EQUAL PAY ACT OF 1963

HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 882 and S. 910

TO AMEND THE EQUAL PAY ACT OF 1963

APRIL 2, 3, AND 16, 1963

Printed for the use of the Committee on Labor and Public Welfare

U.S. GOVERNMENT PRINTING OFFICE
97597 WASHINGTON : 1963

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CONTENTS

CHRONOLOGICAL LIST OF WITNESSES

April 2, 1963

April 3, 1963

April 16, 1963

STATEMENTS

ADDITIONAL INFORMATION

EQUAL PAY ACT OF 1963

TUESDAY, APRIL 2, 1963

U.S. SENATE, SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 4232, New Senate Office Building, Washington, D.C. Senator Pat McNamara (chairman of the subcommittee), presiding.

Present: Senators McNamara (presiding), Randolph, Pell, Kennedy, and Goldwater.

Also present: Senator Case of New Jersey.

Committee staff members present: Stewart E. McClure, chief clerk; John Sweeney, professional staff member of the Subcommittee on Labor; Michael J. Bernstein, minority counsel, and John Stringer, minority associate counsel.

Senator MCNAMARA. The subcommittee will be in order.

We hoped to have the Honorable Clifford Case, Senator from New Jersey, as our first witness, but he is tied up in a breakfast meeting and will arrive a little bit later.

At this point we are very happy to have as our first witness the Honorable W. Willard Wirtz, Secretary of Labor. He is accompanied by the very charming Esther Peterson, Assistant Secretary of Labor for Labor Standards, and by Sam Merrick, who is a former member of our staff here and very devoted to the cause.

We are very glad to have you as witnesses to start our hearings on S. 882 and S. 910. At this point we will include S. 882, S. 910, and department reports.

(S. 882, S. 910, and departmental reports follow:)

[S. 882, 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 discriminatin

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 employer 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" 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.

(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.

PROHIBITION OF WAGE RATE DIFFERENTIAL BASED ON SEX

SEC. 4. 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 to any employee at a rate less than the rate at which he pays wages to any employee 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 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 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 appro-

priate 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 wage practices 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;

(4) 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 amount of the wages due such employee at the rate paid to an employee of the opposite sex, plus an additional equal amount as liquidated damages; 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 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 an additional equal amount as liquidated damages.

(b) For the purposes of any investigation conducted under paragraph (2) of section 5(a) of 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 estraining 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 evtraordinary 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 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 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 first administrative or judicial proceeding relating thereto.

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 as 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, coroporation, 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.

[S. 910, 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,

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 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) 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 theAdministrative 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 disist 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 purposes 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 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 employe 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. 8. 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.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 26, 1963.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your requests of February 25 and 27, 1963, for the views of the Bureau of the Budget on S. 882 and S. 910, respectively, similar 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.

The Secretary of Labor, on April 2, 1963, set forth the administration's favorable position with respect to equal pay legislation. The Bureau of the Budget has nothing to add to the Secretary's comments.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington.

Hon. LYNDON B. JOHNSON,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting and administration proposal to prohibit discrimination on account of sex in the payment of wages by employers having employees 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, and for other purposes. I am also enclosing a summary statement explaining the need for the legislation and the purpose and effect of the bill.

The existing practice of some employers in paying discriminatory wage rates with respect to the same or comparable work has an undesirable effect on many aspects of the life of our Nation. The attached draft is intended to work toward the elimination of these effects in interstate commerce channels. Among other compelling reasons for its enactment is the necessity to utilize fully the skills of women in our labor force. The number of women workers is expected to increase to more than 30 million within the next 10 years.

The proposal is in the nature of new legislation and would not amend any existing law.

Yours sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

STATEMENT IN EXPLANATION OF A BILL TO PROVIDE EQUAL PAY WITHOUT DISCRIMINATION ON ACCOUNT OF SEX IN ENTERPRISES ENGAGED IN INTERSTATE COMMERCE

This proposal, which is on the legislative program of the Department of Labor, has as its purpose the elimination of discrimination in wage rates based on sex where men and women are performing comparable work for the same employer. Employers having employees engaged in commerce or the production of goods for commerce and Government supply contractors whose contracts exceed $10,000

would be subject to its coverage. "Employer" is defined to mean any person having 25 or more employees in any place of employment.

These employers would be prohibited from paying a lower wage to one employee than they pay to an employee of the opposite sex in the same place of employment for work of equal character requiring equal skill. The bill would permit employers to adjust the lower wage rates over a period of time, not to exceed 2 years. Further, labor organizations would be prohibited from causing or attempting to cause an employer to discriminate against an employee in violation of the act.

Express provision is made for the Secretary of Labor, who is to administer and enforce the act, to eliminate discriminatory practices through conference and persuasion and to secure voluntary wage restitution. It is contemplated that educational and compliance programs will be emphasized to secure maximum employer and labor organization cooperation.

The Secretary would be vested with the authority to make rules and regulations necessary for the administration of the act. Regulations which might be necessary to protect against any application of the act in contravention of the wage standards of any other applicable law and to safeguard wage rate levels in eliminating differentials would be included in this authority.

When compliance is not forthcoming, the Secretary is authorized to hold administrative hearings with respect to alleged violations. He could issue cease and desist orders and orders for the restitution of wages withheld in violation of the act, plus up to an equal amount as liquidated damages. The Secretary is also authorized to issue orders requiring reinstatement of, and wage restitution to, any employee discharged for assisting in the enforcement of the act. If necessary, the Secretary could seek a court order requiring compliance with his orders.

In addition, an employer would be subject to the sanction of ineligibility for Government contracts after a final determination of violation of the act. This sanction would not be applied and would be immediately discontinued when the Secretary of Labor determined that the employer has come into compliance and would, in all likelihood, continue to comply in the future.

Equal pay legislation is an essential step toward the administration's goals of economic growth and social justice. The need and justification for a Federal equal pay law, a matter of common knowledge, was well substantiated by the record of testimony in hearings on equal pay legislation in the 87th Congress.

The burden of the present unfair practice of paying lower wage rates for the same or comparable work to workers of one sex falls most heavily on those least able to bear it, that is, women who do not belong to unions. The large proportion of working women susceptible to this discriminatory treatment is shown by the fact that only 3.5 million of the 24.5 million women presently employed are covered by collective bargaining agreements.

A significant number of employers freely acknowledge payment of wage rates on a double standard basis. When reporting job vacancies to employment offices, many employers in States without equal pay legislation list vacancies with a single job title but with a higher hiring rate for men than for women. It cannot be expected that discriminatory pay practices will voluntarily be discontinued on any widespread basis in the foreseeable future because these practices are evident in new companies and in new industries.

The present practice of paying discriminatory wage rates on the basis of sex has an undesirable effect on many aspects of the life of our Nation. It tends to affect adversely the general purchasing power and the living standard of workers. It offers an unfair competitive advantage for employers who follow this practice. The resulting low wage levels often prevent the maximum utilization of worker skills to the detriment of morale and, in turn, of production.

The contributions employed women are currently making to our economy are vital to the production of essential goods and services. The demand for these goods and services will grow materially in the next decade when the national population is expected to increase by 28 million persons. Six million more women workers will be required by 1970 to meet growing consumer needs. This means that within 10 years there will be at least 30 million women in the labor force.

To facilitate the effective use of these workers and to encourage the highest development of their skills, widespread application of the equal pay principle should be promoted by Congress. This principle is of vital importance in times of economic recession when the employment of women at a lower wage rate

than men on comparable jobs may be used to undercut the wage rate of men or cause their displacement.

In addition, discriminatory wage practices are inconsistent with the fundamental American principle of justice. The knowledge of their existence reflects on the prestige of the United States in affairs around the world.

It is of great importance that Congress act without further delay to eliminate these practices from the channels of interstate commerce.

Senator McNamara. Secretary Wirtz, will you proceed in your own manner? I understand that you have already made a presentation in the House and we are going to ask you to summarize.

I see now that Senator Case is here and since the schedule calls for him to be the leadoff witness—if you do not mind waiting for a few minutes—I understand Senator Case has a brief statement.

Senator Case. Mr. Chairman.

Senator McNamara. Senator Case, we are very happy to have you here. We know you have had a meeting already this morning and you have some problems getting here. We know you have an interest in this legislation. You have displayed it by introducing a bill that I am sure you are here to speak in favor of.

You may proceed in your own manner, sir.

STATEMENT OF HON. CLIFFORD P. CASE, A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator Case. Thank you, Mr. Chairman, you are most gracious and I apologize to the Secretary and the Assistant Secretary for displacing them.

It is only because of the fact that I did have this other meeting and another before that that I was a minute or two late. You are most gracious.

I have a very brief statement. I shall not read it, as a matter of fact. If the subcommittee please, I would like to insert it in the record at this point and to make a point or two about the legislation that is more fully covered in my brief statement.

Senator McNamara. We will be very happy to print your statement in the record at this point.

(The statement referred to follows:)

Prepared Statement by Senator Clifford P. Case

It is a pleasure to appear before this subcommittee of a committee on which I had the honor of serving for several years, in behalf of my bill, S. 882, to provide for equal wage treatment of men and women.

In testifying on similar legislation in the previous Congress the then Secretary of Labor, Arthur J. Goldberg, described it as "a very simple bit of legislation, and its simplicity is such that people wonder why it has so long been overdue."

I agree. For what my bill aims to do is to remove a patent inequity in the wage treatment of a very large proportion of the U.S. labor force—our women workers.

It is estimated that there are 24½ million women workers in the United States. They constitute 37 percent of our work force. Most of them earn substantially less than men, even when they are doing comparable work that requires comparable skills. According to the Department of Labor, in the years 1955–60, full-time women employees earned an average of $3,293. This is less than two-thirds of the average annual wage for men who earned $5,417. In particular occupations, the differential was even more marked. In Denver, for example, women bank tellers were paid $28 less a week than men tellers.

Obviously, such a differential can only be explained on the basis of difference of sex. Few will defend such blatant discrimination, but it prevails in every part of the country.

It is more than time that we act—and acted effectively. I stress the word "effectively." The women of America want more than words, more than a declaration that in practice would be largely unenforcible. Hence, my bill specifies equal pay for comparable work requiring comparable skills. Equal pay for equal work makes a good slogan, but bad law.

In the last session the then Secretary of Labor pointed out why in a letter to Congressman Zelenko, manager of the equal pay bill on the House floor:

"The language as so changed (equal work), in our opinion, could spell defeat for the bill's purpose. 'Equal' may be interpreted to have a rigid connotation such as 'exact uniformity,' 'of the same measure,' and so on—incompatible with an effective equal pay law which necessarily must be applied on the basis of similarity between one job in relation to another job but not the exactness of two jobs.

"If a showing of equality was a requisite to establish the requirement of equal pay, the conscious introduction of one slight and trivial factor might be considered sufficient to jutify a lower wage rate.

" 'Comparable' is a key word in our proposal. It is used in both tests which are essential under the proposal to establish the resemblance between jobs necessitating equal pay, that is, 'work of comparable character' on jobs requiring 'comparable skills.' It connotes an identity of work operation and skill permitting a realistic and practical apprasial of two jobs to determine whether they have enough like characteristics and skill demands to warrant the same basic pay rate."

The word "comparable" has a history in labor-management matters. It was the standard used by the War Labor Board in its general order forbidding differences in wage rates for "comparable quality and quantity of work," and in its decisions involving questions of equal pay rates for men and women. The leading case on this very point was that of General Motors, Nos. 125 and 128, reported in 3 War Labor Board Reports, 348. I quote: "The Board has directed the parties to include in their new agreement a provision that wage rates for women shall be the same as for men where they do work of comparable quantity and quality in comparable occupations."

The effort to achieve equal pay for comparable work goes back many years. It has been Federal policy for the Civil Service since 1923. A number of States, including New Jersey, have enacted legislation supporting the principle. The principle of equal pay was endorsed by both Republican and Democratic Parties in their 1960 platforms. The Eisenhower administration supported equal pay legislation, and the Kennedy administration has endorsed the principle.

By 1970, it is estimated that there will be 30 million women in the labor force. We have too long put off action in this field. I urge the committee to report out favorably S. 882 to assure that equality of wage treatment to which all workers are entitled.

Senator CASE. The need for this legislation, I think, is very clear. The Secretary of Labor and the immediate past Secretary, Mr. Justice Goldberg, described it as a very simple piece of legislation when he said its simplicity is such people wonder why it has been so long overdue.

Of course, I agree. It is estimated that there are some 24½ million women workers in the United States, constituting 37 percent of our work force, and most of them earn substantially less than men, even when they are doing comparable work that requires comparable skills.

The figures are in here as to the average earnings of women. From 1955 to 1960 it was $3,293, less than two-thirds of the annual wage rate for men which is $5,417. In particular occupations the difference is even more marked.

In Denver, bank tellers, for instance, women bank tellers were paid $28 a week less than men bank tellers. The women bank tellers were paid that much less than men. It is time we did something about such rank discriminations, I believe.

There is one point I would like to make in regard to the two major bills before your committee. The difference between them, I think, is chiefly this one point.

My bill provides that women shall receive the same pay as men for comparable work requiring comparable skills, and the other bill talks about equal pay for equal work. The point of this difference, I think, is chiefly one which relates to what will happen under the legislation if it is adopted and on this point, as Congressman Zelenko pointed out—he was manager of the equal pay bill on the House floor—he got a letter last year from Secretary Goldberg strongly urging, and I urge, too, that the language of my bill, "comparable work requiring comparable skills," is by far the better way of handling the situation. I hope this will be the view of the subcommittee and of the committee.

This legislation on this point, of course, was endorsed by the Eisenhower administration and supported, and the Kennedy administration has endorsed it in principle.

I say we have let this situation exist far too long. As Mr. Carey, president of IUE, in a release of Monday, March 25, in support of the legislation, pointed out, the situation is getting worse, not better and this adds strongly, I think, to the argument that legislation on the point is necessary.

I am satisfied, having been a member of this committee, and enjoying my association with its members and the work, knowing them and you, your consciousnes of the need here is such that we need have no doubt that you will act effectively in this matter. I leave it in your hands.

Senator McNamara. Thank you very much, Senator Case. It has been a pleasure to work with you on the committee for some years and you can be sure that your suggestion will be given every consideration.

Senator Case. I thank you, Mr. Chairman.

Senator McNamara. Thanks for being here this morning.

Senator Case. Thank you, Mr. Secretary.

Senator McNamara. We will now hear from the Hon. Maurine E. Neuberger, a Senator from the State of Oregon.

STATEMENT OF HON. MAURINE B. NEUBERGER, A U.S. SENATOR FROM THE STATE OF OREGON

Senator Neuberger. Mr. Chairman, I appreciate having this opportunity to submit testimony in support of the administration's bill, S. 910, which provides equal pay for equal work regardless of sex.

One worker in three in the United States today is a woman. In 1962 there were 24 million women in the work force; for 1970 the forecast is 30 million. Their contribution is immense.

Women, unfortunately, are frequently paid lower wages than men. One of the early positions taken by President Kennedy's Commission on the Status of Women, of which I am a member, was endorsement of the principle of equal pay for equal work. In the last Congress such legislation passed both the House of Representatives and the Senate in a somewhat different form, but unfortunately was not enacted into law.

So the great United States remains among the backward nations in its attitude toward women in the labor marketplace, not recognizing on a national level the justice of equal pay for men and women doing work of equal type and value. Only 22 of our States, including Oregon, have laws requiring equal pay for comparable work, and many of these laws are of dubious effectiveness.

The evidence of discrimination is overwhelming, and is rarely denied. When women work full time their levels of earnings compare unfavorably with those of men. In 1960 they amounted to about 60 percent of the men's total.

One-third of the 1,900 companies surveyed by the National Office Management Association in 1961 frankly reported a double-standard pay scale for male and female officeworkers. In one plant studied by the Young Women's Christian Association, the hiring rate for women inspectors was $1.38 an hour, for men, $1.48 an hour and the differential rose to 34 cents based on experience and seniority even though both men and women are required and expected to do exactly the same job under the same conditions.

Another survey of bank tellers' salaries in 1960 disclosed that women tellers with under 5 years of experience typically average $5 to $15 a week less than men in the same group. Among college graduates the differences in average salaries for men and women, when compared by occupation and type of degree, range from $290 to $1,560 a year, all in favor of men. In fact, the gap widens as education levels rise because of the barriers to promotion of women.

Mr. Chairman, I am pleased that organized labor is supporting this legislation. Written in many union contracts today are provisions requiring equal pay for equal work, but discrimination bears most heavily on those women who do not belong to unions.

Discriminatory wage practices violate American principles of justice. Our Nation cannot afford to turn its back on the tremendous product of womanpower. This legislation is an essential step toward the goal of economic growth.

Mr. Chairman, I urge the prompt and favorable consideration of this legislation. The enactment of equal pay legislation can do much to strengthen our Nation.

Senator McNamara. Thank you very much, Senator Neuberger. Now, Mr. Secretary, if you will resume your previous position here and proceed as you see fit.

STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR

Secretary Wirtz. Thank you, Mr. Chairman, and members of the subcommittee. I have two suggestions for shortening this: one will be that I summarize very briefly, if that is all right with you, and the members of the subcommittee, the written statement which I am filing; and the other would be that Assistant Secretary Peterson and I will be very glad, if it meets the committee's convenience, to couple our statements and then permit any questions on the basis of either statement.

The Chairman. That will be satisfactory. We will ask the reporter to see that both statements are inserted completely at this point in the record.

(The statements referred to follow:)

PREPARED STATEMENTS OF W. WILLARD WIRTZ, SECRETARY OF LABOR

Mr. Chairman and members of the subcommittee, thank you for this opportunity to express support of the administration's equal pay proposal embodied in the chairman's bill, S. 910—a proposal based on the simple and clear-cut proposition that payment for a job should depend on the work that is done and not on whether it is done by a man or a woman.

I am appearing here this morning with Assistant Secretary Esther Peterson. If it is agreeable to the committee she will summarize for you a detailed statement we would like to present for the record which clearly documents the wage rate discrimination which makes this legislation necessary. My statement will briefly discuss the bill's provisions. We believe they are moderate and flexible. It will also look particularly at the increasing importance of women in the Nation's labor force, and outline the principles behind the bill.

This bill is similar to the administration's proposal in the last Congress. In essence it requires that an employer pay men and women equal rates for equal work when they are employed in the same location. It does not aim at a general equalization of wage rates as between employers or even between different employment locations of the same employer. It merely requires an employer to eliminate any differential based on sex which exists within a single place of employment of that employer.

The prohibition applies to 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. Contractors who supply goods to the Government in excess of $10,000 are also expressly covered. Labor organizations would be prohibited from seeking to cause an employer to discriminate against an employee in violation of the act.

Employers would be allowed 2 years from the effective date of the act to remove any prohibited wage differentials through gradual upward adjustment of the lower wage rate. There would thus be no undue economic burden placed upon the employers and the adjustments would not cause undue disturbance of wage structures.

Differentials based on length of service of merit systems would not be considered as falling within the bill's proscription. The bill also contemplates and expressly provides that the Secretary of Labor shall endeavor to secure compliance through conciliation, persuasion, and voluntary agreement. Only when these methods have failed would the enforcement procedures of the bill be used.

If efforts to secure voluntary compliance with the bill's provisions are not successful, the Secretary would be authorized to bring an administrative proceeding with a full hearing conducted in accordance with the Administrative Procedure Act. On the basis of the hearing record, if the Secretary determines that the act has been violated, he may issue orders requiring the employer to cease and desist from the violation and to pay the employee the back wages due, plus an additional amount as liquidated damages not to exceed the back wages. If an employer discharges an employee for invoking the remedies of the act the Secretary would be authorized to order reinstatement of the employee. Employers found to have violated the act would also be ineligible for Government contracts until they come into compliance with the act and give assurances that they will continue to comply. The Secretary could likewise issue cease-and-desist orders against a labor organization for violation of the act.

All of these orders would be subject to court review upon the petition of an aggrieved party and to court enforcement.

As I have stated, the bill places significant emphasis upon efforts to secure voluntary compliance with its provisions. In the light of my experience both within and without the Federal service, I cannot too strongly affirm the importance I attach to this principle. Voluntary settlements not only save time and money; they also result in more satisfactory employer-employee relationships, to the benefit of all. I am sure that most agencies follow this salutary practice. I know that the experience of the Department of Labor under the wage and other labor standards laws which it administers demonstrates that most employers when given an opportunity voluntarily bring themselves into compliance. Under the Walsh-Healey Public Contracts Act, as well as the Fair Labor Standards Act, over 95 percent of the violators do so. Under the Walsh-Healey Act,

for example, only a handful of cases are made the subject of an administrative enforcement proceeding out of all those where violations are found. The percentage of compliance is even higher in the case of labor organizations charged with violations of the Labor-Management Reporting and Disclosure Act.

We believe all of these provisions are reasonable, moderate, and flexible and will provide an effective law.

The bill, of course, affords the same protection to men as it does to women, since it prohibits wage discrimination on the basis of sex. I am sure we are all aware, however, that in the great majority of cases it is women who are the victims of unequal pay practices. I have already indicated that Mrs. Peterson will outline the evidence of such practices.

At this point I would like to turn to a brief discussion of the important role women play in the Nation's labor force today.

Women are not a minority in the population. In 1962 there were 66½ million women of working age, almost 3½ million more than the number of men. About 24½ million women were in the labor force, one-third of the total labor force.

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. Improvement in the earnings of women will thus mean a rise in purchasing power.

Of perhaps greater significance is the fact that the participation of women in the labor force, particularly those between 45 and 65 years of age, has been increasing rapidly and at a much faster rate than that of men. In 1900, only 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 women in the labor force has increased almost fivefold, but the number of men has only doubled. In the 1947–63 period, for example, women accounted for about three-fifths of the increase in the entire labor force. The number of women workers rose about 7½ million, as compared to about a 5½ million rise in men workers. The number of women workers 45 and over more than doubled. During this period the proportion of all women in the labor force rose from 31 to 37 percent while the corresponding participation rate for men declined from 84 to 79 percent.

The Department of Labor estimates that a similar rise will occur in the decade of the sixties. The labor force will increase by about 13 million persons, of whom nearly half will be women.

Thus, the increased labor force participation of women and their importance to the labor force are not temporary phenomena, such as was thought during World War II. This is borne out by studies of the economic responsibilities of women, which 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.

Married women, for example, accounted for over one-half of the total number of women workers in 1962. Nearly 900,000 working women had husbands who, for various reasons, were not in the labor force, primarily because they were disabled or retired. The proportion of working wives is materially higher among families in the low-income groups. For example, in families where the husband's annual income was less than $5,000, over a third of the wives worked in 1962, as compared with only a fourth of the wives where the husband's income was $7,000 or over.

Widowed, separated, and single women are the only wage earners in many households. In 1962, women were the heads of 4.6 million families, one-tenth of all families in the United States.

Elimination of wage discrimination practices thus becomes increasingly important, not merely as a matter of justice, but of economics. The perpetuation of wage rate inequities can have a serious effect upon the labor market in general and fair employers in particular.

With our national labor force rising more rapidly than job opportunities, some employers may well be tempted to take advantage of the unemployed. When an employer can get by with paying any group lower wage rates—even substandard rates—existing pay scales and labor standards are endangered.

In other words, in the context of high unemployment rates and an ever-increasing number of women in the labor force, tehre can well be a weakening of the economic gains already achieved through voluntary rate-for-the-job policies, if we do not move now to eliminate discriminatory practices. Pay discrimination could become more severe. Competition from employers who pay discriminatory rates tends to drive some fairminded employers who do not approve of the practice to engage in it.

Competition is the life-blood of our economy. But it is only the means to an end—a better economy—and we have therefore accepted and firmly imbedded in the law specific restrictions upon competition. It cannot be dishonest. It cannot be unfair. It should not be based upon exploitation of labor. Competition should be based upon efficiency, service, careful buying, intelligence, aggressive salesmanship, innovation, hard work.

The fair employer, and the one who believes in fairness, should be protected.

In this connection I should like to discuss the charge that overall employment costs of women are higher than those for men because of absenteeism, turnover, special services and similar factors. The claim is made that because of this women will not be hired if an equal wage rate is required.

I would hope that the record of the many employers who do pay equal rates would be enough to refute this charge. Any comparison of wage costs should of course be based on similar jobs. Many of the figures cited by those who make the charge are not careful to make this distinction. But if we look, for example, at the quit rates for skilled, professional, and managerial workers, collected by the Department of Labor on a confidential basis, we find that it is low for both men and women. Similarly, 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 generalization about the labor turnover rates of women workers.

The importance of taking job levels into consideration is also emphasized in a study entitled "Absenteeism Among Women Workers in Industry," published in the March 1962 issue of the International Labour Review. I quote from the study:

"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."

Similarly, the age level of workers and their length of service are found to be determining factors. Labor turnover rates show only small differences between men and women who are 45 years of age and over, although younger women in some occupational groups do have significantly higher separation rates than men. In each age group analyzed by the Department of Labor, however, the highest separation rates occurred among both men and women workers with less than 1 year service with the employing company. Thus, again, 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.

I thus do not think we should be misled by generalizations based on invalid comparisons.

Equal pay for equal work is far from 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. The principle of rate-for-the-job also has wide application in business operations marked by fairness and efficiency.

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 precedented by Federal experience.

The question before this committee, it seems to me, is not so much the validity of the equal-pay principle but the selection of a method to put it into the widest possible practice on grounds of justice, the advance of labor standards, the maintenance and preservation of healthy competition and the protection of purchasing power.

Reliance upon individual employer responsibility alone is not enough. Collective bargaining, similarly, is not enough. Of the 24½ million women in the labor force today, only 2.6 million belong to a union, with the result that working women are more vulnerable to unequal pay practices than men.

The adoption of equal pay laws by 22 States has not materially changed the unequal pay pattern evident throughout the Nation. Nor would action by a few more States over the next few years accomplish this end. The coverage of the present State laws is fragmentary and the degree of enforcement varying. These laws do not reileve the Federal Government of the responsibility to foster a policy which should have uniform and effective application in the States. We are convinced that action at the Federal level is essential to solve a problem common to all of the States.

Federal labor standards laws have been built up over the years to form a framework of protection vital to the working men and women of the Nation. We have become very much aware of the gap in this framework, particularly harmful to the interest of working women, caused by discriminatory wage rate practices. S. 910, in my opinion, would do much to close this gap. I therefore, again, urge that the subcommittee recommended early and favorable action on this legislation.

PREPARED STATEMENT OF ESTHER PETERSON, ASSISTANT SECRETARY OF LABOR

I very much appreciate the opportunity to participate today with the Secretary in speaking in support of S. 910, the Equal Pay Act of 1963.

As Secretary Wirtz indicated, my statement will deal primarily with the factual evidence which so clearly demonstrates that the wage rate discrimination which this bill is designed to remedy is with us today. Many workers—primarily women—continue by reason of unfair pay practices to be without their full share of the economic benefits of our Nation. S. 910, the administration's proposal introduced by the chairman, is 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 exploitation. Enactment of this bill would go far in providing a remedy.

Secretary Wirtz has already described the important wage earning role of women today. The time has come to recognize this role by assuring them a fair economic return. Women are valued as members of our society, but in too many instances are devalued as members of our working force. There are many telling economic indicators of this situation, some of which I shall describe in this statement with more details set forth in the attachments I would like to submit for the record.

First, and most important, it seems to me are the economic data showing differentials in the job entrance rates for men and women. A study made by the Women's Bureau in 1963 of job orders filed with public employment offices in nine different cities confirmed the findings of similar studies made in different areas in 1962 and earlier. The fact is that some employers continue to offer one rate of pay for a man and a lower rate of pay for a woman when they place orders for specific jobs. The result is that the woman worker starts on the job with a wage handicap in comparison with a man worker employed for the same job. She enters on a lower rung of the economic ladder and it is difficult, if not impossible, for her to climb fast enough to catch up to the man and reach the same position.

The handicap suffered by women as a result of a lower entrance rate remains and is reflected throughout the entire economic structure. Thus, the Bureau of Labor Statistics occupational wage surveys of average earnings in selected occupational classifications show that women consistently average less than men in the same classification. Similarly, Bureau of the Census data show that year-round, full-time women workers have averaged less than two-thirds as much as men during each of the past 7 years—1955–61. 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.

