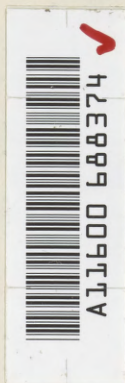


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HEARING  
BEFORE THE  
COMMITTEE ON  
LABOR AND PUBLIC WELFARE  
UNITED STATES SENATE  
NINETY-FIRST CONGRESS  
FIRST SESSION  
ON  
WILLIAM HILL BROWN III, OF PENNSYLVANIA, TO BE A  
MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

APRIL 15, 1969

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



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(II)



## NOMINATION

TUESDAY, APRIL 15, 1969

U.S. SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE,  
*Washington, D.C.*

The committee met at 10:50 a.m., pursuant to call, in room 4232, New Senate Office Building, Senator Ralph W. Yarborough (chairman) presiding.

Present: Senators Yarborough, Randolph, Pell, Kennedy, Nelson, Mondale, Cranston, Javits, Prouty, Dominick, and Schweiker.

Also present: Senators Scott and Fong.

Committee staff present: Robert O. Harris, staff director; John S. Forsythe, general counsel; Roy H. Millenson, minority staff director; and Eugene Mittelman, minority counsel.

The CHAIRMAN. The Committee on Labor and Public Welfare will come to order, and will proceed with hearings on nominations for certain Executive appointments.

Gentlemen of the committee, I see Senator Hugh Scott, the senior Senator from Pennsylvania, sitting with Mr. William Hill Brown III, of Pennsylvania, who has been nominated to be a member of the Equal Employment Opportunity Commission.

Senator Scott, would you care to start your testimony?

### STATEMENT OF HON. HUGH SCOTT, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator Scott. If I may, Mr. Chairman.

Mr. Brown is here, Mr. Chairman and members of the committee. I have known Mr. Brown for some time. He is a very active and prominent lawyer in my city of Philadelphia. He will supply such other information as I do not.

I simply want to say that he was born in the city of Philadelphia on January 19, 1928; he is married and has one daughter; he is a graduate of our Central High School, which is one of our best schools in the quality of its educational training, and also from Temple University with a degree of bachelor of science, and from the University of Pennsylvania Law School with the LL.B. degree in June of 1955. He has been admitted to the practice of law and has been associated with a firm presently known as Norris, Brown & Hall, which formerly included the eminent Judge Higginbotham of the Federal Court of the Eastern District of Pennsylvania. He has been in charge of the Office of Fraud Prevention, as chief of that office in the Philadelphia District Attorney's Office, and was until recently serving as Deputy District Attorney in Philadelphia.

He has been admitted to practice before all of our courts, including all of our Federal courts within the Commonwealth. He has handled about half of the trial work of his firm. He has been responsible for the major trial work as well as being the managing partner. He has had very wide experience over the whole spectrum of trial matters and has appeared in other States and before Federal and State courts. On the appellate level he has represented, among other organizations, the National Baptist Convention, which has over 5 million members, and also many national and international organizations.

He has had military service in the Pacific theater where he was discharged honorably in 1948.

He is a member of all the principal bar associations. He was the co-chairman of the Urban League membership drive at one time and has been active in the chamber of commerce, in St. Thomas Episcopal Church, the Philadelphia Housing Association, and the Alpha Phi Alpha fraternity. He has also been a member of the board of directors of Mercy Douglass Hospital, a member of the board of directors of the Neighborhood Renewal Corps, the Big Brothers, the Crime Prevention Association and a member of the board of directors of the First Philadelphia Banking & Trust Co.

He has been active in the civil rights area of employment, housing, untarily served as legal counsel to individuals filing lawsuits concerning employment discrimination and has worked with the Urban Coalition toward obtaining better jobs and housing for the less fortunate.

He has been president of the board of directors of the Mercy Douglass Hospital and has been instrumental in providing health facilities in one of the underprivileged areas of the city.

I may add that he was originally nominated for this position by Senator Clark and myself jointly, in the last administration, or recommended for nomination and nominated by President Johnson. The nomination was technically recalled when all of the nominations were recalled. His qualifications were such that they were promptly resubmitted and, therefore, he has the benefit of having a bipartisan recommendation and having been recommended as highly qualified by two successive Presidents.

I thank the committee very much for allowing me to make the statement.

The CHAIRMAN. Senator Scott, we welcome you here. We regret the delay because of the hearings of the other committee but I want to congratulate you on the clarity of your statement. Thank you for your statement. It has been of great value to this committee in considering this nominee.

#### AFTERNOON SESSION

The CHAIRMAN. The witness is Mr. William Hill Brown III, of Pennsylvania to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1973.

I will order printed at this point in the record your biographical sketch with biographical data, and also the statutes, Public Law 88-352 of July 2, 1964, with the authorities and duties of the Equal Employment Opportunity Commission.

Mr. Brown, do you desire to add anything to this biographical data?

(The document referred to follows:)

BIOGRAPHICAL DATA OF WILLIAM H. BROWN III

Birthplace: Philadelphia, Pennsylvania.  
 Date of birth: January 19, 1928.  
 Residence: 4714 Osage Avenue, Philadelphia, Pa. 19143.  
 Marital Status: Wife, Sonya M. Brown.  
 Children: Michele Denise, Born 4/2/55.

EDUCATION

High School: Central High School—Graduated January, 1946.  
 Undergraduate School: Temple University, Philadelphia, Pennsylvania, 1949 to 1952—Bachelor of Science.  
 Law School: University of Pennsylvania—LLB—June 1955.

LEGAL EXPERIENCE

1955—Admitted to practice of Law.  
 1956-1959—Associated with Firm of Norris, Schmidt, Green, Harris and Higginbotham, Esquires, as Trial Attorney, 410 South 15th Street, Philadelphia, Pa.  
 1960-1963—Associated with Law Firm of Norris, Green, Harris and Higginbotham, 15th Floor, Commercial Trust Building, 16 South Broad Street, Philadelphia, Pennsylvania 19102.  
 1963-1968—Partner of Law Firm of Norris, Brown and Hall, 1510 Chestnut Street, 3rd Floor, Philadelphia, Pennsylvania 19102.  
 1968 (May-Sept.): Chief of Frauds, Philadelphia District Attorney's Office.  
 1968 (Sept.-Nov.): Deputy District Attorney, Philadelphia District Attorney's Office. Admitted to practice before all Lower Courts of Philadelphia. The Superior and Supreme Court of Pennsylvania. The Federal District Court for the Eastern District of Pennsylvania. The Court of Appeals for the 3rd Circuit and The United States Supreme Court.

