor market. Therefore, we do not oppose the objectives of this bill but feel strongly the legislative standards proposed in section 4 should be studied carefully to make sure they achieve the laudable objectives sought and do so without serious harm to employer-employee relations.

As we view this type of legislation, it proposes a mandatory standard of employment practice which would affect individual bargaining rights between employer and employee—rights which usually are a matter of negotiation under collective-bargaining agreements. Also, the bill, in effect, supplements the unfair labor practices provisions of the National Labor Relations Act by establishing another basis for initiating unfair labor practice charges against employers. In this respect, it would divide jurisdiction over unfair labor practices between the National Labor Relations Board and the Department of Labor. We think the desirability of this type of approach should be examined carefully before final action is taken.

Section 4(a) would prohibit discrimination by employers of employees "on the basis of sex by paying wages at a rate less than the rate at which he pays wages to any employee of the opposite sex in such place of employment for *equal work* on jobs the performance of which requires *equal skills* * * *." [Italics added.] The only exception would be wages that differ "pursuant to a seniority or merit increase system which does not discriminate on the basis of sex."

This bill contains no definition of "equal work" or of "equal skills," and we do not consider this language as an adequate legislative standard in legislation containing such broad enforcement powers as are in this bill. We think that the allowable area of administrative judgment is vague and too broad. Unless the clear intent of Congress is spelled out in more definitive standards, there is bound to be costly disputes, litigation, and perhaps even strikes.

Also, there is no provision that would permit employers to consider other factors that could be made the proper bases for wage differentials, such as job classification programs which take into account cost differentials shown to be attributable to the employment of women. We believe Congress should consider all relevant factors existing under normal employer-employee practices or under State law and reflect such factors in any bill enacted. We think also that Congress should spell out in specific legislative standards the factors to be considered in the administration of this bill.

Another problem that should be studied carefully concerns the possible impact of this bill upon efforts to equalize wages in plants employing mostly women and relatively few men. If there is a wage differential between men and women that cannot be justified under the restrictive standards of this bill and the wages of the male employees cannot be reduced, a plant could run into serious financial difficulty if it were forced to increase the pay of all female employees to the

level of the few male workers. Whether this is intended under the bill is not clear, but it can be a serious problem in plants employing almost all women and particularly if the reduction of male wages is not permitted.

II. Section 4 should be revised to limit application to single plant location

We strongly urge that section 4 be revised to make it clear that it applies only to discriminatory employer wage practices in a single plant location. This section would prohibit discrimination by an employer "in any place of employment in which his employees are so engaged." During the House debate last year on similar language in H.R. 11677, Representative Zelenko expressed the view that the bill then being considered applied only "in the very place where these people of opposite sexes are working" and therefore does not apply "industrywide or areawide" (Congressional Record, July 25, 1962, p. 13794).

Because this appears to be the intent of this bill, we recommend that section 4 be revised by substituting "in any single establishment" for the present language, "in any place of employment". Unless so amended, the language referred to eventually may be interpreted by the Labor Department or by the courts as requiring the equalization of wages on a regional or national basis. There is a precedent for such broad interpretation in the case of the Walsh-Healey Public Contracts Act. This Act authorizes the Secretary of Labor to establish industry minimum wages prevailing in the "locality" in which articles are manufactured or sold. Notwithstanding the congressional intent to restrict "locality" to narrow geographical confines, the Secretary of Labor has consistently interpreted the term as authorizing the determination of minimum wages on a national basis. This could occur in administration of this legislation unless the language in section 4 is clarified as recommended.

III. Section 5 should be revised to limit the broad and sweeping rulemaking and investigatory powers

If this bill is enacted it would give the Labor Department broad and sweeping rulemaking and investigatory powers that go far beyond what is usually necessary or appropriate in the administration of this type of legislation.

Notwithstanding the many provisions of the bill, the basic authority sought to be delegated is contained in section 4(a) which prohibits wage discrimination by employers against employees on the basis of sex. To enforce this policy, section 5(a)(1) would empower the Secretary of Labor to "prescribe such regulations and rules as he deems necessary and appropriate:"

- (1) To administer the Act;
- (2) To protect against violation of the wage standards of any other applicable law; and
- (3) To safeguard wage levels in the elimination of wage rate differentials under section 4(a) of the bill.

We submit that this delegation of statutory authority would vest broad powers in the Secretary of Labor to issue whatever regulations he deems "necessary and appropriate" to administer not only this law, if enacted, but any other wage standards laws under his jurisdiction. We do not believe the delegation of such wide-sweeping powers is either necessary or desirable. We are dealing here with delegation of legislative powers that affect private rights. Such powers should be limited to what is essential and appropriate to carry out the policies enunciated in the bill. Certainly, they should not extend to the issuance of rules and regulations with respect to wage standards of "any other applicable law." Such broad powers, for instance, would appear to empower the Secretary of Labor to issue rules and regulations relating to the administration of the Walsh-Healey Public Contracts Act and the Davis-Bacon Act.

Section 5(a)(2) is equally objectionable. It delegates wide-sweeping investigatory authority to the Secretary of Labor. On his own action without the requirement of a complaint, the Secretary would be authorized to "investigate and gather data regarding the wages, hours, and other conditions and practices of employment * * * as he may deem necessary or appropriate * * *."

The delegation of such broad legislative discretion as appearing in section 4(a) of the bill is in itself undesirable, but when this is coupled with such wide-sweeping rulemaking and investigatory powers, the bill, if enacted, will open the door to numerous controversies, uncertainties, and possible litigation.

It is fundamental in our administrative process that the use of investigatory powers, particularly under statutes imposing legal sanctions, should be based upon a specific charge and probable cause of violation. This was an important point in the debate over the civil investigative demand bill during the last

session of Congress. It is also a principle that has become part of our administrative process to avoid fishing expeditions and to offer protection against unwarranted abuses of the fourth and fifth amendments of the Constitution.

It is our recommendation, therefore, that any delegation of investigatory powers should be limited to those that are (1) made upon specific sworn charges, (2) based upon probable cause of violation, and (3) confined to the investigation of such charges to determine possible violation of the legislative policy in section 4(a) of the bill. This is normal procedure in the administration and enforcement of delegated legislative authority.

It should not be overlooked also that this bill would place very broad powers in the hands of the Secretary of Labor to investigate, legislate and adjudicate. We have come to accept administrative agency organizations that maintain a separation between the investigation and prosecuting functions on the one hand, and the decision-making functions on the other. This is accomplished in the administration of the National Relations Act by separating the Board from the General Counsel's office.

Section 5(c) of the Administrative Procedure Act requires this separation. It states: "No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings."

Therefore, unless the broad powers in this bill are limited and specific provisions for separating the investigatory and enforcement functions from the decision-making functions, enactment of this proposed legislation could lead to serious abuses of the administrative process.

We also wish to voice our opposition to the provisions of section 7 of this bill as unnecessary and an undesirable enforcement measure. Section 7(b) would "blacklist" Government suppliers "until or unless the contractor has satisfied the Secretary of Labor that he is complying with his obligation" under the provisions of this bill.

This type of authority could be used arbitrarily to force potential Government suppliers to accept decisions of the Department of Labor notwithstanding their honest differences of opinion. It is also discriminatory in that it provides an additional means for penalizing companies merely because they are engaged in Government business. Moreover, in the case of multiplant corporations, it could result in blacklisting a corporation and all of its divisions because of differences existing between one of its plants and the Labor Department. This seems to be the meaning of section 7 despite legislative history in connection with last year's bill indicating the policy in section 4 as applying only to a single plant—not companywide or industrywide. We recommend, therefore, that this provision be deleted from the bill.

Again, in behalf of the Electronic Industries Association, I wish to express our appreciation for the opportunity to present testimony on this important issue.

Mr. OLVERSON. My name is John B. Olverson, General Counsel of the Electronic Industries Association. I am accompanied by Mr. Mark Richardson, who is Assistant General Counsel of the association.

Our views, Mr. Chairman, are mostly on the legal problems which we see in this bill and to summarize our position we would like to say at the outset that we do not oppose any constructive legislation directed at removing discriminatory wage practices against employees on the basis of sex, but we do believe that section 4 of this bill does not set forth adequate legislative standards to accomplish the objective without disrupting and doing serious harm to employer-employee relations.

The second point is that we think section 4 should be amended to make it clear that it applies to a single plant location.

I think that recommendation has been made before and we have had the unfortunate problem of having been faced with Walsh-Healey determination where the word "locality" has been interpreted over a

period of years by the Secretary of Labor as applying nationally and not merely locally.

Mr. THOMPSON. It is the consensus that that is our intention. If you have any suggestion with respect to specific wording to accomplish this we would welcome it. We can use any assistance we can get.

Mr. OLVERSON. In the testimony we suggest the use of the word "single plant location," "single establishment," I think the word is.

Our third point is that we think that section 5 should be amended to limit the broad and sweeping rulemaking and investigatory authority and the elimination of section 7 which would blacklist employers engaged in U.S. Government contract work in the event of violation.

Now, speaking about section 4 particularly on the legislative standards, as I said before we do not oppose this legislation. We think that realistic and constructive legislation which would seek to equalize employment between men and women is very proper.

Corporations large and small would find it very difficult to survive in our free society if they failed to develop and maintain sound employment practices that would make them competitive in the present labor market. Therefore we do not oppose the objectives of the bill but we feel strongly that the legislative standards proposed in section 4 should be analyzed carefully to make sure they achieve the objectives sought and do so without serious harm to employer-employee relations.

Now this type of legislation proposes a mandatory standard of employment practice which would affect individual bargaining rights between employer and employee, rights which are usually a matter of negotiation under collective-bargaining agreements.

Also, the bill in effect appears to supplement the unfair labor practices provisions of the National Labor Relations Act by establishing another basis for initiating unfair labor practice charges against employers. In this respect it would divide jurisdiction between the National Labor Relations Board and the Department of Labor over the general area of unfair labor practices.

Section 4(a) attempts to establish what we call the legislative standard and the basic policy under this bill which is that there can be discrimination by employers of employees on the basis of sex by paying wages at a rate less than he pays wages to employees of the other sex in such place of employment for equal work on jobs the performance of which requires equal skills.

There are two exceptions to this, seniority and merit increase system. But the bill contains no definition of what constitutes equal work or of equal skills. For that reason we don't consider that the language is really adequate legislative standard in this type of legislation where it has broad enforcement powers and we think also that the allowable area of administrative judgment is quite vague and too broad.

Unless the clear intent of Congress is spelled out there are bound to be costly disputes, controversies and perhaps even strikes. There is no provision in the bill to take into account other factors that could be made the proper basis for wage differentials such as job classification programs which take into account cost differentials shown to be attributable to the employment of women.

We believe that Congress should consider all of the relevant factors. We think they also should be spelled out in this bill. Otherwise there will be a delegation of authority to the Secretary without adequate limits and could lead to legal disputes and end up in many court decisions.

Another problem that should be studied carefully concerns the possible impact of this bill upon efforts to equalize wages in plants employing mostly women and relatively few men. If there is a wage differential between men and women that cannot be satisfied under the restrictive standards of this bill and the wages of the male employees could not be reduced a plant could run into serious financial difficulty if it were forced to increase the pay of all female employees to the level of a few male workers.

Whether this is intended is not clear but it can be a serious problem in plants employing almost all women and particularly if the reduction of male wages is not permitted.

Now, on the second point I mentioned about the single plant location, the language which I suggest is over on page 4. Instead of in any single establishment I think if you substituted in any place of employment it would go far to clarify the meaning.

Now, the third point, and I consider this one an important point, if this bill is enacted it will give the Labor Department broad and sweeping rulemaking and investigatory powers that go far beyond what is usually necessary in the appropriate administration of this type of legislation.

I think you know that section 4(a) not only delegates rulemaking authority with respect to the enforcement of this act but also any other applicable law. We submit that this delegation of statutory authority would vest very broad powers in the Secretary of Labor to issue whatever regulations he deems necessary and appropriate to administer not only this law if enacted but any other wage standards laws under his jurisdiction.

We do not believe the delegation of such wide-sweeping powers is either necessary or desirable. We are dealing here with the delegation of legislative powers that affect private rights. Such powers should be limited to what is essential and appropriate to carry out the policies enunciated in the bill. Certainly they should not extend to the issuance of rules and regulations with respect to wage standards of any other applicable law. Such broad powers, for instance, would appear to empower the Secretary of Labor to issue rules and regulations relating to the administration of the Walsh-Healey Public Contracts Act and the Davis-Bacon Act.

On the investigatory powers under section 5(a)(2) we object to these, we think they are very wide sweeping.

Mr. THOMPSON. May I interrupt you for questioning?

Mr. OLVERSON. Yes.

Mr. THOMPSON. Would some of your fears be allayed if on page 6 of the bill, beginning on line 12, we were to strike the words following "regulations", "to protect against violation of the wage standards of any other applicable law and"?

Mr. OLVERSON. You would eliminate everything beginning with "including"?

Mr. THOMPSON. No. Following "Regulations" down to the word "to" on line 14.

Mr. OLVERSON. I see. That would take care of the situation in which the Secretary of Labor would be given authority to issue rules and regulations with reference to other laws.

Mr. THOMPSON. I agree with that point. I am sure that the majority of the committee will agree also that that language does not contribute anything useful. It does raise unnecessary fears. As a matter of fact, in looking at it very carefully I can't find out what it means, really. Mr. Taft, did not you ask the Secretary about that?

Mr. TAFT. I have forgotten if I did.

Mr. THOMPSON. Either you or Mr. Goodell.

Mr. TAFT. He said he had no objection to it as I recall, to eliminating it.

Mr. THOMPSON. That is right. I think it should be and that will relieve that worry.

Mr. OLVERSON. Thank you.

The other main point on the power to investigate. The Secretary on his own action without the requirement of a complaint would be authorized to investigate and gather data regarding wages, hours and other conditions and practices of employment as he may deem necessary or appropriate.

This again is a broad delegation of legislative discretion and we think it is undesirable because when you couple this with such wide sweeping rulemaking authority, and I understand you plan to limit that now, plus the investigatory authority which is contained in section 5(a) (2), this will open the door to numerous controversies, uncertainties, and even litigation.

It is fundamental in our administrative process that the use of investigatory powers, particularly under statutes imposing legal sanctions, should be based upon a specific charge and probable cause of violation.

This was an important point in the debate over the civil investigative demand bill during the last session of Congress. It is also a principle that has become part of our administrative process to avoid fishing expeditions and to offer protection against unwarranted abuses of the fourth and fifth amendments of the Constitution.

So it is our recommendation that any delegation of investigatory power should be limited to those that are, (1), made upon specific sworn charges, (2), based upon probable cause of violation, and (3), confined to the investigation of such charges to determine possible violations of the legislative policy in section 4(a) of the bill.

This is normal procedure in the administration and enforcement of delegated legislative authority, particularly affecting private rights.

It should not be overlooked, also, that this bill would place very broad powers in the hands of the Secretary of Labor to investigate, legislate, and adjudicate.

We have come to accept the administrative agency organizations that maintain a separation between the investigation and the prosecuting functions on the one hand, and the decisionmaking functions on the other. This is accomplished in the administration of the National Labor Relations Act by separating the Board from the General Counsel's office.

I have quoted section 5(c) of the Administrative Procedure Act which clearly indicates the need for this separation. I know from our own experience in the Labor Department there is no such sepa-

ration as such, there is no separate body in the Labor Department that is separate from the Secretary that adjudicates matters which involve hearings and so forth. Therefore, unless the broad powers in this bill are eliminated and specific provisions for separating the investigatory and enforcement functions from the decisionmaking functions, enactment of this proposed legislation could lead to serious abuses of the administrative process.

On section 7(b), the blacklisting, this would blacklist Government suppliers until or unless the contractor has satisfied the Secretary of Labor that he is complying with his obligation under the provisions of this bill.

We think this type of authority could be used arbitrarily to force potential Government suppliers to accept decisions of the Department of Labor notwithstanding their honest differences of opinion.

It is also discriminatory in that it provides additional means for penalizing companies merely because they are engaged in Government business.

Moreover, in the case of a multiplant corporation, it could result in blacklisting a corporation and all of its divisions because of differences existing between one of its plants and the Labor Department. This seems to be the meaning of section 7 despite legislative history in connection with last year's bill indicating the policy in section 4 as applying only to a single plant, not companywide or industrywide.

We think this ought to be clarified because it could hurt our national defense severely merely because one plant might be charged with discrimination to blacklist the whole company.

That concludes my statement, Mr. Chairman.

Mr. THOMPSON. Thank you very much.

Mr. Taft.

Mr. TAFT. I have no questions.

Mr. THOMPSON. Thank you very much for coming.

Mr. TAFT. I might say that is an excellent statement.

Mr. THOMPSON. By unanimous consent I will include in the record at this point a statement by the Honorable Dave Martin from the State of Nebraska concerning his bill, H.R. 1936.

(The statement referred to follows:)

STATEMENT OF HON. DAVE MARTIN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEBRASKA

Mr. Chairman and members of the subcommittee, my bill, H.R. 1936, will go far toward insuring that the women of America will receive equal pay when they are doing work which is equal to that which is performed by male employees. The concept of lower wages for female employees is both antiquated and ridiculous in this day and age. Today, the women of America, thanks to our splendid educational system and the increasing trend toward automation and labor-saving devices, are just as capable of performing the bulk of the office and industrial tasks as are the men. Thus, many of the logical reasons for a differential in pay have been narrowed and in many cases they have even disappeared.