The difference in average earnings of women as compared with those of men undoubtedly reflects in part a tendency for women to be placed in the lower paid occupations. Although this is due to a variety of factors, in some cases, it undoubtedly reflects payment of lower wage rates to women than to men on jobs requiring equal skills.

The Women's Bureau study of job hiring orders revealed 91 orders offering men higher wage or salary rates than women for the same jobs. A variety of occupations and industries were involved in these job orders. Although the majority were for clerical, service, or sales workers, 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.

We may well ask why an employer should offer $3,600 a year for a male clerk-typist but only $3,000 for a female clerk-typist?

Why should an 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.

Both persons are being hired for a given job. Both, therefore, must meet the qualification test established by the employer as a prerequisite for a specific job. If they did not meet the test, the employer would not consider hiring them.

Does the employer assume that better performance on the job is related to the sex of the worker? Such an assumption is disproved by the impressive performance record of women over the years in a great variety of jobs.

Rough calculations of the wage differentials existing in the hiring orders studied indicate that about one-third of the orders contained differentials of up to 10 percent less than the men's rate. Under the step-up arrangements proposed by S. 910, the full amount of 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 had wage differentials ranging from 11 to 25 percent of the men's rate. S. 910 would permit these employers, if covered by the proposal, to make the needed adjustments in two steps, one on the effective date of the proposal and the other at the end of the first year. 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.

A survey by the Wall Street Journal of employment prospects for young women in 1962 further confirms the patern of lower entrance wage rates for women than men. The Journal's survey covered 30 college placement officials and 50 corporation personnel executives. It showed that, while the business upturn at that time meant some new jobs for women, they could not expect equal starting salaries irrespective of the 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 * * *."

Bureau of Labor Statistics occupation wage surveys of average earnings of men and women in selected occupations in selected areas show, for example, that women bank tellers consistently averaged less than men in all areas surveyed. Moreover, the average weekly hours were the same in most of the cities. The difference in average earnings of men and women note tellers with less than 5 years' experience ranged from $5.50 a week to $31 a week.

In factory jobs, too, women workers have lower earnings than men according to another recent Bureau of Labor Statistics survey which included average earnings of men and women in the same occupational category. For example, the following average hourly earnings were reported in 1961 in paint and varnish firms in a large eastern city:

Labelers and packers

Women	$1.43
Men	2.08

Hand or machine fillers

Women	$1.45
Men	2.14

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

A special analysis by the Bureau of Labor Statistics in 1958–59 of earnings of men and women in the same job categories in the same establishments revealed 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 five job classications, the difference generally amounted to at least $8 a week and for some jobs exceeded $20 a week.

In two recent non-Government sample surveys, signficant proportions of employers acknowledged the existence of some wage or slaraly 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 new plants and expanding industries, such 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.

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. Also in the lowest paid group of workers in the United States, service workers, women have the short end of the stick.

I am attaching more detailed supplementary statistical material to my statement which will further confirm these findings.

Secretary Wirtz in his statement said that we cannot rely on private or State action to eliminate these discriminatory practices. I should like to elaborate a bit on why this is so.

During the course of 44 years, only 22 States have passed equal-pay laws. The slowness of States in requiring the application of equal-pay policies holds little hope for the elimination of unequal pay in any reasonably foreseeable future. Further, State laws by themselves cannot be expected to solve in any consistent way a problem which spans the United States.

The State laws which are on the books vary greatly in coverage, leave large groups of workers out, and often have inadequate provisions for administration and enforcement. The hit-or-miss existence of State laws as well as their contents may serve to enhance rather than to allay unfair competition.

In the collective-bargaining area, progress continues to be made by unions in securing equal pay clauses. We hail the success of this bargaining. However, our economy and certainly the low-paid worker whose wage rate reflects discrimination, cannot afford to wait on this gradual process. A study of the Women's Bureau in March 1956 (summary attached) of 510 collective-bargaining agreements showed that 38 percent contained equal pay clauses. In the so-called key contracts (those covering 1,000 employees or more), 45 percent had equal pay clauses. The electrical and metal fabrication industries had the best record with more than 60 percent of the key contracts containing 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 many bargaining agreements, shows at the very least the discriminatory wage practices have not been expressly outlawed even for all of the 3.4 million women who are union members. Behind them we see standing their nonunion sisters, who are seven 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 re-

muneration for men and women workers for work of equal value." More details of this are contained in an attachment to this statement.

One of the most recent developments 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."

S. 910 is 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. Enactment of this bill into law, will, however, 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; i.e., 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 finish the possibilities during times of sharp competition of using women to force wages down.

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 for the discriminatory wage practices which these bills are designed to correct. As a longtime 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 I have met throughout the country. 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.

I have emphasized the effect of the proposed law on women workers because in the great majority of cases, they are 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.

Our liberty is the product of our growth in attitudes 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 respected.

I believe that the right to receive equal pay should be placed on our statute books along with other measures designed to free workers from want and injustice. Our democratic principles call for this action. I believe that, as in other matters related to human equality, we will not go astray if we follow the path of justice.

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

[From the Women's Bureau, U.S. Department 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 undertsanding of differences among workers than does the mere fact that the worker is a man or 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 contrasting 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. Comparisons 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 three groups were found to have lower quit rates on the average than their male counterparts. In three 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, than 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.

[From the Women's Bureau, Department of Labor]

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–$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	51–58.00	55–60.00	Week	3–7
Do	Meat packing	65–70.00	75–80.00	do	10–13
Do	Metal manufacturing	210–260.00	250–275.00	Month	5–16
Do	Publishing	50–55.00	65–70.00	Week	21–23
Do	Transportation	58–70.00	64–80.00	do	9–13
Do	do	1.45	1.80	Hour	19
Assembler (electric)	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	210–260.00	250–275.00	Month	5–16
Bookkeeper	do	210–260.00	250–275.00	do	5–16
Cashier	do	210–260.00	250–275.00	do	5–16
Glazier	do	1.50	1.95	Hour	23
Machine operator (addressograph)	Publishing	46–50.00	54–60.00	Week	15–17
Machine operator (billing)	Paper products manufacturing	1.60–1.80	1.75–1.90	Hour	5–9
Do	Metal manufacturing	210–260.00	250–275.00	Month	5–16
Macine operator (bookkeeping)	do	210–260.00	250–275.00	do	5–16
Machine operator (general)	do	1.185	1.545	Hour	23
Order clerk	Machinery manufacturing	56–60.00	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	65–70.00	70–75.00	Week	7
Welder (combination)	Metal manufacturing	1.185	1.545	Hour	23

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 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	46–56.00	63–75.00	Week	25–27
Stock clerk	do	1.30	1.35	Hour	4
Teller	Banking	50.00	60.00	Week	17
CITY F					
Assembler	Ordnance	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 manufacture.	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 manufacturing.	50.00	55–60.00	Week	9–17
Clerk-typist	Beauty service	75.00	85.00	do	12
Counter worker	Retrail trade	45.00	55.00	do	18
Do	do	45.00	55.00	do	18
Presser (machine)	Dry cleaning	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	335–350.00	Month	3.7
CITY H					
Clerk, general office	Transportation	1.75	2.00	Hour	13
Salesclerk	Retail trade	35.00	75.00	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 work force 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 studied. 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 follows:

"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	[1] 33
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 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.

[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.

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
Salesworkers	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:

[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.

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. 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.

[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.

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
Clerks, correspondence, 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
Underwriters, 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
Underwriters, 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	----------	----------
Superintendents of workshops for the blind	4,780	5,880	----------	6,190	4,860	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	4,260	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	+.3
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 study [5] 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 Industry, Their Employment Distribution and Eearnings," 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	−$0.24
Indiana	129	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
Gluers, 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
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
Patterson-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 1961 [6] 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.

[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	.2	32.2	1,749	.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	123,185	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	.5	13.3	12,916	2.1
GS-11	7,548	1.8	7.8	88,657	14.7
GS-12	3,444	.8	4.8	67,998	11.3
GS-13	1,531	.4	3.1	47,628	7.9
GS-14	495	.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	.2
GS-17	8	(1)	1.4	561	.1
GS-18	3	(1)	1.2	254	(1)

[1] Less than 0.05 percent.

Source: U.S. Civil Service Commission

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DIGEST OF STATE EQUAL-PAY LAWS, REVISED AS OF JANUARY 1, 1963

[From the Women's Bureau, Department of Labor]

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. 29. 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 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 pay rolls and other employment records; compare work on which employees are engaged; question employees; obtain other necessary information; issue subpenas; 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 assignment of wage claim, bring legal action on behalf of employee, join various claimants in one action.	Makes violation a misdemeanor, punishable by a fine of not more than $500.
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 any 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.	

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

[From the Women's Bureau, Department of Labor]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
ARIZONA—Con.					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, industry, trade, or profession or in any lawful enterprise, but not including persons engaged in domestic service, in agricultural service, in temporary or seasonal employment, or employees of any nonprofit social club, fraternal, charitable, educational, religious, scientific or literary association.	Prohibits discrimination by employer in payment of wages as between the sexes, or payment to any female of salary or wage rates less than rates paid male employees for comparable work. However, variations are not prohibited 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 Commissioner of Labor to enforce the Act.	Requires employers to keep and maintain records of salaries and wage rates, job classifications and conditions of employment. Records must be preserved for 3 years. Records must be made available to parties and court in wage-collection actions.	Provides for employee suits. Empowers Commissioner to take assignment 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 reasonable 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.	Provides for fine of not more than $500 or imprisonment of not more than 1 year, or both, for any employer violating Act or who discharges or in any other manner discriminates against employee because such employee makes complaint or institutes proceedings under Act, or testifies in such proceedings.

CALIFORNIA						
Calif. Labor Code Anno., 1197.5. Effective Oct. 1, 1949, as amended, Ch. 2384, Laws 1957. Amendment effective Oct. 8, 1957.	Any employer employing males and females in the same establishment.	Prohibits payment by an employer to any female of 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. Variations in rates of pay are not prohibited where based on a difference in seniority, length of service, ability, skill, duties, or services performed (whether regularly or occasionally), shift or time of day worked, hours of work, restrictions on lifting or moving heavy objects, or other reasonable differentiation factors other than sex when exercised in good faith.	Empowers Division of Industrial Welfare to enforce the Act.	----------	Provides for employee suits. Empowers Division of Industrial Welfare to take procedures necessary to enforce payment of any sums found to be due and unpaid. Limits period within which action may be brought to 6 months after date of alleged violation; 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.	
COLORADO						
Colo. Rev. Stats., 1953, secs. 80–23–1 to 80–23–5. Effective April 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 one 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.

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

[From the Women's Bureau, Department of Labor]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
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 claim. Makes employer liable to pay attorney's fees and court costs. Limits period within which action may be brought to one 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						
1955 Rev. Laws of Hawaii (secs. 94–4.5, 94–7), S.B. 15. Session Laws, 1959, p. 101. Effective May 21, 1959.	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 same classification 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 or falsification thereof; or refusal to furnish necessary information.

ILLINOIS						
Ill. Rev. Anno. Stats., 1943, Ch. 48, pars. 4a–4b. Effective July 1, 1944.	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 or 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 a violation of Act a misdemeanor punishable by a fine of from $25 to $100.
MAINE						
Rev. Stats. of Maine, 1954, 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 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–C (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 when based upon a difference in seniority.	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 one action. Makes employer liable to pay additional equal amount of liquidated damages. 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.	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.

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

[From the Women's Bureau, Department of Labor]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	Penalty
MICHIGAN [1]						
Mich. Stats. Anno., T. 28.824, sec. 556. Effective Aug. 14, 1919; reenacted 1931. Amended by Public Act 37, Laws 1962. Effective Mar. 28, 1963.	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.	----------	----------	(2) ----------	Makes violation of Act a misdemeanor.
MONTANA						
Mont. Rev. Code, 1947, secs. 41–1307, 41–1308. Effective July 1, 1919.	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.	(3) ----------	----------	----------	Makes violation a misdemeanor, punishable by a fine of $25 to $500 for each offense.
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.	Empowers Commissioner to enforce the Act.	----------	Provides for employee suits to collect unpaid wages. Authorizes Commissioner 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	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 discrimates against an employee because such employee makes a complaint, institutes proceedings, or testifies in any such proceeding.

		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.			be instituted to 1 year from accrual of unpaid wages.	
NEW JERSEY						
N.J. Stat., Anno., secs. 34:11–56.1 to 34:11–56.11. Effective July 1, 1952.	Any person employed by an employer, but not including those performing volunteer 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 payrolls and other employment records, compare character of work in which employees are engaged, question employees 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 appears that the violation will be corrected without prosecution, the Commissioner is not obligated to prosecute.	----------	Provides for employee suits to collect unpaid wages plus an additional equal amount as liquidated damages, together with costs and reasonable attorney's fees. Any agreement to work for less is no defense to such action. Empowers Commissioner to take assignment of wage claim and to join various claimants in one action.	Makes violation a misdemeanor. 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 other discrimination against an employee because such employee has made a complaint, instituted any proceedings, or has testified in any such proceedings. Provides for a penalty of not more than $200 or less than $50 if employer willfully fails to furnish required records and information, or falsifies the records, or interferes with Commissioner or authorized representative or refuses him entry into any place of employment.

See footnotes at end of table.

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

[From the Women's Bureau, Department of Labor]

State	Coverage	Prohibition of wage differential based on sex	Authority of administrator	Recordkeeping and posting	Court action	
					Wage collection	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 lawful employment, except persons engaged in domestic service 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, 1959.	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 Government, employing persons who, other than copartners or independent contractors, render personal services to an employer who pays of agrees to pay at a fixed rate.	Prohibits discrimination by employer in payment of wages as between sexes or payment of wages to any 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.	----------	----------	Provides for employee suits to collect unpaid wages. Limits employer's liability to pay to 1-year 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.	Makes violation of Act a misdemeanor.
PENNSYLVANIA						
Pa. Session Laws, 1959, p. 1163. Effective Jan. 7, 1948, re-enacted in 1959, effective Mar. 17, 1960.	Any person employed for hire in any lawful business, industry, trade, or profession, or other lawful enterprise.	Prohibits discrimination 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 paid to employees of the opposite sex for work under comparable conditions on jobs requiring 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.	Empowers Secretary of Labor and Industry to enter employer's establishment to inspect and copy payrolls 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 court action to be brought by any one or more employees for and in behalf of himself and others similarly situated. Permits Secretary of Labor and Industry to join various claimants against the employer in one cause of action. 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.	Provides for penalty of not more than $200 or less than $50. Upon default of such fine and costs, imprisonment for willfully and knowingly violating the Act or for discharging or otherwise discriminating against an employee because such employee has made a complaint or instituted or caused to be instituted proceedings, or testified or is about to testify in any such proceeding; or for failing to keep records or furnish records; for falsifying records, or interfering with a Department representative. Provides that each day such violation continues constitutes a separate offense.

See footnotes at end of table.

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

[From the Women's Bureau, Department of Labor]

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., 1956, 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 mates 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 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.	----------	----------	Provides for employee suits to collect full amount of compensation due had no discrimination existed, less the amount the employer has paid to the employee on account.	Makes wage discrimination based on sex a misdemeanor.

WISCONSIN						
Wis. Stats., Anno., secs. 111.31–111.37 [5] as amended. Amendments effective Oct. 10, 1961, and Jan. 14, 1962.	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.	Empowers Industrial Commission to administer and enforce. Empowered to hold hearings, subpena witnesses, take testimony, make investigations and issue orders of compliance which are subject to judicial review and enforced specifically in a court of equity.	----------	----------	
WYOMING						
Wyo. 1959 Session Laws, Ch. 150 (H.B. No. 167). Effective May 23, 1959.	Any occupation, i.e., any industry, trade, business, or branch thereof, or any employment or class of employment.	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.	----------	----------	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 one action.	Provides for fine of not more than $200 or 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 therein. Each day of violation is a separate offense.

See footnotes at end of table.

DIGEST OF STATE EQUAL-PAY LAWS REVISED AS OF JANUARY 1, 1963—Continued

WOMEN'S BUREAU SUGGESTED DRAFT BILL

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 at salary or wage rates less than the rates paid to male employees for work of comparable character or work on comparable operations.	Empowers Commissioner to carry out provisions of Act. Authorizes Commissioner to enter 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 question employees and to obtain other necessary information. Authorizes Commissioner to examine witnesses under oath, to subpena 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 one 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) 226.

[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.

U.S. DEPARTMENT OF LABOR, WOMEN'S BUREAU, WASHINGTON, D.C.

Equal-pay activity in State legislatures (1957–63)

1963 [1]	States with no equal-pay laws in which bills were introduced in—					
	1962	1961	1960	1959	1958	1957
Indiana	Arizona [2]	Arizona	Arizona	Florida	Kentucky	Florida.
Maryland	Maryland	Florida	Nevada	Hawaii [2]		Indiana.
Minnesota		Indiana		Indiana		Minnesota.
New Mexico		Maryland		Maryland		Nebraska.
North Dakota		Minnesota		Minnesota		Ohio.
Utah		Nevada		Ohio [2]		Utah.
West Virginia		Utah		Wisconsin		Wisconsin.
		Wisconsin [2]		Wyoming [2]		

1963 [1]	States with equal-pay laws in which bills were introduced in—					
	1962	1961	1960	1959	1958	1957
Illinois	Michigan [3]	Illinois	Michigan	Illinois	New York	California [3]
Michigan	New York	Michigan	New York	Michigan		Illinois.
New York	Wisconsin [3]	New Jersey		New York		New Jersey.
Washington		New York		Oregon		New York.
		Washington		Pennsylvania [3]		Pennsylvania.

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

TABLE 1.—*Equal-pay clauses in union contracts, 1956*

Industry	Total number of contracts	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	40	58.1
Transportation equipment	124	49	39.5	75	60.5
Drugs—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.)

TABLE 2.—*Examples of differences in wage increases negotiated in selected current union contracts*

Date effective	Industry; union	Location	Number of employees covered by contract	Negotiated hourly increase	
				Men	Women
				Cents	*Cents*
May 1961	Industry: Paper and allied products. Union: International Brotherhood of Pulp, Sulphite and Paper Mill Workers.	St. Paul, Minn.	1,250	10	8
July 1961	Industry: Chemicals and Allied Products. Union: Oil, Chemical and Atomic Workers International Union.	St. Paul and Hastings, Minn.	2,500	[1] 8	[1] 6½
March 1960	Industry: Food and kindred products. Union: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.	Northern California.	10,000–60,000	11–15	10
September 1959	Industry: Metalworking. Union: International Union, United Automobile, Aircraft and 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]	[3] 9	[3] 7
July 1961	Industry: Warehousing, Wholesale and Retail Trade. Union: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.	Seattle, Wash.	1,000	5 and 6¼	3¾
	Industry: Miscellaneous Manufacturing. Union: United Rubber, Cork, Linoleum and Plastic Workers of America.	Lancaster, Pa.	[2]	[4] 7	[4] 5½

[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.

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

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 June 6, 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, insofar as is consistent with such methods, insure 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 cooperate 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
Algeria
Argentina
Austria
Belgium
Brazil
Bulgaria
Byelorussia
China (Taiwan)
Costa Rica
Cuba
Czechoslovakia
Denmark
Dominican Republic
Ecuador
France
Gabon Republic
Federal Republic of Germany
Guatemala
Haiti
Honduras
Hungary
Iceland
India
Indonesia
Italy
Ivory Coast
Libya
Malagasy Republic
Mexico
Norway
Panama
Peru
Philippines
Poland
Rumania
Senegal
Sweden
Syrian Arab Republic (Syria)
Ukraine
United Arab Republic (Egypt)
Union of Soviet Socialist Republics
Yugoslavia

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 articles, 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 piecework, 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 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 Corp.*, 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 differences in wages paid them, as women employees, and men engaged in similar industrial employment in defendant's Olds Motor Works Division at Lansing, Mich. 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 Corp.*, 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 Corp.*, 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 discrinimination 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 Co., 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, Pa., against the Continental Can Co., Inc., to recover wages allegedly due them under the so-called Women's Equal-Pay Law of July 7, 1947 (Public Law 1401, 43 P.S. 335.1 et seq.). The plaintiff's 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 rea-

son 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)).

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——— ——— Equal-pay primer. Leaflet 20, revised March 1960. 11 pp.

——— ——— Progress toward equal pay in the meat packing industry, Bulletin 251, 1953. 16 pp.

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[From the Women's Bureau, Department of Labor]

ANALYSIS OF REPLIES FROM STATES ON USE OF ADMINISTRATIVE HEARINGS

Inquiries were sent by the Women's Bureau in February 1963 to the 22 States which have equal pay laws regarding the use of administrative and/or informal hearings in the administration of these laws. Of the 18 States responding, 11 reported that they held some type of hearing in the administration of their equal pay statutes, 5 of which stated that they have specific authority to do so. (In a sixth State, Colorado, the equal pay law expressly authorizes the commissioner to hold such hearings).

Sixteen States indicated that they held hearings in the enforcement of other laws, all of which stated that they have specific authority to do so.

Two points made by several of the State administrators were:

(1) Informal hearings are a very speedy and effective means of resolving disputes under equal pay laws.

(2) Whenever possible they hold such hearings even in the absence of authority to do so.

Attachments:

(1) Chart showing the authority and experience of equal pay States with respect to hearings.

(2) Excerpts from the letters of several State administrators reflecting their attitudes in regard to hearings.

Replies to Women's Bureau inquiry regarding use of hearings in the administration of equal pay laws and other laws

State	Administrative or informal hearings			
	Equal pay law		Other laws	
	Authority	Action	Authority	Action
Alaska	Yes	No recent action	Yes	Yes.
Arizona	No		No	
Arkansas	No specific authority	Yes	Yes	Yes.
California	"Investigatory" hearings are provided by the division of industrial welfare procedures, not by law.	Yes	Yes	Yes.
Colorado	Yes—determined from review of law.	No action	Yes	Yes.
Hawaii	No		Yes	Yes.
Illinois	Yes	No action	Yes	Yes.
Maine	No		Yes	Yes.
Massachusetts	No statutory provisions for informal hearings which are held with a view toward settlement before going to court.	Yes	Yes	Yes.
Michigan	No		Yes	Yes.
Montana	No		Yes	Yes.
New Jersey	Yes	None	Yes	Yes.
New York	Yes	No recent action	Yes	Yes.
Ohio	No		No	
Oregon	Yes	No action	Yes	Yes.
Rhode Island	Equal pay law does not provide for hearing but informal hearings are very effective.	Yes	Yes	Yes.
Washington	Hearings are permitted but not proscribed in statute. Informal hearings held.	No action	Same as for equal pay law.	Yes.
Wisconsin	No specific statutory authority for hearings. If there is no agreement at informal hearing—matter is referred to attorney general's office.	Yes	do	Yes.

Comments of representatives of State labor departments regarding the use of hearings in labor law enforcement

State	Date of letter	Source of letter	Comment
Arkansas	Feb. 18, 1963	C. R. Thornbrough, commissioner of labor.	"I feel sure most commissioners, as a result of their experience in labor law enforcement, would agree it is most helpful to all concerned to have specific authority to hold hearings. Through hearings it is possible to resolve disputes which otherwise would have to go to court."
Hawaii	Feb. 20, 1963	Alfred Laureta, director of labor and industrial relations.	"Our law provides for a hearing to settle any unpaid wage claim filed with this department. Although it has been used infrequently, we have found such medium effective and helpful."
Illinois	----do----	Robert R. Donnelly, Jr., director, department of labor.	"Speaking broadly, it can be safely stated that such hearings are an effective way of calling to the attention of top management in an employer establishment such violation conditions as may exist. They have been successful for procuring compliance in many situations where prior inspection activity has been with executives on a lower level. We feel these hearings are an effective instrument and succeed frequently in procuring voluntary full compliance with the aforementioned labor statutes."
Massachusetts	Feb. 19, 1963	Raymond F. O'Connell, general counsel.	"In our administration of minimum wage statute, we do take it upon ourselves to call in employers and discuss violations with a view toward settlement before going to court in order that the courts could not be flooded with cases of this nature. This has worked out very satisfactorily. We also do at times call attention of employers for violations of other statutes if it appears that the violation is not serious enough to warrant court action without a prior warning."

Secretary WIRTZ. We are here to testify as strongly as we can in support of the bill, S. 910.

We agree completely with the statement which Senator Case has just made.

We have talked about this a long time, it is time now to do something about it, and we find S. 910, in our judgment, a completely equitable and effective approach to the problem of unequal pay based on sex.

It should be made perfectly clear that this is a bill which provides equal rates for equal work when men and women are employed in a single establishment or in the same location. It does not aim at any equalization of wage rates between employers or even between different employment locations of the same employer.

It covers the situations in which there are 25 or more employees in any particular place of employment. It provides a 2-year period for adjusting to the requirements of the situation.

It provides and includes a very strong emphasis upon administration through conciliation and we think in most cases it would be possible to work out unequal pay problems on that basis.

S. 910 includes, however, provision for administrative enforcement and also, of course, provision for complete judicial review.

With respect to the importance of equal pay I expand only briefly on the points which Senator Case has just made. Any suggestion any longer that this is only a matter of peripheral importance in the economy is, of course, completely inaccurate, for today women total

about one-third of our labor force and the dimensions of the unequal pay problem are suggested by that fact.

I have in my statement set out the details of this situation. I want to emphasize really only one point, and that is that by and large women work for exactly the same reason men do, and any suggestion that employment is simply an excursion or a detour from other feminine interests is, of course, not well taken.

I point out that in 1962, women were the heads of over 4½ million families in this country, that is one-tenth of all the families in the United States. These are breadwinners and the problem that we face is one of meeting equitably the problems which may arise in unequal pay situations which primarily affect women workers.

I point out, too, that this problem is particularly important when we are in a situation as the present situation unfortunately is, of a high rate of unemployment. There is a double temptation at such times for employers to take advantage of those who may have the weakest or the least bargaining power in the economy, and that is true of women. It is very important that we meet the unequal pay problem and that we meet it now.

I note just in passing the question which has been raised about the overall employment costs of women being higher than those for men because of absenteeism, turnover, special services and similar factors.

I have, in my statement, recognized that with respect to particular age groups, such as that of younger women, there is a turnover which is different from that of male employees, and a higher separation rate. The recognition of that one point, however, is only to emphasize the broader facts revealed by all the evidence at our command, that the situation as between the two sexes is not basically different as far as these factors are concerned and does not warrant the kind of distinction which has been made in practice absent the kind of law which is here being proposed.

I conclude only by noting that in our understanding of this problem and our reflection upon all of the testimony that has been given on the House side there is no real argument about the principle of equal pay for equal work we are talking about here.

There is very real question about what is necessary to implement that principle. It is our basic proposition that the protestation of the principle has been made long enough and it is now time to provide those buttressing provisions by legislation, such as proposed in S. 910, which will mean that our practice parallels our precept and so, in summary, Mr. Chairman and members of the committee, I can urge, as Secretary of Labor, as strongly as I can the sympathetic support of this committee for S. 910. Thank you very much.

Senator MCNAMARA. Thank you, Mr. Secretary, it is a pleasure to have such a very fine statement from you and your department.

Are there any comments or questions? Senator Kennedy?

Senator KENNEDY. No questions.

Senator MCNAMARA. Thanks again, very much. You have been very helpful.

Now, Mrs. Peterson, if you want to take it up at this point.

STATEMENT OF ESTHER PETERSON, ASSISTANT SECRETARY OF LABOR

Mrs. PETERSON. I appreciate the opportunity of being here with the Secretary and appearing before you on this matter.

As the Secretary pointed out, we are summarizing our statements and I would ask that my complete statement be inserted in the record, plus the accompanying materials that provide supporting evidence.

I would like briefly to emphasize a couple of points that I think it is essential to make.

Senator MCNAMARA. Let me interrupt you long enough to say if you will furnish the material you are referring to here to the reporter, we will see that it is inserted.

Mrs. PETERSON. Thank you, sir, we will do so at this time.

There is a great deal of evidence pointing to the great need for passage of this legislation.

There are three examples. One is the factual evidence which we are putting in the record and I would like to draw your attention to this. Another is, reference to my experience as I go around the country and talk with women workers, I find that unequal pay is something that is really bothering many of them.