During the years 1956 through 1962 I handled approximately fifty per cent of all of the trial work for the firm. Since the end of 1962 to May 1968 I was for the most part completely responsible for all of the major trial work of the firm as well as being the managing partner. During my years of private practice I have handled in excess of a thousand trials including Magistrate's Court, personal injury trial work, criminal trials, labor work, bankruptcy matters, Orphans' Court (Estate) work, Domestic Relations matters, injunctions, etc. I have tried matters in many other states, having appeared before the Federal and State Courts on the trial level as well as on the Appellate level. My clients, during the time of private practice, ranged from the average working person through the National Baptist Convention—an organization having over 5 million members. I have represented many national and international organizations. I have been appointed to represent defendants who were unable to pay for legal services in the State Courts and the Federal Courts.

During the period of time I was with the District Attorney's Office all of my trials were criminal in nature and I handled approximately 700-800 cases.

MILITARY SERVICE

United States Army Air Force, February, 1946 to November, 1948.  
 Served in the Pacific Theater for approximately 18 months.  
 Received an Honorable Discharge.

ASSOCIATIONS

Professional: American Bar Association; Pennsylvania State Bar Association; National Bar Association; The Lawyers Club of Philadelphia; The Barristers' Club; Pennsylvania University Law Alumni; American Trial Lawyers Association; American Arbitration Association; County Board of Law Examiners; Philadelphia Bar Association; Member Law Day Committee 1966 and 1967, Member Constitutional Reform Committee, Member Criminal Law Committee, Co-Chairman Compulsory Arbitration Committee, Liaison Member to Urban Coalition; Permanent Member, 3rd Circuit Judicial Conference.

Civic: Urban League—Co-Chairman, 1960 Membership Drive; Junior Chamber of Commerce (Past Member); Philadelphia Fellowship Commission; National Association for the Advancement of Colored People; St. Thomas Episcopal Church; Executive Committee, Garden Court Civic Association (Past Member); Philadelphia Housing Association, Relocation Committee; Alpha Phi Alpha Fraternity, Inc.: Regional Attorney 1957 to 1960, General Counsel 1960 to 1963; Member of Board of Directors Mercy Douglass Hospital; Chairman Executive Committee of Board 1967, President of the Board of Directors 1968, (Resigned this position to accept appointment to the Equal Employment Opportunity Commission); Board of Directors Neighborhood Renewal Corps; Board of Directors Big Brothers; Board of Directors Crime Prevention Association; Member of the Board of Directors of Singing City, President of the Board 1966 to 1968; Member of the Regional Board of Directors, First Philadelphia Banking and Trust Company.

I have been active in the Civil Rights area of employment, housing, and health care for the disadvantaged in Philadelphia. I have voluntarily served as legal counsel to individuals filing law suits concerning employment discrimination and have worked with the Urban Coalition toward obtaining better jobs and housing for the less fortunate. As President of the Board of Directors of Mercy Douglass Hospital, I have been instrumental in providing health facilities in one of the underprivileged areas of the city.

EXCERPT FROM CIVIL RIGHTS ACT OF 1964

[Pub. Law 88-352, approved July 2, 1964]

\* \* \* \* \*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noted.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201-2209), is further amended—

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:“(32) Chairman, Equal Employment Opportunity Commission”; and

(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: “Equal Employment Opportunity Commission (4).”

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

(g) The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(j) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

\* \* \* \* \*

## STATEMENT OF WILLIAM HILL BROWN III, NOMINEE TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. BROWN. No, Mr. Chairman. The only thing I would like to say at this particular point is to publicly acknowledge the presence of Senator Scott here this morning and express my sincere appreciation for his appearing on my behalf.

The only other thing I would add, Mr. Chairman, is that I feel that the area of employment and particularly equal opportunity of employment is one of the principal concerns that I have had for quite a number of years, as you will undoubtedly see by my background and experience, and if confirmed by this committee and by the Senate I would pledge to the members of this committee and to the Senate that I will use my maximum energies to see that the law is fairly and vigorously enforced.

The CHAIRMAN. There was another Senator who wanted to make a statement on your behalf, Senator Edward Kennedy, but the last information I had from the floor was that they were debating the oil import bill which affects the New England area.

Senator Pell.

Senator PELL. I will defer to Senator Schweiker, who is a Pennsylvanian.

STATEMENT OF HON. RICHARD S. SCHWEIKER, A U.S. SENATOR  
FROM THE STATE OF PENNSYLVANIA

Senator SCHWEIKER. Thank you. I would like to say that I am very proud to have Mr. Brown here today as a Pennsylvanian. In fact, we come from the same area of the State. I know well of his background in law, his work in the advancement of equal opportunity for all and his dedication to his community. I think that Mr. Brown brings two major qualifications to the job that are very important.

First, he has a commitment to the need for the elimination of all remaining job barriers to minority groups, and he has demonstrated that commitment throughout his life; and secondly, he has a capability to deal effectively with the practical issues that arise in this field. He has demonstrated this practical approach to very real equal opportunity problems that need day-to-day work, and I am very pleased to support quite strongly Mr. Brown's nomination. I think he will make a fine addition to the Commission and we are very proud of him. I thank the gentleman, Senator Pell.

The CHAIRMAN. Senator Pell.

Senator PELL. Mr. Brown, I read your background statement, it is a very impressive one indeed. But the area you are going into now is one in which your prime responsibility is to press hard in the direction of civil rights and equal opportunities.

I see that you have worked a good deal in this field in the past. And you say that you voluntarily served as legal counsel to individuals filing lawsuits concerning employment discrimination.

How many suits have you participated in?

Mr. BROWN. I would imagine, Senator, over a period of about 13 years of private practice I would have averaged probably about 20 cases per year. These were all taken on the basis of no charge to the person that was being serviced. Many of them were referred from local community groups, some were referred to me by the local NAACP and a great deal of these cases dealt with discrimination, at least a charge of discrimination within the Government itself.

Senator PELL. That would be about 260 cases, roughly.

What sort of work with the Urban Coalition did you do?