As you know, an equal pay bill, H.R. 11677, was passed by the House of Representatives on July 25 of last year. Thanks to a number of amendments which were offered by my Republican colleagues and accepted by the House, the bill, as enacted, was basically a good bill. It was then considered by the Senate on October 3, 1962. Unfortunately, it was considered and passed as an amendment to an embassy construction bill, H.R. 11880. As a result, it could not go to the appropriate conference so that the differences between the House and Senate version could be ironed out.

H.R. 1936 is basically the same bill which was passed by the House last year. It contains the safeguards with respect to the investigative authority of the Secretary of Labor. It also provides for the trial of all violations in a U.S. District Court rather than before an administrative tribunal. Finally, the provisions that there shall be equal pay for equal work is retained.

I believe that the modifications which I have made in the bill, although minor in nature, will both strengthen it and help it to receive favorable consideration.

For example, I have substituted the word "establishment" for the term "place of employment." This change nails down once and for all the often-expressed congressional intent that the provisions of this bill will apply only within and on an individual plant or store basis. Jobs in one plant or store will not be compared to jobs in another store or plant.

In section 4, I have also added the phrase, "or where such payment is attributable to other reasonable differentiation based on a factor or factors other than sex." This phrase appears in a number of State equal-pay statutes. By adding this phrase it is then no longer necessary to list in detail each and every valid reason that would justify a disparity in wage payments. For whenever an attempt is made to list exceptions, there is also the danger that subsequent statutory interpretation will construe the partial listing to mean that those exceptions and only those exceptions that are listed will be considered valid.

Section 5(b) has also been reworked so that it is absolutely clear that the Secretary's investigative authority is limited to those facts, conditions, practices, and matters that are specified in and directly relate to the charge. I am sure that no one wants to arm the Secretary of Labor with a wandering minstrel type of investigative authority. One of the touchstones of our present legal system is that the accused is advised in advance of the charge that has been made against him. We do not permit the police or the FBI to move in on a citizen, or to invade his place of residence or business; there to stay until such time as an exhaustive and never-ending investigation discloses some type of violation. This smacks far too much of the police state. Certainly this concept should not be applied in the name of equal pay for women.

I have also established a 6-month statute of limitations. This corresponds with the statute of limitations in the Taft-Hartley Act. The National Labor Relations Board has not experienced any difficulty in operating under this rule. In fact, it has proven to be a blessing, for it automatically weeds out all stale claims.

In section 6(d) I have eliminated the reference to double pay and have substituted a provision which calls for the payment of back wages plus 6-percent interest. Assessing double pay can be only construed as a penalty or a fine whereas the concept of backpay is instituted in an effort to make the employee whole for any loss that she may have suffered. The addition of a reasonable amount of interest along with the award of backpay further implements this policy of complete restitution without moving into the field of a penalty or a fine.

Finally I have completely eliminated section 8 from the bill. This section provided special blacklisting penalties for any employer who does business with the Government. I am sure that we have all been troubled by the recent trend which some have characterized as an antibusiness trend. All too often a concept of special and exceedingly harsh penalties has been applied to business. Business has been treated as if it is some type of "Peck's Bad Boy." It is unnecessary and unwise to permit this special-treatment concept to creep into this bill. Moreover it is an exercise in forensic vindictiveness for, under the related provisions of this bill, an employer cannot be penalized in this fashion unless he has been found guilty of a violation by a U.S. court and then refused to comply with an appropriate court order. In other words he would have to be in contempt of court. We all know that the courts can take care of themselves if and when an individual or a company has the poor judgment to become contemptuous.

It is my sincere hope that this bill will be considered favorably by the subcommittee.

Mr. THOMPSON. This will conclude the hearings on this subject. The subcommittee will adjourn subject to the call of the Chair.

(Whereupon, at 4:18, the subcommittee adjourned subject to the call of the Chair.)

(The following letters, telegrams, and supplemental material were submitted for the record:)

STATEMENT OF HON. FLORENCE P. DWYER, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF NEW JERSEY

Mr. Chairman, I want to thank the subcommittee for this opportunity again to speak up in favor of the principle of equal pay for women and in support of legislation which would make this principle a reality and help to end one of the most useless, unnecessary, and indefensible forms of discrimination which still exists in this "home of the free."

I am delighted, Mr. Chairman, that the subcommittee is holding hearings on equal pay bills so relatively early in the 88th Congress. It is convincing testimony of the high importance the subcommittee assigns to this subject, and it bodes well, I think, for the success that so narrowly eluded us last year.

I shall not waste the committee's time by attempting to detail the extensive arguments justifying the equal pay principle and substantiating the need for equal pay legislation. You are certainly completely familiar with these arguments. Moreover, so far as I can determine, even the opponents of the legislation concede the validity of the principle and admit that the principle is widely violated or ignored.

It is readily apparent that what is really at issue here is the kind of equal pay bill Congress is willing to approve. I don't believe I'm being overly optimistic when I express confidence that Congress will pass some kind of bill this year or next. This subcommittee and its parent committee—by virtue of its understanding and its commitment to the principle of equal pay—have made this quite likely. You have forced the issue and brought it into the open where some kind of decision has to be made. Politically, I think, that decision has to be favorable, or it has to give the appearance of being favorable.

This is the rub, of course. There are so many women workers who would be affected by a bill that it is no longer politically feasible for Congress just to say "No." On the other hand opponents of the bill, recognizing the political situation, seem to be willing to agree to the principle of the bill so long as the meaning and effectiveness of the legislation can be removed. They're willing, that is, to swap the appearance of a bill for its substance.

Once upon a time this might have been a workable strategy. I don't think it is any longer. Women today are more aware of what's at stake than they have ever been. The consistent support of the Eisenhower and Kennedy administrations for equal pay legislation has contributed greatly to this awareness. Even more important, however, was the action of this subcommittee last year. You reported a workable bill, a bill that required compliance and one that could be enforced. You stuck to your guns during debate on the House floor, and even though we lost on a couple of weakening amendments, the issues were clarified as never before.

As a result this is one instance in which women don't care about appearances. A fancy wrapper labeled "Equal Pay" is not going to satisfy them if, when they look inside, they find there's nothing in the package. As informed consumers, as working housewives who are increasingly responsible for contributing to the family budget, women have learned to look for quality and for results.

For this reason, Mr. Chairman, I hope the subcommittee will give serious consideration to my bill, H.R. 4022. In several respects, I believe it is a better bill than this year's administration bill. It is significantly closer to the bill the administration supported last year, and it is closer in those same respects to the bill the committee reported favorably last year.

The most important difference is the fact that my bill retains the language which requires equal pay for men and women workers in cases of "work of comparable character on jobs the performance of which requires comparable skill." This year's administration bill substitutes the following language: "Equal work on jobs the performance of which requires equal skills."

The effect of this change would be to make enforcement of an equal pay law extremely difficult. Although it would be quite practicable for the Secretary of Labor to establish standards by which to judge which jobs and skills are in fact comparable—which my bill provides for—it would be impossible in many cases to measure the precise equality of such jobs and skills. An employer who wished to continue discriminating between men and women in the payment of wages or salaries could simply make a slight and insignificant change in a

woman's job description or activity and thus be relieved of paying the woman an equal rate.

The subcommittee will recall that during last year's debate in the House on the equal pay bill both the chairman, Mr. Zelenko, and the gentlewoman from Oregon, Mrs. Green, made effective arguments in defense of the word "comparable." As they pointed out at that time, and as the Secretary of Labor explained in a memorandum read by the chairman, the word "comparable" is a key word in the bill. If the word "equal" was substituted, it could defeat the very purpose of the legislation because it demands such a rigid definition that no two people could ever be shown to be doing exactly equal work requiring exactly equal skills. It would therefore make the bill unenforceable.

There are other ways, of course, in which equal pay legislation can be severely limited in effectiveness. Opponents of the bill have been quite resourceful in devising these limitations. Some have proposed, for instance, what amount to stringent restrictions on the investigative and enforcement powers of the Secretary of Labor. Without adequate authority, however, there doesn't seem to be much point in passing a bill.

Others have recommended exempting from the equal pay requirements firms employing fewer than 25 persons. This is a limitation I find very difficult to justify. Since the legislation would only apply to firms engaged in interstate commerce, this exemption would permit smaller employers to continue to discriminate against women employees and thereby obtain an obviously unfair competitive advantage. It would also deny the protection of equal pay legislation to a great many women, especially those employed in retail stores and other service-type businesses, without good reason.

There are several other related proposals, which the subcommittee, I am sure, is very much aware of, all of which would in one way or another weaken an equal-pay bill. I hope the subcommittee, in its recognition of the overriding need for meaningful legislation in this field, will continue to insist that the substance of any bill it reports will be equal to the high principle of the legislation.

In reviewing much of the testimony which the subcommittee has received this year, it seems to me that many opponents have sought to introduce an element of complexity which really isn't present in this equal-pay situation. Underlying their expressed concern is the continuing assumption that women are incapable of doing work that is truly comparable to the similar work men are doing. Yet, the equal-pay bill is quite specific about this. In any case where women are not, in fact, doing fully comparable work then the bill does not require employers to pay women an equal wage. But the determination of what constitutes comparable work should be left to experienced, competent, and objective experts, and I am convinced that the Department of Labor possesses the experience and the personnel to establish the necessary standards and enforce an equitable determination.

Again, therefore, I urge the subcommittee to report a bill which the women of America have long since proved they are entitled to. The issue is a simple one of economic justice. The subcommittee understands it and the American people understand it, and I am sure the Congress will respond to their insistence that this discrimination once and for all be eliminated.

Thank you very much for your consideration.

STATEMENT OF HON. SPARK M. MATSUNAGA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Mr. Chairman, the great economic development of our country today is due partly to the contribution of the women both in industry and research. Through legislation we have gradually improved the economic status of the working women but there is still discrimination against them when it comes to paying them for doing the same work man performs.

In order to attract the best qualified women it is imperative that the pay as well as the job be attractive and challenging, too. The time has come when women can and will do the job just as well as men because of the great advancement in educational and economic opportunities for women. It is of economic necessity that we cannot deny ourselves the use of trained and skilled manpower for reasons irrelevant to merit and work production. The labor market of women will not decrease, but rather, increase, as time goes by. At present 22,835,000 women are employed while almost a million are in top administrative posts, according to statistics of the Labor Department of February 1963.

We are aware of attempts that may be made to amend H.R. 3861. To exempt certain industries will make the bill less effective and tend to defeat its very purpose. Deleting the provision requiring the lower wage to be raised to the higher wage plus payment of liquidated damages to the complainant upon a finding of a violation of the law as proposed by some would render the bill ineffective. I therefore urge your favorable report on H.R. 3861 without amendments. Thank you.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 11, 1963.

HON. FRANK THOMPSON, JR.,
*Chairman, Special Subcommittee on Labor, Committee on Education and Labor,
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN THOMPSON: This is in reply to your request for information relating to the equal-pay proposals pending before your subcommittee.

It is estimated that 50,000 retail trade establishments have 25 or more employees, engaged in commerce or the production of goods for commerce, and would be covered by the equal-pay proposals, H.R. 3861 and H.R. 4269. It is estimated further that approximately 2,400,000 employees would be working in the retail places covered.

As to the interstate commerce activities essential for coverage of retail trade firms by the proposal, a long line of decisions under the Fair Labor Standards Act reflect the principle represented by *Fleming v. Jacksonville Paper Co.* (128 F. 2d 395, affirmed sub nom.), *Walling v. Jacksonville Paper Co.* (317 U.S. 564), that goods purchased outside the State by a wholesaler for resale within the State do not necessarily come to rest when they enter the wholesaler's warehouse, but may continue "in commerce" through the warehouse and on to the retail outlet. Retail store employees who receive and handle goods so moving in commerce are clearly engaged in commerce. These activities under the proposal would subject the entire place of employment to coverage.

Many retail establishments do not have as many as 25 employees, one of the factors on which coverage depends. However, the 25-employee test is not, in our opinion, unreasonably restrictive since it will extend the protection of the proposal to nearly two and a half million employees. The history of the Fair Labor Standards Act, the Social Security Act, and other important Federal laws shows a pattern of gradually expanded coverage as Congress recognized the need for increased coverage.

With respect to administration of the proposal, I would not plan duplicative administrative offices but would intend to mesh its administration with our existing functions. The Wage and Hour and Public Contracts Division would be used, for example, to undertake compliance investigations and would negotiate for voluntary adjustments and wage restitutions as it does and has done for the past 25 years in Fair Labor Standards Act matters. The legal work would be handled by the Solicitor's Office. Other bureaus would be called upon as necessary for assistance. The Women's Bureau would participate in the Department's development of regulations and would be responsible for promotional and educational programs.

Assertions that it is more costly to use female employees than male employees cannot be substantiated on any general basis. Employment costs, in the final analysis, depend on the individual worker. Factors of absenteeism and turnover increase costs of production but there is no conclusive evidence that these costs are greater for a woman worker than for a man. Relevant to any study of this kind are other factors, such as the skill and responsibility levels of the job, age of the worker, and the length of service with the employer. For example, there are studies which indicate that mature women workers are much more stable employees than younger men. Costs of absenteeism and turnover are, therefore, typically lower for these women workers.

I am enclosing a statement prepared by the Women's Bureau of the Department of Labor on absenteeism and labor turnover which you may find useful in considering assertions about the added costs of employing women.

If we can furnish further information to you, please let me know.

Yours sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

WHAT ABOUT WOMEN'S ABSENTEEISM AND LABOR TURNOVER?

Broad generalizations about the comparative labor costs of men and women workers tend to be unfair, because they point to the sex of the worker as the major determining factor in the situation when numerous other factors have much more significance.

A careful analysis of various impartially collected statistics on absenteeism and labor turnover indicates that the skill level of the job, the age of the worker, the worker's length of service with the employer, and the worker's record of job stability—all give a much better clue to an understanding of differences among workers than does the mere fact that the worker is a man or a woman.

OVERALL AVERAGES OF ABSENTEEISM

Prior to some elaboration of this point, however, official or independent agencies which have compiled overall averages for men and women should be cited, because they report net differences which are much smaller than reported by some individual companies. For example, a Public Health Service study of worktime lost throughout the economy because of illness or injury shows an average of 5.6 days lost by women and of 5.5 days lost by men during the survey year (July 1959–June 1960).

A U.S. Civil Service Commission study of sick leave records in 1961 has just been completed. This shows relatively small difference in the average sick leave granted to men and women Federal workers: 7.9 days to men and 9.6 days to women. Even this difference might have diminished if the study had compared the sick leave records of men and women in the same salary groups. The highest numbers of sick days were averaged by those in the lowest salary levels—the levels where women Federal workers are concentrated.

The Health Information Foundation, Graduate School of Business, of the University of Chicago has studied the total loss to the American economy from work absences that occurred between July 1959 and June 1960 because of illness or injury. The study report, entitled "The Economic Costs of Absenteeism," and published in the March–April 1963 issue of *Progress in Health Services*, indicates that the financial loss caused by women's absences is not very different from that caused by men's.

Concerning "acute conditions" of illness among employed persons, the Health Information Foundation report states:

"For the 1-year period, acute conditions were responsible for approximately 151 million work-loss days, or 3.4 days per person, by men, and 90 million, or 4 days per person, by women. Higher absenteeism for women can be explained by the higher incidence of acute conditions among currently employed women. About 1.5 acute conditions per person were reported among men workers and 1.7 per person among women. In terms of the loss in wages and salaries, the higher absenteeism for women than for men reduced the magnitude of loss because men generally had higher earnings than women."

Concerning work absences stemming from "chronic conditions," the report continued:

"For the 1-year period, July 1959 through June 1960, 137 million days, or 3.1 days per person, were lost from work by men and 58.6 million days, or 2.6 days per person, by women. In contrast to absenteeism due to acute conditions, the rate is higher for men than women, and had the effect of increasing the loss in wages and salaries."

OVERALL AVERAGES OF LABOR TURNOVER

As for statistics on turnover, the Women's Bureau made a special study of labor turnover rates for factory workers based on data collected by the Bureau of Labor Statistics during the period January 1950 to January 1955. The analysis for the total period revealed an average quit rate of 24 per 1,000 women employees as against 18 per 1,000 men employees. Comparison with an earlier study shows that factory women are less inclined to quit their jobs than they formerly were. This is probably due to the higher proportion of older women workers and the growing interest among women in continuous employment.

A Bureau of Labor Statistics study entitled "The Mobility of Electronic Technicians, 1940–52," reports that, "The average electronic technician changed jobs once every 4 years during the 12-year work history period covered in the survey." A survey implication is that the labor turnover of women is not a significant factor affecting their training as technicians in view of the generally high mobility of all electronic technicians.

Another study of job mobility, made by the Bureau of the Census in 1955, indicates that men tend to move from one job to another more often than women. According to that study, 18 percent of men workers but only 11 percent of women workers had more than one job in 1955. Job mobility was also found to be higher among young workers than mature ones. In the 18- to 24-year-old group about one-third of the men but only one-fifth of the women had more than one job.