Then I would like to point out, and if I may, Senator, I would like to insert in the record three sample letters that I have from women who feel very deeply about the injustice of equal pay. One of the writers, for example, says she feels that with all the grave questions that are before Congress at this time maybe this issue may seem unimportant, but she says that is not so because there is no such thing as a little injustice.

Here is a letter from a woman who says—

> I'm a mother of two boys, age 12 and 9. I have worked for 8½ years. My take-home pay is $15 a week less than that of men doing the same thing. I am supporting children and the men who I am working next to do not. I am tired of having my children penalized because their mother breadwinner is a woman, so would like any information you can give me on this matter.

A wife of a disabled veteran who gets $36 a month and has three children to support says this:

> What really burns me up is to work alongside a man doing the same thing. I get $1.45 an hour. Four boys work with me in the same classification doing the same work and they get $1.95 an hour, and they are not married and have no mouths to feed.

These are typical of the letters that come to us over and over again. These, of course, are examples of personal situations.

Senator MCNAMARA. Without objection copies of these letters will appear in the record.

(The letters referred to follow:)

COPY OF LETTER ADDRESSED TO PRESIDENT KENNEDY, AUGUST 11, 1961, FROM MISS R. B., AKRON, OHIO

> In response to your request that the citizens of the United States should write to Washington regarding matters which are of concern to them and which they think should be corrected by legislative action, I am writing this letter.
>
> I feel deeply, and I am sure there are many working women who agree with me, that one field of economic endeavor which has been neglected in passing protective legislation is just that—the woman worker, mainly in office work.

I feel that the disparity in wages paid to men and women for the same or comparable work is a great economic, social, and moral injustice. The economic factors and situations which existed when the determination of payment was set up have long since become archaic, but the inequitable system of payment endures. The old argument that the man of the house is the breadwinner is no longer true; many, many have wives who work. Also there are many women, single women, widows, etc., who are heads of households, but who still receive payment on the discriminated basis. Also, the old argument that men do superior work has long since been exploded. Only the difference in pay remains.

The argument that the turnover is heavier among women workers due to getting married, pregnancy, etc., also is not a fair basis for payment. There are many career women who have worked for many years, doing work interchangeable with men, with the men paid one rate and the women paid another. Also, job turnover among men does not affect their rate of pay.

A survey in the offices among the many companies and corporations engaged in interstate commerce, I am sure, would reveal it to be true that this is an area of economic unfairness and discrimination in need of correction. I feel that a bill to provide equal pay for equal or comparable work to both men and women is really a necessity in today's world.

This may seem like a trivial matter in comparison with the great and grave questions confronting our world leaders today, but there is no such thing as a little injustice, and I do feel it is important enough to warrant study and I think it is in keeping with the strides, in the tradition of Franklin D. Roosevelt, which your administration has already made in the march toward social justice.

May I thank you for any consideration given this matter, and may I wish you Godspeed in all of your work.

COPY OF LETTER TO MRS ELEANOR ROOSEVELT, SEPTEMBER 1962, FROM MRS. O.R., LINCOLN, NEBR.

I would like to know if there is any organization here working for equality of pay for women and if not, how would I go about organizing one. I am a mother of two boys, 12 and 9 years of age, and have been their entire support since the baby was 3 weeks old. I have been working for a chain grocery for the last 8½ years and have taken home about $15 a week less than the men, none of which were supporting more than 1 child. I now work for an independent store for $65 a week. My take-home pay is $58 per week and I must pay $10 for child care. My rent and utilities take half of what is left. There is nothing left for medicine, dental, or clothing or recreation. I have tried for years to find a way of getting equal pay but so far no success.

I am tired of having my children penalized because their mother is the breadwinner and also a woman. So would like any information available for helping to win equal pay and opportunities for a woman to support her family.

COPY OF LETTER ADDRESSED TO PRESIDENT KENNEDY, MAY 12, 1962, FROM MRS. T.M.

This letter is in regards to equal pay for equal work for women. As one who has had to work for many years because of a disabled veteran husband who gets $36 a month and 3 children who I have only been a part-time mother to, due to having to work to feed them.

I do not mind working. I thank God for the health and privilege to do so. But what really burns me up is to work alongside a man doing exactly the same thing he is and most often more, and they receive a lot more in wages.

And the worst places for this is in the electronics firms who get big Government contracts. I work for an electronics plant. We get Navy contracts. I am classified as stock clerk A. I get $1.45 per hour. Four boys work with me with the same classification. They get $1.95 per hour—neither are married or have mouths to feed.

Now you tell me where the fair and equal right bit is for us women who have to work? I tell you there is nothing fair about it.

I pray you will do something about this soon.

Mrs. PETERSON. There are numerous surveys of rates which indicate pay differences between men and women. The chief one is that listed with my formal statement which shows examples of employer job hiring orders. These are cases where employers apply to a U.S. Employment Office and say, "For a man I will pay a certain amount, for a woman a different rate," but the job description is the same.

For example, a chemical manufacturer offered a male clerk-typist $3,600 a year, but a female clerk-typist, $3,000.

A transportation company offered $1.80 an hour for a male accounting clerk, but only $1.45 an hour for a female accounting clerk.

Differences in pay of men and women note tellers with less than 5 years' experience range from $5.50 a week to $31 a week.

There are many such examples, and I would draw your attention to them in the Economic Indicators attached to my statement.

Our 1961 census data shows that the average salary for women workers is $2,293, but $3,351 for men, that is, the women earn only 59 percent of the men's income. Now, I recognize that this is not all due to unequal pay because there are differences in opportunity and women are generally classified in the lower wage groups. But it does indicate the handicap that women work under and shows that their work is often priced lower than men.

As a woman correspondent wrote, "They value us high but they price us low," and I think she summarized the situation very well.

There are also a number of nongovernmental sample surveys showing that employers admit, "Yes, I do pay a different rate to men and women for the same job."

A Wall Street Journal survey indicates the salaries of women lagging about $50 to $100 a month below men for equivalent positions.

I just want to point these out as samples of facts that we have in the economic indicators to show the information that is available.

Various data relative to State laws are also in the attached material and show that we need the support of Federal legislation in addition to State laws.

Also it is well to point out briefly that collective bargaining agreements simply do not take care of this problem because so many women are not covered by collective bargaining agreements.

I think Mr. Schnitzler gave a figure of 2.6 million, in his House testimony, of women who are covered by collective bargaining agreements. This is a small number out of the 24 million women now working.

It has been difficult in the past to get any Federal equal-pay legislation on the books. We know it is difficult, but then most of our major legislation to meet basic human needs has been difficult to achieve. When we really look closely we can see the importance of this proposal for Federal law and I urge, very strongly, that the committee act favorably on this legislation.

Senator MCNAMARA. Thank you, Mrs. Peterson.

Are there any questions or comments?

Senator Kennedy?

Senator KENNEDY. No questions.

Senator MCNAMARA. Does Mr. Merrick have anything to add to the testimony.

Mr. MERRICK. Mr. Chairman, I am the silent partner.

Senator McNAMARA. Thank you again, folks. We appreciate your cooperation. You can be sure we will give every consideration to your statement.

We will be glad to hear at this time from the representative of the U.S. Chamber of Commerce, Mr. Miller. Mr. Miller is vice president of the Stewart-Warner Corp., of Chicago.

Mr. MILLER. This is Mr. George Pantos, from the U.S. Chamber staff.

Senator McNAMARA. I understand you have already testified in the House.

Mr. MILLER. I did, last week.

Senator McNAMARA. So, if you have a statement, we will make it part of the record at this point. Then you may proceed in your own manner, sir.

Mr. MILLER. I would appreciate it very much if that could be done, and I will only touch on a few things and not try to cover everything that is in the statement.

Senator McNAMARA. Very well.

(The prepared statement of Mr. Miller follows:)

PREPARED STATEMENT 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, S. 910, and similar proposals.

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.

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 (S. 910) 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 past 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. Experimentation is desirable to find the type of State law which works best. 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 needed 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 peopel 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.

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 reflects the 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 naught.

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 eqaul 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 purporting to support Federal legislation. Much of this statistical data is suspect, because there is not 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.

At this point, I wish to discuss, briefly, a fundamental question which was alluded to in the House hearings. Representative Goodell suggested that an equal pay 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, the Assistant Labor Secretary, replied, during these hearings, that a woman doesn't want to be hired as a bargain.

Going directly to Mrs. Peterson's testimony in the House on March 15, she said, "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 referred to a Wall Street Journal survey which reported that, although the business upturn at the time of the survey meant some new jobs for women, they would not benefit nearly as much as would men graduates from improvement in business. Her concluding quotation from the Journal article is:

"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."

I assume that a typical goal of the proposed bill would be to eliminate that $50- to $100-a-month differential. I submit 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 bill.

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 jobs have been set by job evaluation for all

production and maintenance and clerical jobs and approximately nine-tenths of our executive administrative and professional jobs. The more skilled and important the jobs become, however, the more we exercise our discretion as to the rate 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. We have some women supervisors, both in factory and office. We even had a woman personnel director in one of our manufacturing plants—one of the top five or six jobs in the plant.

Think of the way nature and the various State legislatures have imposed conditions that call for a wage or salary differential in the case of a woman who is seeking employment in a field traditionally filled by men:

1. Hours of employment are limited in most States, the pattern being a limit of 8 hours a day, and 48 hours a week. A man can work any hours necessary and this fact alone is often extremely important.

2. In appendix A to my testimony, details are given on State restrictive laws on women on this subject, and others, including meal periods, rest periods, nightwork, etc.

3. Women tend to have more absenteeism than men, both because of physiological differences and also because the burden of taking care of sick children usually falls on them.

4. Women marry, become pregnant, and leave your employ either temporarily or permanently.

5. Women tend to quit and move elsewhere because their husband works elsewhere at the time they marry or he makes such a move later.

In spite of or because of these special considerations that affect the employment of women, according to the Wall Street Journal article quoted by Mrs. Peterson, employers are willing to hire women college graduates at approximately $50 to $100 a month under the salary paid to a man. These differences between men and women account for the calculated salary differential. If, however, the employer must pay an equal salary, he always will hire the man, except in most unusual circumstances.

In this connection, the national chamber received a letter from a well-known midwestern company explaining about how it had hired three women psychologists in succession, each of whom got married and left the company. Finally in desperation, they hired a male psychologist to do the work. Most interesting, however, is the postscript to the letter by the personnel director of the firm:

"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 a 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."

HARMFUL EFFECTS

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, at the request of a number of women's organizations, recently has introduced a bill to modify the Illinois 8-hour law for women because it caused employers to hire men instead of women.

Another Illinois woman legislator, Maude Peffers, always opposed equal pay legislation for the same reason. I think that all women Members of Congress particularly, should take a long look at legislation of this type to see if they may not be causing more harm than good for their sex.

Another strange effect of this legislation is that in some cases it will cause discrimination against men.

Mrs. Peterson in her March 15 House 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 answers."

I submit that the reasons I outlined a few minutes ago are rational answers as to why an employer might think it worth while for him to pay $50 a month more to the male.

Here is another one based on our own experience. 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, wages were higher than some female secretaries. 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.

The inevitable effect of this legislation will be to create an artificial barrier on job opportunities for women. There will be a strong compulsion upon employers who do not want the Department of Labor looking over their shoulder to establish separate "men's" jobs and "women's" jobs and never to hire a person of the opposite sex in these jobs.

When we employ people or promote people we pay them a salary which we think is appropriate, taking into consideration a great many factors. If we have all men or all women in the job classification, we can exercise our discretion. If, however, we have both, we are faced with the fact that our judgment may be questioned and we may be required to pay a different rate of pay. We will avoid this if it is at all possible. And the way to do this is to divide all jobs into men's and women's jobs.

We don't want to do this. We would rather be able to hire people who we think can give us the greatest return for the money we pay them.

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, according to Labor Department figures it will require a bureau or agency with an estimated staff of 240 to administer the law. 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 infinitestimal 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 percent. 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.

INTERNATIONAL SITUATION

Labor Secretary Wirtz urged support of the legislation on the ground that this is a principle supported by the International Labor Organization. He said: "38 countries have ratified an ILO Convention which sets up standards and procedures for establishing equal pay in fact as well as in principle."

The truth of the matter is that 66 of the ILO's 104 member states including such important countries as the United Kingdom, Australia, Japan, and Sweden have not ratified the ILO Convention on equal pay. The reason advanced by the great majority of countries not ratifying is: Under their system of industrial relations the terms and conditions of employment are primarily agreements between employers and workers, without outside influence. In the most recent ILO report on the matter, the governments concerned indicate generally it would not be appropriate for them to intervene in private negotiations in order to insure the application of the equal-pay principle.

Furthermore, even in some countries where the Convention has been ratified, the equal pay principle is honored more in breach than in the observance: For example, the ILO report on Franch which adopted the Convention in 1953, states: "The average difference in France between men's and women's wages in case of equal qualifications have widened somewhat—from 6.8 percent in 1956 to 8.99 percent in 1960."

Testimony has also been introduced indicating that under the Treaty of Rome establishing the European Economic Community (Common Market) the equal-pay principle has been adopted by the signatories to the treaty.

The truth of the matter is that the parties to the Treaty of Rome have failed to implement the equal pay provisions of the agreement. The EEC Commission reports, as of mid-1962, that in practice all countries except France have refrained from taking appropriate steps to reduce wage gaps between men and women. In Germany, collective agreements continue to place women in lower wage categories by differentiating between heavy and light work. In Italy, some job classification

systems continue to place women in lower wage categories. In Belgium, equality is a long way from being applied and pay differences exceeding 20 percent are widely found. The same situation applies generally to Holland and Luxembourg where difficulties in making substantial changes in pay structures have been reported to the EEC Commission. This report is interesting in view of the fact that all EEC members agreed in 1961 to eliminate completely wage gaps between the sexes by mid-1964.

SUBSTANTIVE PROVISIONS OF S. 910

Now I would like to discuss particular sections of S. 910 introduced by Senator McNamara.

We are most concerned that S. 910 has incorporated punitive provisions aimed mainly at management. These provisions are much more harsh than those considered by this committee last year. In effect, S. 910 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 S. 910

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. This 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 House 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 S. 910 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.

Let me give you an example of the Pandora's box you may be opening if you don't tie down specifically what you mean by "equal work on jobs the performance of which requires equal skills."

Mr. James Carey of the IUE testified in the House last week that "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."

Mr. Carey explains further the effect of passing this law.

"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."

And when we look at Mr. Carey's charges of discrimination, we find that he is not complaining because of failure to pay "equal pay for equal work" but because he thinks the rate of pay for women (evidently the company had in practice "women's jobs" and "men's jobs") should have been higher because what he refers to as the "value skills" were in his opinion higher than the men's "value skills."

Job evaluation is not an exact science. It involves judgment. Wage rates are fought over and negotiated over the bargaining table. We discuss "value skills"—whatever it means—and every other pertinent factor.

But now Mr. Carey proposes that the U.S. Government through the broad powers granted to the Secretary of Labor under this bill will either before a contract is signed or afterward interfere with free collective bargaining on the proper rate to be paid for a job—whether occupied by a male or female.

4. *Exemptions from S. 910.*—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 S. 910.

5. *Cutting pay of male employees.*—S. 910 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 a rate that is higher. Does this mean all these women employees must be raised to the rate fo the male employees? This would appear to be the intent of S. 910.

6. *"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 S. 910. 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 proposed legislation and has been generally accepted by labor unions.

SECTIONS 5 AND 6 OF S. 910

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 Laor 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 such a grant of authority would place undue power in the hands of the Secretary of Labor.

Does S. 910 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 S. 910 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.

Likewise, section 5(a) (2), (3), (4) and (5) of S. 910 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 think 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. S. 910 becomes even more onerous by extending it to a 2-year limitation.

SECTION 7. BLACKLISTING PENALTY AGAINST EMPLOYERS

Section 7 of S. 910 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 backpay requirement.

SUMMATION

There is no necessity for S. 910. 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 applicable 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 smaller anatomical scale than men, their standing and sitting height, arm length and size of hands and feet all being smaller."

STATEMENT OF WILLIAM MILLER, FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. MILLER. I am vice president of Stewart-Warner Corp. Our headquarters are in Chicago. I have been responsible for industrial relations and legal matters for our company for approximately 20 years.

I am a Democratic member and chairman of the advisory board to the Department of Personnel for the State of Illinois. This is a statutory body charged with the responsibility of advising the Governor, the Illinois Civil Service Commission, and the Department 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 comparable committee of the Illinois State Chamber of Commerce.

Each of these organizations has asked me to state that I am also reflecting their views in the statement I am making today.

We appreciate the opportunity of expressing the views on the proposed equal pay legislation and, the bottom of pages 1 and 2, we give the basic reasons for that.

I would like, however, to discuss a particular matter. Just because I do not discuss some it does not mean that they are not important.

For example, at page 6 of my statement I refer to the fact that this will add 240 people to the Government payroll and start off with an expenditure of over a million dollars, but nothing I could say would add anything to your own knowledge of that particular thing.

Let us go to a particular subject, a subject raised originally by Representative Goodell in the House hearings. He suggested that an equal pay bill might boomerang against women and said that requiring employers to pay women more is not a way to increase their employment opportunities.

Mrs. Peterson, who just testified before you, replied to Representative Goodell that women did not want to be hired as a barter. Then going directly to her testimony in the House she said:

> 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.

Then she went on to the Wall Street Journal article to which she referred today which showed, in substance, that employers in general, as an average were paying the college graduate $50 to $100 a month less than they were paying men on comparable jobs. That was the Wall Street Journal article to which she referred.

I submit that if the aim of this bill is to eliminate that $50 to $100 a month differential, and I assume that is the purpose of it, that the net result will be to eliminate thousands and even hundreds of thousands of job opportunities for women and I will try to explain why I feel that this automatically will flow from the passage of this bill.

At the outset, I want to explain that our company, Stewart-Warner, believes in the principles of paying people in accordance with their worth and potential worth to do a job.

Great ranges for our jobs have been set by job evaluation for all of our production and maintenance jobs except in one plant, for all of our clerical jobs and for nine-tenths of our executive, administrative, and professional jobs, but the more skilled and the more important the job becomes the more we exercise our discretion as to the rate that will be paid to an individual employee within the wage rate.

When we think a woman can do a better job for us we hire a woman for that job. We have supervisors both in factory and office. We even had a woman personnel manager in one of our plants—it is one of the top jobs in the plant.

So far as our policies are concerned, we have no prejudice against the employment of women in important jobs and do not discriminate against them.

You have also got to take into consideration certain conditions the various State legislatures and Nation have imposed on women. The hours of employment are limited in most States.

In the State of Illinois it is 8 hours a day, 48 hours a week, and a man can work any hours necessary. In some cases this fact is extremely important.

In appendix A to my testimony there are also listed not only the State laws on this but other State restrictions, like meal periods, rest periods, nightwork, and so forth.

There is a tendency to have more absenteeism, not only because of physiological differences but generally the burden for taking care of children in a family who are sick falls on the woman.

Women marry, become pregnant, leave our employ either temporarily or permanently. They also tend to quit and move elsewhere when their husband moves elsewhere. Generally it is the woman who moves along with the husband rather than the reverse.

In spite of these differences or because of these differences, according to the Wall Street Journal article, employers are willing to hire women college graduates at approximately the $50 or $100 under the salary paid to a man. I assume that this difference reflects the differential in the handicaps.

Let me give you an example in another way: Assume any employer is considering hiring or promoting someone to a responsible position which could be filled adequately by either a man or a woman. In this case there are two male applicants, A and B, whose qualifications are approximately equal. Applicant A tells you, however, that he and his wife have decided that he is only going to work 8 hours a day for 48 hours a week, because he wants to be with his family or for any other good reason.

He also tells you that there is a small family business. It will not occupy any of his time while he is working for you, but there is a possibility that sometime in the future he might have to seek 6 months' leave of absence to attend to that family business and this might happen two or three times and eventually he conceivably might have to quit to take care of that family business.

Applicant B has no such problems. Obviously any employer would hire the applicant who had no such problems.

However, if applicant A were willing to work for, let us say, $50 a month or any other sum less than applicant B, it is possible that some employer might think that the lower rate of pay would offset those difficulties.

In this connection the national chamber received a letter from a well-known midwestern company explaining how they hired, in succession, three women psychologists who were working in their personnel department. Each of them got married and left the company and finally in desperation they hired a male psychologist to perform the same work, but the most interesting thing was the postscript to the letter.

P.S.—My secretary commented that a law of this kind—

and she was referring to equal pay legislation—

would work against women employees. "If I had a choice between hiring a man or woman at the same rate of pay I would inevitably hire a man for 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.

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 this year, Mrs. Frances Dawson has introduced a bill at the request of a number of women's organizations, and they testified in support of it, which would modify the Illinois 8-hour law for women so as to exempt executive, administrative, and professional women.

Another woman legislator always opposed equal pay legislation for the same reason. I think that all women Members of Congress, particularly, and I think all Members of Congress, should take a long look at the legislation and see if you are not causing more harm than good in passing this type of legislation.

I think, as I said before, that the inevitable effect of this legislation will be to create an artificial barrier on job opportunities for women. There will be a strong compulsion on employers to divide their jobs into women's jobs and men's jobs and never to hire a person of the opposite sex in those jobs just so they will not have the Department of Labor looking over their shoulders.

When we employ people or promote people we pay them a salary which we think is appropriate, taking into consideration a great many factors. If we have all men or all women in the job classification we can continue to exercise our judgment. If, however, we have both we are faced with the fact that our judgment may be questioned and we may be required to pay a different rate of pay.

We would like to avoid this and by dividing into men's jobs and women's jobs this can be done. We do not want to do this, other employers do not want to do this. We would rather be able to hire people who they think can give us the greatest return for the money that we pay them.

I think the number of employers who will divide jobs into women's and men's jobs and therefore deprive women of job opportunities in areas traditionally performed by men probably will be affected by the type of enforcement legislation that you have and S. 910 in its present form strongly, strongly encourages every employer to follow this matter.

Section 5(a)(1) gives the Secretary of Labor the power to prescribe rules and regulations as he deems necessary and appropriate, including regulations against wage standards of any other applicable law. Does this mean he can issue regulations or use Walsh-Healey or Davis-Bacon should any administrative agency be given powers as it deems necessary and appropriate. Section 5(a)(2) gives unlimited power to the Secretary of Labor to investigate and gather data regarding the wages, conditions and other conditions and practices of employment as a matter of whim. This is broader than the requirements as to bargaining under the National Labor Relations Law because you add the practices of employment to the NLRB language.

Incidentally, there is no requirement that any charge be filed. He can go in at any time.

Section 5(a)(4) permits the Secretary of Labor to act as prosecutor, judge and jury under his own rules and to order an employer to pay up to double the amount of the wages due such employee at the rate paid to an employee of the opposite sex.

When we finally get to court under section 5(c) or 5(d) the law provides 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. As you all know, this means that the employer can lose even if the weight of evidence is on his side.

Section 7 provides for blacklisting of employers and they cannot get Government contracts.

The question arises from the bill in section 4(a), the words, "for equal work on jobs the performance of which requires equal skill"—what is it? 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.

Let me give you an example of the Pandora's box you may be opening if you do not tie down specifically what you mean by equal work on jobs the performance of which requires equal skills.

Mr. James Carey of the IUE testified in the House last week that:

> 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 of skills.

He went on further explaining the effect of passing this law.

> 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.

And then when we look at his charges of discrimination we find out he is not complaining because of failure to pay equal pay for equal work, but because he thinks the rate of pay for women—evidently these companies had women's jobs and men's jobs—he thinks that the rate of pay for women should have been higher because of what he refers to as the "value of skills," in his opinion, were higher than the men's value of skills.

Now job evaluation is not an exact science, it involves judgment. Wage rates are fought over and negotiated over the bargaining table. We discussed value of skills whatever that means, and every other pertinent factor, but now Mr. Carey proposes that the U.S. Government, through the broad powers granted to the Secretary of Labor under this bill, will either before a contract is signed or after a contract is signed interfere with free collective bargaining on the proper rate to be paid for a job.

Mr. William Schnitzer, secretary-treasurer of the AFL–CIO in his testimony before the House on March 27, 1963, indicated a comparable intent. He said there:

> 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 kind. The concept of equal should be understood to be broad enough to meet the realities of a variety of practical circumstances.

The statements of these labor-union officials makes it vitally important that Congress spells out what it means by "equal."

The unions do not accept the dictionary meaning of the word. I will give you an example of our problem. Our company has two contracts with the IUE, Mr. Carey's union. In one the values of the jobs were set by the company by job evaluation. Each negotiation the union has had an opportunity to question the values of those jobs. Are these now to be upset by the Secretary of Labor on the theory of value of skills?

In our other contracts rates are not set by job evaluation. We attempt to do so; in fact, we had a tentative agreement with the union committee on such a plan, but they later repudiated the technical agreement. The rates are not set by any scientific system at all. They grew up like Topsy, and there are light jobs and heavy jobs which to everyone in that plant generally means a woman's job and a man's job.

Are these jobs and the rates of pay that we have agreed on now going to be upset by the Secretary of Labor on the theory of value of skills?

Another point I wish to raise rises out of the exemptions from the equal pay provision. Only two are referred to: One is seniority and two, merit increase systems.

Does this mean that all other systems of job classification programs are not exempt? It would appear so. And also a question has been raised as to what criteria and standards is the Department of Labor going to establish to determine whether a merit increase system which you have developed is going to fulfill the requirements of the law.

Let us assume that Congress passes legislation similar to this particular bill. The average employer will seek advice from his attorney or someone else as to what he should do.

I say it will be inevitable that the advice will be somewhat along the following lines:

Don't hire or promote women to jobs traditionally occupied by men unless their value to you is so great that you are willing to take the risk involved.

If you hire men only your judgment as to an appropriate rate of pay cannot be questioned. If you hire both men and women you are subject to investigation by the Department of Labor. It will act as prosecutor, judge and jury. You may be liable for double the amount involved and when you get to court you cannot win even with the preponderance of the evidence if the Secretary of Labor's findings are supported by substantial evidence.

So I conclude with the request that you consider carefully whether you will be helping women with this legislation. I know you will be hurting the employer because he no longer will be able to hire the best person for the job irrespective of sex and the rate he considers measures that person's value.

I request that you also consider the other statements in the prepared statement and I appreciate very much the opportunity of being here.

Senator McNamara. Thank you very much, sir. I think your statement indicates a great deal of study of the proposed legislation and you can be sure that your reaction and your comments will be very seriously considered by the committee.

Senator Goldwater, do you have any comment or questions?

Senator Goldwater. No, I have none.

Senator McNamara. Thank you very much, gentlemen.

The next witness is Mr. Jacob Clayman, administrative director, Industrial Union Department, AFL–CIO.

Mr. Clayman, I understand you have already testified or your organization has testified in the House. Do you have a statement for the record?

Mr. CLAYMAN. A slight clarification, Mr. Chairman, Mr. Carey testified before the House committee and in fact I want to submit his testimony to this subcommittee and make some miscellaneous comments.

Senator MCNAMARA. Without objection it will be made part of the record at this point. You may proceed as you indicated, without objection.

(The prepared statement of Mr. Carey follows:)

PREPARED STATEMENT OF JAMES B. CAREY, SECRETARY-TREASURER, INDUSTRIAL UNION DEPARTMENT, AFL–CIO, PRESIDENT, IUE, AFL–CIO

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 and 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 often must 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 equality. 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 circumstance 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 woman power. 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 "Rosy-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 on 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 personal care. They have earned the right to equal 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 make 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 men 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 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. Bureau of Labor Standards 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 U.S. Employment Service 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 counter worker 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 contend 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 women workers is as rife as ever. A Federal law applying equaly 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 now 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 fiscal 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 end 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 require 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 agreement 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. Under present circumstances, we have only two recourses—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 continuity 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 moves 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 in the plant, however, 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 employee 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 workingwomen through enactment of anything less than a comprehensive enforcible, effective bill." 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.

S. 910, 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 laws.

The bill provides that there shall be no discrimination "between employees on the basis of sex in such place of employment for equal work 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 10 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 in 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 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 provision 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 Orgnization, among them 9 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 spirit. 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 industrial labor couldn't agree more emphatically (and you know how rarely this kind of unanimity occurs). We think it's time to accord to women the equal pay treatment they so richly merit.

Thank you very much.