Mr. BROWN. I was the liaison member from the bar association and I was assigned to the subcommittee which dealt with discrimination in employment, in seeking to assist persons to get employment, and also to seek to get business persons to make their doors completely open for persons of all races and particularly the persons of the minority races.

Senator PELL. Is it your intention to be an activist and press hard in continuing your work in this direction?

Mr. BROWN. That is without qualification emphatically yes.

Senator PELL. I have no further questions.

The CHAIRMAN. Thank you. Mr. Brown, will you step aside for a moment, please? Mr. Mitchell has a statement to make on your behalf and then we will recall you.

Mr. Mitchell, we welcome you to the committee again. You have testified here many times over the years and have had a very influential part in framing many of the laws of this country that offer broader opportunities to many of our citizens. We welcome you back. We re-

spect the fairness with which you have stated your position on all matters before this committee and we have a high degree of confidence in your statement.

**STATEMENT OF CLARENCE MITCHELL, DIRECTOR, WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE**

Mr. MITCHELL. Thank you very much. It is kind of an educational experience to be before this committee. I thought as I listened to the testimony this morning that there were a number of things that the country needed to hear, some of which you said. I felt, for example, your pointing up the importance of the country knowing that after your committee authorizes a particular appropriation, you have pared it down as far as sensible to pare it down, then some people over at the Bureau of the Budget get hold of it and cut it down further, and actually they are unrealistic.

I really hope that your statement on that and other things that went on this morning can be made available for broad public distribution. I think that the public does not know about some of the things that you said and I hope very much that that will be done.

The CHAIRMAN. Thank you very much.

Mr. MITCHELL. I am Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People. I thank you for this opportunity to appear in connection with the hearing on Mr. William Brown III, who has been named as a member of the Equal Employment Opportunity Commission. Because the present Chairman, Mr. Clifford Alexander, has resigned effective May 1, 1969, or sooner if a replacement is available, it is my opinion that Mr. Brown would make an excellent choice in the replacement in the capacity of Chairman. However, I believe that if he is to give the high quality of performance that he is capable of giving, there are some matters which should be brought before this committee for its consideration and, hopefully, to cause it to give assistance in strengthening the agency's program.

First, let me say that both Mr. Alexander, the outgoing Chairman, and Mr. Brown are very well trained and capable men.

I heard Senator Schweiker refer to his competence and I would also like personally, Senator Schweiker, to testify to my knowledge of that.

When there was a big dispute on one of the highways from New York to Washington, known as Highway 40, in which a number of African diplomats were arrested because they simply sought service in restaurants, Mr. Brown was a member of a law firm which also included Mr. Leon Higgenbotham, who is now a U.S. district judge in Pennsylvania. It was fortunate that my good wife, who is also a lawyer, was associated with those cases with those gentlemen. I thought they performed an outstanding public service free. They were not paid anything for what they did.

It is a credit to the parents of Mr. Alexander and Mr. Brown and to the community out of which they come and to our country that they have reached high status in public service at early ages. It is my opinion that this is an indication of the progress that we are mak-

ing toward equal justice under law. It also gives an answer to those who say that legislative efforts, court action, and political action are both irrelevant and ineffective in the civil rights struggle. Whenever and wherever possible to do so, the young people of our country should be told about the achievements of men of this kind because this helps to encourage youth in setting high goals. It is precisely because so much depends on the leadership and inspiration that these men can give through the Equal Employment Opportunity Commission that I have asked to be heard.

At the beginning of the life of the Equal Employment Opportunity Commission, some of you who are members of this committee and many other Members of the House and Senate, Democrats and Republicans, were determined that this agency would be kept out of the uncertain currents of partisan politics. You added to the law a provision which assures that the Equal Employment Opportunity Commission will have Democratic and Republican members. Acting to implement the will of Congress, I am happy to say that I was among those who strongly urged President Johnson to appoint a distinguished lawyer, Mr. Samuel Jackson of Kansas, as a member of the Commission. Mr. Jackson was then and is now a Republican. He is an Assistant Secretary of HUD under this administration. When we were working for passage of civil rights legislation in 1964, he came to Washington as a volunteer and helped to explain the importance of this legislation to Republican Members of Congress and to any others who would give him an audience. He is a man of unusual ability.

During the life of the Commission there have been a number of changes in its top personnel. In my opinion this was not a healthy development. Many of us hoped that there would be more stability in the Commission when Mr. Alexander became Chairman. There was a general belief that he would serve to the end of his term as Chairman. I do not know of anyone who expected that a change in the White House would automatically result in the ousting of Mr. Alexander for political reasons.

As some members of this committee know, the senior Senator from Illinois, Mr. Dirksen, recently made a public statement asserting that he would seek to have somebody fired if so-called harassment of employers continued. In a matter of minutes after he made that statement a White House spokesman affirmed the intention of the administration to get rid of Mr. Alexander as Chairman, and said so publicly. There followed a shock wave around the entire country that has caused both indignation and apprehension.

The statements taken together will undoubtedly give comfort to those who want to defy the Equal Employment Law. Those who advocate seeking redress of wrongs by methods that have no legal sanction now have a new example of why, as they put it, the system does not work.

In order to reaffirm the intention of Congress to give our citizens an orderly and effective method for ending discrimination in employment, I urge that this committee do the following things:

First, give speedy approval to the appointment of Mr. Brown.

Second, express its concern about the importance of maintaining the bipartisan composition of the Commission.

I really want to stress that point because the EEOC Chairman has the power under this law to make the staff appointments. I believe that those people who serve in that agency are experts on the basis of experience. If they continue to serve they become more valuable to the Government on the basis of experience. Therefore, it would be a calamity if somebody decides that this agency is going to be a pork barrel and just fire all the people in order to make jobs available. I have enough respect for Mr. Brown and know enough about him to know he would not do that himself. But being aware of political realities, I know how even when a chairman has good intentions some people can overcome those good intentions. These people in the Equal Employment Opportunity Commission should be treated like career people in the State Department or Defense Department. They have expertise and we must do all we can to keep them on duty, even though they might not be members of the given party in power.

I was very proud of the way that the Kennedy and Johnson administrations handled, for example, the appointment of Mr. John Doar, who was in the Justice Department. Mr. Doar came in under the Eisenhower administration. He was, I assume, a Republican, but whatever he was he was appointed by the Eisenhower administration. He stayed in the Justice Department and to my personal knowledge enjoyed the confidence of President Johnson when he became the Assistant Attorney General in charge of the Civil Rights Division.