COMPARATIVE STUDIES

An insight into the comparative experiences of those holding similar jobs or with similar job characteristics is provided by some impartially collected statistics obtained by the Department of Labor on a confidential basis. They show that among both men and women workers, those with the lowest quit rates are the skilled workers and the professional and managerial workers. On the other hand, for both men and women, the highest quit rates occur among sales, service, and unskilled workers. The fact that large numbers of women are in these latter groups and relatively few in the skilled groups accounts to a large extent for the unfavorable generalizations about the labor turnover rates of women workers.

Similarly, the age of workers and their length of service are also significant determinants of separations. Only small differences were found to exist in the rates of men and women 45 years of age and over, although younger women in some occupational groups had significantly higher separation rates than men. When analyzed in terms of seven broad occupational groups, the younger women in 3 groups were found to have lower quit rates on the average than their male counterparts. In 3 other occupational groups, the women's rates were higher; in the seventh group, the rates were the same for men and women. These variations underline the weaknesses inherent in generalizations about women's quit rates.

In each age group reported in the Department of Labor data, the highest separation rates occurred among the men and women workers with less than 1 year service with the employing company. Thus, the fact that large numbers of women are employed on a part-time or intermittent basis sometimes results in the concentration of women in the group having higher turnover rates and makes the situation appear unfavorable for all women.

The importance of taking job levels into consideration is also emphasized in a report entitled "Absenteeism Among Women Workers in Industry," published in the March 1962 issue of the International Labour Review. The following quotation is from that report:

"Detailed study of absentee figures for large numbers of employees of both sexes and at all levels of skill discloses that the comparatively high proportion of women at the lower levels of the occupational scale (even in countries where the employment of women is a long-standing tradition) goes a long way toward explaining their frequent irregularity at work. Highly trained women occupying responsible and skilled positions are seldom absent, even if they have several children to bring up."

It is concluded, therefore, that any comparison of the absenteeism and labor turnover rates of men and women must be related to those in comparable jobs to be meaningful. The sweeping generalizations frequently made are not only exaggerated but often incorrect in terms of comparable groups of men and women.

STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

We appreciate this opportunity to present views to your committee on the important matter of "equal pay for equal work." The National Association of Manufacturers speaks for 16,000 member-companies comprising the bulk of American industry. These employers produce more than 75 percent of the total U.S. manufacturing output; and employ 71 percent of the U.S. industrial work force.

A high percentage of association members are small businessmen; 83 percent of them employ fewer than 500 people and nearly half have less than 100 employees. This fact has particular significance for the legislation under consideration.

The association has been a strong advocate of the principle of equal pay for women and can point to an impressive record of leadership toward this goal.

It is more than 20 years now since the NAM's Industrial Relations Committee first went on record with an official position, saying in part:

"There is little difference between men and women as regards their satisfactory performance in industry. Sound employment and personnel practices are applicable to both men and women and no emphasis should be placed on any distinction between them as workers.

"In the matter of wage policies we advocate the principle of equal pay for equal performance for women."

More recently the board of directors reiterated its stand in these terms:

"The principle of equal pay for equal work performance within the wage structure of business establishments is sound. Pay for individuals, allowable within the company's wage structure, is soundly based when work performance irrespective of age, sex, or other personal factors is considered."

NAM's positions represent an expression of view which the association proceeds to implement. For example, initially, the association undertook an active campaign to enlist fuller employer support and acceptance of the equal pay concept. As a result of our vigorous promotion of equal pay policies, differentials between rates paid to men and women, where they existed, were eliminated by many employers. Those who could not close the gap in a single action narrowed the differential and corrected their pay practices over a brief period, making the upward adjustments according to schedule.

NO LAW IS REQUIRED

This committee may be interested in this quotation:

"I am encouraged to believe that the equal pay program is not very far from achieving its objectives."

Who said this? An employer? A union officer? No, it was a Secretary of Labor speaking to a conference on equal pay for equal work which he had called. He went on to urge the key women assembled not to seek a law but "to persuade all interested groups of the justice and merit of your case. Press your educational efforts. That should be the core of your action program."

The interesting thing about this is that Secretary Tobin said it 11 years ago. If we were close to the goal then, how much more so now.

It has taken no law to get thousands of employers to pay the rate for the job without regard to the identity of the worker. Management has voluntarily made great strides in eliminating double standards in wage payment because it has learned that simple equity, good employee relations and sound management demand it.

The majority of employers have already established a policy of paying women the same rates as men where jobs are equal, for these reasons:

1. It is a matter of simple justice to see that the person who does the job is paid the rate the job is worth.
2. When two employees stand side by side and do the same work, good employee relations cannot long be maintained if they are treated unequally in the matter of pay. Frictions, antagonism, and discontent result when rates of pay differ unfairly between individuals.
3. It is good management to eliminate inconsistencies between wage rates and administer the company's wage schedule on an equitable basis, fair to men and women alike.

Certain broad trends have given impetus to the policy of equal pay for equal work.

1. Growth and development of sound personnel policies has promoted equal pay

The last two decades have been marked by remarkable growth in the adoption and application of constructive personnel policies. One of the standard industrial relations techniques in almost universal use throughout American industry is the determination of wages on the basis of job analysis and evaluation. Wage rates are determined not on the basis of who performs the job, but on the basis of the requirements of the operation in terms of time required to learn the skill, judgment, responsibility, accident hazards involved, degree of supervision required, and so forth. The widespread adoption of job analysis and evaluation results in the automatic elimination of unjustified discrimination in wage payment. Companies by the thousands have installed job evaluation systems. Any alleged inequities remaining are subject to grievance procedure so that employees can get a ready hearing wherever they have a complaint.

2. Collective bargaining is an available vehicle for achievement of equal pay

In many companies collective agreements specify that men and women shall be paid the same wage rate for the same job. Of course not all contracts contain this provision since in many cases the principle was so well embedded in the wage structure before employees selected a union to represent them that the question never arose.

We cannot refrain from commenting on section 2(a) (3) of the bill which specifically declares that "the existence of * * * of wage differentials based on sex * * * tends to cause labor disputes thereby burdening, affecting, and obstructing commerce"; and uses this point as a major reason for enacting the bill into law. The fact that equal pay is rarely even the subject of an inplant grievance makes us wonder where these labor disputes are occurring.

3. The widespread employment of women has accelerated acceptance of the equal-pay principle

Aside from the fact that the practice of equal rates is now deeply embedded, women themselves act as a most effective control in their own behalf simply by shunning the employment office of any employer who pays lower rates to women. He quickly learns that the way to attract the needed female applicants is to abolish his double standard of compensation.

It is clear then, that the equal pay issue is one which is more appropriately solved through sound personnel administration, effective complaint procedures, and collective bargaining, where it exists, than through Federal law.

In addition it is important to bear in mind that:

1. Earnings figures are often misleading, and offer no basis for argument that any law is needed

While statistics can be adduced to prove that the earnings of men are greater than the earnings of women, that fact is not necessarily due to a difference in wage rates for the same job. Due to the fact that the average length of time men have spent in industry is greater than that of women, it is natural that the most highly skilled jobs and jobs requiring the most experience and responsibility are more frequently held by men rather than by women. Therefore the average earnings of men may be higher than those of women even though where men and women are doing exactly the same job they are paid the same wage rate. Furthermore, earnings figures do not reflect basic hourly rates for the same jobs. Nor is it clear to what extent these statistics represent piece work earnings. As is well known, differences in average hourly earnings on piece work operations are common even as between males, and might merely indicate difference in productivity and not in rate of pay. Since such figures include varying numbers of men and women, with varying seniority and varying numbers paid by time and piece rates, they cannot be an index of either the existence or the extent of unequal pay on the same jobs.

Moreover disparity in average earnings of men and women might also stem from the fact that the women's average workweek has usually been shorter, making the amount of premium overtime payments proportionately lower. It is probable also that far more men than women work on shifts which involve night differential payments.

Data on numbers of equal pay clauses in contracts are equally misleading and legislators will want to be aware that statistics do not reveal the whole story.

The fact is that many companies have never negotiated contract clauses on this point for any of the following reasons:

Women were not employed; or

The company had always paid the same rates to men and women from the time it first employed women; or

The company had voluntarily and unilaterally eliminated differentials in the interest of good management; or

The company and union had agreed that one set of rates would exist and had never written this issue into the agreement.

(As BLS puts it:¹ " * * * sex differentials are simply abolished in the course of the wage negotiations and specific prohibitions do not appear in the agreement.")

We venture to say that if the proposed law were to be enacted and completely enforced, it is probable that the statistical differences would remain.

¹ Bureau of Labor Statistics Bulletin No. 686.

2. *Job differences do exist*

As indicated, it is important to recognize that even where work is the same, pay may be different not because of sex, but because of seniority, experience, skill, productivity, overtime and shift differentials.

Furthermore, there are differences which actually exist between jobs which seem the same, but when performed by men actually are structured to include certain elements which women are not called upon to perform. Efficient production demands that these differences be maintained, with men properly compensated at a higher rate for the additional skills required. If such differences are not maintained, the outcome may be fewer employment opportunities for women. These important facts are sometimes overlooked and made the basis of erroneous assumptions.

The record is weighted with evidence that the equal pay issue is not one which is appropriate for Federal legislation. Substantial segments of our population—including many employers, unions, and women's groups, able spokesmen from which this committee has heard—already believe in equal pay. The problem then is how to reach the balance in such a way as to secure understanding, acceptance, and willing adoption by those directly interested.

We submit that legislation is the least effective way of truly moving toward attainment of this goal. Even the Women's Bureau has consistently placed legislation last on its list of recommended activity. Preceding it are education, collective bargaining, and voluntary action.

The progress made in the United States toward the goal of equal pay for equal work demonstrates that the free market will itself close the gap with respect to wages. This progress has been achieved without coercive Federal legislation, and it is significant that the status of women in business and industry is considerably more favorable in the United States than in many other countries where equal pay legislation has been adopted. It is the considered view of the National Association of Manufacturers that legislative action to compel the adoption of equal pay for equal work would in no way advance the achievement of that goal and would actually retard the progress being made.

THE SERIOUS IMPACT OF H.R. 3861

At a time when the administration is searching for ways and means to encourage economic expansion and to speed up job creation, there is a strange irony to this effort to lay yet another burden on the employer.

Federal and State regulations have become so numerous that the productive process is already burdened unduly with paperwork. Perhaps it would be enlightening before another law is passed, for a study to be made of the number of man-hours now required to do nothing but maintain the extensive records required by government. We submit that the result would be shocking. The larger company is heavily weighted down with nonproductive personnel for this purpose; the smaller company is increasingly frustrated by these demands.

This is not a matter of idle concern as even a cursory reading of this bill will attest. A mass of records would be required to enable the employer to prove, in any specific case that might be raised, that he had complied with the law. The constant expansion of the clerical work force and the additional work required to be performed would add not 1 cent of value to the value of the product but obviously would increase the company's costs. In addition these are the kind of regulations which dissuade the man who is thinking of going into business from ever attempting to do so.

Some of the more obvious causes of grave difficulty would flow from:

1. The vacuum as to what is meant in section 4(a) by "equal work" requiring "equal skills." While these terms are some improvement over the even more general and ambiguous terms "comparable work" and "comparable skills" which have appeared in some other bills on this subject over the years, they are still highly ambiguous in this context. Equating one job with another, though of totally different character in widely separated areas of the plant; attempting to weigh relative values of the differing elements of jobs which bear close resemblance in some aspects but vary in others; variations inherent in shift work, in equipment, in materials, in quality and quantity of work and other vital considerations could become the subject of debate, dispute, and confusion. This section also gives the Secretary the authority to determine whether seniority and merit systems comply with the law.

2. The extraordinary powers given to the Secretary of Labor in section 5(a) (1) granting him carte blanche to "prescribe rules and regulations as he deems necessary" and "including regulations to protect against violation of the wage standards of any other applicable law" are not only awesome and sweeping but go far beyond any reasonable limit, opening the door to endless "fishing expeditions" affecting the entire wage structure. Other applicable laws would include the wage-hour law, the Walsh-Healey Act, the Davis-Bacon Act, and numerous other statutes under the Secretary's jurisdiction. This is a precedent largely unknown in our history and to grant such broad authority to any Government official could be a most unwise and dangerous step toward centralized control.

3. If the Secretary "may investigate and gather data regarding wages, hours, and other conditions and practices of employment * * *" as set forth in section 5(a) (2), it is clear that an employer would be required to keep detailed information for each and every employee, separately for each male and female, not only on wages, wage rates, hours worked, job classifications, and not only on training, seniority, merit rating, safety, vacations, etc., but also heat, light, ventilation, nature and quality of raw materials used, the kind of sanitary facilities provided, condition of machines, time and length of rest periods. From the viewpoint of the operating man, these are "conditions and practices of employment." The staggering task of amassing this detail could have the effect of discouraging the employment of women.

4. The same paragraph, 5(a) (2), speaks of authorizing the Secretary to enter and inspect places of employment, "question such employees," etc. The disruptive effect of such acts on employee relations and on the climate of the plant can hardly be imagined.

5. By the provisions of section 5(a) (3), "if a violation is found to exist," the Secretary may "persuade" the employer to change wage practices. The subtle or forceful techniques which could be used to achieve the result could obviously become an abuse. The Secretary may also "secure restitution of wages" and reinstatement of female employees. These enlargements of the Secretary's role are highly questionable. Incidentally, there is nothing in this act which in any way limits the number of people who might be delegated to make these quasi-judicial decisions, nor anything which describes the qualifications of such persons. Coupled with the provisions cited above, it can readily be seen that these arrangements would empower any present or future Secretary of Labor to set up and operate his own system of courts.

6. The subsequent provisions of section 5 establish a most remarkable procedure. After a violation has been "found to exist" by the Secretary and he has been unsuccessful in his efforts to persuade the employer to correct such violation and make restitution of wages, the Secretary is empowered to conduct a hearing, prosecute the case against the employer, and determine whether the violation which he has already "found to exist" exists.

It would be difficult to conceive of a more farcical travesty on the judicial process. Subsequent provisions give the appearance of providing a right of judicial review of an order entered by the Secretary under the above procedure finding that a violation which he had previously "found to exist" does exist. The hands of the courts, however, would be tied by the provision that "the findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive." Since there is no requirement that violations be proved by the preponderance of the evidence, the courts would have no authority or opportunity to weigh the evidence. If the Secretary could find "substantial evidence on the record considered as a whole" to support his findings, the courts would be bound thereby no matter how much such evidence might be outweighed by other and far more substantial evidence.

7. And further, section 7(b) empowers the Secretary to blacklist employers, barring them from securing Government contracts. At such time as the company may satisfy the Secretary of Labor that it is carrying out suitable "wage policies and practices," its name may be withdrawn from the list. Casting the Secretary in the role of a czar seems ill to accord with our form of government, to say nothing of the fact that the whole process of awarding contracts to the lowest bidder who meets product specifications is becoming almost unrecognizable, overlaid as it is with multiple regulations of diverse extraneous nature.

Industry is given further pause for thought when it reads that the Director of the Women's Bureau calls the measure "a wonderful beginning."² Her

² In a speech to women members of AFL-CIO industrial unions, June 6, 1962.

reference was to coverage and enforcement procedure. If the far-reaching provisions laid down in this proposal constitute but the beginning, there is reason for even more alarm.

CONCLUSION

The legislation proposed is believed to be unnecessary because—

1. American employers have made notable progress in eliminating wage differentials based on sex, through the spreading application of effective compensation and personnel practices.

2. Where unions represent employees, collective bargaining offers a natural channel for the resolution of any labor-management questions, especially since both unions and management generally share the conviction that it is sound and desirable to eliminate any remaining wage differentials based on sex.

3. The realities of the marketplace are a major vehicle for self-correction, and womanpower forecasts assure that only the employer who maintains equitable pay scales will secure the employees desired.

H.R. 3861 is believed to be the especially onerous because—

1. It would saddle industry with enormous demands for new records, and correspondingly would require a large increase in Labor Department personnel to deal with the mass of records created.

2. It would lead to undue interference in the work relationship with consequent disruption of the plant atmosphere so necessary to harmony and productivity.

3. It would grant absolute powers to the Secretary of Labor, far beyond any present or justifiable level.

In light of the foregoing, there seems to be no justification for Federal legislation when continuous progress is being made to eliminate whatever inequities may remain—and especially since effective channels for correction already exist.

Furthermore, this specific measure is deemed to be especially unfortunate in the manner in which it approaches the issue.

In closing, the association wishes to pay tribute to the women employees across the land whose performance on the job has been a major factor in the achievement of equal pay. The woman herself on the job—the level of her performance—the account she gives of herself * * * these have been key factors in breaking down psychological barriers, because employers long ago learned that on jobs which they were able to do, their performance compared favorably with men, and in some cases, was superior. This fact has had a central bearing on the widespread practice of equal pay principles.

STATEMENT BY HAZEL BLANCHARD, PRESIDENT, NATIONAL EDUCATION ASSOCIATION

Mr. Chairman and members of the subcommittee, commitments elsewhere in the country preclude my appearing in person before the subcommittee.

The subject of equal pay is a matter of concern to the teaching profession, and we appreciate the opportunity of expressing our views. We wish to commend Congresswoman Green for her consistent and effective interest in the subject of equal pay for equal work.

For many years, the platform of the National Education Association, as adopted by the delegates to the annual representative assembly, has specifically supported this principle. One of the goals of the profession states:

"Selection, promotion, and payment of teachers on a professional basis with no discrimination because of race, color, residence, economic or marital status, sex, religion, or political beliefs."