STATEMENT OF JACOB CLAYMAN, ADMINISTRATIVE DIRECTOR, INDUSTRIAL UNION DEPARTMENT, AFL–CIO

Mr. CLAYMAN. It may come as a bit of a surprise that 17 years ago the original CIO unions appeared before a committee of Congress to testify substantially on this same issue and AFL 17 years ago also joined in the same request to Congress.

Here it is 17 years later and we are at the same old stand making the same old plea because substantially, except as trade unions have succeeded in joining with management to eliminate discrimination in pay between the sexes, there has been relatively little progress.

Some of the States, as you know, have passed legislation which in the main is on the feeble side and in the main, rather irregularly enforced.

So, we find ourselves still confronting the most massive discriminatory practice in our entire American society, the discrimination against women, and particularly in the wage area.

This has been said before, I want to underscore it again from Mr. Carey's testimony and I read:

Of women who work, some 7.5 million are called upon to supplement the income of male wage earners who make less than $3,000 annually.

Without them the family could not survive.

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.

So I think it is clear that we ought to conceive of the woman in our work force as not just seeking to do something with miscellaneous leisure time but being forced by economic necessity to come into the labor market.

The trade union movement as I indicated has tried as best it could with some significant success, although I must confess modest success, in securing contracts with management to alleviate this discrimination.

I understand that Secretary-Treasurer Schnitzler of AFL–CIO has indicated that there were 2.6 million women covered by union-management contracts which obviously indicates a small percentage of the women in the labor force protected by contracts.

As I have listened to the testimony of Mr. Miller, who so ably presented the point of view of his company and his association, it came to me that thus far we are utterly and completely unaware of any problems we have created for management in those industries where we have succeeded in joining hands with management in securing nondiscriminatory clauses. And if the situation were as dire as I gather some folks in management believe it to be then certainly GM and all the others who have nondiscrimination contracts as these would have

been coming before this Congress enumerating the difficulties which they confront. They have not come forward in protest because labor-management nondiscriminatory contracts have worked effectively and honorably for labor and management.

Mr. Carey, I think, makes a very significant point and I read this quickly:

> Automation is changing the character of jobs in 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 man will someday be employed in 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 female labor supply.

If anybody at all can read the signs on the horizon, automation will invite women of relatively feeble physical strength into the labor market who will be able to do as well as any man no matter how muscular and even though he conforms to the Mr. Atlas type, and as we approach this new view of the labor force it seems to me we have to start to think a wee bit differently than we have in the past as we have separated men and women exclusively in terms of muscular power.

I want to come quickly to the observations made by Mr. Miller as he directed his comments to Mr. Carey's testimony. I am reading now Mr. Carey's statement:

> S. 910, 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 laws.
>
> The bill provides that there shall be no discrimination among employees on the basis of sex in such places of employment for equal work 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 that what it would mean in a collective bargining contract, substantially equal value of work requiring equal value of skills.

I am sure the Mr. Carey meant this, namely that we would apply to the language of the act the rule of reason, the rule of rationality, and his language as he sees it, simply means that we would not permit the perversion of the true purpose of the act by some subterfuge practiced by an employer.

I am thinking out loud now and I must not pose as an expert on machinery because I am not, but I can think of jobs where there might be 15 or 20 manipulations on the part of a single individual and if the employer could simply change one of these in the slightest fashion he might come forward arguing that the job is not truly equal work, because one tiny specification had been changed. Mr. Carey means no more or no less by his language than that this kind of perversion and subterfuge shall not be permitted by the act. There is nothing subtle about Mr. Carey's suggestion to which Mr. Miller refers. If Mr. Carey were here he would say simply, that we should interpret this language as reasonable men, looking for a reasonable result.

And now closing and for obvious reasons, as you will see, I rather like his closing comment:

> 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, and I was privileged to see this on television, Senate Minority Leader Dirksen recently asserted that American women are "The most charming, the most efficient, the most businesslike" in the world. We of industrial labor could not agree more emphatically. We think it is time to accord to the women the equal pay treatment they so richly deserve.

Just acting the part of a prophet—if this bill should become the law of the land, in a couple of years the employers will join hands with the trade union movement saying, "Weren't we wise in getting this act passed."

Those, Mr. Chairman, are some of the brief comments I have on Mr. Carey's testimony.

Senator McNAMARA. Thank you very much. We are very happy to have your testimony and comment and your very evident understanding of the legislation.

Do you have any questions or comments? Senator Goldwater?

Senator GOLDWATER. No.

Senator McNAMARA. Senator Pell, do you have any questions or comment?

Senator PELL. No, sir.

Senator McNAMARA. Thank you again.

The next witness Dr. Minnie Miles, the national president of the National Federation of Business and Professional Women's Clubs from Tuscaloosa, Ala.

We are very happy to have you here, Doctor. We were especially instructed by the chairman of the Committee on Labor and Public Welfare to greet you very warmly on his behalf.

Senator Lister Hill told us of your being here and told us of his high opinion of your ability to add something to the testimony we are taking here today.

He wanted us to extend to you his warmest greetings and he regrets very much he could not be here.

STATEMENT OF DR. MINNIE C. MILES, NATIONAL PRESIDENT, NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, TUSCALOOSA, ALA.

Dr. MILES. Thank you very much, Mr. Chairman. I appreciate the fact that I am being well looked after.

Senator McNAMARA. We are glad to have you here, too.

Dr. MILES. Mr. Chairman, and members of the committee. I am Minnie C. Miles, president of the National Federation of Business and Professional Women's Clubs, Inc., and appear here today in their behalf. Seated with me is Miss Virginia Allen of Wyandotte, Mich., who is our first vice president.

Our national federation represents 170,000 members in over 3,500 communities located in our 50 States, with a club in each of their congressional districts, also in Puerto Rico, Virgin Islands, and the District of Columbia who wholeheartedly support the proposal of equal pay for comparable or equal work for men and women.

Mr. Chairman, I wish to thank you most sincerely, also the members of your committee for this opportunity to present the views of our federation regarding S. 910 introduced by Senator McNamara, chair-

man of the subcommittee, and S. 882 which was introduced by Senator Case of New Jersey.

First, I would like to state very clearly that I am here to call your attention to some factual information on the subject, not statements of emotional bias and prejudice. The committee no doubt will agree that perhaps never before in the history of our Congress have there been so many major problems of such difficulty to be solved.

The issue before the committee today, by all comparisons, is a relatively simple one. Basically there is no sound reasoning behind its continued existence. Let us take two human beings, one a man and one a woman doing exactly the same kind of 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—whether male or female charges the same fee, which is as it should be. The same, I believe, is true of attorneys. 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 request that there should be; we merely request that no differential in pay exist because of sex.

Neither man nor woman can 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 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 both men and women.

Wartime experience proved that women were able to assume successfully many skilled and unskilled labor jobs as well as supervisory, administrative, and executive positions which in the past had 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.

Numerous instances may be cited where officials of the Federal Government have spoken in support of the equal pay principles during hearings on equal pay legislation.

For example, 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, and I quote:

> 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 applied this principle in more than 50 cases during World War I. If the equal pay principle was applicable in 1918 what prevents the same procedure being followed today?

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 in 1918 that all examinations must be open to men and women alike. 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 he 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 standard is important to their effec-

tiveness. 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 businesses.

The principle of equal pay for equal work, a concept with which no one can openly quarrel, has come to be the—in the same class as Mark Twain's comment about the weather. "Everybody talks about it but nobody does anything about it."

President Eisenhower in his 1956 state of the Union message, described equal pay as "a single matter of justice." Secretary of Labor James Mitchell saw it as "basic to the American free enterprise system."

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.

In view of his experience with labor organizations the following statement by Labor Secretary Arthur Goldberg in March 1962 before the House Committee on Education and Labor has special significance:

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.

On February 15, 1963, Mrs. Esther Peterson, Assistant Secretary of Labor, took the administration's new bill, equal pay for women, to Capitol Hill and said:

Passage of this legislation will be a major step toward achieving fair rates of pay for women. It will also sustain wage rates for men by eliminating the unfair competition of low paid women workers and will promote the economic growth of our economy by increasing consumer purchasing power.

The late Mrs. Eleanor Roosevelt who was Chairman of the President's Commission on the Status of Women in a statement before a select subcommittee of the House Education and Labor Committee in 1962 said:

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.

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

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. It's about time this act of economic justice was finally performed.

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. A good year to change it is 1963.

Mr. Jerry N. Markham who appeared as a witness in behalf of the Thatcher Glass Manufacturing Co., Inc., before the House select subcommittee on Wednesday, March 25, 1963, said in his statement, and I quote:

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, and the males were paid 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.

The question our federation raises is, why wasn't the pay for the female for the night shift the same rate as that for the male worker? Their testimony goes on to explain how much more through absenteeism and labor turnover it costs them to employ women yet when the law was relaxed allowing women to work nights they negotiated with the union in an effort to replace male workers with females at the lesser rate and even tried to have the union agree to reduce the pay of the male workers to that which they paid the women.

If the actual cost of employing females was so much greater than that of the male the national federation again raises the question of, why did they revert to the employment of females at all? It is our contention that wages were not paid on the basis of sentiment or need. Instead it seems very apparent by the foregoing that an effort is being made to have the work done with cheaper labor, by women.

The question of merit and seniority has been raised repeatedly in statements made before the House select subcommittee. Here we call attention to S.910, section 4(a) which says, in part:

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.

In answer to a vital question which is often heard, would this 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.

We are in accord with the thinking of Commissioner Thornbrough when he says—

* * * the existence of a law providing for equal pay for equal work will result in substantial compliance in places where there is now discrimination because of sex; that the publicizing of the passage of such a law will cause both employers and employees to further evaluate their operations and make whatever adjustments are necessary; and finally, in the small number of places where discrimination in pay because of sex remains, 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.

In answer to the criticism of the enforcement procedures in this bill I would refer you to section 601 of the Landrum-Griffin Act which I believe you will find contains stronger investigation and enforcement provisions than those in S. 910.

In conclusion, we believe the time has come for women to be recognized as full partners in all aspects of our society. Furthermore, we feel the passage of an equal pay law is long overdue and we sincerely hope that this committee in its wisdom will favorably report an equal pay bill with enforcement procedures which will insure its effectiveness.

Mr. Chairman, I thank you.

This concludes my statement. I would like the privilege if I might of filing case stories illustrating the need for equal pay which are authentic statements from members of our federation.

Senator McNAMARA. Without objection the statement will be printed at this point in the record.

(The statements 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 band presses, gluing disks, 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 carts 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—	
	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	.77
Elevator operators, passenger, women	1.75	.63

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

Senator McNAMARA. Dr. Miles, we thank you very much for your very thoughtful statement. We are delighted that you were able to be here. You add a great deal to our record and we appreciate your appearance very much.

Are there any questions or comment, Senator Randolph?

Senator RANDOLPH. Mr. Chairman, Miss Miles has indicated that the work force in America is approximately one-third women at the present time; is that correct?

Dr. MILES. I was quoting a statement of someone as of a particular date. I will look for it if you wish the exact date or quotation.

Senator RANDOLPH. I understand that it was a quote, but do you have substantial evidence that the information is correct?

Dr. MILES. At this point in time we have evidence from the Department of Labor Statistics, current statistics, as to the amount at the present day.

Senator RANDOLPH. I think, Mr. Chairman, that this is a very real reason why the legislation which you have very properly introduced is the subject of hearings today. Certainly the work force in this country composed of one-third women, should, for comparable or equal work, be given equal or comparable pay.

Dr. MILES. I congratulate you on your effective statement. It is my hope that this legislation not only passes the Senate but will be enacted in the future.

Senator MCNAMARA. Senator Pell?

Senator PELL. I have no questions or comments, except to thank the witness.

Senator MCNAMARA. Again, we want to thank you for the help you have given not only to the subcommittee but the full committee and we will give every consideration to your testimony.

Dr. MILES. Thank you.

Senator MCNAMARA. I notice that your vice president is with you and that she is from my State. I wondered if she would like to add anything or make any comment at this time.

Dr. MILES. I say for her, and then she can speak for herself, she is a rather modest person, but she is an employer of both men and women, being coowner of a chain of six drug stores in Wyandotte, Mich. and she gives equal pay for equal work to both men and women.

Miss ALLEN. Thank you very much.

Senator MCNAMARA. I am glad to have you here. We are very happy to be here with your president today. Thank you again.

The next witness, Mr. Ezra Hester, director of industrial relations and research for the Corning Glass Co. of New York.

For the record will you introduce the gentleman who is with you?

Mr. HESTER. Yes, sir. My associate is William J. Belknap, director of government services of our company.

Senator MCNAMARA. Glad to have you, too, sir.

I understand that you have previously testified before the House committee; is that correct?

Mr. HESTER. That is right, sir.

Senator MCNAMARA. And do you have a similar statement today?

Mr. HESTER. Yes, sir.

Senator MCNAMARA. Then without objection it will be made part of the record at this point and you can proceed in your own manner from there on.

(The prepared statement of Mr. Hester follows:)

PREPARED STATEMENT OF E. G. HESTER, CORNING GLASS WORKS

My name is Ezra G. Hester. I am employed by Corning Class Works as director of industrial relations research and am here to testify for my company on the equal pay bill before this committee.

Corning Glass Works' 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, S. 910, 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 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 prevelance 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 to to whether they are right or wrong is depedent 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. The glass industry, as well as other industries, have certain kingpin jobs that the rate structure must respect. A few examples in our industry are the German system gaffer, the lampworker, and the steuben engraver.

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 orginally 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 unions 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	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 REQUIREMENTS

Manual effort

Weight handled: Under 15 pounds ——— 16 to 50 pounds ——— 51 to 80 pounds ——— Over 80 pounds ———.
Frequency of handling (percent of shift): Under 25 percent——— 25 to 50 percent ——— Over 50 percent ———.
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 (percent of shift): Under 25 percent ——— 25 to 50 percent ——— Over 50 percent ———.
Describe:

SKILL REQUIREMENTS

Manual 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:

RESPONSIBILITY REQUIREMENTS

Problem 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 CONDITIONS

Surroundings

List elements regularly encountered: _____ Intensity: _____ Frequency: _____.

Hazards

List hazards regularly encountered: _____ Severity of injury: _____ Frequency: _____.

STATEMENT OF EZRA HESTER, DIRECTOR, INDUSTRIAL RELATIONS AND RESEARCH, CORNING GLASS CO., NEW YORK

Mr. HESTER. In the interest of saving the committee's time I would like to condense my presentation somewhat. It will take about 7 minutes. However, I am placing the testimony as written in the record, if I may.

My Name is Ezra Hester. I am employed by Corning Glass Works as director of industrial relations research and I am here to testify for my company on the equal pay bill now before this committee.

As you can see from the first page of my testimony Corning makes a great many products and employs many people in a number of locations. I have been in wage and salary administration for a long period of time.

At this point I would like to make clear, that I am here to testify in behalf of a good equal pay bill. My company endorses the principles and has conscientiously attempted to practice equity in respect to this issue.

We are particularly concerned about the words "equal work and equal skill" with the only reference to a system being that of seniority and merit rating.

The reasons for our concern will be brought out in my testimony.

I point out the history and growth of job evaluation which was stimulated by Government action in World War II and in the Korean war through wage stabilization.

From my own experience I know that the Government recognized other criteria such as effort, responsibility, and working conditions.

A very recent text on wage and salary administration cites some interesting statistics relating to the prevalence of job evaluation in industry and in business.

George Fry & Associates, in a 1960 survey, 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 which I would be most happy to leave with the committee.

Senator MCNAMARA. It will be made a part of the record for reference.

(The survey referred to follows:)

PREVALENCE OF JOB EVALUATION

The Bureau of Labor Statistics in 1956 found that nine-tenths of the production workers in the machinery industries in Milwaukee on one-half to two-thirds in Baltimore, Chicago, Houston, and three New England areas were covered by 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 & Asso-

ciates found that 65 percent of the employees of over 500 responding companies were covered by job evaluation programs. While such survey 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. The page in the book is marked for reference.

Senator MCNAMARA. It will be indicated so in the record without objection.

Mr. HESTER. Corning adopted job evaluation in 1943 with Government approval at that time.

Now let me just briefly discuss the philosophy of wage relationships and some specifics concerning job evaluation.

The 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 the mores of the specific industry and company. The glass industry as well as the other industries have certain kingpin jobs that the rate structure must respect.

A few examples in our industry are the German system gaffer, the lampworker, and the Steuben engraver.

No single evaluation plan for all industry can accomplish this because each industry has its own pecularities 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 the job relationships to which the employees in that 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 order.

As an example, our history demonstrates this. The plan originally installed in our company in 1943 was one that had been designed for the 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 work 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 is 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 of the subfactors. The appropriate rate range of pay for the job is selected from a wage schedule using the total points.

An individual's rate of pay will lie within the rate range, if the particular company has a 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.

Shall I proceed or would you like to examine the chart?

Senator MCNAMARA. Whatever you please.

Mr. HESTER. 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 obtaining equity of pay as between jobs and as such are subscribed to by management, unions, 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 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.

To summarize, then, 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 relationships.

I want to thank you for the opportunity to appear before the committee, sir.

Senator MCNAMARA. Thank you very much, Mr. Hester. The testimony you gave, not only of your company's experience but your own personal experience is of great value to us at this time. We are very happy to have you here. I believe Senator Randolph wanted to make some pertinent remarks.

Senator RANDOLPH. Thank you, Mr. Chairman.

Mr. Hester, we have noted in your testimony that the Corning Glass Works has approximately 16,000 employees of which one-third are women.

I believe that you use approximately 1,500 different job classifications?

Mr. HESTER. Yes, sir.

Senator RANDOLPH. I think it would be helpful to the subcommittee if you could supply specific information on the classification of work performed by women.

Do you employ women in executive and managerial positions? Would you expand on this? I think it is important that you do.

Mr. HESTER. I will be happy to, sir.

As you may also have noted we manufacture a great many products and this entails a greater variety of processes so to elaborate in detail on the hourly jobs, the hourly women's jobs would be quite boring.

I might say that these are in the area of inspection, quality control, assembly, packaging, and much of it is very critical.

In one of our plants the girls assemble capacitors and the tolerances are fantastic on this particular product and they do it beautifully.

Obviously we have a great many people in the clerical work, women, running the gamut of the secretarial field; but more interesting than that we have women who are draftsmen, we have women who are physicists, we have women who are chemists, research scientists. There is one lady who is a vice president of the company.

I might give you a better idea by just reading a few examples. Architectural designer, hiring interviewer, market planner, catalog and reference librarian, mathematician, vice president of public relations in one of our divisions, a controller and assistant treasurer. The cashier for the company is a woman.

Is that satisfactory, sir?

Senator RANDOLPH. Yes, it is helpful, Mr. Chairman, as we consider the classification.

Senator MCNAMARA. That is very helpful.

Senator RANDOLPH. One final observation and question. I do not want to refer to West Virginia for the purpose of using the name, although this is our centennial year. [Laughter.]

Senator MCNAMARA. What were you celebrating last year?

Senator RANDOLPH. The approaching centennial.

Seriously, Mr. Chairman, and Senator Pell, Corning Glass Works makes an important contribution to the economic strength of our State.

We have been having our problems. They embrace the transition of a State once basically coal now moving into other areas, like the areas that you are developing with Corning Glass Works.

Mr. Chairman, Corning Glass Works, at Martinsburg in the eastern section of our State; at Parkersburg on the extreme western section on the Ohio River; at Buckhannon in the central area of the State, and at Paden City—also on the Ohio River but in the northern section of the State.

Mr. HESTER. Yes, sir.

Senator RANDOLPH. We are appreciative of the economic strength you are helping to build into our State.

I wonder if you will state for the record, Mr. Hester, the approximate number of employees working in West Virginia in these plants and include the number of women who are employed in your four units of industry in our State?

Mr. HESTER. Yes, sir; I would be happy to.

Our employment in West Virginia totals about 1,485 people. At Parkersburg the employment is 750 and there are of this 300, approximately, sir, women.

At Martinsburg the total employment is 495. Of these I would think that there are about 175 of them women.

At Buckhannon, this being a heavier type of operation in which women are not employed in the factory, the women are in the offices only.

The total employment is 56 there and in the office there are 8 to 10 women.

At Paden City the employment runs 195 and of these 70 to 80 of them are women.

Senator RANDOLPH. Thank you.

Mr. Chairman, I am grateful for the opportunity to compliment the Corning Glass Works on what I think is a very intelligently developed program, including the utmost utilization of the skills of women.

I do not want to draw for comparisons sake in this hearing the attitude of man as against a woman or a woman as against a man in our industrial system. But I do compliment women by and large for not only their aptitudes but their attitudes toward the jobs they hold.

I think sometimes that the person with the most aptitude is the lesser in value to a company becomes of the wrong attitude. I have seen examples.

Mr. HESTER. That is correct.

Senator RANDOLPH. I believe that women, generally, bring to their jobs not only these skills but the strengths that I have mentioned of loyalty, unity, and understanding.

Senator MCNAMARA. Thank you very much, Senator.

Senator Pell, do you have any comment or questions; do you want to take equal time to say a few good words for these gentlemen?

Senator PELL. I would like to welcome Mr. Hester here and thank him very much. His company makes a great contribution to Central Falls, one of our principal cities in Rhode Island, and your company has always had very good relations and contributed a great deal to the welfare of the people there.

I also have a strong personal feeling for the Houghton's who have so much to do with your company. It seemed to me that you were absolutely correct in saying that there should be more inserted into the bill other than just the skill classification and my understanding is that when the bill is finally marked up provision will be taken into account for this viewpoint and some sort of language along this line setting forth when there is a bona fide job classification system that that will be honored as well.

Putting the appropriate language in the bill, this is my understanding.

Mr. HESTER. I certainly hope that that is true.

Senator MCNAMARA. I am sure when we get to that point your testimony is going to be very helpful.

Does your associate wish to add anything to what has been said?

Mr. BELKNAP. No thank you.

Senator MCNAMARA. Thank you very much, gentlemen, you made a fine contribution to our record.

Now we have Mr. Murray Plopper, international vice president of the Retail Clerks International Association.

For the record, we would like you to state the name of the gentleman who is accompanying you. He is not necessarily a stranger around here, but for the record.

STATEMENT OF MURRAY PLOPPER, INTERNATIONAL VICE PRESIDENT, RETAIL CLERKS INTERNATIONAL ASSOCIATION

Mr. PLOPPER. My name is Murray Plopper. I am the international third vice president and executive assistant to the president of the Retail Clerks International Association and I have been with this organization since October of 1937.

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 S. 910.

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.

Mr. Chairman, in the interest of time we are willing to put our position on record which we have previously submitted to this committee.

Senator MCNAMARA. We appreciate it very much and it will be made a part of the record at this point and you may proceed to summarize as you see fit. Thank you.

(The prepared statement of Mr. Plopper follows:)

STATEMENT OF MURRAY PLOPPER, INTERNATIONAL THIRD VICE PRESIDENT AND EXECUTIVE ASSISTANT TO THE PRESIDENT OF RETAIL CLERKS INTERNATIONAL ASSOCIATION

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 work force. 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 stock work.

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 stock work, 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 salesworkers—about 440,000 more women than men. (Employment and Earnings, February 1962, Bureau of Labor Statistics). And we must add to the salesclerks, 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 workforce 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 S. 910.

Average hourly earnings of women in the retail field are consistently less than those 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 the 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, manhours 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 shortsighted 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 serves to depress standards and injure the entire economy.

Nor can it be said that women work for pin monety. 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 cityl 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, conomic 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 were paid 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 the 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 unemployed 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 check-out 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 S. 910. Thank you.

Mr. PLOPPER. We would like to, if we may, make some off-the-cuff remarks, Mr. Chairman.

In the proposed bill, the definition of "employer" is limited to any person having 25 or more employees in any place of employment. We respectively suggest that this language is unfortunate in that it would remove from 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 every supermarket in the Nation will enjoy exemption from equal pay legislation. Moreover 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 be gained until the store had an annual volume of $1,400,000. This, too, suggests 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.

This is to say nothing of the situation in other industries because we are talking about retailing. 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 test—to the definition of commerce. Again, the precedent of minimum wage legislation seems appropriate. It isn't 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 commerce does have the constitutional right to regulate activties 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, Mr. Chairman, we suggest that consideration be given to situations in which unfair employers may utilize equal pay legislation to transfer men out of job classifications to redefine shopping—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, reassigning them to other duties and thus maintain the old female wage scale.

It is difficult for us to understand as we, as an example, survey stores all around the country of various kinds as we negotiate contracts all around the country with various kinds of employers, how or why there are two wage scales in one given department.

As an example, all of us surely are familiar with the supermarket, grocery food type of operation. Now, in many of these operations you can walk in there and you can see a group of women, predominantly it will be the women who will be the so-called checkers. They are often assisted or replaced by male checkers or vice versa. Yet that male checker doing the same work, nothing different, there is not one part of his work that is any different from a female checker in a grocery store operation, will receive as much as 30 and 40 cents per hour more than the female checker in that store.

When we asked management to explain this to us, when we, of course, advocate and obtain equal pay for equal work, management in all our experience, and I have been around about 25 years, personally, has never been able to satisfactorily explain to us across a bargaining table why a checker, merely because she is a female, should receive a lesser wage rate. This is true, Mr. Chairman and your committee, also of a department store where in a men's furnishing department as an example that sells ties, shirts, socks, so on, you will find a female, a male clerk behind the counters, both doing the same work, both waiting on the same kind of customers, both stocking in addition to their selling, but yet the male receiving more dollars per week because he happens to be a male and she less because she happens to be a female.

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 still is 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 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 S. 910. Thank you very much, Mr. Chairman, for the opportunity to appear here today.

Senator MCNAMARA. Thank you very much for your very fine statement. We appreciate this testimony because your industry does employ a great many women and your association has long experience in the field. We value your testimony very much.

Does Mr. Chuck Lipsen have anything to add?

Mr. LIPSEN. Thank you, sir, I think that the vice president has pretty well made our feelings well known.

Senator MCNAMARA. Thank you, Mr. Lipsen, we are very glad that you could be here. I understand that Senator Pell is on his way back. He had some comment and question that he wanted to discuss with you.

I might ask you in the meantime what percentage of your employees in the field covered by your association are female. Are they a large percentage?

Mr. PLOPPER. We judge, Senator, about 50 percent of our membership are females.

Senator MCNAMARA. About 50 percent?

Mr. PLOPPER. Yes, sir.

Senator MCNAMARA. Senator Randolph, do you have any comment or question?

Senator RANDOLPH. Mr. Chairman, it is clear from the statement that Mr. Plopper's organization has felt that this was a problem and recognized that progress has been made toward, let us say, a rectifying of the equity. It would appear, Mr. Plopper, that you are not fully satisfied that your association has done as much as needs to be done in this area of discrimination by—to use the word that is perhaps the right word—which still exists; is that correct?

Mr. PLOPPER. Yes, sir. Senator, we are, of course, concerned with those members we represent and we have over a period of years, as a matter of fact, we have advocated equal pay for equal work since 1890 when our organization became alive. Our constitution makes it mandatory for us to attempt to improve the lot of the female worker but we are not, and we want this fact made known also, we are not only concerned with our members, and this is our great concern, but we are concerned with the several million unorganized female employees around the country who are more discriminated against than our own particular members who have been able through our organization and their local unions to resolve this kind of difference around the country.

Senator MCNAMARA. Thank you again. I think the last point you emphasize is very important for the record. Apparently Senator Pell has become involved in something. So at this time we are not going to detain you any longer. We hope that if he corresponds with you that you will try to answer any questions and respond to any comment that he might have.

Mr. PLOPPER. We will be most happy to, Senator, thank you.

Senator MCNAMARA. Thank you very much.

Gentlemen, our next witness is from the Electronics Industries Association, Mr. John B. Olverson, general counsel.

We are very happy to hear from Mr. Olverson at this point.

STATEMENT OF JOHN B. OLVERSON, GENERAL COUNSEL, ELECTRONICS INDUSTRIES ASSOCIATION

Mr. OLVERSON. My name is John B. Olverson. I am general counsel of the Electronic Industries Association and appear today representing the membership of that association. The Electronic Industries Association 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.

We have made a careful analysis of this bill and we are not concerned about the enactment of this bill but we are concerned about the approach that is being taken and from my point of view particularly the legal problems which the bill, as now written, seems to set forth.