Third, I hope we will have early hearings and a favorable report on legislation that will give the Commission itself enforcement powers.

Fourth, I hope that this committee, just as the Chairman so eloquently expressed himself this morning in connection with problems in the field of education, and Senator Pell and others indicated their intention to have a kind of oversight function, I certainly hope that the committee will maintain an oversight function with respect to this agency because it needs every friend that it can get, particularly in the Congress.

I hope you will maintain a diligent interest in the appropriations of the Commission to assure that it is adequately financed. I am sure you don't need to say to any member of this committee, because you have already expressed yourself on it, that one of the neatest little jobs of annihilation of good programs is done by the process of authorizing a lot of money and thereafter in the appropriation committee, when nobody is looking, give them the coup de grace. This is really what we have got to be watchful on and I hope the committee members will consider that.

The fifth thing is maintaining a continuing oversight of the Commission's functions to make certain that it is not handicapped by unfair pressures designed to keep it from doing its job.

I think that the reason the attack was made on Mr. Clifford Alexander, when he appeared before Senator Kennedy's Subcommittee on Administrative Operations of the Judiciary Committee, was because Mr. Alexander had been out in California exploring the problems in the television and motion picture industry where there is acute discrimination and also because he had been exposing some of the terrible discrimination that takes place in the agencies and companies that have Government contracts.

Now, it is a mockery if when these people undertake to do their job somebody is going to come in and make an attack on them because they have done what the law authorizes them to do. I feel this will always happen unless a committee such as this maintains an interest in the matter.

In a very real sense, this Commission offers the Government of the United States a priceless opportunity to show that our country can and will act with speed and effectiveness in the field of employment discrimination. I hope that all of us will work together for that important purpose.

The CHAIRMAN. Thank you, Mr. Mitchell, for that very informative statement.

With reference to the financing of this work, it seems that insofar as the Bureau of the Budget is concerned, this Equal Employment Opportunity Commission has done better with reference to authorization than educational agencies.

In 1968, the actual appropriation was \$2,914,000. The estimate for 1969 was \$4,624,000. And the budget recommendation for fiscal 1970 is for \$9,967,000. That is for enforcement.

Now, the total program, that is, all the programs, legal and research, the total in 1968 is \$6,505,000. I don't have the 1969 estimate as to what was finally spent. After money is appropriated then they freeze the funds. The estimate for 1969 was \$9,032,000. Then in 1970 the estimate was \$16 million.

In addition to the matters we mentioned this morning of appropriations being only a token of the actual authorization, there is another way in which the money available has been cut back. And the amount actually spent is far less than the amount appropriated.

You know, some years ago the Congress passed a law giving the Bureau of the Budget the power to freeze certain funds if it was imperative to the national interest. That is not the exact language, but that is the essence of it.

Last year when there was a run on the dollar around the world, it was felt the foreign creditors might call for payment of obligations in gold and, as a result of this many things were frozen. After we appropriated the money, the Bureau of the Budget cut was to be spent by the various agencies. It said, "Don't you spend this much." except in the following January we get a deficiency bill. It sounds like a mark-down on a fire sale; \$3,900 million extra expenses of Vietnam, not in the regular budget. And in that way, after we first authorized this money, we have terrific difficulties getting appropriations for these progressive programs to put them into effect. After we appropriate the money they cut further by the device where the Budget Bureau puts a freeze order under the emergency power to protect our economy. We will have to cut this spending and that is this second cut. So it phased down all three and we see these phase-downs in practically every domestic program in America. We don't see that kind of phase-down in South Vietnam or other gross expenditures overseas, especially military expenditures overseas.

Mr. MITCHELL. You know, Senator, I think it would be a good thing if Congress would investigate the Bureau of the Budget. I really think that the Bureau of the Budget under all administrations exercises an inordinate and unconscionable control over the programs that are sup-

posed to help the people, the ordinary people of this country. They are kind of a secret agent operation, you know, which gets all these agencies in and intimidates them. Then you find, where you thought you had given agencies enough money to operate and be constructive, somebody over at the Bureau of the Budget has cut it down to a pittance. Lots of times when agencies representatives really in their own minds know they need more money they don't dare ask for it.

The CHAIRMAN. Well, the main difference in the statement you and I made on this subject was you said "unconscionable" control and I said "unconstitutional" control. The power to raise money, levy taxes, and to appropriate money to run the Government is vested by the Constitution in the Congress. The executive uses this power to thwart the will of Congress. By this device the Bureau of the Budget cuts certain of our appropriations and spends it for other purposes, billions of dollars as a deficiency, and comes back when the next session starts in January and they say we have already spent this, you will have to appropriate the money to replace it. I think that is a device that has come up over the years where the executive department has usurped the power of Congress.

I don't think the Congress is going to be a coordinate branch until it reaches out and recaptures the purse string. We are not a coequal branch of the Government except under the Constitution. We have permitted that to be taken away from us. The powers are going to follow those who seize and hold it and if we don't reach out and seize and hold it—if we don't have the will to assert it and exercise it—it will go further away from the Congress.

I think this power has been used by the Bureau of the Budget these recent years to cut programs that are, in my opinion, the most beneficial to the American people. They squander money on something that is not as beneficial as education, health, and all these other programs that Congress has been voting for. They cut down the quality of American life authorized primarily through this committee in the fields of education, health, manpower, retraining, and poverty, with certain rights, railroad retirement, bilingual education, international education, this whole spectrum of human rights. Even after we fight our battles in committee and on the floor and get half of this money from the Appropriations Committee, the Bureau of the Budget reaches out and cuts another big plug out and we end up with tokenism on many programs that are vital to the development of this Nation.

Senator PELL. I think one reason for that as brought out by the senior Senator from Wisconsin the other day, is that 10 percent of the manpower in the Bureau of the Budget works specifically on the 66 percent of the budget covered by defense items and the other 90 percent of the manpower work on the programs involving human resources. That obviously means that the Defense gets a free ride all too often.

I would like to ask the witness one question here perhaps of a subjective nature. Is it your view that Mr. Brown is a strong and vigorous advocate of fair employment and civil rights?

Mr. MITCHELL. It is, Senator Pell. I think he would advocate with strength and with dignity.

I would just like to say that this little sequence might help in giving my opinion of him.