The NEA believes that pupils should be taught in elementary, secondary, and higher education by both men and women teachers. If a differential in salary schedules based on sex is tolerated, it is most likely that school boards, hard pressed as they are for funds, would hire women teachers in disproportionate numbers. This we believe would be detrimental to the education of our youth.

The answer is definitely not to provide a pay differential based on sex but to provide increased salaries for all teachers at the same time that professional standards are being raised.

As teachers, we are directly interested in the increasing number of women in the labor force of the Nation and the relationship of this factor to the education of children. We maintain that these women, many of whom are heads of families, must have incomes adequate to provide the best possible home environ-

ment for children. The widowed mother must have the opportunity, within a proper workweek, to earn wages adequate enough to give her maximum opportunity to spend as much time as possible with her children rather than taking on extra work in order to provide them with the necessities of life, including providing for an opportunity for higher education.

As increasing demands of our economy call more women into the professions, the world of business and government, and into the rapidly expanding field of technology, it is imperative that a national policy of equal pay for equal work be established. Men, women, and children will all be benefited by such a policy, because it is economically and morally right.

Such a policy is sound in the teaching profession, and we believe it is equally sound when extended to all occupations. Therefore, we endorse H.R. 3861 and urge the Congress to act favorably on this type of legislation without further delay.

STATEMENT OF THE NATIONAL RETAIL MERCHANTS ASSOCIATION

The National Retail Merchants Association is a voluntary trade organization serving more than 10,500 retail department and specialty stores, both large and small, throughout the Nation. The combined annual sales volume of these members is estimated to be more than \$19 billion, and the total individuals employed by such member stores approximates 800,000. Its members have a vital interest in proposed legislation relating to equal pay for equal work for women. We appreciate this opportunity to present our views on such legislation which is presently being considered by the subcommittee.

The principle of equal pay for equal work is one which almost any citizen would strongly support. However, the average citizen is unaware of the complexities in administering and enforcing a Federal law embodying this principle. The equal pay issue is one which is charged with emotion. Extreme care must be taken to assure that the issue is considered factually on the merits and not emotionally.

The NRMA wholeheartedly and enthusiastically supports the principle of equal pay for equal work. However, we oppose Federal legislation in this field for the following reasons:

1. Federal legislation in this area is not needed.
2. The added enforcement cost is unnecessary.
3. Legislation which is fair and equitable to both employers and employees must necessarily be confusing, complex, and virtually unenforceable.

1. FEDERAL LEGISLATION IS NOT NEEDED

We seriously question the need for Federal legislation in the field of equal pay for equal work at the present time. Twenty-one States have already adopted equal pay laws. In addition, many collective bargaining agreements covering thousands of workers contain equal pay clauses, and others are being negotiated each day. Many employers located in States without equal pay laws and not covered by union contracts have voluntarily established the equal pay principle as a part of their personnel policies.

2. ADDED ENFORCEMENT COST UNNECESSARY

In view of the rapidly increasing trend toward the establishment of the equal pay principle throughout our economy, the passage of Federal legislation in this area will add an unnecessary additional Federal bureaucracy which according to Government estimates will cost over \$1 million annually to administer and would create over 240 new Federal jobs. State action and voluntary employer activity have done an excellent job in the area of equal pay to date, and we believe that such activity will proceed at an even faster pace in the future. Furthermore, Federal legislation would impose a dual set of standards on employers in those States which already have equal pay laws or are operating under collective bargaining agreements.

3. COST FACTORS OUTSIDE OF JOB CONTENT

Equal pay for work of equal value by women while an admirable principle is difficult to achieve by legislation. This is so because of the many cost factors

outside of actual job content which are involved in employing women as opposed to men and in evaluating their true payroll cost to the employer.

Legislation which is fair and equitable both to employees and employers must take into consideration these other cost factors. This would necessarily result in a cumbersome, confusing, and virtually unenforceable law. Some of these factors are:

(a) *Greater absenteeism for women.*—A recent industrial study of absenteeism indicated that the rate of time lost due to absenteeism is much higher for women than for men workers. This higher rate of absenteeism for women increased the cost to employers of employing women.

(b) *Special protection under State laws for women.*—Laws in almost every State require varying degrees of additional protection for women workers. These laws restrict the number of hours women may work in a day and/or week; provide for longer meal and rest periods for women than for men; restrict or prohibit night work for women; restrict the type of work women may do and the physical location in which they may work; require additional facilities such as seats, lunchrooms, restrooms, and toilet rooms for women.

While these laws are meritorious, they add considerably to the cost of employers employing women as contrasted to men.

4. PROPOSED LEGISLATION

We have carefully reviewed the proposed equal pay laws pending before this subcommittee. As we have stated, we do not believe that Federal legislation in this area is either necessary or feasible. However, we recognize that the eventual attitude of Congress toward such legislation may be at variance to our own. Therefore, we strongly urge that if such legislation is enacted that the following recommendations be included in such legislation:

1. Some of the proposed bills pending before this committee provide that differences in pay for men and women be based on seniority, merit, and job duties. We believe that any legislation adopted should specifically permit pay differentials where such differentials are attributable to ascertainable and specific added costs resulting from employment of the opposite sex, or where such differentials are attributable to other reasonable differentiation based on a factor or factors other than sex.

2. The investigatory authority of the Secretary of Labor should be limited specifically to cases in which a written charge under oath has been filed by an aggrieved party. Further, the investigatory and subpoena powers of the Secretary should be limited to facts and conditions specified in and directly related to such charges. This will prevent the indiscriminate use of investigatory and subpoena powers by the Secretary.

3. The law should provide that subsequent to the filing of a written charge, the Secretary, if he has reasonable cause to believe a violation has been committed, shall advise the employer in writing of the charge and afford the employer the opportunity to reply. If after reply, the Secretary still believes the charge to be valid, he should then have the power to commence a civil suit in the U.S. district court.

This will prevent the Secretary from being both prosecutor and judge and will vest the courts with the power to decide the issue, rather than permit the Secretary to initially decide the issues upon a hearing.

4. The statute of limitations on violations should be limited to 6 months rather than 1 or 2 years.

5. For violations damages should be limited to back pay plus 6 percent interest, rather than double or triple damages as proposed in some of the bills before the committee.

5. CONCLUSION

We oppose Federal legislation requiring equal pay for equal work on the grounds that Federal legislation is not needed; that the added cost to administer such a law is unnecessary and that an equitable law would be complex, confusing, and difficult to enforce.

In the event such legislation is adopted, we strongly urge that our recommendations set forth herein be incorporated in any bill adopted.

SUPPLEMENTAL STATEMENT PRESENTED BY RUTH THOMSON, CONSULTANT FOR ADULT AND YOUNG ADULT PROGRAM, NATIONAL BOARD OF THE YWCA, APRIL 1963

In resubmitting the testimony in favor of equal pay for equal work the YWCA wishes to reemphasize and reinforce its position on the 1962 measure and to give support to the Equal Pay Act of 1963. There are additional factors we would like to present for consideration.

As an organization that has a long history of work with girls of all economic levels and with a particular concern for those less advantaged both scholastically and economically we believe the enforcement provisions are especially pertinent and necessary.

Among our members in the YWCA are young women having their first job experiences. Large numbers of them are in jobs where they feel they have no collective means of dealing with their problems and where they feel helpless to do anything about them as individuals. They often are the most exploited and from what we know of the insecurity of these young women we realize that it is quite unrealistic to expect them to register complaints on their own behalf even when it is apparent they are not receiving fair treatment under the act. We also have among our members more mature women who for a variety of reasons are the sole wage earners for their families. A cherished part of our American heritage is that anyone experiencing or recognizing unfairness, exploitation or ill treatment can speak out against it. But can a woman with children to support and care for be expected to have either the time, energy, or security to lobby in her own behalf? Because she can't—does it mean she should go on being the victim of discrimination. The greatest discrimination most often takes place in the lowest paid jobs performed by those least able to speak for themselves. Any weakening or deleting of enforcement clauses in the act further diminishes their chances for equal treatment under the law.

Some of the arguments against equal pay are based on a generalization that it costs more to employ women, that absentee rates are higher and that there is greater labor turnover. We believe this is much too broad a generalization and quite unfair to many women since we have observed from our experience with women workers that there are many variations in their performance based on such factors as age, education, skill, job, and degree of family responsibility. Also there are many factors that are societal rather than being peculiar to women. For example, we have found that lack of adequate day care centers for care of children of working mothers puts a special burden on women in lower income brackets who are the heads of families and have the sole responsibility for the children.

It seems that there should be no question about the need for adequate lunch and rest periods not only for women but for all workers since there is much evidence to indicate that human well-being and production benefit from such considerations.

We see nothing in the principle of equal pay for equal work that denies the validity of recognition of tenure, continuity or seniority as factors in a wage scale. It does say that it is the value of the job that is to be considered and that if any job is of worth to any employer the sex of the person doing it should not change the rate of the job.

In closing let me reaffirm the YWCA position.

Equal pay for equal work is consistent with the constitutional principle of equality for all.

Because of factors in society strong enforcement measures are necessary and vital, and reinforce the right to protection against discrimination and unfair play.

If the United States is to make an effective contribution in such groups as the United Nations Commission on the Status of Women, we must be willing to be counted among those giving full support to measures designed to enable women to be full citizens in our modern world. What better evidence could we give than a Federal law that establishes the principle of the worth of a job to be done rather than placing a value on the sex of the worker who does it.

STATEMENT OF RUTH THOMSON, CONSULTANT FOR ADULT AND YOUNG ADULT PROGRAM, NATIONAL BOARD, YWCA, ON H.R. 8898 AND H.R. 10226

My name is Ruth Thomson, I appear at this hearing in my capacity as a staff member of the national Young Women's Christian Association and I present this statement on behalf of the national board of the YWCA. As a member of the national staff I have particular responsibility for the program of adults and young adults. Since women in these groups are increasingly in the labor force, I am particularly happy to testify on their behalf in favor of H.R. 8898 and H.R. 10226, more generally known as the equal pay for equal work bills.

The Young Women's Christian Association has a long history of support for this type of legislation. It is fully in line with its continuing policy of working for legislation which insures girls and women full rights as citizens; but even more than that, for legislation that in the best sense makes possible a better life for all persons.

We believe the equal pay legislation does just this. To have a wage differential for the same job on account of sex, tends to lower the pay of all. From a man's viewpoint and for purely selfish reasons, it seems to me he would support the measure since inequity can and does lead to undercutting the whole pay scale.

Let's look at it another way. The cost of education and training is the same for every individual, boy or girl. Isn't it just as good business to protect an investment in one person as it is in another?

It is no longer possible to raise an argument about whether or not women should work. All statistics indicate our economy must have womanpower. In 1961 about one-tenth of all families in the United States had women as the main wage earner. In about half of these families there are children under 18. One-third of the labor force is women. Even when they are not the one-tenth who are the main support of the family, they do not work for the luxuries. They must work to insure the education of the children, an adequate income for retirement. With continually rising costs in these areas, this is not an unimportant contribution to our whole economy. Should children in these families be forced to have less just because the money comes from a mother's need to work rather than a father's? Is it less necessary for these children to have adequate clothing, housing, medical care, and education?

As early as 1945, we, in the YWCA, were supporting legislation that set forth the principal of equal pay for equal work. Our Nation is built on the basic concept of equality and justice, and yet the evidence of inequality of wages paid women for the same positions and skills required of men is alarming, and could even be considered disgraceful.

Take a plant in Utah, where the hiring wage for women inspectors is \$1.38 an hour—men \$1.48 an hour. As they become classified as "learners," the differential rises to 23 cents, and as qualified inspectors to 34 cents. Yet they are required and expected to do exactly the same job under the same conditions.

This same factory, for jobs on the lines, hires women at 10 cents per hour less than men, and by the time they are considered qualified workers there is a 16-cent-an-hour difference.

A printshop in the same area hires women for 35 cents per hour less than men. The men have a chance to earn up to as much as \$1.91 an hour after 5 years on the job. A woman's top rate, no matter how long she stays, is \$1.20. A description of the job does not indicate any difference in the skills required.

Answers to questionnaires sent to a cross-section group of YWCA women in Ohio include such statements as these:

"We start the same, but the hospital does not want a woman head technician."

"If a man was working in my department, he would be making more than me. He would also be picked for advancement."

From an accountant in a large oil company where men make \$47 more a month than women—"Women are treated very nice in working for ——— except the men there do the same work and are making more money."

"There is no opportunity for advancement; the women are stationary."

"Men are given more opportunities."

From another report we have this statement:

"Our company claimed it had a policy of equal pay for equal work and on the surface it looked that way. But there was a department that was made up of all girls and the jobs were classified to receive a certain pay. When the plant had to begin laying off some workers, the plantwide seniority system brought some men with seniority into the department where girls were working and some of the

girls were laid off. When the men found out what the wage scale was for the job they raised an awful fuss. They had worked on this same job at a higher rate of pay. We found out that men had been transferred from the department to other jobs and women had been put in at lower pay, but the job had remained the same."

Coming back to the questionnaire used in the Ohio group we find from the field of education—"Men and women are paid the same."

While the present bill specifically exempts persons in such fields as education and social work, it is interesting to note that in many places education particularly has recognized the validity of equal pay for equal work.

A social worker said: "Salary is based on qualifications and number of years in the profession. I have the same qualifications, but have not worked as long, thus my salary is somewhat lower." Other women in the social work field report that men in executive positions receive higher salaries and more fringe benefits than women in the same positions.

Of this same group of YWCA women, 14 percent worked to support or help to support a family, all but 2 percent worked to support themselves, and the 2 percent were working for college money or to supplement the family income even though the family was not entirely dependent on the support. One national survey indicated that among women workers who live with their families, more than 90 percent contributed regularly to meet family expenses.

One of the very significant points, the answers to the same questionnaire reveal, is that of women's attitude about themselves. They are paid less and, therefore, this seems to mean they are worth less. This leaves little incentive to produce the best of which one is capable. The often repeated phrases—"no advancement possibilities," "the man will get the promotion," reflect the value women put on a job and this also often has the effect of making them feel they have less value as persons. When a company discriminates on the basis of sex it seems to say, "Work done by a woman isn't as important." Our experience in working with women and girls has demonstrated repeatedly that latent potentials of creative energy and ability are released with increased conviction about the worth of the task at hand and their own worth as individuals. We believe that an effective aid to release this potential for productive work on the job could be in the recognition of equal value through equal pay.

Yet to do without the women in the labor force just isn't feasible. If women are hired in order to pay less, it does not help the whole question of job security for either group nor does it help the national economy.

Equal base pay does not rule out individual differences that may occur because of better production records, longer tenure, or in certain cases better evaluation of job performance. So long as these differences are based on an individual's ability and his capacity to produce, it is in line with good job practices and indeed they can be the incentives which make for even better working conditions. When, however, such differences are based on the sex of the worker, they can create resentment, undercutting, and, in general, lower morale of a total plant or institution.

In testifying on behalf of the Young Women's Christian Association, I want to make particular mention of the international implications of equal pay for equal work. As an organization that works with women in over 70 countries throughout the world, and in a high proportion of the newly developing countries, we are often called upon to explain our country's practices in labor as well as other fields. In a country where women have played such a vital part in securing high living standards for all workers, all people, it is a bit difficult to defend a practice that denies to those same women equality of compensation when skills and training are equal.

Thirty-one countries have ratified the ILO's convention concerning equal remuneration for men and women for work of equal value. Our country has not only not endorsed this action, but up to now has not even, on a national level, recognized its validity. Is this because we want to say to the world that we hold women's work to be less valuable than that of men's? This is hardly conceivable. I prefer to believe that it merely signifies that we just haven't yet caught up with ourselves. The proposed law states equal pay for equal work—not special favors. The legislation is needed nationally, so that all people will share equally in its benefits.

AMERICAN NEWSPAPER GUILD,

April 4, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN THOMPSON: I understand you are heading up a committee studying the problems of equal pay for women. I thought you might be interested in the following experiences of the American Newspaper Guild which, by constitution since 1934, prohibits discrimination among its members "by reason of age, sex, race, national origin, religious or political conviction * * *"

The American Newspaper Guild covers, in its 155 contracts on 185 daily newspapers, a great many women. In none of these contracts is there any provision that women shall be paid less money than men for the same work.

The nearest approach to any such discrimination occurs, in a relatively few cases, in regard to writers in so-called society, or women's departments, where writers in such departments are guaranteed a minimum salary somewhat less than that provided in the same contract for reporters.

The standard argument from employers in these cases is not that these writers should receive less money than regular reporters because they are women, but that the type of writing they do is limited to that particular department and is of less value than the work of a general reporter.

This argument is backed up in many cases by the fact that on such papers, where the society department writer is paid less than a regular reporter, there are women writers who do general reporting and they are paid the same as the men with whom they work.

Even this type of discrimination—which is discrimination against women's and society news, rather than against women as such—is infrequent, and involves mostly newspapers of smaller circulation.

Of the 155 contracts, there are in the United States only 37 which provide lower minimums for society or women's department writers, and only 8 of these involve newspapers of more than 75,000 circulation.

These 37 contracts cover less than 7 percent of the Guild's total membership.

Very truly yours,

WILLIAM J. FARSON,
Executive Vice President.