Our views on S. 910 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 provision of this bill apply only to a single plant location;

(3) We recommend revision of section 5 to limit the broad and sweeping rulemaking and investigatory authority; and

(4) We recommend the elimination of section 7 which would blacklist employers engaging in U.S. Government contract work in the event of violation.

On the first point, as to the adequacy of this standard, I would like to say at the outset our industry is not opposed to sound, 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 will not achieve the laudable objectives sought without doing serious harm to employer-employee relations. Moreover, we think S. 910 as now written delegates very broad and sweeping legislative power to the Secretary of Labor.

As we view this type of legislation, it proposes a mandatory standard of employment practice in the broadest terms which would affect individual bargaining rights between employer and employee—rights which usually are a matter of negotiation under collective bargaining agreements. The bill, in effect, also supplements the unfair labor practice 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.

Turning now to the heart of the bill, which is section 4(a).

This section would prohibit discrimination by an employer of his 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 require equal skills * * *.

The only exception would be wages that differed—

pursuant to a seniority or merit increase system which does not discriminate on the basis of sex.

The bill contains no definition of "equal work" or of "equal skills." Therefore, what is equal, as related to work and to skills would be left to administrative judgment. Webster's New Collegiate Dictionary defines "equal" in six different ways, depending upon what meaning is intended. For instance, it could mean "exactly the same in measure, quantity, number or degree, or like in value, quality, status or position." If given a liberal connotation, it could mean "fair" "evenly balanced or proportioned" or "having competent power, abilities or means."

I listened to Mr. Hester's testimony in which he indicated that skill was merely one of four general categories that is considered in job evaluation planning. I mention this because yesterday I talked with a labor economist who used to be an adviser to the War Labor Board and who is now an arbitrator and a consultant on labor matters and he confirmed this statement that skill is just one among several factors and he quoted the standard that was developed by the War Labor Board in World War II which pointed to the other factors which had to be taken into account.

As a matter of fact, he said skill would not exceed 30 percent, I think that is the figure he used. I think Mr. Hester's testimony indicates that it is 20 percent.

So the bill in effect is dealing with factors or standards which represent about 60 percent of what is generally considered as basic in job evaluation programs.

We do not consider the language in section 4 as constituting an adequate legislative standard, particularly in legislation delegating broad rulemaking and enforcement powers affecting private rights. We think that the allowable area of administrative judgment is too vague and too broad. Unless the clear intent of Congress is spelled out in more definite standards, there is bound to be costly disputes, litigation, and, perhaps, even strikes. Incidentally, I have heard lawyers say this would be a wonderful law for lawyers because it would provide a lot of litigation.

Also there is no provision that would permit employers to consider other factors that could be made the basis for wage differentials, such as job classification program which take into account cost differentials shown to be attributable to the employment of women.

Senator RANDOLPH. Mr. Chairman, may I interrupt the witness?

Senator MCNAMARA. Would you object to being interrupted at this point for a question by Senator Randolph?

Mr. OLVERSON. No; go right ahead, sir.

Senator MCNAMARA. Go right ahead, Senator.

Senator RANDOLPH. Mr. Olverson, perhaps I should have waited, but when you make the statement that this legislation, if enacted into

law, would result in litigation and therefore be a windfall for attorneys, I am not impressed.

I remember when we passed the Fair Labor Standards Act in 1938 in the Congress that the same statement was made. I was a member of the House Labor Committee. It was not made by one witness but it was made by many witnesses.

Litigation in itself is not reason for support or denial of the provisions of the law which people believe to be worthwhile.

I want the record to indicate that I say this in good humor, but it does not impress me for testimony to bear on the possible litigation that would flow from the passage of such an act.

I would want the witness to predicate his support or his opposition to any bill on the purpose, principals, and the provisions of the bill but not attempt to indicate that there will be issues raised which seem to give the lawyer or the legal profession opportunity to profit by something that has been done.

I am sure you do not misunderstand what I am saying.

Mr. OLVERSON. May I clarify what I said, Senator, by saying I am not a labor lawyer, so I am not speaking from my own knowledge of the labor field, besides I do not practice labor law as such.

I am not speaking from my own knowledge. I just dropped that as a remark that I have heard from several lawyers who had indicated that.

There is no provision that would permit lawyers to consider 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 can 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.

In this connection, the present bill is more limited than H.R. 11677 which was approved by the House and Senate last year. That bill took into account other relevant factors justifying differentials in pay, such as—

bona fide job classification program which does not discriminate on the basis of sex—

and pay differentials—

attributable to ascertainable and specific added costs, resulting from employment of the opposite sex.

We think also that language should be included recognizing pay differentials "attributable to other reasonable differentiation based on a factor or factors other than sex." This language appears in another bill, H.R. 1936.

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 broad 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 under the present language of S. 910.

On the second point that section 4 should be revised to limit application to single plant location, we think that is necessary because of the experience that we have had in connection with the administration of the Walsh-Healey Public Contracts Act.

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 "industry-wide or areawide."

Testifying before the House subcommittee last week Representative Thompson, the chairman indicated there would be no objection to changing that language to make it clear that that applied to single plant location, single establishment.

Turning to the third point, section 5, dealing with the 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.

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 violations 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(q) of the bill is in itself undesirable, but when this is coupled with such wide-sweeping rulemaking and investigator powers, the bill, if enacted, will open the door to numerous uncertainties, controversies and 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 valid fishing expeditions and to offer protection against unwarranted abuses of the fourth and fifth amendments of the Constitution.

This particularly is so where a department and agency has been given both investigatory and adjudicatory provisions as it is in this bill.

It is our recommendation, therefore, that the administrative and enforcement procedures under this bill should be revised along the following lines:

(1) Any delegation of investigatory powers should be limited to those that are (a) made upon a specific sworn charge, (b) based upon probable cause of violation of such charge, (c) confined to the investigation of such charge to determine possible violation of the legislative policy in section 4(a) of this bill;

(2) If such investigation shows probable cause of violation, the employer should be given written notice and an opportunity to answer any charges made;

(3) If after answering such charges there is still probable cause of a violation, the procedure should call for a formal hearing conducted in accordance with sections 5, 6, and 7 of the Administrative Procedure Act;

(4) Provision should be made for the conduct of any such hearings by a hearing examiner whose findings are reviewable by an independent adjudicatory body as contemplated by section 8 of the Administrative Procedure Act; and

(5) All final orders should be subject to and enforcement by a U.S. district court in the judicial district in which the unlawful discriminatory practice is alleged to have been committed or in the judicial district in which the employer has his principal office.

It should be not overlooked 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 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.

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 decisionmaking functions, enactment of this proposed legislation could lead to serious abuses of the administrative process.

The final point on section 7. We oppose section 7 of this bill which would blacklist Government suppliers until or unless the contractor has satisfied the Secretary of Labor.

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 merely on the basis of differences existing between one of its plants and the Labor Department.

This seems to be the meaning of section 7, despite all the 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.

In conclusion, may I say that most of our problems, as I indicated, relate to the legal problems in this bill and it was suggested yesterday by a labor attorney that perhaps this subcommittee might want to consider another approach and that is by amending the Fair Labor Standards Act.

I was handed a bill which I glanced over this morning, H.R. 5110, that does that and does it very simply and it sets forth more adequate legislative standards for the determination of quality of wages between men and women and also recognizes most of the relevant factors that are to be included in job evaluation.

The only thing, in my opinion, that seems to be lacking is that the provisions of the bill should be only enforced through investigatory means based upon sworn charges and the investigation should be limited to such charges and if, upon investigation, the Secretary determines that an employer has violated the subsection he should be given the normal opportunity to answer in a hearing.

It is just a two-page bill and it might be an easier way to approach this problem by putting this in as an amendment to section 6 of the Fair Labor Standards Act. I have not studied it carefully but it would seem like a simple way to do it.

That concludes my statement, Mr. Chairman.

Senator MCNAMARA. Thank you very much, Mr. Olverson. We appreciate your detailed analysis of the bill. We are glad to have your comments, particularly on sections 4, 5, and 7, and you can be sure that they will be given every consideration.

Have you any other comments or questions? Senator Randolph?

Senator RANDOLPH. I simply want to say that I find Mr. Olverson is attempting to, as he says it, strengthen this measure by specific recommendations. I would not want my words to indicate that I did not appreciate his helpfulness in the drafting of this bill. I assure you that I will study very carefully the recommendations which you have embodied in your statement. I compliment you for what I believe to be the objectivity of your approach, although I felt I must caution you, as I did, in reference to another matter.

Mr. OLVERSON. Thank you, Senator.

Senator MCNAMARA. Senator Pell, do you have any comments or questions?

Senator PELL. No, except to thank Mr. Olverson for the objectiveness of his testimony and assure him of the consideration we will give it.

Mr. Chairman, I would like to revert for a moment to the testimony of Mr. Plopper. I would like to say for the record that I personally make the point that there should be no limitation on the 25 employees or more for the application of this act; it is a very valid one. In that respect I think the approach of S. 882, which does not limit the size of the firm to which this act would be applied is the approach that I personally would like to see enacted at the time the bill is written up.

Senator MCNAMARA. Thank you very much, Senator. We thank you again, Mr. Olverson. We do appreciate your very frank contribution to our record.

Mr. OLVERSON. We appreciate the opportunity, Mr. Chairman, of testifying to this bill.

Senator MCNAMARA. Very good. We have one more witness who was supposed to appear today, Mr. J. Howard Hicks, secretary-treasurer of the office of Employees' International Union. We have been advised he is ill, and that he will appear tomorrow.

Thank you very much. The hearing is recessed until tomorrow at 10 a.m.

(Whereupon, at 12:20 p.m. the subcommittee recessed to reconvene on April 3, 1963, at 10 a.m.)

EQUAL PAY ACT OF 1963

WEDNESDAY, APRIL 3, 1963

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10:30 a.m., pursuant to call in room 4232, New Senate Office Building, Washington, D.C., Senator Pat McNamara (chairman of the subcommittee) presiding.

Present: Senator McNamara (presiding).

Committee staff members present: Stewart E. McClure, chief clerk; John Sweeney, professional staff member of the Subcommittee on Labor; Michael J. Bernstein, minority counsel, and John Stringer, minority associate counsel.

Senator MCNAMARA. The subcommittee will be in order.

I am sorry for the delay, but it was one of those inevitable things, there was a vote in the Senate and we had to respond to the roll call. I got here as fast as I could. We are sorry to inconvenience so many people. We are particularly glad to have the Alta Vista School students here this morning. I hope they will enjoy the proceedings and learn a little something about the Government. It will be good for them and also the country, I am sure.

The first witness this morning is Mr. William Schnitzler, secretary-treasurer of the AFL–CIO. He is accompanied by Andy Biemiller, the legislative representative of the CIO, and if the other gentleman will give his full name for the record.

Mr. HARRIS. Thomas E. Harris, attorney.

Senator MCNAMARA. I understand that you have already testified before the House; is that correct?

Mr. SCHNITZLER. That is right, Mr. Chairman.

Senator MCNAMARA. Is it your desire to make your statement part of the record on the basis of previously testifying on it and summarizing it at this time or do you want to proceed in your own manner?

Mr. SCHNITZLER. I would rather proceed, Mr. Chairman. This is a short statement and I would rather do that if it is agreeable with you.

Senator MCNAMARA. All right, go right ahead.

STATEMENT OF WILLIAM F. SCHNITZLER, SECRETARY-TREASURER, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY ANDREW J. BIEMILLER, LEGISLATIVE REPRESENTATIVE, AND THOMAS HARRIS, ASSOCIATE GENERAL COUNSEL

Mr SCHNITZLER. I am here today to support Federal legislation to establish the principle of equal pay for women and to testify particularly on the administration's bill, S. 910, 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.

Mr. Chairman, at this point I should like to submit for the record a copy of a resolution on equal pay for women adopted by the AFL–CIO executive council on February 23, 1963.

(The resolution is as follows:)

RESOLUTION BY THE AFL–CIO EXECUTIVE COUNCIL ON EQUAL PAY FOR WOMEN, 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, enforcible, 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. SCHNITZLER. This resolution calls for enactment of a comprehensive, effective Federal equal pay bill in the current session of the Congress. Equal pay legislation has, of course, been endorsed by every convention of the AFL–CIO, most recently in December 1961. We think equal pay legislation should be enacted just as soon as possible, but we certainly do not want prompt action at the expense of effective action.

Unfortunately there is substantial evidence of the continuing existence of unequal pay practices for women in this country. Trade unions, women's organizations, State government officials, and the U.S. Government have produced statistical documentation and graphic examples in congressional hearings last year. Unfortunately, also, the combined effects of collective bargaining, voluntary employer action, and State legislation have not been enough to eradicate such discriminatory pay practices.

Among the distinguished citizens who have testified as to the moral and economic injustice of unequal pay practices is the late Mrs. Eleanor Roosevelt. In testimony before a Select Subcommittee of the House Education and Labor Committee last year, Mrs. Roosevelt said:

> 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, has formally endorsed Federal legislation to put into effect the principle of equal pay for comparable work.

The 88th Congress should translate this principle into widely accepted practice by enacting a Federal law to forbid discrimination in wage rates on the basis of sex.

We believe S. 910 is aimed in the right direction. However we want to see specific provisions clarified, and we want to indicate those areas where we believe the bill should be strengthened.

(1) Coverage of employers: Section 4(a) of this bill limits coverage to employers, "having employees engaged in commerce or in the production of goods for commerce." Section 3(b) defines commerce as meaning interstate trade, commerce, transportation or communication

We have studied this language carefully, taking into account the history of the Fair Labor Standards Act and court interpretations with respect to its coverage. From this study, we have come 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.

Such coverage would be arbitrary and capricious at best, and at worst could result in large-scale exclusions. 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.

There is no need—in fact there is no justification—for taking chances with the coverage of this law. We request that all industries be brought clearly and unquestionably under the act. This broad coverage can easily be achieved 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." We ask this subcommittee to to amend S. 910.

We realize there may be substantial pressure to exclude small employers from coverage. If it is necessary to do so, it should be done by a simple, specific, uniform size-of-employer test. Such a size-of-em-

ployer provision will make equal pay legislation easier to administer and will help avoid excessive coverage. Conversely, serious injustice—not to mention serious difficulties in administration—will result from the requirement that a particular place of employment must have employees engaged in commerce or in the production of goods for commerce. Such a requirement will unquestionably result in a large volume of litigation.

We oppose any reduction in the prospective coverage of Federal equal pay legislation. In principle there is no reason why the number of employees involved should give an employer the right 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.

We believe the present bill combines a dubious general coverage provision with an ambiguous 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 unfortunately 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 must 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.

Senator MCNAMARA. Mr. Secretary, I am sorry, but we have just received word from the floor that the minority leader, Senator Dirksen, lodged objection of all meetings of all committees. I know the inconvenience this is to all witnesses, but under the circumstances, given a minority leader's objection, this hearing will have to be adjourned until some later date. We regret this very much, but we have no alternative but to adjourn the hearing.

Mr. SCHNITZLER. That is acceptable to us, Mr. Chairman. We look forward to coming back at another date set by the Chairman.

Senator MCNAMARA. Thank you very much. We will be in touch with your office. The hearing is adjourned.

(Whereupon, at 10:35 a.m., the subcommittee was adjourned to reconvene at the call of the Chair.)

EQUAL PAY ACT OF 1963

TUESDAY, APRIL 16, 1963

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 4232, New Senate Office Building, Washington, D.C., Senator Pat McNamara (chairman of the subcommittee) presiding.

Present: Senator McNamara (presiding).

Committee staff members present: Stewart E. McClure, chief clerk; John Sweeney, professional staff member of the Subcommittee on Labor; Michael J. Bernstein, minority counsel, and John Stringer, minority associate counsel.

Senator MCNAMARA. The subcommittee will be in order.

We will continue where we were interrupted last week. Mr. William Schnitzler, secretary-treasurer of the AFL–CIO.

STATEMENT OF WILLIAM F. SCHNITZLER, SECRETARY-TREASURER, AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY ANNE DRAPER, RESEARCH DEPARTMENT; AND THOMAS HARRIS, ASSOCIATE GENERAL COUNSEL—Resumed

Mr. SCHNITZLER. Good morning, Mr. Chairman.

Senator MCNAMARA. You got as far as the end of page 3 of your statement. Would you like to resume at that point because the first three pages are already in the record.

Mr. SCHNITZLER. I think you are right, Mr. Chairman. I have with me this morning Miss Anne Draper of our research department and Mr. Thomas Harris, our associate general counsel.

Senator MCNAMARA. We are very happy to have your associates with you.

Mr. SCHNITZLER. Thank you.

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 the 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.

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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.

At the very least, this subcommittee should apply the worker cutoff to the employer rather than to particular establishments or places of business of the employer and should reduce the number of workers required for coverage to 10 in lieu of the presently contemplated 25.

We think this subcommittee should be aware that under a size-of-establishment cutoff, a confusing 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 establishment 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 do not object to the inclusion of labor organizations in the bill.

(3) Determination of equal work: Section 4(a) of the administration bill, S. 910, provides 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.

Method of equalizing pay rates: There are some people who claim that the administration's equal pay bill would permit wage reductions to equalize wages. Unfortunately, some remarks by the Secretary of

Labor on March 15 before a House Labor Subcommittee would appear to give support to this point of view.

This is an untenable and incorrect interpretation of the intent of equal pay legislation. The AFL–CIO rejects such an interpretation. We will oppose any legislation which would permit wage cuts designed to equalize wage differentials based on sex.

We believe the whole intent of the equal pay bill 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 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 make a mockery of the purpose of equal pay legislation.

Therefore, we take a very serious view of the testimony presented by Secretary of Labor Wirtz before the House Labor Subcommittee on March 15 as to the manner in which he, as administrator, would interpret the provisions of the equal pay bill.

In his answers to questions put by members of that 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.

We disagree completely with such an interpretation and we oppose any legislative action and we oppose any legislative history which might be interpreted in such a way as to give any sanction to wage equalization through wage cutting.

However happy an outcome such an adjustment might be from the point of view of an arbitrator in a sticky situation, it has no proper place in the interpretation of a statute and it 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."

I find it very hard to believe that any group of employees would accept a wage cut as satisfactory, particularly where the employees are not represented by a collective bargaining agreement.

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.

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 the bill passed last year by the House of Representatives and as would appear to be possible under the interpretation of the administration bill expressed by the Secretary of Labor on March 15.

The language of the present bill most particularly takes account of an employer's hardship 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 do not endorse deferment of the full elimination of pay differentials. On the contrary, we oppose deferment, 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 do 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 on March 15, concerning adjustment of wage differentials by wage cuts, we are very concerned as to what might become of the proviso in actual application.

We note, for example, that the administration bill, S. 910, 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 remarks of the Secretary on March 15 appear to make it necessary to add specific clarifying language prohibiting wage equalization by means of wage cuts.

We therefore insist on inclusion of a specific provision forbidding any reduction in wage rates as a means of complying with the requirements of the act or on whatever amendment of the bill may be necessary to close any loophole through which wage reductions might be put into effect under the act.

(5) Enforcement: Fortunately, this bill does provide 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 Secre-

tary's orders or appeals from them be taken directly to the circuit courts of appeals rather than to the district courts.

However, while we approve of the bill's enforcement provisions, we object to the qualification accepted by the Secretary of Labor and the Assistant Secretary of Labor at the House Labor Subcommittee hearing on March 15 concerning restoration of 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 catch-all 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:

First, in the third and eighth lines of section 5(c) there are references to "such person." 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. This language should be clarified.

Second, 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.

Third, on the question of liquidated damages, 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" 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 in S. 910 seems very weak, especially since the bill fails to establish criteria for determining the amount of liquidated damages in particular cases.

(6) Government contracts: There is 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." Such exemptions will simply undercut the basic national labor policy this legislation is supposed to establish.

Conclusion: Mr. Chairman, we endorse the general purpose of S. 910, and we hope that the bill can be made into a more fully effective instrument for eliminating pay discrimination on account of sex. In this connection, I wish to 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 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.

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.

Only the most reactionary, backward-looking individuals and organizations would dare to voice open opposition to the basic principle of Federal equal pay legislation—that workers should get equal pay for equal work, regardless of sex.

Social justice, equity, and morality commend the principle. But this subcommittee and this Congress have a responsibility to make sure that the high sounding principle of "equal pay" is not turned into a hollow slogan.

Mr. Chairman, I appreciate this opportunity to present the views of the AFL–CIO on equal pay legislation. Thank you.

Senator McNamara. Thank you, Mr. Schnitzler. You can be sure that we appreciate the testimony you have given us here today. Very serious consideration will be given to your criticisms and recommendations. I am sure that the Senate is as interested as possible in securing a bill that will really do the job that is outlined in the preamble. Thank you very much.

Are there any further comments from your associates? If not, again thank you very much.

Mr. Schnitzler. Thank you very much.

Senator McNamara. The next witness is Miss Geraldine Gross, industrial relations assistant, Rohm Haas Co., Philadelphia, Pa. Miss Gross, we are very happy to have you here.

STATEMENT OF GERALDINE L. GROSS, ON BEHALF OF COUNCIL OF STATE CHAMBERS OF COMMERCE

Miss GROSS. I am happy to be here.

Senator MCNAMARA. You may proceed in your own manner.

Miss GROSS. As you know, my name is Geraldine L. Gross, and I was not the witness originally scheduled to represent the Council of State Chambers of Commerce. That was Mr. Paul W. Kayser from Houston. Although I am not from Texas and my background may not be as diversified as Mr. Kayser's, I can add something that he could not—a workingwoman's point of view. Needless to say, this is a new and awesome experience for me; however, I am happy to appear before you because of my deep personal interest in this subject of equal pay for equal work.

By way of background, I worked in a garment factory in Hanover, Pa., for several years after graduating from high school. Then I enlisted in the Women's Army Corps and served for over 3 years.

Following discharge from service, I attended New York University where I obtained my undergraduate degree in psychology and personnel and my master's degree in business.

Since 1950 I have worked in personnel—for 3 years with a rubber company in Rhode Island and for the past 10 years with my present employer.

I am industrial relations assistant at Rohm & Haas Co. of Philadelphia, Pa. I appear before you today in behalf of 23 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 prepared testimony.

I have a detailed statement which I would like to file with the committee and ask that it be made part of the record of these proceedings.

Senator MCNAMARA. It will be made part of the record at this point.

Miss GROSS. Thank you.

(The prepared statement of Miss Gross follows:)

PREPARED STATEMENT OF GERALDINE GROSS, COUNCIL OF STATE CHAMBERS OF COMMERCE

My name is Geraldine Gross. I am industrial relations assistant at Rohm & Haas Company of Philadelphia, Pa. I appear before you today in behalf of 23 State chambers of commerce which are affiliated with the council. 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 a 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 S. 910. This includes six very serious substantive defects in section 4, three instances where section 5 delegates unnecessarily broad powers which the Congress should spell out more clearly and an objection to the punitive nature of subsections 5(a) (4) and 6(b). 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 OF S. 910 HAS SEVERAL SUBSTANTIVE DEFECTS

Section 4(a) of S. 910 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 S. 910:

(1) Limits standards for application of the bill's broad powers to: (*a*) equal work; and (*b*) jobs * * * which require equal skill (p. 5, lines 5 and 6).

(2) Limits exceptions from its provisions to "* * * a seniority or merit increase system * * *" (p. 5, lines 6, 7 and 8).

(3) Limits any adjustment required by the act on the effective date to "* * * the lower wage rate" only (p. 5, line 11).

S. 910 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.

First, 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 and 6).

Second, 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 5).

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.

Third, S. 910 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. As a partial example:

44 States restrict the hours which women may work.

6 States restrict night work for women.

8 States require the employer to furnish transportation for women who work beyond a specified time.

6 States require premium pay for overtime for women but not for men.

6 States require maternity leaves and specify when women must stop work as well as when they may return after childbirth.

6 States limit the weight which women may lift.

14 States set a minimum call-in pay for women.

1 State requires a paid vacation for women.

12 States require an extra payment for split shifts for women.

16 States require rest periods for women.

19 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 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 economic justification for inducing employees to seek permanent, lifetime 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 S. 910.

Fourth, the limitation of the exception in section 4(a) to instances where the wage differential is "made pursuant to a seniority or merit increase system" is too stringent (p. 5 line 7). The term "system" connotes a recognized pattern, an established regular order or method of granting seniority or merit increases.

To assume that all businesses, particularly small enterprises, have or must 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 February 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 S. 910 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.

Fifth, S. 910 limits any adjustment on its effective date to "the lower wage rate" (p. 5, line 11). 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.

S. 910, 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.

Sixth, S. 910 requires that the highest rate paid to "any employee" in the applicable jobs (p. 5, lines 3 and 4) shall be the rate for the job.

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. 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. S. 910 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.

SECTION 5 DELEGATES UNNECESSARILY BROAD POWERS

First of all, 5(a)(1) has two seemingly unnecessary provisions. This section gives the Secretary of Labor the power to prescribe the regulations needed to administer the act but why add regulations "to protect against violation of the wage standards of any other applicable law"?

And, further, why should these regulations "safeguard wage levels in the elimination of wage rate differentials"?

We suggest that both of these quoted provisions in 5(a)(1) have no place in a law the stated purpose of which is to eliminate discriminiation in wage payments based on sex.

Second, subsection 5(a)(2) of the proposed bill is unnecessarily broad. Field investigators from the Department of Labor don't need carte blanche. It seems

more reasonable to restrict investigations to the facts set forth in a written complaint by the aggrieved employee. The broad powers of the Fair Labor Standards Act are not needed in this law.

Third, sections (c), (d), and (e) appear to relegate U.S. courts to a secondary position while the power of adminisrative tribunals is enchanced. It is time to stop this trend which produces a Government of men rather than a Government of laws. There is no reason to make the Labor Department prosecutor, judge, and jury at the expense of reasonable protection of employers.

SECTIONS 5(a)(4) AND 6(b) ARE PUNITIVE

Subsection 5(a)(4) requires not only the wages due when discrimination is found but also "an additional amount as liquidated damages."

Subsection 6(b) extends the period for restitution to "2 years (from) the date of commencement" of administrative or judicial proceedings.

The double recovery is patterned after section 16(b) of the Fair Labor Standards Act. The retroactivity is like section 6 of the Portal-to-Portal Act.

An equal pay law is not a minimum wage law. The latter is designed to eliminate "conditions detrimental to the maintenance of minimum standards of living necessary for health, efficiency and well-being of workers." (Section 2(a) of the Fair Labors Standards Act.) An equal pay law is designed to eliminate "discrimination on account of sex." To equate the punitive provisions of these two laws—double backpay for up to 2 years—is unnecessarily stringent.

Even if the broadened standards for justifiable pay differences which we recommend are incorporated into the bill, determination of equal pay for equal work will be influenced by subjective judgments which are not absolutely clear cut. Employers should not be subjected to the jeopardy proposed in S. 910.

PRINCIPLES NECESSARY FOR ANY WORKABLE AND FAIR BILL

The foregoing comments have been a critical analysis of S. 910. 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 S. 910 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.
Connecticut 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.
East Texas Chamber of Commerce.
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.

Miss GROSS. The statement contains what we consider to be a moderate analysis of S. 910. It includes a list of six serious shortcomings of section 4, three comments on the delegation of power in section 5 and the suggestion that the punitive provisions of 5(a)(4) and 6(b) are not needed in an equal pay bill.

The statement concludes with a list of eight principles which, in our opinion, should be incorporated into any equal pay bill which is to be fair and workable.

This subcommittee has many witnesses to hear, all of whom, like me, want to make their points. In order to save your time, I have prepared a 10-minute capsule review of the highlights of our statement.

First, let me make it clear that I don't like to be listed as a witness who is opposed to equal pay for women. Obviously, I am not. I am opposed to S. 910 because it does not stay within its stated purpose, it does not recognize legitimate reasons for pay differences and it leaves too much room for the Labor Department to give its interpretation of what Congress means by equal pay for equal work.

At the end of my formal prepared statement there is a list of eight principles which we think ought to be used as the basis for amending S. 910. Let us look at and talk about these eight points.

(1) An equal pay law should apply on an establishment rather than on an enterprise basis. I understand this is generally accepted and suggest that the language reflect this expressed intent.