When he was appointed under the Johnson administration, he enjoyed the backing of both of the Senators from Pennsylvania. As you may remember, his name, along with others, was withdrawn from the consideration of the Senate by this administration. And I undertook to make some representations to the White House on why I thought it was imperative that his name be sent back over because I could see the uncertainty on his status was damaging the work of the Commission.

However, I also tried to make it clear it seemed to me you shouldn't have any musical chairs played with this agency, that Mr. Alexander was a perfectly competent Chairman and he ought not to be knocked out for political reasons. However, when we were faced with the situation that I have already mentioned and it became clear that Mr. Alexander was going to step out, there wasn't any question in my mind, that as the law provides, if the President took from among the Commissioners the best person to be Chairman of that Commission, there was no question in my mind that Mr. Brown should be that person.

Senator PELL. It is my understanding that Mr. Alexander is not resigning as a member of the Commission; however, he is stepping down as Chairman.

Mr. MITCHELL. That is correct. I must say Mr. Alexander is a very conscientious young man. I don't know whether I played any part in his final decision, but I did plead with him not to resign as a member of the Commission, as the law permits him to stay. He was very hurt, as any human would be, by that incredible attack on him which went out all over the country on radio and television, but it seemed to me as his friend, and as a person interested in what is going on in Washington, I had the duty to urge him to perform a public service by remaining as long as he could to serve out his term. I think it is important for the welfare of the agency that there be continuity among the Commissioners even though there is a change in administration.

The whole scheme of filling vacancies on the Commission is based on the principle that as the terms expire the agency would not be without people who had had some experience on how the agency should work.

Senator PELL. My recollection is, in any case, that the membership of the Commission has to be at least two members of the minority party.

Mr. MITCHELL. That is correct. And this is the reason I included in my statement a little mission I tried to carry out with respect to Samuel Jackson, who is a Republican, because I took that part of the law seriously. I felt that Congress said it wanted the Commission to be bipartisan and it ought to be bipartisan, not just some facsimile Republican, but a real Republican. I am happy to say that President Johnson saw it that way. He knew full well that Mr. Jackson who was appointed was a bona fide Republican. Mr. Jackson had campaigned for Republican candidates and that kind of thing. Now that the administration has changed, I hope the same principle will be followed and we will have bona fide Democrats serving, rather than somebody who is really a Republican but just happened to change his registration in order to get a job.

Senator PELL. I notice in the biography of Mr. Brown it does not mention his political party. He is a Republican, is he not?

Mr. MITCHELL. I am reasonably certain.

Mr. BROWN. Yes; I have been a lifelong Republican.

Senator SCHWEIKER. I can testify to that.

Senator PELL. Thank you.

The CHAIRMAN. I would like to say this law doesn't require any membership in any particular party. It says this: Not more than three shall be composed of—not more than three of whom shall be members of the same political party. You could have three Democrats and two Republicans or two independents. Just so over three do not belong to the same party. We often have that arising because a number of people register themselves as independents.

Senator PELL. Speaking as a nonlawyer to a lawyer, could you have five Independents on the Commission?

The CHAIRMAN. We will wait until we come to that. I don't believe that many independents qualify. Senator Mondale.

Senator MONDALE. I want to make one observation, Mr. Chairman.

The other day I read—and I think this ought to be checked out—that every agency of the Federal Government in the budgetmaking process of the executive branch submits its budget to the Budget Bureau. The Bureau of the Budget makes a determination as the agent of the President as to what the President will recommend to the Congress by way of appropriations, and if the agency disagrees with the Budget Bureau's determination it may appeal to the President. But, as a practical matter, the President being a busy man, that is rarely done and when it is done the Budget Bureau is rarely overruled. The only exception is the Defense Department. The Defense Department deals directly with the President. And thus that is another area in which the Defense Department is relieved, if this statement is correct, of the detailed analytical cost analyses which is so heavily imposed in human programs. The Defense Department is saved from the effort of going through that kind of justification. And I suspect that because the Defense Department can get what it wants the Budget Bureau has to lean all that more heavily on the human programs in order to come up with whatever the total annual budget figure is. And it has gotten so ridiculous that last Sunday Tom Wicker said there is responsible authority in this country that think the Vietnam War has cost \$10 billion and not \$30 billion, but that the Defense Department finds it easier to sell a program in the name of Vietnam than on its own merits. One of the Nation's top journalists states that the cost of the war is one-third of what the Congress has been told what it is.

The chairman and I just saw a lot of starving people in the Nation's Capital this morning, kids that are being destroyed without ever having a chance, a 2-year-old that Dr. Lowe said was suffering from serious malnutrition. The time has come to get these values in order or none of us deserve to be in public office.

Mr. MITCHELL. I would say, Senator Mondale, another factor we have to recognize is that we just don't have enough people like you and other members of this committee, who are present, who are willing to make a fight for these things.

In this country, if you have enough Members of Congress who really want to make a fight for what we need, we can get it. It has been my experience that some elected officials don't want to get their hands dirty in this fight for the people. They will do things on high-sounding programs of defense or interstellar communications and that kind of

stuff but when it comes down to looking after these kids such as you are talking about and doing the kinds of things that you have been doing with your colleagues, the ranks aren't very full of people of that kind.

Senator MONDALE. Could I ask this: There has been a lot of speculation the last few days about the inconsistency on the policies of human rights enforcement in this country. Separate agencies on the same day seem to announce an advance and then a retreat. OFC is ignored and then consulted. Guidelines are praised then questioned. Lawyers write memorandums recommending not to change the guidelines, just relax the enforcement. So that we have a pattern which is widely seen of deep uncertainty as to what the policy of this Federal Government is in the enforcement of human rights.

Is it your judgment that this very fact of uncertainty can have profound repercussions in the capacity of this Government whatever it finally decides to do in enforcing human rights legislation in communities where there is deep resistance? I have in mind an editorial that appeared in the Atlanta Constitution just a couple of weeks ago pleading with the Government not to raise any doubts about the full enforcement of human rights laws on the ground if you raise one doubt throughout the areas where segregation is a constant practice the white power structure is going to stop dead in its tracks.

Mr. MITCHELL. There is no doubt that you are absolutely right, Senator Mondale, and a historic example that I would like to offer is the Supreme Court decision in the school desegregation cases.

I was in the State of South Carolina when that decision was handed down. Every radio program that I heard, every television program that I saw, said we don't like it but this is the law and we have to comply. It was only when people began to think that maybe the Supreme Court wasn't going to get backed up by the Federal Government that all of this defiance and grief started.