STATEMENT SUBMITTED BY THE RT. REV. FREDERICK J. WARNECKE, BISHOP OF BETHLEHEM, CHAIRMAN OF THE DEPARTMENT OF CHRISTIAN SOCIAL RELATIONS, NATIONAL COUNCIL OF THE PROTESTANT EPISCOPAL CHURCH

The enactment of legislation guaranteeing equal pay for equal work regardless of sex would provide a long-overdue correction of a social injustice. A full half-century ago, in 1913, the general convention of the Episcopal Church affirmed that "every worker should have a just return for what he produces," and that "every worker should have free opportunity for self-development." Responsible organizations have advocated enactment of appropriate legislation since the beginning of the century. It is surprising that opposition to such legislation is voiced in 1963. In a period during which women are increasingly taking their places in the Nation's economic, political and professional life, the failure to provide equal pay for equal work is a crude atavism. For some to argue that women would be deprived of jobs because of an equalizing of wages is to affirm that women now are employed in those positions precisely because they can, as a group, be exploited.

How pervasive is the lipservice paid to economic justice for women can readily be observed in the practices of many religious and welfare organizations as well as business enterprises. The plea of religious and welfare groups for social justice in this regard would be a stronger one if their own practices were brought under careful scrutiny. We speak out of some familiarity with the problem. It was only 3 years ago that the employment practices of the national council of the Episcopal Church were revised to make them conform to an equal pay for equal work standard. These facts should not, however, blunt the fundamentally unjust and morally indefensible position of unequal payment for equal work on the basis of sex.

We believe it important, therefore, for the Federal Government to take initiative immediately, through passage of effective legislation in this field. We urge

the enactment of H.R. 3861 substantially as entered, with strong enforcement provisions written in.

STATEMENT OF THE AMERICAN PAPER AND PULP ASSOCIATION

This statement is submitted by the American Paper & Pulp Association to the Special Subcommittee on Labor of the House Education and Labor Committee concerning H.R. 3861, the equal-pay bill.

The American Paper & Pulp Association is a federated association of 12 divisional associations to which the preponderance of manufacturing companies in our industry belong. The American Paper & Pulp Association is broadly representative of the entire domestic industry. By way of very brief background regarding our industry, sales of paper and allied products for 1962 approximated \$14 billion. This represented the products of some 400 companies, with 369 pulpmills, 813 papermills, and more than 4,000 converting plants located in nearly every State in the Union. Our industry employment totals some 600,000, with a wage bill in excess of $3\frac{1}{2}$ billion. Our taxes approximated \$600 million.

The alleged purpose of H.R. 3861 and related bills is to bring about improvement in status of female employees and elimination of any discrimination to the extent that it may exist. While recognizing that differentials in wage structures between male and female employees do exist, there are sound economic and social reasons for this just differential.

There is, in effect, no complete similarity of job functions between male and female employees in companies in our industry, even though the job title and content may be generally the same, for invariably there is a physical limitation applied to those jobs filled by female employees. For example, on identical jobs where one is filled by a female employee, by reason of company concern and State labor codes, the female employee is limited in certain physical areas which requires that in the performance of this job the female employee customarily has additional male help.

It is also recognized that the female employee has a significantly higher absentee rate than male employees because of their family responsibilities and physiological factors. In addition to this, there is, of course, the necessity for the employer to maintain additional and more complex rest facilities for female employees.

Under the provisions of H.R. 3861, the Secretary of Labor is given powers which make him prosecutor, judge, and jury. The bill would permit him to hold hearings, prosecute the employer, and then decide the case. Some illusory protection is given by not making the Secretary's order self-enforcing. However, this is an ex post facto protection to the employer.

The provision whereby the Secretary of Labor is given power to determine which seniority or merit increase systems would comply with the law, would ignore historical and contractual seniority provisions.

In regard to the provision that would give the Secretary of Labor power to blacklist employers from all future Government contracts, the language is so ambiguous as to permit the Secretary of Labor to apply the provisions of H.R. 3861 in the same manner as he is now administering the Walsh-Healey Public Contracts Act, with no reasonable regard to geographical and historical differentials, nor is there any specific language in the proposed legislation which would indicate whether or not the Secretary's concern over equality of rate for the same job is restricted to a single plant location or includes companies with multi-plant operations.

In recognition of one of the principal policies of the administration, that of full employment, it is certain that the proposed legislation, rather than implementing this policy, would, in effect, through the increased cost of employing females, restrict the number of females employed in industry. For, in fact, under the provisions of this legislation it would cost an employer an excessive amount to employ a female rather than a male employee for the same job.

And in conclusion, in view of the fact that States have at the present time very precise laws concerning the employment of females in industry in regard to wages, hours, and working conditions, any additional Federal legislation would be superfluous.

We would, therefore, strongly recommend that H.R. 3861 and related bills not be reported out of committee.

Respectfully submitted,

ROBERT E. O'CONNOR,
Executive Vice President.

APRIL 9, 1963.

HON. FRANK THOMPSON, JR.,
*Chairman, Select Subcommittee on Labor, Committee on Education and Labor,
 House of Representatives, Washington, D.C.*

DEAR MR. THOMPSON: During the hearings on the Equal Pay Act of 1963, a question was raised with regard to the authority of the Secretary of Labor to investigate possible violations of the law. (Section 5(a)(3).) Our testimony did not address itself to this particular provision and we now wish to supplement the testimony with this communication.

It is our view that unless the administering official has adequate authority to inspect and investigate for violations of a law for which he has responsibility, the effectiveness of the law is greatly hampered. In the case of the equal pay proposal, the workers who especially need the protection of the law are those low-paid women workers who do not belong to unions. Their position is so weak when compared with that of the employer, that only in unusual cases, it is believed, would they risk employer recrimination in order to file some charge with the Secretary to authorize him to proceed to investigate.

On the other hand the employer is protected under this proposal, because no sanctions can be imposed administratively under it if an employer refuses to cooperate with a Department of Labor investigation, and the enforcement of a subpoena would require a court order. Therefore, judicial review would be provided if the manner of investigation was in contest.

Furthermore, this authority follows substantially that of section 11(a) of the Fair Labor Standards Act which was included in the act as it was passed in 1938. It also is very similar to investigation authority contained in section 601 of the Landrum Griffin Act of 1959.

Respectfully yours,

SARAH NEWMAN
 Mrs. Sarah Newman,
General Secretary, National Consumers League.
 JUDITH G. WHITAKER,
 Mrs. Judith G. Whitaker,
Executive Director, American Nurses Association.
 BETTY JANE FLEISCHAKER
 Mrs. Leopold Fleischaker,
*Chairman, National Committee on Public Affairs, National Council of
 Jewish Women.*

NATIONAL COUNCIL OF CATHOLIC WOMEN,
 April 9, 1963.

HON. FRANK THOMPSON, JR.,
*Chairman, Special Subcommittee on Labor, Committee on Education and Labor,
 U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In testimony previously given before your subcommittee relative to H.R. 3861, the Equal Pay Act of 1963, the organizations which joined in that testimony did not specifically address themselves to the portion of the bill granting investigative authority to the Secretary of Labor. Please accept this letter as a supplemental statement by the National Council of Catholic Women respecting that aspect of the proposed legislation.

As we view effective equal pay legislation, prudent investigative powers by the administering authority to ascertain possible violations of the law are a necessary and proper adjunct to the responsible discharge of executive duty. For this reason, and commensurate with the objective tenor shown by your subcommittee in its deliberation, we respectfully urge the subcommittee to insure that some form of acceptable and effective language vesting adequate investigatory power in the Secretary be included in ultimate legislation reported to the House of Representatives.

We appreciate the opportunity to submit the additional views represented by this letter and extend our applause for the considerate attention you and your colleagues have given this vital subject.

Sincerely,

MARGARET MEALEY, *Executive Director.*

S. HERBERT UNTERBERGER & Co.,
Philadelphia, Pa., April 5, 1963.

HON. ROBERT P. GRIFFIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GRIFFIN: This is in reply to your letter of April 1, 1963, in which you requested my views on three proposed bills dealing with equal pay for equal work, H.R. 3861, H.R. 1936 and H.R. 5110, in terms of their adequacy for accomplishing the stated objective and problems of administration which are likely to occur.

In reviewing these proposals I was struck by the fact that although they deal with a problem with respect to which the Federal Government has had a previous program, the evidence suggests that the experience with that previous program has had little, if any, influence on them. I refer, of course to the "equal pay for women" policy promulgated and administered by the National War Labor Board during World War II, for which I had substantial responsibility as Director of that Board's Case Analysis Division and as Assistant Director of the predecessor Wage Stabilization Division. The best general description of that program is found in Chapter 24: Equal pay for Women, pages 290 through 297 of volume 1 of the Termination Report of the National Labor Board. A more detailed discussion of its administration is found in volume 3 of that report, pages 1015 and 1016.

That Board's General Order No. 16 permitted, "adjustments to equalize the wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operations" without prior approval. In dispute cases, where the Board prescribed the terms of settlement, it followed the policy that:

"(1) Where women are working on the same jobs as men, or on jobs formerly performed by men or on jobs performed interchangeably by men and women, or on jobs which differ only inconsequentially, and not in measurable job content, from jobs performed by men, the women should receive the same rates of pay as the men, unless (a) their output is less in quantity or quality than the output of men; or (b) there are ascertainable and specific added costs to the company resulting from the use of women, such as provision for extra helpers or for rest periods not provided in the case of men. In the case of (a) or (b) appropriate adjustments in rates may be made.

"(2) Intangible alleged cost factors incident to the employment of women (such as absenteeism, lack of qualification for other work to which they are not assigned, relative impermanence in industry, legal restrictions, lack of prior training in industry, necessity of providing sanitary facilities, etc.) cannot legitimately be used to reduce the rates to which the women would otherwise be entitled on the basis of job content.

"(3) The rates for jobs which have historically been performed by women only, and which differ measurably from the jobs performed by men, are presumed to be correct in relation to the men's rates in the plant, especially where they are of long standing and have been accepted in collective bargaining.

"(4) This presumption can be overcome by affirmative evidence of the existence of an intraplant inequity derived from a comparison of the content of the jobs in question with the content of the jobs performed by men. Some consideration, however, may be given in such cases, in modifying long established rate relationships, to the collective bargaining history.

"(5) In particular cases, under a proper evaluation, there may be women's jobs which warrant a lower rate than the rate assigned to the lowest men's jobs, depending entirely on the circumstances.

"(6) The determination of proper rates for men's and women's jobs cannot be made by rule of thumb; it calls for judgment; and wherever possible it should be made through collective bargaining conducted in good faith."

This resulted in voluntary increases in the wages of no less than 60,000 women and an additional number of directed increases in dispute cases which has not been estimated. In utilizing the experience of that program as part of the basis for evaluating the current proposals, it should be remembered that the National War Labor Board was a tripartite agency composed of an equal number of public, industry, and labor members all of whom had extensive experience in dealing with practical industrial relations problems.

The views which follow will deal exclusively with those parts of the proposed legislation to which my experience as a Government official responsible for the administration of a substantial part of the National War Labor Board's

program, and, thereafter, as an economic consultant to a variety of companies, trade associations and trade unions, and as the selected impartial arbitrator for the determination of a large number of dispute cases involving the issue of the proper relationship between job content and wages, is relevant. In each of these capacities my role has been principally that of a technician applying his special competence to immediate, practical problems of administration or labor agreement interpretation. Accordingly, the following should be regarded as a technician's view.

In this framework, attention will be directed principally to section 4 of H.R. 3861 and H.R. 1936 and the somewhat similar section 5(d)(1) of H.R. 5110. Each of these contains language which is virtually identical with the following found in H.R. 3861:

"No employer having employees engaged in commerce or in the production of goods for commerce shall discriminate in any place of employment in which his employees are so engaged, between employees on the basis of sex by paying wages at a rate less than the rate at which he pays wages to any employee of the opposite sex in such place of employment for equal work on jobs the performance of which requires equal skills."

With respect to this passage, H.R. 1936 differs principally in that it uses the term "establishment" instead of "place of employment" and refers to "work or jobs the performance of which requires equal skill" instead of "work on jobs * * *." [Italic added.] H.R. 5110 differs in the same respects as H.R. 1936 and, in addition, refers to "skill, ability, and qualifications" instead of "skills."

In view of the posture of the current record, in which the intent of the sponsors that "place of employment" and "establishment" are virtually synonymous is clearly set forth, which of these terms is used is almost a matter of indifference. My own preference would be to use "establishment" principally because it is a more familiar term which has been rather uniformly defined by a number of Government agencies and is therefore somewhat more easily understood and interpreted.

My own concern goes to three other key terms which fail to convey, at least to me, the specific congressional intent. They are "wages," "equal work," and "equal skills" or even "equal skill, ability, and qualifications." To be sure, the precise meaning of these terms could be left to administrative regulation. However, in my own view, this is the least desirable way to do it since it generates uncertainty, litigation and additional instability in industrial relations which already has more than its share of unstabilizing forces.

By way of a single example the failure of the 74th Congress, which enacted the Walsh-Healey Public Contracts Act in 1936, to set forth more clearly what it meant by the term "prevailing minimum wages" has had just such results and to this day, some 27 years later, time is still consumed in almost every determination proceeding under this act in debating, rather extensively, whether to that Congress the term "wages" meant the earnings of the employee or employees who were paid the lowest amount, or the hourly or other wage rate of such employees which might be the minimum guaranteed to those who work on a piece rate or other wage incentive basis, or the minimum hourly rate which a firm, either unilaterally or in a collective bargaining agreement, has established as its minimum and at which it hires new, untrained employees, even though, from time to time, none of the employees in its labor force are paid at that rate. Back in 1936 a Congress, with very little experience in labor legislation, can be forgiven for not carefully describing what it had in mind when it used a term which to it appeared self-explanatory. This no longer obtains in 1963 with a Congress, sophisticated in the ways of labor relations, who knows the consequences of failure to define its intent clearly.

WAGES

To return to the term "wages," I find what I believe is a serious inconsistency between the definition of the term "wage," included in the proposed bills, which is identical with that used in the Fair Labor Standards Act, and its later use in the above key passage. To make this clear it is necessary to distinguish between two concepts involved in the common usage of the term. One uses wages as synonymous with earnings. This is, essentially, how it is used in the Fair Labor Standards Act, except that there it has been refined to equal straight time earnings (excluding overtime premiums, etc.). The other uses wages as synonymous with wage rates, that is the specified amount, generally straight

time, which is paid for a unit of time (e.g., hour, week, month) or also frequently per unit of output (e.g., per piece), which may be expressed in a variety of ways.

While all of the proposals adopt the Fair Labor Standards Act's definition of wages, that is the first concept of wages equal earnings (straight time), they then, in the later section, use the term in its other concept because there they refer to paying wages at a rate, that is the wage rate. In my view the enactment of such internally inconsistent legislation is likely to yield more litigation than equal pay.

There is no question that what is required to eliminate a sex differential is the equalization of wage rates. Efforts to equalize earnings would necessarily be exercises in futility, especially where the employees are paid on a piece rate basis. Certainly Congress would not intend that an employer would be required to pay a woman who turns out 100 pieces a day the same wage as a man doing precisely the same work who turns out 200 pieces a day.

Reference to the National War Labor Board's regulation indicates that it recognized this problem and dealt with it directly by permitting "adjustments which equalize the wage or salary rates paid to females with the rates paid to males * * *." [Italic added.]

Accordingly it would be my recommendation that care be taken to assure that the term "wage" be defined along the following lines: as "the amount paid to an employee per unit of time (e.g., hour, week, month) or per unit of output (e.g., piece rate, incentive standard) whichever is customarily used in the place of employment [establishment] for the computation of earnings in the job classification in which the discrimination is alleged." Thereafter it would not be unreasonable to include the Fair Labor Standards Act language that it also "includes the reasonable cost, as determined by the Secretary to the employer of furnishing such employee with board," etc.

EQUAL WORK

The use of the term "equal work" without qualification abounds in generality and is, for that reason, likely to yield substantial difficulty in administration. Whether work is equal or unequal is generally in the eyes of the beholder. In innumerable arbitration cases the grievant claims his job is equal to one which is paid substantially more. Making a determination on such a matter is extremely difficult, particularly if there is no agreed-upon range of comparison, such as with other jobs in which the same operations are performed, or other jobs in his department, or other jobs requiring approximately the same abilities, etc.

If Congress means that the legitimate comparisons are between the work done by women and identical work done by men in an identical way under identical conditions, this is what the law had better say. Otherwise, it will certainly not, in my judgment, be administered in that way. If it intends that the requirement be less restrictive, it had better indicate, at least in some general fashion, the point beyond which it would no longer regard comparisons to be legitimate.

The War Labor Board limited the area of comparison to "comparable quality and quantity of work on the same or similar operations." It also limited comparisons to jobs in the same establishment. While this language leaves much to be desired, it certainly expresses an intent far more specific than the use of the bald term, "equal work."

Of course, the narrower the range of comparison, the easier it becomes to administer the requirement. Limiting the range to similar operations would probably prevent the approval of a claim that female employees newly hired into office jobs should be paid the same wage rate as male employees newly hired into factory jobs. Such a claim is, certainly, not inconceivable since both are jobs which would be filled by reasonably healthy, intelligent young people without specific qualifications. It might also prevent the approval of a claim that a female employee doing simple bench assembly work should be paid the same wage as male employees doing simple grinding operations. It would not, necessarily, prevent the approval of a claim that female inspectors should be paid as much as male inspectors. Indeed, if they are doing the same work; that is, the operations are similar and the quantity and quality of their output is similar, this legislation should assure that they be paid similarly.