(2) Nondiscriminatory, justifiable differences in pay should be recognized and provided for in the language of the bill. These may be added costs attributable to employment of the opposite sex. They may be due to factors or circumstances other than sex.

In my statement there are listed several factors which have an effect on cost. The normal expectancy of the duration of employment should be recognized. Absenteeism and statutory provisions in State laws restricting the work of women cannot be ignored.

Parenthetically, one wonders what a Federal equal pay law would do in Utah where vacations for women are legally required and what it would in States which require time and one-half for women but not for men.

These are merely examples. We have not the time and probably could not think of all the factors of circumstances which are not discriminatory yet which justify wage differentials.

If any reasonable factor other than sex is the basis for a wage differential, it should be recognized as legitimate and should be permitted.

(3) Recognition should be given to the problem of premium rates which are above the top of normal, fair wage scales. Borrowing a term from War Labor Board days, these are referred to as red circle rates.

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 employees must be recognized and must be exempted from "equal pay" determinations. Again, these are examples of reasonable factors other than sex.

Another common use of a premium rate is to reward and hold employees who have demonstrated that they have the potential for promotion to higher level jobs.

This may be skilled work, supervisory, junior executive or executive. The point is that the practice of paying an "over the range" premium is not uncommon. Such practices must be exempt from and not be used to establish equal pay standards. There are other examples, but I hope I have made my point.

(4) Any adjustment of wage rates necessary to remove prohibited discriminatory differentials should be permitted to be either upward or down according to the judgment of the employer. S. 910 specifies that the lower rate must be adjusted and in section 5 it specifies that the Secretary of Labor shall prescribe regulations and rules to protect against violation of wage standards or any other applicable law and to safeguard wage levels in the elimination of wage rate differentials due to discrimination.

These clauses don't seem to have any proper place in equal pay law which is supposed to eliminate discrimination based on sex.

(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.

There are enough investigations of places of employment, checking records and interrogating employees under present laws. No more are needed. The purposes of this law can be accomplished if the Labor Department acts only on a written complaint.

(6) The rulemaking authority granted to the Secretary of Labor should be limited by providing as complete and clear guidelines and restrictions as possible in the bill and limiting the rulemaking authority to those necessary to enforce this bill, not other applicable laws.

Guidelines are needed and they should be set by Congress, not by administratve procedure. It seems fair to ask Congress to limit the application of S. 910 to discrimination based on sex and to exclude other factors.

Seven and eight can be combined because together they provide the unneeded punitive provisions of double backpay for up to 2 years. An equal pay law is not a minimum wage statute.

It does not require and should not have the same penalty provisions. We recommend that double backpay be eliminated and that if any retroactivity is required it should be limited to 6 months.

In conclusion let me again state that we are not opposed to equal pay for women. We want an equitable, workable law.

I want to add a personal statement. I work and associate with businesswomen every day and we have discussed equal pay frequently.

Our greatest concern is that a fair, practical, equal pay bill be enacted—not one that will be so stringent and so unrealistic that it will limit the job opportunities which are now available to us. We ask you to keep this in mind in structuring the bill.

Thank you for the opportunity of appearing before you to present these views.

Senator MCNAMARA. Thank you, Miss Gross.

We are very happy to have your testimony. You can be sure that we will give great consideration to your criticism and recommendations that you have presented in your testimony.

Again, I want to thank you for your brevity.

Miss GROSS. Thank you, Senator.

Senator MCNAMARA. Mr. W. Boyd Owen, vice president, personnel administration, of Owens-Illinois Glass Co. We are happy to have you here, sir, and would like to have you proceed in your own manner.

STATEMENT OF W. BOYD OWEN, VICE PRESIDENT OF PERSONNEL ADMINISTRATION, OWENS-ILLINOIS GLASS CO.

Mr. OWEN. Thank you. I would like to introduce my associate, Mr. C. W. Nuehaus.

Senator MCNAMARA. We are glad to have you, Mr. Nuehaus.

Mr. OWEN. 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, S. 910.

For your information, I have also previously testified on S. 910's counterpart in the House, H.R. 3861. I shall attempt to draw upon that experience to bring these remarks today into better focus.

We have previously filed with this committee my prepared statement on the present bill. That statement sets forth in detail our position on S. 910. 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.

Senator McNAMARA. May I interrupt you for a second?

Mr. OWEN. Yes, sir.

Senator McNAMARA. I don't think we made your complete statement a part of this record, and we will do so at this point, if there is no objection.

Mr. OWEN. Thank you, sir.

(The prepared statement of Mr. W. Boyd Owen follows:)

STATEMENT OF W. BOYD OWEN, VICE PRESIDENT, PERSONNEL ADMINISTRATION, 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, S. 910.

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.

I also initially note that many proponents of Federal equal pay legislation have attempted to buttress their arguments that such legislation is necessary by citing the differential between the average wage rates of women and of men. In so arguing, however, such proponents have erroneously overlooked the fact that an average rate includes all categories of employment. To have any meaning at all, a comparison of wage rates must be based on the wages of employees doing at least the same type of work. For example, if one includes the wages of both skilled and unskilled employees in determining average rates for women and men, the sex having the greater number of skilled workers will obviously have the higher average wage rate. There are, of course, a greater number of skilled male employees than skilled female employees. Consequently, when average wage rates are compared without being limited to the type of work being performed, the comparison is not merely meaningless; it is totally misleading. The resultant differential between the average wage rates of women and men simply cannot properly be used to support an argument that Federal equal pay legislation is necessary.

Assuming that this committee should conclude that some Federal equal pay legislation is desirable, we respectfully urge that S. 910, as presently drafted, should not be recommended for passage. In our opinion, the provisions of S. 910 are neither necessary nor proper to achieve its declared objectives. To evaluate each of the provisions of S. 910 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 provisions. To make these remarks on S. 910 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 versions of H.R. 11677 and as do several pending bills, even more explicit language could be used.

Second, S. 910 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 S. 910 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 S. 910 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 an 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. This provision was deleted from the bill by the House before it was referred to the Senate for consideration. 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 we urge the Senate to adopt the same rationale that the House used in deleting the counterpart of the present bill's escalator formula in H.R. 11677 since it is fully applicable to S. 910. 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 resonable 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 not 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 probably high expenses in administering and enforcing any Federal equal pay legislation, this omission in S. 910 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 S. 910 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 S. 910'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 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 S. 910 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 S. 910 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 and 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 it 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 wages 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 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 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.

We have often heard the argument made that women have a greater labor turnover rate than men, as well as a greater absenteeism rate, because women receive lower wages than men and have little incentive to remain at their jobs. While we cannot speak for employers generally, we can state categorically that such an argument has little applicability, if any, to our company. In the cities in which we operate, our wage rates for female employees are among the highest for the type of work being performed, and many of them are higher than those for male employees in other industries in such cities. The truth of this is also evidenced by the fact that we have a substantial backlog of high-caliber women job applicants in virtually every city in which we operate.

(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 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 S. 910, 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 S. 910, 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, S. 910 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 than 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 S. 910 in its present form is not the bill to be recommended for enactment.

Not only does S. 910 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 S. 910.

We respectfully submit that S. 910 as presently drafted should not be recommended for enactment.

Mr. OWEN. 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 in the interest of saving time here today.

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 manufacturer who employs 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.

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, not including maternity leaves. 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 $2,278,569.

(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 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, conservatively, 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.

We have often heard the argument made that women have a greater labor turnover rate than men, as well as a greater absenteeism rate, because women receive lower wages than men and have little incentive to remain at their jobs. While we cannot speak for employers generally, we can state categorically that such an argument has little applicability, if any, to our company.

In the cities in which we operate, our wage rates for female employees are among the highest for the type of work being performed, and many of them are higher than those for male employees in other industries in such cities. The truth of this is also evidenced by the fact that we have a substantial backlog of high-caliber women job applicants in virtually every city in which we operate.

(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 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.

As I noted earlier, I made a similar presentation before a House subcommittee in which I also pointed out that our study revealed that these factors cost our company over 30 cents per hour more for our female employees than for our male employees.

I was asked whether the wage differential between our female employees and male employees exceeded 30 cents. After stating that although we had figures for average wage rates, I emphasized—as I have also done on the second page of my prepared statement for this committee—that average wage rate figures are misleading.

Despite this emphasis, I was subsequently asked whether any differential over 30 cents per hour between the average wage rate of women and of men was not "net profit" for our company.

To have any meaning at all, a comparison of wage rates must be based on the wages of employees doing at least the same type of work. For example, if one includes the wages of both skilled and unskilled employees in determining average rates for women and men, the sex having the greater number of skilled workers will obviously have the higher average wage rate.

There are, of course, a greater number of skilled male employees than skilled female employees. In our industry generally, and in our company particularly, there are very few women who hold skilled jobs. Many of these jobs are simply not suitable for women.

Consequently, when average wage rates are compared without being limted to the type of work being performed, the comparison is not merely meaningless. It is totally misleading. For these reasons, among others, any different between the average wage rates of women and of men in excess of a figure that can be cost justified cannot properly be used to support an argument that women have been discriminated against.

Since our female employees are virtually all unskilled, a more meaningful comparison would be one between their rates and the rates of male employees who are also doing unskilled work. So limited, the differential between the average wage rates of our female employees and of our unskilled male employees is substantially less than 30 cents per hour.

While the specific statistics used in the cost justification analysis set forth above admittedly apply only to our company, we believe that the cost factors used in this analysis are realistic and are applicable to every manufacturer 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 S. 910, 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 S. 910, 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 proopsed legislation, therefore, would be wholly self-defeating.

In order to secure equal employment opportunity for women, S. 910 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.

Before I close, and merely in passing, I would like to comment on one statistic that has been used repeatedly by the appearance of equal pay legislation. This statistic which comes from the Department of Labor shows that the average yearly income of all female employees is approximately $2,293 less per year than the average income of all male employees. The inference is that this differential should be eliminated. This would require more than $55 billion per year.

Thank you for your kind attention and the opportunity to testify.

Senator McNamara. Thank you, Mr. Owen. I very much appreciate your appearance here and the testimony you have given. The increased cost you bring out is particularly interesting to the Senate and it will be given serious consideration as well as your other criticisms and recommendations.

Can you state for the record approximately what percentage of your company's employees are female?

Mr. Owen. It is between 35 and 40—38 percent. We have 9,300 hourly female workers presently and that does not count our salaried people.

Senator McNamara. I think it is helpful for the record that we have the approximate percentage of 35 to 40 percent. That will be very helpful. Thank you very much.

Mr. Owen. Thank you, sir.

Senator McNamara. Thank you for your brevity.

Our next witness is Mr. Fred C. Edwards, Armstrong Cork Co., Lancaster, Pa., general manager of industrial relations.

STATEMENT OF FRED C. EDWARDS, GENERAL MANAGER OF INDUSTRIAL RELATIONS, ARMSTRONG CORK CO., LANCASTER, PA.

Mr. Edwards. Thank you, sir.

Senator McNamara. Will you state the name of your associate for the record and proceed in your own manner?

Mr. Edwards. Thank you. My name is Fred C. Edwards, and I am general manager of industrial relations of Armstrong Cork, and my associate is Richard Tilson, assistant general manager of industrial relations. I reside in Lancaster, Pa. 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: At Armstrong it has long been a matter of principle that salaries and wages should be based upon the job rather than the identity of the person performing the job.

So it isn't any disagreement with the principle behind the legislation you are considering that brings me here today. My concern is that any legislation adopted should be sufficiently specific so that employers will know how they are expected to comply, and so that employers will not be subjected to future penalties—or have their entire wage and salary programs suddenly declared unacceptable—because of changing interpretations of a broadly drawn law.

Employers needs to know how legislation will affect them if they are to plan for the future and operate successfully. All laws are necessarily subject to application and interpretation in various respects, but we should certainly try to pin down all the questionable areas which are apparent before the law is enacted. If our Government is to be of laws, not men—and I think it should be—then the laws must be as clear as possible.

Wage definition: Let me suggest a few areas where I think you could be more specific. First, there's the definition of pay itself. The bill under consideration defined "wage" as including board, lodging, or other facilities—but that isn't a definition. I think what is meant is "compensation"—but even 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 include not only a basic hourly rate, but incentive bonuses, shift differentials, hospitalization insurance, group life insurance, pensions, and other similar fringe benefits.

There is a natural inclination to use this term "wage" as if it were a rather simple component, but it is actually very complex. It is my belief that the bill under consideration should define this term "wage" more clearly, so that all employment costs are credited.

Employment costs: This leads me to my second point—that while you are giving consideration to including all employment costs as elements of compensation for purposes of this legislation, you should also recognize the problem of cost differences in employing men and women.

Our records show that women have a higher rate of absenteeism and turnover than do men. We also find it costs us more to provide fringe benefits such as temporary disability income and medical care benefits for women employees than for men. In addition, in some States women must be given longer lunch and rest periods, and restrictions are placed on hours of work, the weight of items to be handled and so on. These are all consequential additional costs per hour which result in our plants from employing women instead of 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 men 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. I am concerned that solutions to problems we have reached through good faith collective bargaining could be set aside by possible interpretations of this legislation. In our plants employing women in production, we have created jobs particularly suited to 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 come about because modern machines and equipment which produce products more efficiently also often result in jobs requiring much less physical effort which women can perform. Women's jobs are not the same jobs as men's jobs in our plants. Through the process of collective bargaining, we have even 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.

Because these women's jobs have been relieved of many burdensome elements, they usually carry lower base rates. However, these jobs have been designated and set apart exclusively for women—which is to their advantage.

Men and women hold separate jobs—and there are no employee transfers between the two groups. At first blush this contract provision may look unfair to women—but actually it was designed to protect them and has protected them, and they like it that way. If we didn't have these contract clauses, during layoffs our men would "bump" women out of their jobs—because in our plants men generally have substantially greater seniority than women. Under these clauses, it is not unusual for a senior man to be on layoffs while a junior woman is at work. To realize how reasonable our solution to this problem is, you must recognize that without these clauses, the bumping that would be permitted would not work both ways. That is because even high seniority women could not take the higher paying men's jobs because the women 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.

One of the stated objectives of this legislation is to minimize labor disputes. We have never had a labor dispute based on the differences between our assignment and compensation of men and women. 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 we and a variety of unions

have evolved through collective bargaining over the past 25 years and which has resulted in the employment of more instead of fewer women. I urge you to amend this legislation to take into account those situations in which special women's jobs have been esablished through good faith bargaining and also to take into account the higher costs of employing women where these added costs do exist.

When unions and mangement negotiate an agreement with regard to wages, we are both concerned with the total compensation that will result, not just the "base" wage rates. Female jobs generally fall into the lightweight repetitive category. This is the type of work most suitable for incentive or bonus plans, which in turn lead to increased earnings. Male jobs, on the other hand, are usually of the heavier type or are more technically skilled, and these jobs don't lend themselves as readily to incentive or bonus plans.

Therefore, when wage negotiations are being conducted, this total pay relationship has to be taken into consideration by the unions and mangement. You can't ignore a situation where an incentive or bonus plan gives women the opportunity to increase their base earnings by 15, 20, 30 or 40 percent while most of the men 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 soley base rates or total earnings.

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 an Equal Pay Act, I urge you to give full consideration to spelling out 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 operate successfully a profitable business.

Only in this way will we know where we stand.

Senator McNamara. Thank you very much, Mr. Edwards.

Mr. Edwards. Thank you, sir.

Senator McNamara. I am sure your testimony will be very helpful to the committee.

I think your spelling out of your experience over a long period of time in collective bargaining is very useful to us. You can be sure that all of your criticisms and recommendations will be given very serious consideration. Thanks very much for being here.

Mr. Edwards. Thank you. I appreciate having the opportunity to appear here.

Senator McNAMARA. Miss Dorothy Haener, Women's Department, United Automobile Workers.

We are glad to have you here.

STATEMENT OF MISS DOROTHY HAENER, INTERNATIONAL REPRESENTATIVE, WOMEN'S DEPARTMENT, UAW, ON BEHALF OF CAROLINE DAVIS, DIRECTOR, WOMEN'S DEPARTMENT, UNITED AUTOMOBILE WORKERS

Miss HAENER. Thank you, Senator McNamara.

Senator McNAMARA. I see you have a statement and it is my understanding that your request is that this be made a part of the record at this point.

Miss HAENER. I would like to ask that the text be included in the record and I would like to summarize it briefly.

Senator McNAMARA. We are very happy to do that. Proceed in that manner. Identify your associate for the record.

Miss HAENER. Mr. Chairman, members of the subcommittee, my name is Dorothy Haener. I am an international representative from the Women's Department of the UAW. Because Caroline Davis, director of the UAW Women's Department, is unable to be here today, I am presenting this statement for her in behalf of the UAW in support of legislation which would require employers to pay women and men equally for equal work.

I am asking that the text of this statement be included in the record and I will summarize it briefly here.

(The prepared statement of Miss Davis follows:)

PREPARED STATEMENT OF CAROLINE DAVIS, DIRECTOR, UAW WOMEN'S DEPARTMENT

Mr. Chairman and members of the committee, Representatives of the United Automobile, Aerospace, and Agricultural Implement Workers of America have testified twice within the last year before congressional committees in support of legislation which would require employers to pay women and men equally for equal work.

In summary, the UAW has presented evidence, testimony, and has been a witness in support of five economic and moral justifications for the equal pay principle; (1) unequal pay is immoral in that it deprives women of a payment that is rightfully theirs; (2) it is inefficient in that it generates unnecessary resentments and frictions in the work place; (3) it is unjust in that it unfairly penalizes the lowest paid workers in the community; (4) it is uneconomic since it puts an incentive on the inefficient use of workers; (5) it is contrary to the community interest in that it provides a cost bonus for economic chiselers to the disadvantage of employers who refuse to exploit the economic and social disabilities of women in order to cheat them by paying substandard, that is unequal, wages (no employer ever pays women on the plus side of the unequal scale).

What the UAW has contended in its presentations here on Capitol Hill is self-evident to the American community, expresses the sense of justice and of fair play of most Americans, and is generally accepted by all except kept economists as sound economist practice and policy (the principle, for example, is properly enshrined in the pay and allowance schedules of male and female Senators and Representatives).

The aspirations of the people of the world, as expressed in the Declaration of Human Rights, recognized that the realization of equal pay is precedent to the achievement of justice in the world.

The free labor movements throughout the world are taking steps to write the equal pay principle into the fundamental law of their countries.

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-Cur-

tain 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 mills.

Within the UAW we have carefully read the testimony of those witnesses who oppose this bill. For the most part the witnesses represented employers who work the side streets of the economy relying on the social disabilities of women to get economic advantages they fear might escape them if they competed fairly on the basis of standard and equal pay rates. Some of this testimony was a naked defense of an employers right to pay as little as he can get away with. Some was a Dickensian hand-wringing, and weeping by paid bleaters crying disaster against the day their employer would be required to assume his moral and ethical responsibilities in the community.

For example, the arugment has been made that women live longer than men and for this reason, pension programs cost disproportionately more for women and, hence, justify a lower than equal wage.

This is one of a number of frivolous arguments which hardy deserve notice. The fact is, most of the employers who insist on their immoral right to pay women less than men for the same work do not provide pensions for the same reasons they pay unequal wages now. Their women employees tend to be unorganized and economically too weak to enforce fair standards of pay and benefits.

However, more than 1 million members of the UAW do receive employer paid pensions in addition to their social security retirement benefits when they are too old to work and too young to die.

The employers with whom the UAW deals range from General Motors to machine shops and foundries which hire as few as a handful of workers. Not one has argued at the bargaining table that the presence of women in the plant adds to the cost of pensions because of the prolonged ripeness of their old age. Not one has had the intellectual pettiness to suggest that longevity is a justification for unequal pay. Actual experience within the UAW according to union actuaries has revealed that women in general pay excessive amounts into the pension fund in relation to the benefits they receive and that their presence in the work place, in fact, reduces rather than increases the pension cost.

Again employers, who in most cases do not undertake to pay for the health care of their employees, have come before the Congress to justify lower wages for women than for men because they assert that the medical and sickness insurance costs are greater for women that for men.

In UAW contracts, as in the case in most standard collective-bargaining agreements, medical and hospital insurance is provided for the worker and his family, so that the presence of the woman of the family in the plant rather than at home neither adds to nor subtracts from the cost of medical, surgical, and hospital insurance. They are covered at home or at work.

It can be argued, of course, that the maternity provisions in a sick pay plan add a fraction of a cent per hour to the labor cost. These may or may not be offset by the lower pension cost for women or by other variable labor costs. Indeed there are factors that suggest even if the cost of pregnancy to the employer were substantial when it occurred, in reality, most employers tend not to experience this contingency. Women's Bureau studies show that most working women go to work before marriage, stop at their first child, and do not return to the labor market until they cease having children. This is very likely to be true in many workplaces where the unequal pay for equal work is a serious problem. In any event the requirement to pay for the maintenance of motherhood and childbirth is actually negligible as a serious factor in wage costs.

The final Big Bertha argument which is supposed to demolish all the little wage working Berthas throughout the country is the claim that women wage earners are not entitled to a man's rate because they are tardy and absent more often and less regular in their employment habits. Without exception every available study reveals that in comparable situations the difference in attendance and in continuity are negligible.

Historically, the same charges have been levied against immigrant workers, Negro workers, factory workers in general, and in certain colonial countries where unequal pay is an expression of the colonial oppression of workers. This supposed inconstancy at work also appears as a defense of unequal pay, which is universally acknowledged to be an essentially immoral practice.

Yet, here again, economic historians and industrial psychologists deny the employer imputations. They assert that absenteeism and tardiness, and other similar work interruptions, are measures of the level of morale on the job and that this kind of behavior is to be expected where there are grievances, the pay is low, working conditions are bad, and there is a context of exploitation and injustice. Equal pay for equal work, equal job opportunities, equal rights to promotion and transfer, in short, the establishment of a moral, ethical, and just work context for all workers, male or female, Negro or white, Jew or gentile, Catholic or Protestant, whatever their national origin, would deal finally with the complaint registered concerning inattention to the requirements of the job, which is less a job disability than it is a complaint against unfair or unsound employment practices.

Without reforming the entire society, it should be noted that nothing in an equal pay law would prevent an employer, in any event, from establishing work rules requiring employees to arrive at work on time, and not to absent themselves without an acceptable excuse. Some men, like some women, are irresponsible in relation to their jobs. Actually, some pay classification schemes weigh regular attendance into the job rate. Whether or not this practice is proper, at least simple justice would suggest that the rating system be applied equally to men and to women. The individual is the one who should be adversely affected because of failure on the job, not everyone.

The purpose for taking up these pseudoarguments is merely to demonstrate that they are a special kind of testimonial jabberwocky, meaningless in themselves, which serve to screen the basis in greed for the hostility of a particular witness to a piece of legislation whether it is right or wrong, is moral or immoral. If the bill will cost some employers money, they are against it, and no questions asked about whose money it is. But if these judgments prevail, every fair-minded employer, every employer who accepts his responsibility as an honorable member of a just community, is penalized along with the unequally paid women workers by the lack of a rule of fairplay that is evenly enforced.

The Nation has recognized the need for protecting the overwhelming majority of ethical employers against the chiseling fringe in the case of minimum wages. Now the day is overdue for the extension of this principle of economic justice by legislating the equal pay rule.

Testimony before both the Senate and House committees has underlined the need for a rule which is more than a legislative prayer. There must be an effective enforcement mechanism provided in the law, and there must be authority in the law for a responsible Government agency to seek out violations, just as is given to police to enable them to enforce the law properly. Anything else would pay a bonus to bootleg employers. The Equal Pay Act of 1963 contains such provisions, and the UAW strongly urges their retention in the bill we hope you will enact.

Those who are now objecting to the power being placed in the hands of the Secretary of Labor to make investigations are the same ones who were most vocal about the Secretary of Labor being given the right to investigate unions during the hearings on the Landrum-Griffin bill.

As you may know, the UAW constitutionally provides for a women's department, one of whose responsibilities it is to support the effort to secure equal pay and equal opportunities for all members of the union, and the community for that matter.

Some 20 years' work in this area has given a conceivable experience in this important social area. For example, Michigan, where there has been an equal pay law since the First World War, indicates that for a variety of reasons, State laws, while they serve an important purpose, are not sufficient to provide for equal pay justice on the job. Strong unions, like the UAW, which went to court to enforce the equal pay law, can help make the declaration of policy a spotty practice at best. This is obvious since it is well known that the majority of the women who would be affected by an equal pay law work without the protection of unions. Just as the people of the country insist on equal enforcement of the body of the law by a law enforcement agency, equal pay laws to be effective require universal enforcement.

Even in the UAW, it should be noted, there is an enforcement agency, the women's department, which seeks to keep both the local unions and the companies in line.

With an almost unanimous union goodwill in this matter, however, it has been necessary from time to time to seek recourse to the UAW appeals procedure to achieve equal treatment for women in specific cases. Yet with a union rule,

with an enforcement agency, with clauses providing for equal pay in most of our contracts, and with an appeals procedure, there are still areas where pay and justice are something less than equal.

There is reason to believe that the rights of UAW women on their jobs are among the best protected in the Nation. Nevertheless they, and the staff in the union who are concerned with the problem, recognize the need for a Federal law and Federal enforcement even in UAW plants.

The need, you can be sure, in other parts of the economy is far greater, far more urgent.

Lord Byron once said facetiously that there is a tide in the affairs of women which, taken at the flood, leads God knows where.

The equal pay law is not a part of such a tide. In the world today, the American people have been challenged to make substantial in their own lives the morality which has been proclaimed in every major U.S. document from the Declaration of Independence to the Declaration of Human Rights (which given Mrs. Roosevelt's authorship is essentially an American statement).

Equal pay, equal opportunities, equal rights, so that every American can accept an equal obligation to the community, if established will ultimately enable the American community to endure. The profits that a few ethically marginal employers make by paying substandard wages will not help the Nation prevail, nor will exploitation based on economic and social discrimination.

America, as many people have said, is a promise to its people of equal justice. The enactment of this law would be, in part, a redemption of the original and often repeated promise.

Miss HAENER. Before doing so, however, Senator, I would like to express my appreciation and that of the organization which I represent for your interest in this legislation by coming back here from Michigan to hold this hearing while the Senate is not in session at considerable inconvenience to yourself. We thank you for it.

Senator MCNAMARA. Thank you.

Miss HAENER. The UAW has testified twice within the last year in support of equal pay. We have presented evidence in support of five economic and moral justifications for the equal pay principle.

1. It is immoral.
2. Inefficient.
3. Unjust.
4. Contrary to the community interests.
5. Uneconomic.

Thirty-nine nations have adopted national legislation for equal pay. Among them are nine Iron Curtain countries. The United States is conspicuously absent from the list. We have read the testimony of those who oppose the bill. They argue that women live longer than men; therefore, pension programs cost more for women and justify a lower wage. The fact is, most employers who pay unequal wages do not provide pensions. However, more than 1 million members of the UAW do receive employer-paid pensions.

Of the employers with whom the UAW deals, not one has argued that women in the plant add to the cost of pensions. Actual experience within the UAW, according to union actuaries, has revealed that women, in general, pay excessive amounts into the pension fund in relation to the benefits they receive.

Again, employers who, in most cases, do not pay for the health care of their employees, assert that insurance costs are greater for women. In most standard collective bargaining agreements, medical and hospital insurance is provided for the worker and his family, so that the presence of the women of the family in the plant, rather than at home, neither adds to nor subtracts from this cost.

It is argued that maternity provisions and the sick pay plan add a fraction of a cent per hour to the labor cost. Factors suggest even if the cost of pregnancy to the employer were substantial, most employers infrequently experience this contingency.

The final big argument is the claim that women should not receive equal pay because they are tardy and absent more often. Every available study reveals that, in comparable situations, these differences in attendance are negligible. Historically, the same charges have been leveled against immigrant workers, Negro workers, and factory workers in general. Economic historians and industrial psychologists deny the employer imputations.

It should be noted that nothing in an equal pay law would prevent an employer from establishing work rules requiring employees to arrive at work on time and not to absent themselves without an acceptable excuse.

Some pay classifications weigh regular attendance into the job rate. Whether or not this practice is proper, at least simple justice would suggest that the rating system be applied equally to men and to women.