It seems to me we are in exactly the same position today.

I listened to the testimony this morning when the Senator from Massachusetts, Mr. Kennedy, asked Mr. Fletcher about the guidelines and asked the question: Are you going to enforce the guidelines and the contract provisions?

If ever there was an opportunity for a public official to make a clear and certain statement about what he was going to do, that was it. Mr. Fletcher said they are going to be enforced but, of course, we are going to be seeking improvements. That is the same thing that the Department of Health, Education, and Welfare said. They say we are going to enforce the guidelines but then the Washington Post, cover this morning, carried a statement saying within 10 days the whole thing is going to blow up in our faces and we are not going to have the guidelines.

Now, I will in fairness say that it is entirely possible that these rumors, reports and that kind of thing are not true. Indeed, HEW has already denied that this latest report is true. But where there is a lot of smoke, I am sorry to say, there is something hot, as a rule, which causes it. And the people believe that.

When these statements come out later Senator, whoever he might be saying he is going to get somebody fired or that the administration is going to retract in South Carolina, the people believe that. Unfor-

unately no matter what all of us who, I hope, are people of good will, I know you are and I hope you put me in the same category, no matter what we may say to try to offset such negative statements that, we waste our time because by that time both extremes have got it. The extreme that wants to promote segregation is running with it and the extreme that wants to show the Government is no good is running with it. And it is an awfully hard job to catch up with them.

I think this administration has got to decide that it will make clear certain and dependable statements and stick with them. The record is terrible.

On the day that Mr. Wilkins of the NAACP was over to the White House talking to the President about the fact that the Defense Department was not doing what it should do on Government contracts, I am convinced that the President was sincerely concerned and wanted to do something about it, and indeed I understood he did ask that something be done. But that same day the Secretary of Defense came out with a big statement saying he had agreed to an oral contract.

Now, any lawyer knows that when you have billions of dollars you don't have any oral contract with people. You had better have it all in writing.

Well, the same thing happened with respect to this Equal Employment Opportunity Commission. On the same day the suggestion was being made that people would be fired for enforcing the law, the President came out saying he was going to enforce discrimination in Government employment. If you read it carefully the President's statement said "Government employment." It didn't say employment that is within the jurisdiction of the EEOC. And to add to the confusion, the President's staff man came out and said yes, Mr. Alexander is going to be fired.

It seems to me the man who made that statement ought to be fired because I think that he caused—if the President is sincere—I think he caused the President a great deal of embarrassment. If you have people talking that loose on the White House staff they might get this country in a whole lot of trouble.

Senator MONDALE. Thank you, Mr. Chairman.

The CHAIRMAN. This is not a question to the witness, but in view of the statement by the distinguished Senator from Minnesota about Tom Wicker, I want to say I respectfully disagree with Tom Wicker. I think the coverup has been the other way. I don't think the administration has ever told us how much the war is costing. I think it is costing more than they ever said.

Senator MONDALE. That has been my impression. But isn't it ironic we have to sit here and speculate?

The CHAIRMAN. When we consider we are dropping a great number of bombs every month on Vietnam, greater than we ever dropped on Germany and Japan combined in World War II, and they are costing so much more. The modern weaponry we have was undreamed of in World War II and a plane that cost \$100,000 in World War II may cost millions now. And when we consider the cost of this weaponry, this very sophisticated weaponry, the tremendous research that has been done to develop the new weaponry, I think the cost has been understated.

I have talked to informed people—who I think are better informed than I am—on the Armed Services Committee and the Appropriations Committee and they tell me it is impossible to know what it has cost. We are bleeding all reserves of material to make all the weaponry we have to send over there and we use it up rapidly and that is going to have to be replaced. And if you count all these costs, it is impossible to get the total cost.

I think it is a safe statement that this war in money, not counting the blood and treasure of the young people, which is more valuable than money, has cost us more than any war except World War II. And in duration it is longer than the length of the Revolutionary War.

I think the monetary cost, when you consider just the number of men, over 540,000 in the country, and the fleets and the planes that have been lost, and 25 helicopters shot down and the pilots of the planes, and that doesn't include ground destruction, obsolescence, wearing out from use, and then we come to the men, the total number of dead has now passed the Korean war and is second only to the foreign wars of World War I and II. In about 3 or 4 months it will exceed the World War I cost.

I think the conclusion is inescapable that it is costing a lot more money and I don't know where Mr. Wicker got his estimate. As poor in mathematics as I am I disapprove those figures.

That is a little digression that came into the record as to why it is pulled down.

Thank you, Mr. Mitchell.

Mr. Brown, as we stated earlier, you will be recalled.

Senator PELL. No further questions.

Senator MONDALE. Mr. Brown, you believe that the OEEC can discharge its full responsibility without cease-and-desist authority? If you were named Chairman, would you request cease-and-desist orders for this agency?

Mr. BROWN. Senator Mondale, I look at the question very carefully and it is my sincere opinion that without cease and desist the operation of the Equal Employment Opportunity Commission is completely hampered. I say this because of a review of our history. We find that out of the number of cases that have reached a cause decision by the Commission, we successfully conciliated only 50 percent. If we are to do our job we absolutely must have cease-and-desist powers.

Senator MONDALE. I am glad to welcome that response.

Do you believe that the OEEC should work closely with the Department of Justice and OFC and urge then, when appropriate, to bring suits to withhold Government contracts?

Mr. BROWN. I think in the area of equal employment, all the forces of Government must be brought to bear upon the problem. It is a very important problem. I think the hearings which were conducted in California very recently pointed this up quite clearly. I would hope that there be a continuation of what has been done in the past, that is, cooperation between OFCC and the Department of Justice. I would further hope, that this cooperation even be accelerated.

Senator MONDALE. Would you urge them to use their remedies, such as the right to discontinue contracts or hold companies in noncompliance and thus ineligible for Federal business, and as far as the Department of Justice is concerned, the commencement of appropriate

lawsuits where your information indicates that such action would be appropriate?

Mr. BROWN. I would think so; yes. And I say it for this reason: The only way to ever get any effective use out of a power is the use of that power in appropriate cases.

As a trial attorney I found very early in my practice that if the other side felt that you were not willing to go to court and litigate your case, you got the reputation very quickly of not being sincere about what you were going to do. A power, no matter how powerful, if it is never used, of course, becomes completely ineffective.