But, if their output were only half or two-thirds that of their male counterparts requiring similar pay is likely to produce one or more of the following consequences:

1. Only the less productive women are unlikely to be employed in the work.

2. The more productive men are unlikely to be employed in the work.
3. The women are raised to the men's rates and the men become dissatisfied, in which case they may—

- (a) Agitate for the restoration of the differential which could not be granted since the cycle would then be repeated;
- (b) Leave the jobs; or
- (c) Reduce their output to the women's level.

As may be seen, all the likely consequences are undesirable.

Similarly, if the female inspectors' activities were limited to a simple, visual inspection, while the male inspectors' activities involved the question of whether close tolerances have been met, equalizing their wage rates on the ground that they are both doing inspection would probably yield similar undesirable consequences.

No doubt the practical men on the National War Labor Board recognized this and avoided many of the consequences by limiting the range of comparison as they did. If the Congress wishes a range of comparison of this width, it could achieve it by substituting for the term "equal work," the more amplified language of "equal work on similar operations of similar quality and quantity."

EQUAL SKILLS

In my judgment, the most serious problems would arise from the failure of Congress to clarify what it means by "equal skills." Presumably, this is meant to relate to what the employee brings to the performance of the job. The proponents appear to have related this to what is accomplished by a job evaluation system in determining equal job content.

If this is what Congress has in mind, it certainly should say so because no known job evaluation system limits its consideration to skill alone. Thus the pioneer system, that developed by the National Metal Trades Association some 40 years ago, evaluates jobs in terms of 11 factors; (1) Education, (2) experience, (3) initiative and ingenuity, (4) physical demand, (5) mental or visual demand, (6) responsibility for equipment or process, (7) responsibility for material or product, (8) responsibility for safety of others, (9) responsibility for work of others, (10) working conditions, and (11) unavoidable hazards. Only the first three are regarded as measuring skill; the next two measure effort; the next four measure responsibility; and the last two measure job conditions. Furthermore, in that system, approximately half the weight in the total evaluation is derived from the skill factors. Thus, in the equating job content, at least three major factors are considered in addition to skill. They are effort, responsibility, and job conditions, and together, under that system, they are as important as skill. The use of skill alone would give quite different results.

By way of example, there could be two machine operations involving essentially the same skill, but the one held by a female employee involved operating an inexpensive machine under very good, air-conditioned factory conditions, while the one held by a male employee involved the operation of an expensive piece of equipment under extraordinarily hot, steamy conditions. If skill were the sole criterion, they would be equal; if responsibility were an additional criterion, they would be unequal; if job conditions were a further criterion, they would be even more unequal.

Of perhaps even greater significance among job evaluation systems is the one installed approximately 10 years ago in the steel industry. Its special characteristic is that it was developed not by the companies alone but as a joint company-union effort and bears the full endorsement of both parties. It, too, does not rely on skill alone to determine when jobs are equal. It uses 12 factors: (1) Preemployment training, (2) employment training and experience, (3) mental skill, (4) manual skill, (5) responsibility for materials, (6) responsibility for tools and equipment, (7) responsibility for operations, (8) responsibility for safety of others, (9) mental effort, (10) physical effort, (11) surroundings, and (12) hazards. The basic anatomy of the system resembles that of the far earlier program. Only the first four factors are regarded as measuring skill; the next four measure responsibility; the next two measure effort; and the last two measure job conditions. There is a significant difference, however, in that the total weight of the skill factors amounts to less than 25 percent. This, no doubt, reflects the changing character of industrial employment in the intervening three decades between the development of the programs.

The trend toward the diminution or dilution of skills continues and is expected to accelerate with increasing automation. As the legislation is written, it places

exclusive reliance on the skill factor which is of rapidly declining importance. If enacted in this fashion, it would probably not be too long before an arbitrator who is required by the labor agreement to determine whether jobs are equal or unequal by applying the job evaluation program would, by applying all the factors, come up with one answer, while the agency administering the law, by applying only one factor, skill, would come up with a different answer.

Fortunately, virtually all of the students of and technicians in the field of job analysis and evaluation, whether of management or union persuasion, or impartial practitioners and academicians are agreed that the four principal factors in determining the relative value of a job are skill, responsibility, effort, and job conditions. Accordingly, it would appear to be wise to assure that the administering agency consider all of them in making its judgments. Congress could express such an intention by substituting for the term "skills" or the term "skill, ability, and qualifications," the concepts which have become a part of advanced industrial relations life; namely, "skill, responsibility, effort," and is performed under similar job conditions.

EXCEPTIONS

This leaves for consideration only the exceptions included in each of the proposals.

H.R. 3861 excepts the situations where such payments are made pursuant to a seniority or merit increase system which does not discriminate on the basis of sex.

H.R. 1936 excepts not only those situations but also where such payment is made pursuant to a job classification program which does not discriminate on the basis of sex, where such payment is attributable to ascertainable and specific added costs resulting from employment of the opposite sex, or where such payment is attributable to other reasonable differentiation based on a factor or factors other than sex.

H.R. 5110 excepts not only those situations set forth in H.R. 1936 but also where such payment is based on a system which measures earnings by quantity and quality of production.

These exceptions are set forth with far more precision than the included areas. It should be noted that the policy of the National War Labor Board permitted adjustments from equal pay due to added costs resulting from employment of females. This was probably the least successful feature of its policy since it was literally impossible to test whether the proper adjustment had been made.

It should also be noted that that Board's policy presumed that differences included in a collective-bargaining agreement were not discriminatory in the absence of specific evidence to the contrary. Perhaps it would be appropriate to include some similar provision in this legislation. Its most important virtue would be that it would narrow substantially the potential sources of the least valid complaints. It would make routine investigation necessary in establishments which employ up to 15 million workers unless there is specific reason to believe that the company is in violation.

I trust that this provides the information you seek. If you have any questions, please do not hesitate to call me.

Sincerely yours,

S. HERBERT UNTERBERGER.

COLUMBIAN CARBON Co.,
New York, N.Y., April 11, 1963.

HON. FRANK THOMPSON, Jr.,
Member of Congress,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN THOMPSON: There is pending in Congress legislation to cause employers to give equal rights to women in the matter of pay. It is my understanding that this legislation has been attempted for several years without success but that this year legislation is expected to pass. Further, I understand that there has been relatively little opposition from industry, partly because the bill or bills have not had wide publicity. It is the purpose of this letter to suggest to you that you should give careful attention to this legislation if you are to protect industry in the State of New Jersey.

The trend toward more nearly equal pay for women in industry is inevitable. It would perhaps be unenlightened to take a firm stand against such legislation;

the problem is more to make sure that such legislation is soundly conceived and worded so that it contributes something to society other than merely an additional tax burden caused by the inevitable new administrators that will be required and additional cost to industry in wages.

As you know, New Jersey is one of the leading centers of industrial research in the United States and is rapidly gaining further industry and stature in this respect. An improperly written bill forcing so-called equal rights for women in research laboratories could have a detrimental effect on the growth of research in New Jersey and elsewhere in the Nation.

Furthermore, poorly written legislation could have the opposite effect to that intended. For example, many companies would no longer bother to hire women chemists if the regulations surrounding their use were onerous in view of the well-known fact that the average woman chemist, compared to a man, is much less apt to repay her employer for the training and experience she has gained at his expense. Women chemists cannot be sent on trips alone or with men and must be protected and sheltered in many other ways. As a research administrator of many years' experience, I could easily see myself tempted to dispense with women chemists in the future if the Congress of the United States is allowed to create nuisance legislation surrounding the useful employment of such people.

Without having seen any proposed legislation, it is difficult for me to give you specific suggestions as to how such legislation can and should be phrased. I would suggest, however, that any such proposed legislation be referred to the legislative committees of two types of organizations:

(1) Industry-supported groups such as the Manufacturing Chemists Association and the New Jersey Chemical Council.

(2) Certain of the larger professional societies, particularly the American Chemical Society, the American Institute of Chemical Engineers, and the American Institute of Electrical Engineers.

From these two types of organizations you should get both the view of the employer and the (professional) employee.

The problem of equal pay for women employed in service industries is quite another matter. Here you have the problem of unemployment caused by dual employment per family. It is entirely possible that a poorly written equal pay law might draw some women out of the home, enlarging our labor force and inevitably generating for the short and intermediate term a larger number of counted unemployed, a problem which currently needs no aggravation.

I trust that you will find my comments constructive. You have a difficult problem in following the great mass of legislation that comes before you. Nevertheless, I felt that you would particularly want to think about the legislation in question because of its important implications in the State of New Jersey as well as in the Nation as a whole.

If there is any way I can be of further assistance in guiding you to advisory sources who might review proposed legislation, please let me know.

Very truly yours,

C. A. STOKES.

AMERICAN BOSCH ARMA CORPORATION,
Garden City, N.Y., April 8, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives, Washington, D.C.

MY DEAR MR. THOMPSON: It has long been the policy of our company to grant equal pay for equal work regardless of sex, and we support constructive legislation directed to this end; however, we strongly urge that portions of H.R. 3861—Equal Pay Act of 1963—be revised to prevent the controversy, litigation, and discrimination inherent in the bill as now written.

We propose that:

1. Section 4 should be revised to spell out definitive standards that will clearly reflect the intent of Congress.
2. Section 4 should be revised to make it clear that enforcement provisions apply to only a single plant location.
3. Section 5 should be revised to limit the broad and sweeping rulemaking and investigative authority that would be granted to the Labor Department.
4. Section 7 should be eliminated. This is discriminatory in that it applies only to companies engaged in business with the Government.

Respectfully yours,

W. G. TUTTLE, Vice President.

HADDONFIELD, N.J., *March 6, 1963.*

HON. FRANK THOMPSON, JR.,
House of Representatives, Washington, D.C.

DEAR SIR: Please get the equal pay bill out of committee and vote favorably.
 I am a member of the Business and Professional Women's Club and we are all interested in this bill.

Very truly yours,

(Miss) LIDIE K. ANDERSON.

CLOVERDALE, CALIF., *April 5, 1963.*

Representative FRANK THOMPSON, JR.,
Washington, D.C.

We urge you to support bill concerning equal pay.

CLOVERDALE BUSINESS & PROFESSIONAL
 WOMEN'S CLUB,
 LAURA SILVA, *President.*

LORAIN, OHIO, *March 31, 1963.*

HON. FRANK THOMPSON, JR.
*Chairman, House Select Subcommittee on Labor,
 Washington, D.C.*

DEAR MR. THOMPSON: As legislative chairman of the Lorain (Ohio) Branch of the American Association of University Women, I am writing in support of your equal pay bills, H.R. 3861, 4033, 4269. Since this is your bill you are fully aware of the merits of such legislation. I am writing as further evidence that women across the Nation are behind you in the support of this bill.

Sincerely yours,

CAROL O. NAPPER.
 (Mrs. Wm. C.)

BERKELEY, CALIF., *March 20, 1963.*

HON. FRANK THOMPSON, JR.,
Chairman, Labor Subcommittee, House Office Building, Washington D.C.:

Please give approval of bill equal pay for equal work.

BERKELEY BUSINESS & PROFESSIONAL WOMEN.

SEATTLE, WASH., *March 31, 1963.*

Representative FRANK THOMPSON, JR.,
*Chairman, Select Labor Subcommittee of the House Committee on Education
 and Labor, House Office Building, Washington, D.C.*

DEAR REPRESENTATIVE THOMPSON: The National Business & Professional Women's legislative director wrote me that hearings had been held on H.R. 3861, the Equal Pay Act of 1963, on March 25-27. I do hope that your committee will issue a favorable report and do your utmost to see that the bill gets passed by the House this year, as it did last year.

If possible, I would like to have a copy of these hearings. I have last year's and would like to compare what was said.

Frankly I think we desperately need an Equal Pay Act of the kind proposed by Mrs. Green. How can we encourage women to go into science and engineering, in anything like the numbers Dr. Jerome Weisner suggests, without an assurance of equal pay? Yesterday I represented the local chapter of the Society of Women Engineers at the science fair to select a girl for our annual award. We could not give our award this year. There were no girls with pure or applied projects in the senior division.

Best wishes for a favorable response to the Equal Pay Act.

Sincerely,

META ELLIS HELLER
 Mrs. Meta Ellis Heller.

BUSINESS & PROFESSIONAL WOMEN'S CLUB,
Dover, N.H., March 18, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN THOMPSON: The Dover, N.H., Business & Professional Women's Club would like to ask your active support on the equal pay bills which will be heard before the Select Labor Subcommittee of which you are chairman.

We feel these bills will correct the inequality of pay for women doing work comparable to men performing same type of work.

Thank you.

Respectfully yours,

Mrs. KATHLEEN GRASSO, *President.*

NEW JERSEY FEDERATION OF BUSINESS &
PROFESSIONAL WOMEN'S CLUBS, INC.,
March 18, 1963.

HON. FRANK THOMPSON, Jr.,
House Office Building, Washington, D.C.

DEAR MR. THOMPSON: This will acknowledge receipt of your kind letter of March 12 with reference to the Equal Pay Act of 1963.

At our State board meeting on March 16 I advised our federation of your interest in this legislation and I wish to assure you that we are all appreciative of your efforts.

We sincerely hope that the Equal Pay Act will be adopted without any unnecessary delay during this Congress.

Sincerely yours,

Miss EMMA C. MCGALL,
State Legislation Chairman.

BUSINESS & PROFESSIONAL
WOMEN'S CLUB, INC.,
Elizabeth, N.J., March 12, 1963.

HON. FRANK THOMPSON, Jr.,
Chairman of Labor Subcommittee,
House Office Building, Washington, D.C.

DEAR SIR: I am writing to you on behalf of the Elizabeth, N.J., Business & Professional Women's Club.

We understand hearings will be held on the equal pay bills on March 15 and 18 before the Select Labor Subcommittee of the House Committee on Education and Labor.

We are very pleased to know hearings have been scheduled and will be watching newspaper releases. We want you to know we would appreciate hearing of your active support and favorable vote for the Equal Pay Act of 1963.

Very truly yours,

MARIAN H. ILES, *Legislation Chairman.*

SPARTA, N.J., March 12, 1963.

HON. FRANK THOMPSON,
Chairman of Labor Subcommittee,
House Office Building,
Washington, D.C.

DEAR MR. THOMPSON: Please vote in favor of the Equal Pay Act of 1963.

Very truly yours,

MARY B. DONER,
President, Business & Professional
Women's Club of Boonton, N.J.

APPLETON BUSINESS &
PROFESSIONAL WOMEN'S CLUB,
Appleton, Wis., March 10, 1963.

HON. FRANK THOMPSON,
*House Office Building,
Washington, D.C.*

DEAR REPRESENTATIVE THOMPSON: As chairman of the Select Labor Subcommittee of the House Committee on Education and Labor, may we please ask your support, as well as that of the subcommittee members, to bills Nos. H.R. 3861, H.R. 4369 and S. 910, on equal pay which are supported by the administration. Thank you.

Sincerely yours,

ESTHER L. KOTTKE,
Legislation Chairman.

VIRGINIA FEDERATION OF
BUSINESS & PROFESSIONAL
WOMEN'S CLUBS, INC.,
Richmond, Va., March 10, 1963.

HON. FRANK THOMPSON, JR.,
Chairman, Select Labor Subcommittee of the House Committee on Education and Labor, Washington, D.C.

DEAR CONGRESSMAN THOMPSON: On behalf of the more than 3,100-member Virginia Federation of Business & Professional Women's Clubs, Inc., I urge your favorable consideration of a strong bill to insure equal pay for comparable work without discrimination based on sex.

Sincerely,

MRS. JULIAN A. KEAN,
DORIS E. KEAN,
Chairman, Legislation.

DELAWARE FEDERATION OF
BUSINESS AND PROFESSIONAL WOMEN'S CLUBS,
March 10, 1963.

Congressman FRANK THOMPSON,
*Chairman, Labor Subcommittee,
House Committee on Education and Labor,
Washington, D.C.:*

We are delighted to know that several equal pay bills are scheduled for hearings before your distinguished committee on March 13, 15, and 18, 1963.

We, as an organization, both State and National, have long endorsed and worked for legislation which will secure equal pay for women performing the same or comparable work as men. We feel that this is only fair and just.

This is to urge you and your committee to act favorably on a bill such as this and to do all possible to release same for discussion at the earliest possible date. In addition, we urge that you and the members of your committee give same bill your full support when it reaches the floor of the House and/or Senate.

Assuring you that your efforts in this direction will be sincerely appreciated and with warm personal regards, I am.

Very truly yours,

Mrs. BESSIE B. BOOZER, *Legislation Chairman.*

DOLLY PEYTON SHEPPERSON
BUSINESS AND PROFESSIONAL WOMEN'S CLUB,
Alexandria, Va., March 12, 1963.

HON. FRANK THOMPSON,
*House of Representatives,
Washington, D.C.*

DEAR MR. THOMPSON: We understand the subject of "equal pay bills" will be coming before your committee on March 13, 15, and 18, 1963. I believe the following bills are up for your consideration: H.R. 298, H.R. 644, H.R. 1075, H.R. 1151, H.R. 1936, H.R. 3861, H.R. 4022, H.R. 4033, H.R. 4269.