Testimony has underlined the need for a rule which is more than a legislative prayer. An effective enforcement mechanism must be provided in the law. There must be authority for a responsible Government agency to seek out violations. The Equal Pay Act of 1963 contains such provisions and the UAW strongly urges their retention in the bill. The UAW has a women's department. One of its functions is to support the effort to secure equal pay and equal opportunities for all members of the union and the community for that matter.

Michigan, where there has been an equal pay law since the First World War, indicates that, for a variety of reasons, State laws, while they serve an important purpose, are not sufficient. Unions like the UAW, which went to court to enforce this law, can help make it a spotty practice, at best.

It is well known that the majority of the women who would be affected by an equal pay law work without the protection of unions. Even in the UAW it should be noted there is an important enforcement agency, the women's department. Yet, it has been necessary to seek recourse to the UAW appeals procedure to achieve equal treatment for women in specific cases.

With a union, with an enforcement agency, with clauses providing for equal pay and with an appeals procedure, there are still areas where pay is less than equal. The rights of the UAW are among the best protected in the Nation. Nevertheless, they and the staff of the union who are concerned with this problem recognize the need for a Federal law and Federal endorsement, even in UAW plants. The need in the other parts of the economy is far greater.

America, as many people have said, is a promise to its people of equal justice. The enactment of this equal pay law would be in part a redemption of the original and often repeated promise.

Senator MCNAMARA. Thank you very much, Miss Haener, for being here this morning. We know that you came back after making your trip a week ago after considerable trouble and expense. We do appreciate your cooperation. We are very glad to have your statement in support of the proposed legislation and you can be sure that your testimony will be given every consideration.

Miss HAENER. Thank you, Senator McNamara.

Senator MCNAMARA. I don't think we have the name of your associate.

Miss HAENER. I have with me Dan Bedell from our Washington office. He is an international representative.

Senator MCNAMARA. Thank you.

Next we have Mrs. Joseph Normile, representing various organizations.

We are very happy to have you here, and happy to have you proceed in your own manner.

STATEMENT OF MRS. JOSEPH P. NORMILE, ASSISTANT PROFESSOR OF ECONOMICS, DUNBARTON COLLEGE

Mrs. NORMILE. Thank you, Mr. Chairman.

My name is Mrs. Joseph P. Normile. I am 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 S. 910, a bill 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 1960's 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. A vicious circle could thus develop if nothing was done to check it.

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 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." ("Economic Indications Relating to Equal Pay," published by the U.S. Department of Labor, 1962.)

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 women 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 enfoced competition with women working at lower pay. Likewise, there is a threat of displacement and unemployment in favor of the lower paid women 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 different 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 rate 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 unrestricteed elsewhere. In fact, manufacturing plants and other hiring establishments in the 22 States having such regulations 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 S. 910 should be enacted under the same commerce power and 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 S. 910 in this session.

Mr. Chairman, the organizations which I represent wish me to express their support of section 5, which permits the Secretary of Labor to issue rules and regulations to investigate any abuses occurring under this Act. We feel that unless the administrative official has adequate authority to inspect, and investigation for violations of the law for which he has responsibility, the effectiveness of the law is greatly hampered.

In the case of equal pay proposals, the workers who especially need protection of the law are those low-paid women workers who could not belong to unions. Their position is so weak when compared with that of the employer that only in unusual cases would they risk employer

recriminations in order to file some charge with the Secretary to authorize him to proceed to investigate. Thank you.

Senator McNAMARA. Thank you, Mrs. Normile. I find your testimony very interesting. I am sure it will be very helpful. I thank you for laying emphasis on the low-wage areas where there is no labor organization, and for the other comparisons that you made here. We are very happy to have your support.

Thank you again for being here.

Mrs. NORMILE. Thank you.

Senator McNAMARA. Mr. Jerry Markham, director of industrial relations, Thatcher Glass Co., New York.

We are very glad to have you here, Mr. Markham. I see you have a comparatively short statement and we would be glad to have you proceed in your own manner.

STATEMENT OF JERRY N. MARKHAM, DIRECTOR OF INDUSTRIAL RELATIONS, THATCHER GLASS MANUFACTURING CO., INC., NEW YORK, N.Y.

Mr. MARKHAM. Thank you, Mr. Chairman. I would like to say my name is Jerry Markham. I am director of industrial relations of the Thatcher Glass Manufacturing Co. of New York City. I would like to read my statement to you because I would like to make some remarks as I go along.

Senator McNAMARA. Go right ahead, sir.

Mr. MARKHAM. 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 S. 910.

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. However, we do not feel that Federal legisaltion 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, S. 910, 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 difference in pay based on the demonstrated additional cost of hiring females, as compared to the cost of an all male work force.

This proposal (S. 910) 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 ten 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 rates.

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 appear likely to achieve the stated purposes of the act, one of which is to encourage the maximum utilization of available labor resources.

I would like to deviate for a moment. On April 3, 1963, Dr. Miles, president of the National Federation of Business and Professional Women's Clubs, appeared before this subcommittee hearing and testified in favor of the S. 910.

Dr. Miles, in her testimony, quoted part of my testimony which was made before the House Subcommittee on H.R. 3861, in support of her recommendation that the proposed legislation, S. 910, be enacted.

I am afraid Dr. Miles inadvertently quoted part of my testimony out of context, because she raised several questions and made assumptions inconsistent with the problem I was trying to cite to this committee.

In my testimony on March 25 and here today I describe this problem that would confront my company at one of our plants if this law was passed in its present form without provision that would recognize collective bargaining agreements and conditions beyond the control of the employer.

I cited this problem to demonstrate how my company found itself in a situation that it was powerless to correct, a situation created initially by circumstances beyond the control of the company.

Dr. Miles quoted this situation and raised a question. Why was not the pay for the females the same rate as that for the male workers?

A clear examination of my testimony will show I explained the reasons for a pay difference. The State law forbids women from working the midnight shift or 11 p.m. to 7 a.m.

This restriction prohibited females from working the shift and therefore necessitated the company to hire male employees to work in nonrotating or fixed midnight shift in order to assure the coverage needed to operate the department.

The men were accordingly given a premium rate for working the fixed midnight shift. When the State law was relaxed to permit females to work the midnight shift, the company attempted to reduce the male rate.

Through negotiations with the union, to the female rate, that is, because the males were now able to rotate with the females and would no longer be required to work the fixed midnight shift.

The history of collective bargaining will show that unions jelously guard past programs on premium rates. This was so in this particular case.

However, an agreement was reached whereby the males would be replaced in these particular jobs by females through attrition.

The next question Dr. Miles asked in her testimony was, if the cost of hiring females is so much greater, then why did they revert to the employment of females at all?

The answer to this question is our collective bargaining agreement requires us to hire only females for the job in question. To hire males would be a violation of our contracts.

Men and women have contractual rights to certain jobs and protection related to them. Men not displacing women, and women not displacing men during times of curtailment involving layoffs. This arrangement has proven mutually advantageous to both sexes.

I would also like to adhere so as to erase completely any doubts that rates are set arbitrarily for women. My company has had a job evaluation program for over 13 years. The purpose of evaluations is to rate the job and not the individual.

Our program is a comparison type which is recognized by authorities as being objective and scientific in the evaluation of jobs.

This program was accepted by the union through collective bargaining. I am in agreement with Dr. Miles' conclusion, however, that wages are not paid on the basis of sentiment or need for either males or females.

Wages are paid in my company on negotiated rates, agreed upon with the union and maintained correctly through job evaluation.

However, I disagree with her statement that females were employed only for the purpose of securing a cheap labor force.

I hope my statement refutes this beyond any doubt. My testimony as shown here, my position on equal pay, and I quote:

> 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.

I believe Dr. Miles and this committee was to examine my testimony in its entirety, if they would do so, that it would not be possible to conclude that women employed in my company are not receiving fair and equitable treatment.

The next point, Mr. Chairman, I would like to cover is the cost of employment of females.

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:

(1) Absenteeism: Females were absent an average of 20½ days more than male employees per year. The average yearly cost for excessive female absences as compared to males was $0.074 per hour and $75,000 per year.

(2) Turnover: Female turnover was more than twice (2.25 to 1) that of the male resulting in an additional excessive cost per year of $0.02 per hour and $20,000 per year.

(3) Insurance: Based on figures submitted by our insurance carrier, the excessive cost per year of insurance covering female employees for maternity benefits is $11.48 per employee, equal to $0.005 per hour and $5,000 per year.

(4) Rest and relief: Females are given an average of 20 minutes more paid relief per day than males. This excessive annual cost is $0.10 per hour and $102,000 per year.

(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 $0.01 per hour and $10,000 per year.

Mr. Chairman, I have attached to this statement an appendix explaining it. If the record will take it up I won't bother to read it.

Senator McNamara. That will be inserted in the record at this point.

(The appendixes referred to follow:)

APPENDIX 1.—*Absenteeism, 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	$189.00	$42.45
Cost per hour, per employee	$0.095	$0.021

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.

APPENDIX 2.—*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

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 (2.25–1) that of the male, resulting in an additional excessive cost computed as above.

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 this 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.

Thank you, Mr. Chairman.

Senator MCNAMARA. Thank you very much. We are very happy to have you here today, Mr. Markham.

You point out that you are of the opinion that equal pay laws should be left to the various States. It has been pointed out by previous testimony that only 22 States have up to now adopted equal pay laws.

Do you agree generally that this is a consideration?

Mr. MARKHAM. Yes, Mr. Chairman. I have had experience in several States with these laws, and I find that the closer to the industry problems in the State, the more knowledgeable about them, and their laws are written in a manner which gives relief to such situations that I have cited here in my testimony.

I have not gone into a lot of other objections which have been well covered, as you know. I feel that the State experience has proven to be satisfactory, particularly in heavy industry such as I am familiar with. However, I feel that if this committee can recognize the economic realities of this situation in passing this law and make some proper definitions, we would have no objection to it being passed.

Senator MCNAMARA. You further point out, sir, that your company generally has collective bargaining arrangements with your employees that you think cover the problems of the differential paid in wages. Do you have nonunion competition that is not covered by such requirements?

Mr. MARKHAM. In the glass containing manufacturing industry, I don't believe there is any nonunion plant in the country.

Senator MCNAMARA. It is pretty generally organized?

Mr. MARKHAM. They are all organized. I might hasten to point out, as Mr. Owen who testified before me, who happens to be one of our major competitors, his ratio of female employees of about 40 percent is identical to ours. We are approximately 40 percent.

In a glass-manufacturing plant, the jobs that I was talking about in my problem are female jobs and have been since World War II, and very prevalently so. If we were to be caught with this law without some recognition of the problem, we would have to raise all of our female job rates up to the 10 men involved. There would be Owen-Illinois and other glass competitors, and not just them, who would enjoy this competitive advantage over us.

This would not be equity, because I have tried to cite a case. Here is a case of a differential based on sex as the result of conforming with the State law that prohibited women from working nights. There is no willful attempt to discriminate against females as far as pay is concerned, but this law does not recognize or make any exceptions for such situations. It says you are guilty regardless of how you got into the jam.

Senator MCNAMARA. You point out that about 40 percent of your employees are female.

Mr. MARKHAM. That is right, sir. That is just the hourly group, Mr. Chairman.

Senator MCNAMARA. Thank you very much. I am sure your testimony will be very helpful to us.

Mr. MARKHAM. Thank you.

Senator MCNAMARA. The next witness is Miss Sonia Pressman, attorney, for the American Civil Liberties Union.

I am advised by the staff that you have a prepared statement of some length. Do you wish to put it in the record?

Miss PRESSMAN. That is right. I want the entire statement to go into the record, and I will paraphrase it right now.

Senator MCNAMARA. It will be made a part of the record at this point.

(The prepared statement of Miss Pressman follows:)

PREPARED STATEMENT OF MISS SONIA PRESSMAN

Mr. Chairman and members of the committee, my name is Miss Sonia Pressman, and I am an attorney. I am accompanied by Mr. Lawrence Speiser, Director of the Washington office of the American Civil Liberties Union. We are here today on behalf of the American Civil Liberties Union in support of S. 910, 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 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 S. 910, introduced in the Senate by Senator McNamara, chairman of this subcommittee.

In essence, S. 910 provides that any employer of 25 or more employees who is engaged in commerce shall compensate all his employees equally for equal work on jobs requiring equal skills; it 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 Procedure 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 appear to the distict court for review. Special provisions are included for those contracting with the U.S. Government in amounts exceeding $10,000.

This, then, is S. 910—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, the municipalities and States, in enacting fair employment practices measures, all have reaffirmed the principle that discrimination for reasons of race, religion, creed, or national origins is abhorrent to our concept of democracy. S. 910 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. S. 910 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 procedures established in S. 910. 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 and by the Landrum-Griffin amendments. Similar authority is granted to Fair Employment Practices Commissions under some of the FEPC bills. In those statutes, as in S. 910, 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 so that the machinery of the act may be set in motion, not only upon the Secretary's intiative, but also upon the filing of an affidavit or a charge on behalf of the aggrieved party. It might be well for S. 910 to be amended so as to include this alternative method.

The restitution of wages provided for by S. 910 is familiar as a remedy for discrimination or unlawful wage patterns under the National Labor Relations Act and the Fair Labor Standards Act. The Fair Labor Standards Act, like S. 910, 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 FEPC statutes provide that what takes place during the conference on conciliation shall be strictly confidential. Perhaps such a clause could be inserted into S. 910 to give additional protection to employers.

One could go on and on enumerating precedents for the procedures contained in S. 910: The administrative proceeding conducted in conformance with the Administrative Procedure Act, the Secretary's right to appeal to the district courts 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 S. 910, might prove an effective measure in securing compliance with its terms.

What are the arguments advanced against passage of S. 910? They appear to fall into one or more of the following categories: Women can never perform work equivalent to that of men because they are intellectually, emotionally, and physically inferior to men; even if women can perform work equal to that of men, they shouldn't receive equal pay because it costs more to employ them; and even if women can perform work equal to that of men and don't cost significantly more to employ, no Federal equal pay legislation should be passed because the development of equitable standards is being handled adequately through voluntary compliance, collective bargaining and State statutes. Let us examine these arguments.

Those who contend that women cannot perform work equivalent to that of men because of intellectual and emotional inferiority never cite statistical data. The reason for this is simple: there are none. What data there are in this area—such as those reported by Prof. Ashley Montagu in his book "The Natural Superiority of Women"—suggest that women are intellectually, emotionally, and even physically superior to men. However, we don't request, in the light of this, that legislation be passed requiring a higher wage scale for women—all we ask for is equality of treatment.

Of course, no one would claim 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. S. 910, however, only requires equal pay for equal work and jobs requiring excessive physical strength are not equal to those that do not. Where the jobs are different, the wage scales should be different. In this century of automation in factories and white-collar work in offices, sheer force is less and less a factor in employment. Rather, it is ability and the willingness to work which count. We think women have demonstrated their equality in these areas. Thus, while we join the French in saying "Vive la difference," we must remember that "difference" isn't the significant factor in the performance of most jobs.

Those who claim that it costs more to employ women than men argue that women lose more working time through sickness or other absences, are more prone to leave employment, and are responsible for higher insurance and pension

costs. Opponents of equal pay legislation even dredge up such items as the cost of restroom facilities.[1]

With regard to absences from work and tenure of employment, the figures supplied by critics of equal pay for women are generally the result of research by the company offering them and are usually limited to the operations of that one company. Nationwide figures and studies based on nationwide representative samples conducted by impartial organizations are, however, available. While these figures vary, they generally indicate that such differences as exist in these areas between men and women are not significant.[2] In some cases, such as the number of days lost for chronic illnesses, men actually lose more work hours than women.[3] Furthermore, studies indicate that factors other than sex play an important part in determining the amount of time lost from work.[4] Obviously, this is an area where more research and indepth studies could prove useful. Suffice it to say that the information we have now does not justify the discriminatory wage scales we have now.

The field of insurance is a complicated one and many factors other than sex play a part in determining premium rates: the size of the establishment, the type of insurance—whether hospitalization, life, the characteristics of the particular fund, etc. Generally, insurers, in their initial determination of premium rates, take all pertinent factors into consideration, and arrive at a single premium rate for all employees. Although plans and rates vary considerably, it would appear that female employees may carry an additional loading factor with regard to hospitalization and pension plans, while their rate for life insurance is lower than that for men because they contribute more in premiums during their longer life span. Proponents of discriminatory wage scales derive an interesting maxim based on women's greater longevity. Since women live longer and must provide for themselves during a longer period of time, they should receive lower pay. A more reasonable approach would appear to be the acknowledgment that any insurance costs attributable to women, like any costs attributable to male employees, must be absorbed as part of the costs of production.

The same may be said about laws requiring restroom facilities for women. The statutory requirements in this area are so minimal it is difficult to believe that employers would not provide similar facilities in their absence.[5] It is in fact incredible to hear employers argue that women should be paid less because they have to use restroom facilities.[6]

The argument that women are more costly to employ is frequently capped with dire prophecies that passage of an equal pay bill will result in wholesale bankruptcies across the face of the land and mass discharges of women employees. Similar predictions were made prior to passage of the Fair Labor Standards Act. However, studies conducted since the passage of that act have shown that these claims were grossly exaggerated. There were in fact few discharges and business failures attributable to minimum wage standard requirements.

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[1] See, for example, the statement of the vice president of the Owens-Illinois Glass Co., before the House Subcommittee on Labor.

[2] See, for example, the most recent Public Health Service study on the basis of a national sample representing the total population of the United States, which indicates that the time lost during fiscal 1960 for illness and injury was 5.6 days for women and 5.5 for men; and a 5-year study of factory workers done by the Women's Bureau of the Department of Labor for the years 1950–55, indicating that the turnover rate was 24 per thousand women to 18 per thousand men.

[3] "Economic Costs of Absenteeism Among Women," March–April 1963 issue of Progress-Health Services, Health Information Foundation, Graduate School of Business, the University of Chicago. This study indicates that during fiscal 1960 there were 137 million working days, or 3.1 days per person, lost by male employees due to chronic illness as contrasted with 58.6 million working days, or 2.6 per person, for women.

[4] For example, the "Civil Service Commission Study of Sick Leave Records for Federal Employees for 1961, indicates that as salary and position rise, the amount of time taken on sick leave diminishes. Since women today are often relegated to low-skilled jobs, it is not surprising that their sick leave time is somewhat higher than that of men.

[5] In the District of Columbia, for example, the requirements are limited to female employees of dry-cleaning and laundry establishments and prescribe minimal standards of space and facilities.

[6] Another argument made by supporters of discriminatory wage scales is contained in the statement made by the representative of the U.S. Chamber of Commerce before the House Subcommittee on Labor. This argument goes as follows: male secretaries are entitled to receive higher pay than female secretaries for equal or inferior work because employers want to retain them as permanent employees so they may be considered for advancement as supervisors. Thus, discrimination in the present is justified as a stepping stone to discrimination in the future.

Lastly, we come to the contention that even though women deserve equal pay for equal work, such matters are being handled adequately by the employers themselves, through collective bargaining, and through State action. Here again the facts belie the contention. Statistics with regard to discriminatory wage patterns in various industries and establishments indicate that employers are not uniformly following equitable pay scales voluntarily and collective bargaining is not meeting the situation because most union contracts do not contain equal pay provisions. Whether this is due to the fact that unions represent more men than women or that employers resist such clauses or a combination of these two, is unknown. Only 22 out of the 50 States have passed equal pay legislation. Many of these bills are ineffectual because of exemptions and lack of enforcement. The prospects for the passage of any such legislation by the remaining 28 States are dim.[7]

These then are the arguments in opposition to S. 910—a bill which seeks to apply to discrimination based on sex some of the same methods which have been found effective in combating discrimination based on race, religion, creed, national origin, and union membership. The marvel is not that a bill like S. 910 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 S. 910 is only a first step in equalizing employment opportunities for women in this country. It will of course assist the approximately 23 million employed 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. It offers no 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. In this era of the cold war, we cannot afford this waste 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 S. 910 as a move in the right direction of equalizing women's rights.

As with any socially desirable legislation, there are those who will say 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 plays 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 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 does so 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."

Senator MCNAMARA. Will you identify the gentleman who accompanies you for the record?

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[7] Those who sincerely believe in State action will have an excellent opportunity to advance their cause after passage of S. 910. Since this bill only covers employers engaged in interstate and foreign commerce and establishments with 25 or more employees, the States would do well to prescribe standards for excluded employers and establishments.

STATEMENT OF MISS SONIA PRESSMAN, ATTORNEY, AMERICAN CIVIL LIBERTIES UNION, ACCOMPANIED BY LAWRENCE SPEISER, DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

Miss PRESSMAN. Yes. My name is Sonia Pressman. I am an attorney and I am accompanied by Mr. Lawrence Speiser, director of the Washington office of the American Civil Liberties Union.

Senator MCNAMARA. We are happy to have you here.

Mr. SPEISER. Thank you.

Miss PRESSMAN. We are here in support of S. 910, the administration's equal pay bill.

The prohibition against discrimination for unjustifiable reasons has long been a part of this Nation's heritage. The 14th amendment to the Constitution, the civil rights measures passed by Congress, the fair employment practices bills enacted by the States and municipalities all have reaffirmed the principle that discrimination for race, religion, creed, or national origin is abhorrent to our concept of democracy. S. 910 is an attempt to give to women who constitute the majority of our population some of the rights already enjoyed by our various minority groups.

In passing the Wagner Act, Congress demonstrated that it was opposed to discrimination against the individual who voluntarily chose to affiliate himself with a labor organization. Shouldn't it likewise protect the individual who without any volitional action on her part finds herself in an assoictaion—an association based on sex?

The Federal civil service law already provides equal pay for women in the Federal Government. S. 910 is no more than an extension of this right to women in industry and commerce.

There is nothing novel about the procedures set forth in this bill. Many of them can be traced to antecedents in other bills, such as the Fair Labor Standards Act, the Walsh-Healey public contracts law, and the National Labor Relations Act. S. 910 applies some of the methods found effective in those bills to an area where discrimination is equally invidious, discrimination based on sex. The marvel is not that a bill like S. 910 is up for passage by this Congress, but that its merits must still be debated long after so many similar measures have become an accepted part of the American system.

Let us debate them, then. What are the arguments raised in opposition to S. 910? Opponents of the bill contend that women cannot perform work equal to that of men because they are intellectually, emotionally and physically inferior to men; that, even if they could perform equally, they should not receive equal pay because it costs more to employ them; and, at any rate, no Federal legislation should be passed because equitable standards are being developed through voluntary compliance, collective bargaining, and State statutes. Let us examine these claims.

With regard to women's innate capacities, the available data—such as that reported by Prof. Ashley Montagu in his book, "The Natural Superiority of Women"—suggests that women are intellectually, emotionally, and even physically superior to men. While we don't request, in the light of this, that legislation be passed requiring a higher wage scale for women, we do ask for equality of treatment.

Of course, women cannot perform all jobs as well as men—any more than men can perform all jobs as well as women. But S. 910 only requires equal pay for equal work. Jobs that require excessive physical strength are not equal to those that do not. Moreover, in this age of automation and white-collar work, sheer force is less and less a factor in employment. Rather, it is ability, and the willingness to work which count. We think women have demonstrated their equality in these areas.

What about the argument that it costs more to employ women? With regard to absence from work and tenure of employment, nationwide studies show that such differences as exist between men and women are not significant. In some cases men actually lose more work hours than women. Furthermore, statistics indicate that factors other than sex have a vital role in determining absenteeism and labor turnover—factors such as the skill level of the job, and the employee's age, length of service, and record of job stability. While this is an area where more research and in-depth studies could prove useful, the information we have now doesn't justify the discrimination we have now.

As for insurance and pension rates, here again many factors other than sex play a part. Insurers generally consider all of these elements and then arrive at a single rate for all employees. While female employees may carry an additional loading factor for hospitalization and pension plans, their rate is generally lower for life insurance because they contribute more in premiums during their longer life span. Opponents of equal pay say that since women live longer and must provide for themselves during a longer period of time, they should receive less pay. Wouldn't it be more reasonable to acknowledge that insurance costs attributable to women employees, like other costs attributable to male employees, should be absorbed as part of the costs of production?

The same may be said about restroom facilities for women. The statutory requirements in this area are so minimal it is surprising to hear them raised as a reason for opposing equal pay. Do opponents of this bill actually contend that women should be paid less because they have to use restroom facilities?

Critics of the bill prophesy that its passage will result in wholesale bankruptcies across the face of the land and mass discharges. Similar predictions were made prior to the passage of the Fair Labor Standards Act. However, these claims were later shown to be grossly exaggerated. There were few discharges and business failures directly attributable to minimum wage standards.

Lastly, we hear the contention that equal pay is being achieved by the employers themselves, through collective bargaining, and through State action. Here again the facts belie the contention. Statistics indicate that employers are not uniformly following equitable wage scales; collective bargaining is not meeting the situation because most union contracts do not contain equal pay provisions. Whether this is due to the fact that unions represent more men than women or that employers resist such clauses is unknown. Only 22 out of the 50 States have passed equal pay bills; many of these are ineffectual because of exemptions and lack of enforcement. The prospects for the passage of legislation by the remaining 28 are dim.

These then are the arguments in opposition to S. 910—a bill that represents no more than a first step in equalizing employment opportunities for women in this country. While it will assist the approximately 23 million employed women to secure equitable compensation on the jobs they now have, it will not assist them in being considered on an equal basis when opportunities for transfers and promotions arise. It offers no relief to the millions of unemployed women of working age, many of whom remain unemployed because of discriminatory employment practices. But S. 910 is a move in the right direction and on that ground it is entitled to our support.

As with any socially desirable legislation, there are those who will say 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. While education and understanding are vital factors in the battle against discrimination, there is something else available. As Senator Muskie stated, and I quote:

> There is also the rule of law not as a primitive force, not as a harsh master, but as a stimulus, as a prod, as a standard of conduct.
>
> We cannot legislate trust and understanding. We cannot legislate confidence. We cannot strike down fear by legislative decree. We cannot, by a stroke of the legislative pen, create love and kindness in a human heart.
>
> But we can, by wise legislation, create a climate in which men, separated by divisive differences, can learn to live together.
>
> It is possible to establish rules to prevent abuses, to restrain the impulsive, to contain and eliminate excesses, to encourage responsible attitudes, to give support to moderation.
>
> When men are equal before the law and are required to treat each other as such, they are more inclined to believe in such equality.

In the 18th century, when men were fearful of granting equality to women, Samuel Johnson said, "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."

Senator McNamara. Thank you very much, Miss Pressman. I think the questions you raise are very interesting, although many of them are answered by your presentation. We will give serious consideration to them. We thank you for your very fine presentation and appreciate your appearance here today.

Miss Pressman. Thank you.

Senator McNamara. The National Council of Churches, Mr. James A. Hamilton, associate director of the Washington office.

We are glad to have you here today and I want you to proceed in your own manner.

STATEMENT OF JAMES A. HAMILTON, ASSOCIATE DIRECTOR, WASHINGTON OFFICE, NATIONAL COUNCIL OF CHURCHES

Mr. Hamilton. Thank you very much, Mr. Chairman.

Let me say we appreciate the opportunity to testify this morning. I have a very brief statement and with your permission I would like to read it.

Senator McNamara. Go right ahead, sir.

Mr. HAMILTON. My name is James A. Hamilton. I am associate director of the Washington office of the National Council of Churches.

As I have said, Mr. Chairman, we do appreciate and want to express our appreciation at the outset for the opportunity to speak at this hearing on behalf of the National Council of Churches. The membership of the National Council of Churches is composed of 30 Protestant and Orthodox communions. These church bodies have a total membership of some 40 million persons.

Presenting this testimony here, or at other legislative hearings, the National Council of Churches does not presume, Mr. Chairman, 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. 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 concerns the 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. On employment and personnel procedures, the council has also sought to make its practice accord with its declared position of 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., February 28, 1963.

Since this is a brief statement, Mr. Chairman, 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 unjustifiable 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, 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 authorize its representatives of the National Council of Churches to testify at hearings in support of the embodiment of this principle

in legilsation both National and State; and that the general board call 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 this 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 church and economic life and with the expressed authorization of the general board of the council and its appropriate staff executive.

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.

Thank you very much, Mr. Chairman.

Senator MCNAMARA. Thank you very much, Mr. Hamilton, for your very fine statement. We appreciate the general statement and the support of such an important organization as yours, not only on this matter but on many other matters that you have expressed yourself or when legislation is being considered before the Congress of the United States.