Senator MONDALE. The EEOC has had public hearings in the past and it is my personal opinion that they are an important tool.

Would you recommend that this policy of public hearings be continued?

Mr. BROWN. Absolutely.

Senator MONDALE. I think we have already gone into the understaffing of the EEOC and I gather you would support an increase in staff in the budget?

Mr. BROWN. I think this is very, very important. I might say perhaps the members of the committee are more aware of this than I am but originally when the Commission was set up, the anticipation was that we would have some 2,000 cases in the first year.

In the first year of our operation we actually had 8,000 cases and we have never quite recovered. Last year—that is the last fiscal year—we had 15,000 cases.

We are not ready in terms of staff, in terms of budget, to really deal with the backlog and it has continued to mount at an alarming rate.

Senator MONDALE. I was surprised to read the other day a statement by Chairman Alexander that the Civil Service Commission, which by law is in charge of the equal employment in the Federal Government, has a very poor record itself in minority hiring. The CSC has only four blacks—18 employees of grade 15 and none in the supergrades at all.

What is your view on the suggestion that the EEOC program in the Federal Government be given to the EEOC?

Mr. BROWN. Well, Senator Mondale, in light of the last question and answer, I would think that the Civil Service Commission has the personnel to do a job if they see fit to do it.

The only way I would hope or expect that we get this sort of power is if we get the appropriate enforcement power and probably, secondly, and just as importantly, if not more importantly, we get the sort of staff and budgetary support that will be needed to do this job.

Senator MONDALE. I understand, for example, that only one GS-15 is held by one other staffer who is supposed to run the OE program and it covers 2.8 million employees.

Mr. BROWN. I will have to be honest with you. I don't know what the actual figures are. I would accept the figures as they are shown by the chairman; that is, Chairman Alexander.

Senator MONDALE. I gather that you see important possibilities with your existing agency functions, that in order to do the job properly it must be broadened in power and broadened in terms of the appropriations needed for staff to do the job?

Mr. BROWN. That is quite correct.

Senator MONDALE. Mr. Chairman, I have heard very fine things about this nominee and I look forward to supporting him.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Brown, Senator Kennedy couldn't leave the floor. He desires to submit questions to you. He will submit them in writing and you will have an opportunity to answer them in writing. I will order the record on your hearing held open for just a few days, only 4 days, to get these questions to you and your answers to them.

The record will be left open for questions and answers for 4 days, but I would like to suggest that Senator Prouty may have some questions. I suggest to the Senator's staff they try to have the questions in within 24 hours, certainly within 48 hours, to give Mr. Brown a chance to answer them, because I understand your predecessor is leaving the first of May.

Mr. BROWN. That is correct. That is my understanding.

The CHAIRMAN. Or earlier, if you are qualified.

Mr. BROWN. Well, I have to make my position clear. I am only being qualified presently as a member of the Commission.

The CHAIRMAN. Not as Chairman, yes. Senator Prouty's staff says 24 hours will be enough for him, and the same for Senator Kennedy, and you will have them within a day or two.

Mr. BROWN. Thank you. And I will see the answers are properly returned.

The CHAIRMAN. I want to join with Mr. Mitchell in congratulating you on reaching this governmental eminence at the age of only 41. I see why, with this bachelor of science degree from Temple and the LL.B. from the University of Pennsylvania and the influential law firms you have been a member of, and your other achievements. I won't enumerate them all. It takes three pages to state them. I want to congratulate you on those achievements.

Mr. BROWN. Thank you very much.

The CHAIRMAN. The subcommittee stands adjourned.

(Whereupon, at 3:15 p.m., the hearing was concluded.)

QUESTIONS AND ANSWERS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,  
*Washington, D.C., April 18, 1969.*

HON. RALPH W. YARBOROUGH,  
*Chairman, Committee on Labor and Public Welfare,  
U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: You indicated at my confirmation hearing, held before your Committee on Tuesday, April 15, 1969, that the Record would remain open for the submission of certain written questions from Senators Prouty and Kennedy and my answers thereto.

I am enclosing herein the questions from the respective Senators and my answers to each. I have also forwarded copies of my answers directly to the Senators.

Sincerely yours,

WILLIAM H. BROWN III,  
*Commissioner.*

ANSWER TO QUESTIONS BY SENATOR WINSTON PROUTY OF VERMONT

After a preliminary review of the question which you have raised, it is my opinion that we should continue to require the approval of charging parties in all conciliations. I base this position on the following reasons:

1. In the field of civil rights, aggrieved persons need reassurance that a government agency is not going to take any action in their behalf which does not clearly meet their understanding of what justice requires. A confidential conciliation without the possibility of a later administrative hearing does not meet that requirement.

2. There might be a fear that a wedge would be driven between the EEOC and aggrieved persons if the EEOC could arrive at conciliations not acceptable to those aggrieved persons. As a regulatory agency with limited funds and a desire to have a good quantitative record of achievement, the EEOC might accept less satisfactory conciliations unless it knew that aggrieved persons would also have to be satisfied.

3. The EEOC does not feel that its judgment of what constitutes a successful conciliation should be dominant over that of aggrieved persons.

4. There is concern that the EEOC would not attempt to be imaginative and creative in its efforts to arrive at successful conciliations if it feared that its flexible approach would be subjected to judicial review.

5. The provisions for confidentiality in conducting conciliations would be undermined since a court action would be based on the record of these negotiations.

6. It would be very difficult for a court to review a conciliation agreement in any event, since there would be no clear standard for review of what constitutes an acceptable agreement.

7. The Commission presently operates on the basis that its conciliations must be acceptable to aggrieved persons and this procedure has not proven to be a problem, since practically never have aggrieved persons in fact rejected a Commission conciliation and there has been no significant increase in Commission workload because of this procedure.

QUESTION FOR WILLIAM HILL BROWN III SUBMITTED BY SENATOR WINSTON PROUTY  
OF VERMONT

Mr. Brown, our Committee considered a bill last year to give enforcement powers to the E.E.O.C. similar to those possessed by other government agencies.

While this bill was before our Committee, I had about fifteen amendments adopted which I believe made it a much better piece of legislation. The amendment which I considered most important, however, was defeated in Committee

on a very close vote, and I would have offered this in the Senate had the bill ever come up for debate.