As members of the National Federation of Business and Professional Women, representing over 170,000 working women, we strongly favor equal pay for equal work.

We hope you will favorably support this matter.

Very truly yours,

MARGARET C. BIANCHINI, *Legislation Chairman.*

VIRGINIA FEDERATION OF BUSINESS AND
PROFESSIONAL WOMEN'S CLUBS, INC.,
Culpeper, Va., March 12, 1963.

HON. FRANK THOMPSON, Jr.,
House Committee on Education and Labor,
Washington, D.C.

HONORABLE SIR: As president of the Virginia Federation of Business and Professional Women's Clubs, I would like to urge your favorable consideration of a strong bill for equal pay for comparable work so that there is no discrimination because of sex.

The sincere thanks from the 3,100 members in Virginia for your support.

Very truly,

Mrs. GALE B. HOUNSHELL, *President.*

THE TRI-TOWN BUSINESS AND PROFESSIONAL WOMEN'S CLUB OF
BELLEVILLE, BLOOMFIELD, AND NUTLEY, N.J.,
March 12, 1963.

HON. FRANK THOMPSON,
Chairman of Labor Subcommittee,
House Office Building,
Washington, D.C.

DEAR SENATOR: The Tri-Town Business & Professional Women's Club of Belleville, Bloomfield, and Nutley, N.J., comprising a membership of 65 women, have directed me as legislation chairman, to urge your favorable action on the equal pay bill, hearings are scheduled to be held in the House on March 15 and 18, 1963.

The Tri-Town Business & Professional Women's Club is vitally interested in the passage of this bill, as they are concerned with the improvement of women's status.

Thank you for your interest in this matter.

Sincerely,

DOROTHY J. FUNDIN, *Local Legislation Chairman.*

BUSINESS & PROFESSIONAL WOMEN'S
CLUBS OF NEW YORK STATE, INC.,
Rensselaer, N.Y., March 11, 1963.

HON. FRANK THOMPSON,
Chairman, Labor Subcommittee,
House Committee on Education and Labor,
Washington, D.C.

DEAR MR. THOMPSON: The Business and Professional Women's Clubs of New York State urge favorable action on the equal pay bills now before your committee.

Sincerely,

MRS. HULDAH C. SEGAL,
Legislation Chairman.

OHIO FEDERATION OF BUSINESS &
PROFESSIONAL WOMEN'S CLUBS,
March 11, 1963.

HON. FRANK THOMPSON,
*Chairman of Labor Subcommittee,
House Committee on Education and Labor,
Washington, D.C.*

DEAR CONGRESSMAN THOMPSON: Business and professional women are vitally interested in the hearings scheduled on the nine equal pay bills before the Labor Subcommittee.

We favor the provisions similar to those in the bill which passed the House last year and which are incorporated in the Bow bill H.R. 298.

"No employer * * * shall discriminate * * * between employees on the basis of sex by paying wages to any employee at a rate less than the rate at which he pays wages to any employee of the opposite sex * * * for equal work on jobs the performance of which requires equal skills * * *"

We are aware that each of the bills will probably allow several exceptions and will apply only to goods and services involved in interstate commerce. But putting into law the principle of equal pay for equal work will discourage much of the senseless discrimination against women workers which now depresses wages and living standards, limits the use of available labor supply, and constitutes an unfair method of competition.

We solicit your active support for equal pay legislation.

Very truly,

ELSIE M. CHANDLER,
*Legislation Chairman,
16th Congressional District.*

LOS ANGELES, CALIF.,
March 13, 1963.

Congressman FRANK THOMPSON JR.,
*Chairman of Subcommittee of the House Committee on Education and Labor,
House Office Building, Washington, D.C.:*

Congratulations on equal pay for equal work bill which would remove discrimination because of sex. We urge adoption of this legislation.

JO WHEELER,
*Legislation Chairman, California Federation,
Business & Professional Women's Clubs.*

MARCH 12, 1963.

HON. FRANK THOMPSON,
*House of Representatives,
Washington, D.C.*

DEAR MR. THOMPSON: In behalf of the members of the Metropolitan Club of the District of Columbia State Federation of Business & Professional Women may we be counted among the many men and women who favor the equal pay bill (H.R. 3861).

This is an important item on the legislative platform of the National Federation of Business & Professional Women's Clubs. As chairman of the subcommittee holding the hearings on the bill, we urge your support of this vital legislation.

Sincerely yours,

MISS GERTRUDE A. CALHOUN, *President.*

MARCH 12, 1963.

HON. EDITH S. GREEN,
*House Office Building,
Washington, D.C.*

DEAR MRS. GREEN: The members of the Metropolitan Club of the District of Columbia Federation of Business & Professional Women's Clubs thank you for introducing the amended equal pay bill (H.R. 3861) and for your untiring efforts in behalf of equal pay for equivalent work performed by men and women.

As you know, the passage of this bill is one in which not only our local clubs and State federation are deeply interested, but is an important item on the

legislative platform of the National Federation of Business & Professional Women's Clubs.

We appreciate your efforts in behalf of the passage of this bill and assure you of our support.

Sincerely yours,

MISS GERTRUDE A. CALHOUN, *President.*

THE NEW HAMPSHIRE FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
Dover, N.H., March 9, 1963.

HON. FRANK THOMPSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN THOMPSON: We have learned that hearings on the equal pay legislation will be held March 13 through 15 by the Select Labor Subcommittee of the House Committee on Education and Labor, of which you are chairman.

We are vitally interested in seeing that women doing the same type of work as men receive the same rate of pay. We earnestly urge the support of this legislation by your subcommittee in an effort to eliminate inequality which has existed far too long in many areas of this country.

Very truly yours,

MRS. EVELYN H. WILSON, *State President.*

SEARCY, ARK., *March 12, 1963.*

Representative FRANK THOMPSON, Jr.,
Chairman, House Labor Subcommittee on Education and Labor, U.S. Congress,
Washington, D.C.:

Alpha Si of Delta Kappa Gamma, an organization of women teachers, urges support of equal pay and equal rights legislation now before committee.

MRS. G. W. BOND,
Chairman of Legislation, Alpha Xi.

SOUTH DAKOTA STATE FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.,
Brookings, S. Dak., March 9, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. THOMPSON: The South Dakota Business & Professional Women's Federation would urge your support on H.R. 3861 and S. 910 on equal pay and equal rights. I understand the hearings will start on March 13.

We would like to see this passed as presented without a lot of changes or riders. Thank you for your consideration.

Most sincerely,

IMA R. CRISMAN, *State President.*

OKLAHOMA FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
March 7, 1963.

HON. FRANK THOMPSON, Jr.,
Chairman, House Labor Subcommittee,
Washington, D.C.

DEAR MR. THOMPSON: Word has come to us that your committee is scheduled to hold hearings on March 13, 15, and 18, 1963, on the equal pay bills.

We wish to advise you that the more than 4,000 members of the Oklahoma Federation of Business & Professional Women's Clubs are interested in H.R. 3861 and H.R. 4269, which bills you have in your hands. Our federation has felt for many years that equal pay is one important and vital recognition of

equal rights for women and will greatly appreciate anything you can do to push this legislation to the floor of the House for their consideration, and using your own influence in promoting its passage.

Thank you very much for anything you may do in this regard.

Sincerely,

IONA C. BRASEL, *President.*

OKLAHOMA FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
March 9, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE THOMPSON: We from Oklahoma, as business and professional women, tendering to our State and Nation, home welfare, interest in government, citizenship, and as mothers, feel we have a right to say something as to our interests.

Your committee, of which you are chairman, has under consideration equal pay bills, H.R. 3861 and H.R. 4269. Your consideration is important to all American working women, approximately one-third of the entire working force.

We urge that you remember in this day and age the forgotten minority of equal and substantial taxpayers—women. We would remind you of the minority which has contributed so much to the progress of the Nation, in the home, business, and in the financial structure of our country.

We hope that those who govern our country will soon realize an obligation of fairplay to the women workers of America.

Sincerely yours,

Mrs. LOUISE ROBISON,
State Legislation Chairman.

SOUTH DAKOTA STATE FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.,
Flandreau, S. Dak., March 8, 1963.

HON. FRANK THOMPSON, Jr.,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I am informed that hearings are scheduled to be held on equal pay before the select Labor Subcommittee of the House Committee on Education and Labor on March 13, 15, and 18.

As legislation chairman for the business and professional women of South Dakota, I wish to express our interest in equal pay legislation and that we support such legislation. We sincerely hope that you as chairman of this committee can encourage early action.

Russia has watched this discrimination against women in the United States and particularly as it is in evidence through the United Nations. Professional women are recognized more in Russia. I believe it is essential that we have equal recognition to bring peace to the world.

Your leadership for serious consideration of this type of legislation will be greatly appreciated.

Yours truly,

Mrs. EDITH STOKES,
State Legislation Chairman.

BUSINESS & PROFESSIONAL WOMEN'S
CLUBS OF NEW YORK, INC.,
March 9, 1963.

HON. FRANK THOMPSON, Jr.,
House Office Building,
Washington, D.C.

DEAR MR. THOMPSON: The Business & Professional Women's Clubs of New York State, Inc., urge your support of equal pay bill, H.R. 4269, which embodies the principle of equal pay for equal work.

This principle is deserving of your support in simple justice to women. There is no reason why women should be discriminated against in the matter

of pay any more than any other group. Women work to support themselves, to raise the standards of living of their families, to support parents, aged relatives and other dependents, to send children, nieces, and nephews to college. Their earnings are not spent frivolously but for necessary and worthwhile purposes.

Furthermore, women do most of the purchasing in the Nation. If, as is urged we need to raise the purchasing power of the consumer, equal pay for women would put this power directly into the hands of those who would use it for the benefit of their families.

Equal pay for equal work is being recognized by more and more nations of the world and is a principle embodied in the declaration of human rights. It is embodied in many State laws. We trust, therefore, that you will do all you can to have your bill reported favorably by the Select Labor Subcommittee of the House Committee on Education and Labor.

Sincerely yours,

RUTH F. STURM, *President.*

JENNINGS BUSINESS & PROFESSIONAL WOMEN'S CLUB,
Jennings, La., March 7, 1963.

Representative FRANK THOMPSON, Jr.,
Chairman, Labor Subcommittee of the House Committee on Education and Labor, Washington, D.C.

DEAR SIR: It has come to our attention that hearings on the equal pay bills have been scheduled for March 13, 15, and 18, 1963, before this committee.

We are sure that you are aware that many of the working women of these United States are doing the same job as the men for a much lesser pay scale, and that this is unjust to the women who are so employed. We wish to thank you for your favorable vote for the passage of this bill.

Very truly yours,

Mrs. SHIRLEY B. TRAHAN,
Chairman, Legislative Committee.

OHIO FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
Columbus, Ohio, March 9, 1963.

HON. FRANK THOMPSON,
Chairman, Select Labor Subcommittee, House Committee on Education and Labor, Washington, D.C.

DEAR MR. THOMPSON: This appeal is coming to you on behalf of all working women, especially those who find themselves discriminated against in job situations, whether under contract or otherwise, on the basis of equal pay, simply because they are women. We need not point out the increasingly important part women are playing in the Nation's economy, nor how inconceivable it is, toward the end of the 20th century, to realize that such inequities exist. Your own State of New Jersey, with its enlightened attitude as evidenced by the section of your State constitution which forbids discriminations on the basis of sex, has certainly spearheaded the way.

As past national legislation chairman for 2 years of the National Federation of Business & Professional Women's Clubs, we were made very aware that such legislation is mandatory.

We ask you, then, to do whatever is necessary to gain favorable action as you hold the hearings on the pending bills, vote out of committee speedily, for immediate consideration by the committee as a whole and then to the House and on its way to the Senate.

Thank you for your consideration and favorable response.

Sincerely,

AGNES S. MERRITT, *Legislation Consultant.*

LOUISIANA FEDERATION OF
BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
Baton Rouge, La., March 7, 1963.

Representative FRANK THOMPSON,
Chairman of Labor Subcommittee of the House Committee on Education and Labor, Washington, D.C.

DEAR SIR: The Louisiana Federation of Business & Professional Women's Clubs requests your active support of the equal pay bills which are scheduled for hearings in your committee March 13, 15, and 18.

Equal pay for the sexes is a measure long past due for passage, and to one who knows the economic situation of the workers of the country it should be unnecessary to explain the need for such a measure. A woman that is capable of giving the same service as a man is entitled to receive the same pay because her education and training is just as costly, her living expenses are the same, and she pays the same amount of income tax—sometimes more if she cannot qualify as head of the house.

Knowing your time is limited I will not go into more details as to the need of this bill, but again we earnestly beg your support toward acceptance of this bill.

Sincerely yours,

Mrs. DAVID R. COOPER,
State Legislation Chairman.

SUMMERVILLE, GA., March 13, 1963.

Representative FRANK THOMPSON,
Chairman, Labor Subcommittee of House Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.:

The Summerville Business & Professional Women's Club wishes to petition for your support for a 1963 equal pay bill.

Mrs. F. H. BONEY, *President.*

LEXINGTON, NEBR., March 14, 1963.

HON. FRANK THOMPSON,
House Office Building, Washington, D.C.:

We of the Lexington Business & Professional Women's Club wish to go on record as favoring the equal pay bills now before the Subcommittee on Education and Labor.

SELMA BROWN, *Legislative Chairman.*

DECATUR, GA., March 13, 1963.

Representative FRANK THOMPSON, Jr.,
Washington, D.C.

DEAR SIR: I am writing as a widow and a business woman, to urge you to support the equal pay bill which is now before your committee. This is a right that should be allowed any individual capable of doing equal work and is legislation that is long overdue.

Sincerely,

Mrs. DECIMA HALE.

DEER PARK, N.Y., March 12, 1963.

Re the equal pay for women bill coming up.

DEAR CONGRESSMAN: This is one of the finest bills to be put into effect if it goes through.

The racket of big companies hiring women to cut down the pay for work done equally by men and women should be stopped. They get away with it because most women are married and will take less pay than a man, and in that way lessens the head of family getting the right pay he is entitled to in any line.

Women have equal rights to vote so they should have equal pay for the same work done as men.

Sincerely,

J. L. MACASKILL,

CANTON, OHIO, *March 12, 1963.*

HON. FRANK THOMPSON, Jr.,
Chairman, Labor Subcommittee of the House, Committee on Education and Labor, Washington, D.C.

DEAR REPRESENTATIVE THOMPSON: As a district director for the Business and Professional Women's Clubs, I speak for all members in my district when I say; "We are all vitally interested in the hearings to be conducted on the nine equal pay bills before the Select Labor Subcommittee of the House Committee on Education and Labor.

My district includes the following clubs: Canton, East Liverpool, Youngstown, Steubenville, Columbiana, Lisbon, Newcomerstown, Twin City, Sebring, Salem, and Dover-New Philadelphia. Members do not always learn of the hearing dates until it is too late to write, but I assure you that they are all hoping for your active support for equal pay legislation.

We believe provisions similar to those in the bill passed by the House in 1962 and incorporated into the Bow bill of 1963, H.R. 298, should be enacted into the law.

Sincerely,

GOLDIE I. SMITH.

CHATSWORTH, CALIF., *March 15, 1963.*

HON. FRANK THOMPSON, Jr.,
House Office Building, Washington, D.C.:

Vote "Yes" equal pay for equal work, H.R. 3861, H.R. 4269, S. 910.

CHATSWORTH BUSINESS AND PROFESSIONAL
 WOMEN'S CLUB.

FRANCES NIEMI, *Legislation Chairman.*

WASHINGTON, D.C., *March 14, 1963.*

HON. FRANK THOMPSON, Jr.,
*House of Representatives,
 Washington, D.C.*

DEAR MR. THOMPSON: As chairman of the House Committee on Education and Labor, you will have great influence in passing the equal pay for equal work bill, H.R. 3861, introduced by Representative Edith Greene.

I urge you to give this bill your influential backing as it will correct a practice which has been unfair and should be changed without further delay.

Sincerely yours,

METROPOLITAN BUSINESS & PROFESSIONAL
 WOMEN'S CLUB,
 WILLAMETTE J. CROSS, *Vice President.*

DE KALB, ILL., *March 13, 1963.*

HON. FRANK THOMPSON, Jr.,
*Representative in Congress,
 Washington, D.C.*

DEAR MR. THOMPSON: Your support of H.R. 3861 and H.R. 4269 will be very much appreciated by myself as well as other members of our local Business & Professional Women's Club.

Respectfully yours,

Miss EDITH A. NELSON.

KENT, OHIO, *March 13, 1963.*

MR. FRANK THOMPSON, Jr.,
*House of Representatives,
 Washington, D.C.*

DEAR SIR: It has come to our attention that you are chairman of the Labor Subcommittee of the House Committee on Education and Labor. We also note that hearings are presently scheduled on the equal pay bills.

At the meeting of the Kent, Ohio, Business & Professional Women's Club, the group voted unanimously to ask that active support be given to equal pay legislation.

We know that today many women assume positions in business or in the professions, because in many instances their income is the only income in the household or, if not the only income, still a needed one. We further note that there is evidence that many unique contributions have been made and can be made by women in business and the professions.