Thank you very much.

Mr. HAMILTON. Thank you very much, Mr. Chairman.

Senator MCNAMARA. The Office Employees International Union, AFL–CIO, Mr. J. Howard Hicks, secretary-treasurer.

STATEMENT OF J. HOWARD HICKS, SECRETARY-TREASURER OF THE OFFICE EMPLOYEES INTERNATIONAL UNION, AFL–CIO

Mr. HICKS. Thank you, Mr. Chairman.

Senator MCNAMARA. Mr. Hicks, I see you have a prepared statement. We will be very happy to have you proceed in your own manner.

Mr. HICKS. Thank you, sir. I do want to say at the outset that the Office Employees International Union concurs wholeheartedly in the statement made earlier this morning by Secretary-Treasurer Schnitzler of the AFL–CIO. Also I want to give my general concurrence to the statements of the other witnesses who have testified in support of this most worthwhile legislation.

The Office Employees International Union, AFL–CIO, is gratified that the Senate 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 deductions 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 a 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 long-standing 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 2½ 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 office workers 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 performance 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 office workers.

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 of the ability of the individual worker and not on the sex of the worker.

Senator McNamara. Thank you very much, Mr. Hicks, for your very fine statement. We haven't had very much testimony dealing with office employees and what you refer to generally as the white-

collar workers. Therefore, we find your testimony very interesting and it will be very helpful to our committee.

Mr. HICKS. Thank you, sir.

Senator MCNAMARA. This concludes our hearings at this time on the proposed legislation. We appreciate the cooperation we have received from everybody concerned. At this point I would like to insert in the record various statements and other data which we have received.

PREPARED STATEMENT OF JOHN G. WAYMAN, PITTSBURGH, PA.

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, and 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 (UE); 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 Employees; 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, univerities, 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.

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.

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[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.

I earnestly submit that neither the Green bill nor the Martin bill will accomplish what all agree is the desired result—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, any 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, benefitting 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.

APPENDIX A

[¶ 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 of his authorized representative shall have the power to enter the establishment of any employer to inspect and copy payrolls 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 payment 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 empolyees 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 imprsonment 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 insofar 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 1939.

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.

PREPARED 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 in 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, lunchroooms, 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 may 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 subpena 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 subpena 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 year 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.

PREPARED STATEMENT OF AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, WASHINGTON, D.C., ON BEHALF OF MISS YSABEL FORKER, CHAIRMAN, STATUS OF WOMEN COMMITTEE, AND MRS. WALTER M. BAIN, CHAIRMAN, LEGISLATIVE PROGRAM COMMITTEE

The AAUW has a membership of over 150,000 university women graduates, organized in over 1,500 branches throughout the 50 States, 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 legislative 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, needs 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. Harrassed 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 this 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 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 women 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 (college tuition to State residents at major public universities has increased an average of 71 percent in the period from 1952 to 1960). Since 1940, older women have become an increasingly prominent group in our labor force. Almost 4 our 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 bracket 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 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 approximattley half as much as to men. Pay differentials are an added handicap to these young women in contributing to the cost of their education. In fact, it is now, and will become increasingly difficult for girls in the middle and lower income groups to aspire to college.

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.

Whether working to support themselves or their families, men and women face the same expenses. In the case of education a woman may face higher costs, but can anticipate lower earnings. If the work they perform is comparable, their pay should then be comparable.

PREPARED STATEMENT OF 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 suport 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 ofter 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 6 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.

PREPARED STATEMENT OF THE AMERICAN PAPER AND PULP ASSOCIATION, NEW YORK, N.Y.

This statement is submitted by the American Paper & Pulp Association to the Subcommittee on Labor of the Senate Labor and Public Welfare Committee concerning S. 910, 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 pulp mills, 813 paper mills, 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 $3½ billion. Our taxes approximated $600 million.

The alleged purpose of S. 910 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 S. 910, 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 S. 910 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 multiplant 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 S. 910 and related bills not be reported out of committee.

STATEMENT OF RUTH THOMSON, CONSULTANT FOR ADULT AND YOUNG ADULT PROGRAM, NATIONAL BOARD, YWCA, ON H.R. 8898 AND H.R. 10226, "EQUAL PAY ACT OF 1962"

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 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 at 1945, we in the YWCA were supporting legislation that set forth the principle 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 cents 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 women 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? 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.

SUPPLEMENTAL STATEMENT OF RUTH THOMSON, CONSULTANT FOR ADULT AND YOUNG ADULT PROGRAM, YWCA

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, of 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 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?

PREPARED STATEMENT OF ROBERT H. NORTH, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF ICE CREAM MANUFACTURERS

STATEMENT OF INTEREST

My name is Robert H. North and I am executive vice president of the International Association of Ice Cream Manufacturers, Washington, D.C. More than 1,400 members of the association manufacture approximately 85 percent of all the ice cream and related frozen dairy products shipped in interstate commerce throughout the United States.

REASONS FOR OPPOSITION

The history of equal pay legislation dating back to 1919 points to the fact that this is a problem that can be successfully undertaken by the States. There are now 22 States with statutes providing for equal pay for equal work. It would seem that if conditions in other States suggest the need for legislation,

such other States will enact approprate statutes. Therefore we do not beleve any Federal legslation is necessary.

The second and very important reason for opposing Federal law in this area is the fact that the collective bargaining process offers an alternative way to deal with the problem without more law. We believe that these bills if enacted would seriously affect the ability to bargain with organized labor with respect to this subject.

We do not believe the facts indicate a need for Federal intervention and we submit this is a particularly unfortunate time to begin this activity. There have been general statements by the administration and many in the Congress that we should stabilize the cost of government. Now the bills would require the Department of Labor to add, according to estimates we have seen, about 250,000 employees to police and enforce this law. One witness, according to my information, testified on the House side with respect to H.R. 3861 that this would cost over a million dollars a year.

Thought should be given also to minimizing rather than increasing record-keeping. The pending legislation would add to the load. The paper workload for industry already is at a point that gives great concern not only to industry leaders, but to many of the Members of the Congress.

Instead of promoting the right kind of morale among employees and between employees and employers, we believe these bills would interfere and create disharmony and discord.

The bills grant authority and power to the Secretary of Labor that we think is not justified and the bills as drawn are sadly wanting in necessary safeguards that we look for in good legislation. This is particularly important when legislation deprives citizens of property rights they heretofore have enjoyed.

SPECIFIC SECTIONS OF THE BILLS WHICH GIVE US PROBLEMS

The proposed coverage in our estimation is a troublesome one because of the conflict between the bills and coverage provided for in the Fair Labor Standards Act as amended in 1961. There are some serious questions to be resolved in this area as to which employees actually are covered.

Section 4(a) of H.R. 3861 does not define what the Congress really means in using the words "equal work" requiring "equal skills." As the matter now stands it is left entirely to the interpretation of the Labor Department. Legislation of this type should certainly set down some guidelines as to the meaning of terms as important as these.

The judgment as to the value of a particular employee to the success of a business enterprise should not be taken from the hands of the employer except for the most compelling reasons, if ever. It often happens that several employees are doing the same work and possess equal skill for doing it. Among such employees there may be young women who will leave the employ of the company upon marriage or for some other domestic reason; whereas in the group there may be men who possess potentialities for advancement in the company. It often will take a pay incentive to hold such potentially valuable men.

Section 5(a)(1) gives the Secretary of Labor authority to "prescribe such regulations and rules as he deems necessary * * * including regulations to protect against violation of the wage standards of any other applicable law * * *." These provisions seem to go far beyond any delegation of authority that is reasonable. If this legislation is intended to have some relation to other acts of Congress these other laws should be designated with specificity. To do otherwise would establish a most dangerous precedent.

Section 5(a)(2) makes us equally apprehensive. This provides that the Secreary of Labor "may investigate and gather data regarding wages, hours, and other conditions and practices of employment * * *." A great amount of paperwork would be required to furnish detailed information for each and every employee not only with respect to their job classifications, wage rates, and hours worked, but this would also relate to all other benefits of the employees and would include seniority and merit rating systems and could certainly be construed to affect every element surrounding the operation of the plant.

Section 5(a)(3) makes provision for the Secretary of Labor to persuade an employer to change wage practices. At what point does persuasion become coercion?

Under the terms of the bills the Secretary may also secure the restitution of wages and reinstatement of female employees. It is a familiar dodge of some

employees about to be discharged for cause to wrap themselves in the immunity conferred by a provision such as section 4(b).

It is of great concern to industry to find that in the balance of section 5 the Secretary may, after he has found a violation and if the employer is not persuaded to correct the violation and make a restitution of wages, then hold a hearing, prosecute the case, and determine whether a violation is found to exist. As a matter of fact, as we read the bill, he has already found that it exists.

Section 7(b) of H.R. 3861 would allow the blacklisting of employers who have been found in violation of the law so that they would not be eligible for contract awards. We think this is extremely dangerous. The Comptroller General of the United States is authorized to distribute to all agencies a list of persons ineligible for contract awards under this section. The Secretary of Labor may have the names of persons whom he determines to have made a satisfactory showing of present and future compliance with the law removed from this list.

Based on these and other reasons we urge that the committee not report S. 910 or H.R. 3861.

PREPARED STATEMENT OF 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 Senator McNamara for his 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 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 environment 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 S. 910 and urge the Congress to act favorably on this type of legislation without further delay.

PREPARED 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 National Association of Manufacturers has advocated the principle of equal pay for equal performance for more than 20 years, has conducted, with considerable success, a continuing program to achieve this end, and embraces this principle as a part of its official policy.

Yet, we cannot support this bill, and must oppose it.

The merit of legislation cannot be judged by its intentions, but must be judged by its effects. We believe that those who have framed and who support this bill have the best of intentions. We also believe that the passage of this measure might endanger the jobs of many women, reduce future employment opportunities for women, contribute to the total of unemployment, increase prices to consumers, and perhaps cause some business failures.

The use of the word "might" is deliberate. Certainly the bill would do some of these things. Certainly it would do harm. But which of these effects would follow would depend on facts not now known to us or to the Congress. The effects of this bill would not fall uniformly upon all employers or all employees, on all industries and occupations, or upon all parts of the Nation. Many thousands of individual employers would make their individual decisions as to how they would comply with the law, and their decisions are unforeseeable.

The purpose of this statement is to examine some of the possible consequences of the legislation. Since our statement was furnished to the Special Subcommittee on Labor of the House Committee on Education and Labor, we have had the opportunity to examine the many arguments for and against the bill offered to that body by others. Certain facts remain in doubt, while certain others are unquestioned.

Either the impact of this bill upon the Nation and the economy will be great, or it will be slight. If slight, the bill has little merit. If it is great, the nature of those consequences must be considered carefully.

Labor Department statistics show that millions of women are in the work force and that, per capita, they earn less than men. These statistics do not show why this is so, but a large part of the difference is attributed to such factors as shorter average tenure, distribution in occupations, degree of skills and responsibility, and other conditions which would not be touched by the provisions of this legislation.

Few statistics are available which reflect how many women in jobs requiring equal skills and equal performance are paid less than men in the same establishments, nor how much less they are paid. In evidence on this important question, we have only a handful of examples. And as these are the only employees dealt with in this legislation, all other statistics offered are largely irrelevant.

Not knowing how many women are involved, nor what the wage differential is, none of the parties concerned with this legislation can make any accurate estimate of its ultimate effects. Therefore, all who testify are forced to discuss this matter in terms of what the facts might be rather than what they are, and our discussion necessarily follows that course

1. If a substantial part of the work force consists of women who are receiving substantially less than men doing identical jobs, bringing about equality by raising pay will either reduce employment or raise the prices of the goods or services they render.

The employer does not finally determine the level of employment and pay, and neither does the Government. These matters are determined by the consumer. The employer must operate at a profit, or he will not be able to provide employment at all. We have seen many of these examples in the past. Sale of home laundry equipment rises as laundry bills rise. "Do-it-yourself" becomes a way of life in the affluent suburbs as building and repair services become costly. Imports invade many fields as the prices of domestic products rise, or even when productivity improvements are translated into increases in the wage level instead of lower prices to meet import price levels.

This is not a justification for low wages, but we must not be blinded to the fact that the issue is not merely between lower or higher wages for women, but whether some unkown number of women will have any jobs at all if this bill becomes law. The employer cannot determine this.

2. Some employers and some employees will not be affected at all, others will be affected slightly, and still others will be greatly affected. Of these three

groups, the last obviously is the one in which the bill would have greatest impact and consequences.

A particular enterprise, which has many women employees and a few men who are paid at a higher rate for whatever reason, will find its labor costs skyrocketing.

A particular industry which relies heavily upon women for its work force will be similarly affected.

A particular section of the country in which such enterprises and industries are concentrated will experience a jump in labor costs.

The results may be expected to follow the usual pattern. An enterprise so affected must increase prices or install labor saving machinery, or cut back its labor force in some other manner, such as by using self-service in the case of retail establishments.

Where such enterprises and industries are concentrated in a particular section or community, the unemployment rate may be expected to climb sharply if prices cannot be increased with undiminished volume of sales.

3. There has been much testimony to show that employers often have higher costs for women employees than for men. The enactment of this bill, in cases where these costs are reflected in lower wage rates, will have the affect of shrinking future job opportunities for women even though its provisions may protect those now employed.

4. Although no statistics are available on the number of women affected or the extent of the pay adjustments that would be made, the proponents of this bill assure us that such statistics would be substantial. If this is so, and if the bill did not reduce employment in the ways here suggested, the effect of the bill would necessarily be translated into inflationary pressure at a time when the administration and economic experts alike are insistent on the need for restraint in increasing labor costs.

This bill, therefore, would work against the national policy, and against the intent of the Full Employment Act.

Furthermore, if the disparities are as great and as widespread as the bill's proponents claim them to be, our competitive position in world and domestic markets would be weakened, thus aggravating our balance of payments and gold outflow problems. The National Asociation of Manufacturers does not accept the view that the discrepancies are so great or so widespread; but the proponents of the bill cannot have it both ways. They cannot say that the effects of the bill would be great in raising pay for many women and that they would be small in raising costs. Precisely the same number of dollars would be involved in paying as in receiving.

5. Our view is that unjustified differences in wage payments to men and women are relatively limited in our economy, in the absence of evidence to the contrary. But while the direct cost to employers might therefore be small, the indirect costs, the inconvenience of recordkeeping, and the subjection of employers to still one more intimate scrutiny by an agency of Government is no trivial matter.

The provisions of this bill place the burden of proof upon the employer, and he can provide his proof only by keeping detailed records of every job and every employee—records which are needed for no other purpose. It is obvious that every employer who has both men and women at work must keep these records on both, because the determination is to be made by comparison. This would mean that new records must spring into being for tens of millions of employees in the work force. Most of them, presumably, would never be used. This represents not only a significant cost to the employer, but a waste of manpower and materials hard to calculate.

6. Even with complete records and utmost good faith, an employer would still operate at his peril. The application of the bill hinges on the term "equal skills." Spokesmen for labor unions have interpreted "equal" to mean "comparable." The dictionary also uses this term in its definition of "equal." Therefore, we will assume that the Secretary of Labor, who is to administer the law and who is chosen traditionally with the advice and consent of the labor movement, will hardly interpret "equal" as "identical."

Thus, the term "equal skills" may well open the question in every covered establishment as to the degree of skill required in positions that are not related. We shall have to compare the skill of a machine operator with that of a packer, and the skill of a saleswoman with that of a stock clerk. There is nothing in the language of the bill to bar it.

The result can only be differences of opinion.

As only time and due process of the law would then be able to determine labor costs for any employer, any employer involved in a dispute over "equal skills" might well have to price and market his product for months or even years without knowing what it was costing him to produce.

7. The meaning of "place of employment" in the language of the bill is unclear, but the question has been raised as to whether an employer with many plants would have to pay women workers in lower wage areas the highest rate paid to a man in the highest wage area in which he had a plant.

If the bill is so interpreted, the mischief could be immense. Other Federal legislation recognizes such area differentials, which are in some cases substantial.

If all plants of a single employer are lumped together, the effect would be to amend local collective bargaining agreements at higher wage levels even in plants in which men and women were paid at the same rates. The women would have to be raised to the rates paid in the highest paid plant, and presumably the employer would be forced to raise the men's rates to match.

If some plants are unionized and some not, the union in the highest paid plant would in effect become bargaining agent for plants it did not represent.

Depressed areas, which appeal for new plants partly on the basis of favorable local labor costs, would lose this advantage and the employment that might be offered by a new plant of a multiplant employer.

8. The bill leaves matters of fact, as determined unilaterally by the Secretary, unchallengeable in the courts for all practical purposes. In the light of the manner in which the Secretary is chosen, this provision suggests that organized labor will be given a potent new weapon against any management with which it has disagreement upon any matter, related or unrelated, to the matters covered in this legislation.

9. This bill would undoubtedly increase the difficulty of reaching agreements in collective bargaining in the years immediately ahead. Labor unions may be expected to take the position that such a wage adjustment is required by law, and refuse to consider it a part of any "package" of improvements offered by the employer. They would insist, if experience tells us anything, upon other improvements at the customary levels. As all improvements must be financed either by increases in productivity or by price increases, the employer who knows the economic limits of his business, would be forced to refuse.

When differences between men's and women's wages are abolished by negotiations, on the other hand, they are considered a part of the "package" by both sides.

Unions which complain that they have difficulty in persuading employers to accept the equal pay principle may be suspected of having accepted other "benefits" for their members in lieu of pressing this point.

The enthusiasm of the unions for this bill, we must suspect, is in part due to the fact that it would relieve them of the necessity of bargaining in behalf of women working in companies where employers can offer only so much and would need concessions on other benefits in order to continue operations.

CONCLUSIONS

While we support the principle of equal pay for equal work, the NAM must contend that Federal legislation is too costly a way to achieve it. We have sketched some of the possible undesirable side effects of this bill. We have had experience with the unforeseen side effects of other economic legislation. It is common knowledge that wage minimums, insurance requirements, and other well-meant provisions have increased the cost of employing individuals to the point that many young people and unskilled persons are priced out of employment. It is evident that the correlatives to employment in terms of fringe benefits, unemployment compensation, etc., have increased overtime work at the expense of additional jobs. We fear that this proposed legislation falls into the same category, and that it will injure many of those it is designed to protect in addition to injuring the Nation as a whole.

Enforcement of this legislation would be particularly difficult, and particularly burdensome, because the key provision hinges on a matter of opinion. The Congress cannot define "equal skills" among millions of kinds of jobs and so mend the bill.

But assuming that the bill would work substantially as its friends hope it will, although we believe that is a wholly unwarranted assumption, its success would be in inverse ratio to the real extent of the problem. The greater these unknown differences in pay turn out to be, the greater would be the cost of the bill, whether in higher prices or lost employment. It is the public which must pay the prices, if they are paid, not the employers. It is the supposed beneficiaries of this bill who would lose the employment, if that is the result.

We do not take a pessimistic view of the prospects for equal pay for women. The common and growing method of determining wages and salaries today in industry is job evaluation—and it is the nature of the job rather than the nature of the jobholder which increasingly sets the scale.

In our 20 years of effort in behalf of the equal pay principle, we have found that most employers we have approached voluntarily abolish such discrimination where it existed at all.

Eleven years ago, Labor Secretary Tobin said, "I am encouraged to believe that the equal pay program is not far from achieving its objectives."

Today, we are even nearer to full achievement. We do not believe that it is desirable to legislate women—be they many or few—out of their jobs in a time of unemployment, or to legislate price increases in a time when price stability is urgently required in the national interest, to go the short way remaining.

PREPARED STATEMENT OF THE AMERICAN RETAIL FEDERATION

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 (S. 910) 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.

The federation has three major areas of concern in connection with the bill. These are:

1. The need for this legislation has not been clearly demonstrated.
2. The enforcement powers of the Secretary of Labor should be carefully defined and delimited. The present language of the bill is far too broad and, in many instances, is not clear.
3. Nondiscriminatory wage differentials should be adequately defined.

1. The need for this legislation has not been clearly demonstrated: There has 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.

2. The enforcement powers of the Secretary should be carefully defined and delimited; the present language of the bill is far too broad and, in many instances, is not clear: The central core of the bill is the provision which would require equal pay for equal work. But nowhere in the bill is there any indication as to what constitutes equal work. The definition is left to the interpretation of the Secretary of Labor.

How might the Secretary of Labor interpret "equal work," "equal skills," and so on? Retailing has had considerable experience in living with statues 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 betwen them and what Congress intended when it passed the amendments.

Section 5, "Administration and Enforcement," is another 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.

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* * * *." [Italic added.] What law: Davis-Bacon, Walsh-Healey, Fair Labor Standards Act, Landrum-Griffin, Taft-Hartley, or any others?

The enforcement provisions give the Secretary entirely too much latitude and discretionary power. They should be amended along the lines of last year's bill (H.R. 11677) which was approved by the House and Senate.

In that bill the Secretary's power was limited to the investigation of specific charges brought by, or on behalf of, an aggrieved employee. Also, the Secretary was directed to seek a conciliatory solution, and only if that failed could he bring a civil suit in a U.S. district court. Under these provisions, the legal rights of both employer and employee had ample protection. The current bill would permit general investigations, and give the Secretary power to issue his own cease and desist orders. These could be enforced by a district court, with very limited protection for the legal rights of 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 should be afforded a reasonable opportunity to reply to the charge before an investigation is undertaken, and that there be 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.

3. Nondiscriminatory wage differentials should be adequately defined: Section 4, in describing "equal pay" situations, is far too narrow for retailing in its providing 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 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.

We recommend that wage differentials between sexes should not be considered as discriminatory when based upon (1) a seniority system; (2) a merit system; (3) a job classification system; (4) a system which measures earnings by quantity or quality of production; (5) reasonable differentiation based on a factor or factors other than sex; or (6) ascertainable and specific added costs resulting from employment of the opposite sex, or any combinations of these exceptions.

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 House 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. S. 910, however, in section 4(a)(1), (2), and (3) contains 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.

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.

DONALD F. WHITE,
Director-Counsel, Governmental Relations.

PREPARED STATEMENT OF RT. REV. FREDERICK J. WARNECKE, BISHOP OF BETHLEHEM, CHAIRMAN, 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 prevasive is the lip service 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 and S. 910 substantially as entered, with strong enforcement provisions written in.

PREPARED STATEMENT OF IRWIN NESTLER, CHAIRMAN, ORGANIZATION COMMITTEE, PROPOSED WOMEN'S NATIONAL BANK OF WASHINGTON

Mr. Chairman and members of the committee, my name is Irwin Nestler. I live in Silver Spring, Md., and currently am chairman of the organization committee of the proposed Women's National Bank of Washington. Application for a charter was filed with the Comptroller of Currency, James J. Saxon, last month. Plans call for its location in downtown Washington, D.C.

My working experience has been in the field of finance. Have had many dealings with women in this field and it is true that women have come far since the turn of the century in achieving financial independence. Men no longer have a right to money inherited by a wife from her father or to jail a woman for spending too much money. I feel the time has come when the last stronghold of prejudice against them in the business world should be eliminated and women should be placed on a par with men with equal wages paid for equal work.

I should like to add, too, that for those who are opposed to this bill (S. 910), theirs is a lost cause. Women are determined to get equal pay and just as they have been successful in the past in getting the vote and other equalities, they will be successful in this endeavor, too, eventually, if not now.

I know these figures already have been presented to you that 10 million women head households, 68 percent of these head families with children under 18. These women must shoulder alone, responsibilities normally shared by both men and women, yet they are forced to compete in a man's world where they find inequities and discrimination.

In banking they walk into a man's world where they first are looked upon as women and then as customers. I do not make this statement lightly. In two instances, women involved in our proposed bank have had this statement borne out. One tried to get a $10,000 business loan, offering as security stocks worth about four times that amount, and was refused. Another sought a first mortgage of approximately 60 percent on property she wanted to buy. She was refused by her bank with which she has dealt for 20 years. The former got her loan when a man stepped in on her behalf and the latter got hers from a savings and loan institution, also through a man.

In these areas where they try to get money, they are discriminated against. But when it comes to disbursing their funds, they are treated as equals. The same businessman who will pay a woman less wages than he will pay a man for equal work will have no hesitancy in charging her the same for his goods or services. When a woman has to buy necessities for day-to-day living, support children, pay rent, etc., she doesn't pay any less because she is a woman.

We no longer live and work in a world where there is a place for such discrimination and just as an individual pays on the basis of value received, that same individual should be paid on the basis of his or her contribution to the job. Discrimination results in discouragement and this is a time when the Nation needs the best efforts of every individual to progress as we stand on the threshold of the space age. Equal pay for equal effort is the best encouragement for any woman to advance herself and make her best contribution in whatever field she may be.

The median income for a woman who is head of a family in the District of Columbia is $4,243. For a man it is $6,743. Yet the median school years completed by women over 14 years of age is 11.9 years—for men it is 11.3 years. Who suffers by this discrepancy in pay? The family and the economy. More equality in pay would pour more money into the economy in a healthy way and eventually everyone would benefit, even the employer who now feels he is justified in discriminating against his female employees.

Equal pay also should be a strong inducement for women to return to the labor force when they have raised their families and still are at an age where they can make a significant contribution to our economy.

In closing, may I say that as a member of the organizing committee of the proposed Women's National Bank of Washington—although it will be a bank specifically geared to cater to the financial needs of women, it will be open for business to the general public—we are planning an institution where such inequalities will not exist. Our proposed board is made up equally of men and women. We are searching for women officers for the bank.

In addition, the bank will have an educational program designed to acquaint women with financial terms in the world of credit. It will be a place where a woman can achieve financial self-expression—where she will have an opportunity to learn how to advantageously use the money she controls and have the know-how to put it back into the economy to her benefit and the benfit of all.

Do you think such a woman—or any woman—should receive less pay than a man where her contribution is the same? I do not and hope that my small contribution by appearing here today will help to erase this one great inequality from our financial economy. Thank you.

NATIONAL RETAIL FURNITURE ASSOCIATION,
Washington 6, D.C., April 24, 1963.

Re: S. 910, equal pay bill.

HON LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
US Senate, Washington, D.C.

DEAR SENATOR HILL: The purpose of this letter is to record with your committee the position of the directors of the National Retail Furniture Association on S. 910, 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 S. 910.

Very truly yours,

DEREK BROOKS,
Vice President and Director of Government Relations.

ROLLED ZINC MANUFACTURERS ASSOCIATION, INC.,
Washington, D.C., May 3, 1963.

Hon. PAT MCNAMARA,
Chairman, Labor Subcommittee, Labor and Public Welfare Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This communication is submitted in lieu of a request to enter a personal appearance in behalf of the Rolled Zinc Manufacturers Association in opposition to S. 910, known as the equal pay for equal work bill, and, therefore, it is requested that it be printed in the hearings.

The rolled zinc industry has no female employees whatsoever in its production or shipping operations. There are no female employees whatsoever except office personnel. Therefore it is apparent that the Rolled Zinc Manufacturers Association has no economic interest in the so-called equal pay for equal work bill.

We are, however, strong believers in the private enterprise system and we feel that the Federal Government has gone much too far in the area of legislation concerning employment. We are of the opinion that employer-employee relations are factors to be determined by management after consideration of employee views with economic factors naturally having important bearing on management decisions.

Employment policies and employer-employee relations should not be dictated by the Government. Already we have far too much Government. What we need in this area is less Government. We know that industries which employ a substantial number of female employees have been criticized for their opposition to this bill on the ground that they are opposed to equal pay for women when, in fact, they oppose the legislation on the same basis they have opposed previous efforts of the Federal Government to legislate in the area of employment policies.

We are for good pay for everyone and to each employee in accordance with the value of his or her productivity. We favor higher pay for all employees when it has a sound economic basis and occurs by natural economic forces. Under such circumstances we will have a firm base for a healthy economy in which all productive employees and management will prosper.

Therefore this association, with no female employees in the production force of industry products, urges you to reject S. 910 because it would provide just one more grip by the hand of the Federal Government over private employment practices which should not be a function of the Federal Government.

Sincerely,

HERMAN D. CARUS,
Chairman, Executive Committee.

Senator MCNAMARA. Thank you. The hearings are adjourned.

(Whereupon, at 12:15 p.m. the hearings on S. 882 and S. 910 were adjourned.)

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