Briefly, this amendment would permit the Commission to enter into a conciliation agreement with a respondent without the aggrieved person being a necessary party to such agreement. The rights of an aggrieved person who is not a party to such agreement were protected by permitting him to obtain limited review in a Federal District Court of the Commission's action.

This proposal is consistent with the authority of the N.L.R.B. and gives the Commission flexibility and discretion in terminating disputes by voluntary agreements where the Commission concludes that the provisions of the proposed settlement provide an adequate remedy for the rights of the individuals involved and also adequately protect the public interest.

In my opinion, there are many situations where an alleged aggrieved person or an organization filing the charge might reject a settlement that the Commission regards as adequate. These include instances where there may be a desire for additional publicity which would result from issuance of a complaint and/or formal litigation and a desire to harass a particular respondent.

I think it is patently unfair to force a respondent, whether it be an employer or a union, to the expense of time and money involved in litigating a formal complaint where the respondent has made a settlement offer which the Commission views as providing a proper remedy for the aggrieved person and one which also effectuates the purposes of this title.

In addition, the respondent and the Commission would both be at the mercy of the aggrieved party once a "reasonable cause finding" has been made. Unnecessary litigation would require the Commission as well as the respondent to expend substantial sums of money and could conceivably result in the creation of a large backlog of cases awaiting formal litigation.

If you have had time to consider this question at all, I would appreciate hearing your views.

#### ANSWERS TO QUESTIONS FROM SENATOR EDWARD M. KENNEDY

1. As you know, there is a tremendous understaffing of the EEOC. The backlog of investigations is approximately 2,200. And cases take 1½ to 2 years to come to settlement, whereas the Congressional directive is to try to reach settlement in 60 days. Do you support an increase in staffing and budget for the EEOC?

A. Yes. Historically, the Commission has been seriously hampered in its operations by being substantially understaffed and underfinanced. At the time the Commission was established, it was anticipated that in the first year of operation the Commission would receive some two thousand complaints. Instead of the anticipated two thousand complaints, over eight thousand complaints were received and the backlog created from the beginning days of the Commission has continued to mount at an alarming pace. Substantial increases in staffing and budget are imperative if the Commission is to carry out its responsibilities under Title VII.

2. In what other ways do you feel this backlog and the delay in the EEOC can be alleviated and its responsibilities more swiftly met?

A. I feel that part of the backlog and the delay may be eliminated by continuing intensive training of our investigators and conciliators as well as streamlining of many of our administrative procedures. A preliminary study would also indicate that further gains might be made by continuing decentralization of procedures to the field offices where the process may be more efficiently performed.

3. Would it help, in this regard, if the Department of Justice and the OFCC were to more vigorously pursue their efforts in the field of equal employment opportunity?

A. In the short run a more vigorous enforcement policy by the Department of Justice and OFCC, I believe, would cause a substantial increase in the number of cases. This would be true because of the fact that presently quite a large number of cases are not being filed due to the belief by many persons in the communities that the Government has no intention of enforcing the policies as set forth under Title VII. Once the word gets around that there has been a change of policy, I am confident that there will be an initial flood of complaints being filed.

The long-term effect of vigorous enforcement on the part of the Department of Justice and OFCC, I am confident, would be to substantially reduce the number of complaints being received. This would be obviously true as the employers and

unions were made aware of the sincere desire on part of Government to enforce its regulations. The majority of respondents would begin to eliminate most of the discriminatory practices that we find today.

4. As a member of the EEOC, and as the possible chairman, do you support greater cooperation and coordination of the EEOC with the OFCC and the Department of Justice?

A. Yes. OFCC, EEOC and the Department of Justice all have an interest in the elimination of discriminatory practices in employment and because of this, certainly there should be the greatest amount of cooperation and coordination to achieve the maximum effectiveness of the Act.

5. If you were not given cooperation by OFCC or Justice, or by other Federal agencies, or if you feel that changes are necessary to carry out an effective program, as chairman would you go directly to the White House to assure that cooperation would be achieved?

A. Yes. In assuming my responsibilities as a member of the Commission, I have absolutely committed myself to do everything possible to see that the spirit and the concept as enunciated in Title VII are carried out. I would work closely with the White House or with any organization or any group meeting with them at any time or any place, if I felt that in some way our responsibilities would be made easier; and aid in advancing the cause of equal employment.

6. And you are prepared to work closely with the White House and to insist in changes if you feel they are necessary to carry out an effective program?

A. Yes.

7. Are you prepared to stand up to any challenges aimed at weakening the EEOC or its important programs?

A. Yes. I am dedicated to both the spirit and the concept of the work of EEOC, and would resist any challenges aimed at weakening this agency or its programs and continue to do everything possible to accelerate the ends of justice.

8. Would you say that the EEOC has been guilty of "harassment" of employers?

A. No. I sincerely believe that there has been no harassment of employers by EEOC.

9. What do you think can be done to strengthen the EEOC?

A. The most effective weapon to strengthen this Commission would be the granting to us of cease and desist powers. Presently, we are only able to successfully conciliate 50 percent of the cases in which the Commission has found cause. I sincerely believe that with cease and desist powers the goals of our legislation would be more readily obtained.

10. Do you feel that public hearings can be an effective mechanism for achieving compliance, especially where "cease and desist" powers are not available?

A. Through the use of the forum of public hearings, employers and unions who are not sincere in carrying out their obligations under the statute could be exposed to the spotlight of publicity. Further, the techniques developed by employers who have been successful in recruiting in the area would be made available to those employers professing to have some difficulty in obtaining minority persons for employment.

11. What would be your reaction to switching the Office of Federal Contract Compliance to the EEOC?

A. I would be in favor of switching the OFCC to the EEOC if, and only if, we were to have the enforcement powers that go along with that office as well as having the very substantial staff and budgeting which would be required.

12. If it were transferred do you feel that the EEOC would need massive new staff and budget?

A. Absolutely.

13. What is your view on the matter of sex discrimination in classified advertisements, and what do you feel the Commission should be doing on this issue?

A. While I did not participate in the original Commission decision, banning sex discrimination in the classified advertisements, I wholeheartedly endorse the position of the Commission. I believe there is little else that the Commission could be doing in relationship to this matter. We should continue to try to get compliance through the use of persuasion and discussions with the many large employment agencies and concerns; and promptly process complaints filed by charging parties alleging this type of discrimination.