Sincerely yours,

BUSINESS & PROFESSIONAL WOMEN'S CLUB OF KENT,
LEORA A. HOWSARE, *First Vice President.*

LITTLE ROCK BUSINESS & PROFESSIONAL WOMEN'S CLUB,
Little Rock, Ark., March 12, 1963.

Representative FRANK THOMPSON, Jr.,
Chairman, Select Labor Subcommittee of the House Committee on Education and Labor, Washington, D.C.

DEAR REPRESENTATIVE THOMPSON: As legislation chairman of the Little Rock Business & Professional Women's Club, representing 165 members, I am asking your continued support of the equal pay bill, H.R. 4269.

The thousands of women now in the work force as well as the increased thousands that will enter the work force by 1970 deserve the protection of an equal pay bill.

Thanking you for your continued support.

Most sincerely,

Mrs. CATHERINE B. HACHADAY, R.N.

BUSINESS AND PROFESSIONAL WOMEN'S CLUB,
Sheridan, Wyo., March 12, 1963.

HON. FRANK THOMPSON, Jr.,
Chairman, Labor Subcommittee of House Committee on Education and Labor, Washington, D.C.

DEAR SIR: The Sheridan Business & Professional Women's Club wishes to thank you for your past support of equal pay for equal work bills. We wish to request that you continue this support in the present session of Congress.

Our local club consists of about 50 members, who are hereby requesting favorable action on the equal pay for equal work legislation. We have over 100,000 Business & Professional Women's Club members in the Nation, associated in our national federation, which is actively seeking equal pay for equal work, therefore we feel that over 100,000 women are in favor of such legislation, and request that you and your committee act accordingly.

Very truly yours,

NEVA CHAPMAN, *President.*
ZELMA HAMSTREET,
Legislation Chairman.

MARCH 12, 1963.

HON. FRANK THOMPSON, Jr.,
*House Office Building,
Washington, D.C.*

DEAR CONGRESSMAN THOMPSON: As legislation chairman of the Canton Business & Professional Women's Club, I have been notified of the hearings of your select labor subcommittee of the House Committee on Education and Labor, on equal pay legislation.

Our group will be most interested in the work of your subcommittee. We have great hopes that in giving thought to the nine bills on this subject a solution can be found to the present inequitable practices regarding pay for women workers.

I have read our own Congressman Bow's bill but I have not seen copies of the others. I am sure you and the subcommittee of which you are chairman, will give all of these your close attention resulting in solid progress in this field of equal pay legislation.

We thank you all for your work.

Yours truly,

ABBY L. KLEINE,
Mrs. Walter G. Kleine,
Chairman, Legislation Committee.

SOUTHLAND CLUB FOR BUSINESS & PROFESSIONAL WOMEN,
San Diego, Calif., March 12, 1963.

Representative FRANK THOMPSON, Jr.,
Chairman, House Labor Subcommittee on Education and Labor,
Washington, D.C.

DEAR SIR: We earnestly urge your favorable consideration and "yes" vote on equal pay for equal work bill. We are sure you recognize the necessity, in our present economy, of correcting this inequity.

Thank you,

EDNA ZINN, *President.*

AMERICAN NURSES' ASSOCIATION, INC.,
New York, N.Y., March 13, 1963.

Representative FRANK THOMPSON,
Chairman, Special Subcommittee on Labor,
Committee on Education and Labor,
U.S. House of Representatives, Washington, D.C.

DEAR MR. THOMPSON: The American Nurses' Association is the organization of registered professional nurses with 169,000 members in constituent associations in 54 States, territories, and the District of Columbia.

The association supports the principle of equal pay for equal work. It believes discrimination on the basis of sex is unsound and undemocratic. Further, to pay women less than men for the same work will tend to depress the wages of both sexes.

From data collected by the American Nurses' Association, and from other sources, we find that the problem of a differential in salary for men and women in the field of professional nursing is not of great significance. This is primarily because nursing attracts more women than men, that latter making up less than 2 percent of practicing nurses. Considering their small numbers in nursing, men do hold a proportionately high number of administrative positions in nursing service and nursing education, not because they are men but because, once licensed to practice, they tend to continue their education and prepare for these positions. Also, many take positions in State and Federal Government installations where nursing salaries are higher. However, neither men nor women nurses receive salaries commensurate with their preparation and responsibilities.

In the hospital industry where the majority of nurses are employed, wage differentials do exist in the nonprofessional and technical categories of personnel who work in nursing service, such as aids. Aids are of both sexes and studies done by the Bureau of Labor Statistics in 1956, 1957, and 1960 show higher salaries are paid men, although both do identical jobs.

The report "Earnings and Supplementary Benefits in Hospitals Mid-1960 (15 areas)," Bulletin No. 1294, U.S. Department of Labor, Bureau of Labor Statistics, May 1961, shows women nurses' aids in Baltimore, Md., earn \$37.50 a week; in Cincinnati, Ohio, \$40; and in Memphis, Tenn., \$32.50. Men nurses' aids in Baltimore earn \$44.50; in Cincinnati, \$47; in Memphis, \$35. Not only are these wages extremely low and a cause of dissatisfaction, but the fact that there is a wage differential on the basis of sex can also be disruptive and interfere with the service to patients.

The American Nurses' Association believes persons should be rewarded financially on the basis of job description rather than sex. We urge your committee to report favorably H.R. 3861, the Equal Pay Act of 1963 and ask that this letter be included in the record.

Very sincerely,

Mrs. JUDITH G. WHITAKER, R.N., *Executive Director.*

EASTMAN, GA., *March 12, 1963.*

Hon. FRANK THOMPSON,
Chairman, Labor Subcommittee of the House Committee on Education and Labor,
Washington, D.C.

DEAR MR. THOMPSON: We are writing to you because of the influence you have as chairman of the Labor Subcommittee of the House Committee on Education and Labor.

As members of the Georgia Federation of the Business and Professional Women's Club we earnestly request your favorable reaction to equal pay legislation. We shall thank you for your help in passing this important bill.

Sincerely yours,

Mrs. ETHLYN POTTER ROLFE,
President, Eastman Business & Professional Women's Club.

EDISON, N.J., March 12, 1963.

HON. FRANK THOMPSON,
*Chairman of Special Subcommittee on Labor,
House Office Building, Washington, D.C.*

DEAR SIR: We will appreciate your strong support and favorable vote for the Equal Pay Act of 1963 which is scheduled in the House March 15 and 18, 1963. We are sure you are familiar with this bill.

Very truly yours,

Mrs. EDNA F. WHITE,
*Legislation Chairman,
Edison Business & Professional Women's Club.*

TRENTON, N.J., March 14, 1963.

HON. FRANK THOMPSON,
*Chairman of Labor Subcommittee,
House Office Building, Washington, D.C.*

HONORABLE DEAR SIR: I am chairman of the Legislation Committee of the Business & Professional Women's Club of Trenton, N.J., and as such and for myself personally as well, I am writing to you asking that you actively support and vote favorably for the Equal Pay Act of 1963.

This bill fell by the wayside in the 87th Congress but we sincerely trust it will be passed in the 88th Congress.

Trusting to be favored with your active support in this matter, I am

Yours very truly,

Miss MARIE R. PRIETH.

ALAMOGORDO, N. MEX., March 15, 1963.

HON. FRANK THOMPSON, JR.,
House of Representatives, Washington, D.C.:

As a member of the Business & Professional Women's Club, Inc., and as an employee, I very much favor and urge you to continue to give favorable consideration to H.R. 3861 and your own H.R. 4269 pertaining to the bills on equal pay and equal rights.

Thank you very kindly.

NAN M. JENTA.

GOLETA, CALIF., March 18, 1963.

Representative FRANK THOMPSON, JR.,
House of Representatives, Washington, D.C.:

Strongly urge your support of H.R. 4269 as sponsored by Business & Professional Women's Clubs.

Mrs. MARIE YORK.

SANTE FE, N. MEX., March 18, 1963.

HON. FRANK THOMPSON, JR.,
*Chairman, Select Subcommittee on Labor,
Washington, D.C.:*

The Santa Fe Business & Professional Women's Club requests favorable consideration of the equal pay bills being sponsored by you and Representative Edith Green. In all fairness to businesswomen everywhere the Congress should now pass legislation guaranteeing to women equal pay for equal work.

ETHEL VANDENBERG, *Legislation Chairman.*

ATHENS, OHIO, March 13, 1963.

HON. FRANK THOMPSON, JR.,
Chairman, Labor Subcommittee of the House Committee on Education and Labor, Washington, D.C.

DEAR SIR: I understand that hearings are to be held soon on the equal pay bills.

On behalf of the Athens Business & Professional Women's Club, I urge you to give active support in favor of the equal pay legislation. We feel very strongly that this legislation is needed and will appreciate your support.

Very truly yours,

ATHENS BUSINESS & PROFESSIONAL
 WOMEN'S CLUB,
 GERALDINE C. HOPE,
Chairman, Legislation Committee.

CAMDEN, N.J., March 15, 1963.

HON. FRANK THOMPSON, JR.,
*Chairman, Labor Subcommittee,
 House Office Building, Washington, D.C.*

MY DEAR CONGRESSMAN THOMPSON: As a woman and as an active member of the National, New Jersey, and Camden County Federation of Business & Professional Women, I solicit your good offices and efforts in behalf of the introduction and passage of equal pay legislation.

Inasmuch as I understand there are several equal pay bills about to be introduced I am willing to abide by your judgment as to which will serve the best interests of the women of this country.

Many thanks for the cooperation which I feel sure you will give to this measure.

Respectfully yours,

ANN SCHMERLING-SALSBERG.

STUDIO CITY, CALIF., March 15, 1963.

HON. FRANK THOMPSON, JR.,
*Special Subcommittee on Labor,
 Washington, D.C.*

DEAR MR. THOMPSON: Fifty-seven members of the North Hollywood Business & Professional Women's Club in North Hollywood, Calif., strongly urge your support of the equal pay bills.

The entire membership stands behind these bills.

Respectfully,

Mrs. KATHLEEN DE EBNAM HANNA,
Legislation Chairman.

RESOLUTION

A double standard of pay for men and women has long existed in industry. The Women's Bureau of the U.S. Department of Labor has recently released a new publication entitled "Economic Indicators Relating to Equal Pay," prepared in response to numerous requests for factual information about wages paid to men and women performing similar work. This pamphlet provides an overall view of the differences in pay levels of men and women. According to the Bureau of the Census the median wage or salary income in 1960 was \$3,293 for women and \$5,417 for men.

The members of our National, State, and local federations of Business & Professional Women's Clubs feel strongly that this differential should not prevail: Therefore, it is

Resolved, By the Lincoln Business & Professional Women's Club, of Lincoln, Nebr., that the club go on record as unalterably opposed to unequal rates of pay for men and women performing entirely similar services, and that the equal pay bill now pending before Congress, H.R. 4269, receive the utmost support of this organization: It is further

Resolved, That copies of this resolution be sent to the Select Labor Subcommittee of the House Committee on Education and Labor, the members consisting of Representative Frank Thompson, Jr., of New Jersey, chairman, Roman

C. Pucinski, of Illinois, James G. O'Hara, of Michigan, Hugh L. Carey, of New York, Carlton R. Sickles, of Maryland, Robert P. Griffin, of Michigan, John M. Ashbrook, of Ohio, Paul Findley, of Illinois, and Robert Taft, of Ohio, and also to Nebraska's Senators and Representatives, Senators Roman L. Hruska and Carl T. Curtis and Representatives Glenn C. Cunningham, David T. Martin, and Ralph F. Beermann, urging their support of the equal pay bill when it comes before them for action.

Dated this 14th day of March 1963.

LINCOLN BUSINESS & PROFESSIONAL WOMEN'S CLUB,
By MARY LOUISE SULLIVAN, *Acting President*.
LYDA HAER, *Chairman, Legislation Committee*.

OHIO FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS,
Columbus, Ohio, March 11, 1963.

HON. FRANK THOMPSON,
Chairman, Select Labor Subcommittee, House of Representatives Office Building, Washington, D.C.

DEAR REPRESENTATIVE: On behalf of the members of the Akron Business & Professional Women's Club and, as a member of the Legislative Advisory Committee of the Ohio Federation of Business & Professional Women's Clubs, Inc., may I urge your support of equal pay legislation.

We understand that your committee is reviewing the equal pay bills that have been presented to the House of Representatives so far. We are sure that you realize that the difference in pay for equal work between men and women is a grave injustice and should be corrected.

We are confident that in bringing this matter to your attention and letting you know how many of us are interested in favorable action on equal pay legislation, you also will desire the passage of the best of these equal pay bills.

Yours very truly,

ESTHER C. WESTGATE,
Legislative Advisory Committee.

BURLINGTON COUNTY BPW.

HON. FRANK THOMPSON, JR.,
Washington, D.C.

DEAR SIR: We would like you to aid the Equal Pay Act to its final steps. Pass it for us. Thank you.

IRIS WENZ,
Legislative Chairman.

BUSINESS & PROFESSIONAL WOMEN'S CLUB,
Rutherford, N.J., March 15, 1963.

HON. FRANK THOMPSON,
Chairman of Labor Subcommittee, House Office Building, Washington, D.C.

DEAR SIR: We are most interested in the passage of the Equal Pay Act of 1963. We hope that you are working actively to support and vote favorably for its passage.

Yours truly,

EDITH B. LAWTON,
Corresponding Secretary.

MARCH 25, 1963.

HON. FRANK THOMPSON,

*Chairman, Labor Subcommittee of the House Committee on Education and Labor,
Washington, D.C.*

DEAR SIR: As a member of the Business & Professional Women's Club I am informed that your committee is now holding hearings on equal pay bills.

May I urge that your subcommittee give careful consideration to and recommend for passage a bill which will grant to women equal pay for equal work. They are being discriminated against in almost every field of endeavor.

In my own field, as an official court reporter, I can cite instances of which I have definite knowledge, that the male reporters in counties adjacent to that in which I serve are all receiving much higher salaries than I am paid. However, when I go into the courtroom I am required to report a case with the same degree of skill and accuracy as they do and the transcripts which I furnish must reflect the degree of study and training required by me to maintain the efficiency I am credited with in 18 years in this chosen profession.

Anything your committee may accomplish to overcome the idea that women doing a comparable job should be paid less than males will indeed be a service to our country.

Sincerely,

GERTRUDE LENHART, *Reporter.*

THE FENSHOLT ADVERTISING AGENCY,

Chicago, Ill., April 22, 1963.

HON. FRANK THOMPSON,

*Member of Congress,
House Office Building,
Washington, D.C.*

DEAR MR. THOMPSON: I should like to express my opinion in favor of passing the "equal pay for women" law.

Many States already have such a law and, I hope, eventually all will find it desirable to have one, but it would certainly make it come about faster and more surely if it were a Federal law.

In all fairness and honesty, a job should have a certain value based on the work or thinking or skill involved, not on the sex of the person doing the job.

"Protecting" women or "insuring their job opportunities" doesn't make sense when it means they must earn less than men even though they have to pay the same taxes, rent, living expenses, etc. Hundreds of thousands of women support themselves, their children, parents, etc., without masculine support. If these women have the necessary work qualifications, why shouldn't they be paid what the job is worth?

A big segment of consumers in our economy are women. If higher wages for men increases spending, consuming, and producing, the same reasoning should apply to women.

In our company we have a policy of equal pay for women. It simply doesn't make sense to be against equal pay for equal work.

Sincerely yours,

Mrs. WM. R. ZITSEWITZ,
West Chicago, Ill.

POPPENHUSEN INSTITUTE,
College Point, N.Y., April 22, 1963.

HON. FRANK THOMPSON, Jr.,
*House Committee on Education and Labor,
Cannon Building, Washington, D.C.*

DEAR MR. THOMPSON: A recent Kiplinger letter, which ordinarily gives an objective and impartial appraisal of pending legislation, gave a most biased review of the equal pay for equal work bill now under consideration by your committee.

As a woman who is the sole support of her family and as the first woman director of this 90-year-old school, I strongly urge your committee to take a stand against discrimination on the basis of sex and expedite this bill so that the exploitation of women by employers will be eliminated.

May I request that this letter be included in the record of the hearings on the equal pay bill.

Yours truly,

SARAH MOTTRAM BORNEMAN,
(Mrs. Louis W.) *Director.*

NATIONAL RETAIL FURNITURE ASSOCIATION,
Chicago, Ill., April 24, 1963.

Re H.R. 3861, equal pay bill.

HON. ADAM CLAYTON POWELL,
*Chairman, Committee on Education and Labor,
U.S. House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN POWELL: The purpose of this letter is to record with your committee the position of the directors of the National Retail Furniture Association on H.R. 3861, the equal pay bill.

At their quarterly meeting earlier this month at Scottsdale, Ariz., the proposal was reviewed by our governmental affairs committee and the board of directors.

The following policy position was adopted:

"Equal pay bills: We recommend NRFA oppose proposals for Federal laws to eliminate discrimination in pay on the basis of sex, even though we support the principle involved. We believe attempts to achieve the goal by legislation would create more problems than it would solve. We advocate reliance on normal processes, education, and normal collective bargaining procedures, and oppose Federal intervention in vital areas of wages."

We respectfully request that you authorize inclusion of this letter in the record of your committee's hearings on H.R. 3861.

Very truly yours,

DEREK BROOKS,
Vice President and Director of Government Relations.



