

ECONOMIC PROBLEMS OF WOMEN

HEARINGS
BEFORE THE
JOINT ECONOMIC COMMITTEE
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NINETY-THIRD CONGRESS
FIRST SESSION

PART 3
STATEMENTS FOR THE RECORD

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STATEMENT OF HON. BERTRAM L. PODELL, A U.S.
REPRESENTATIVE IN CONGRESS FROM THE 13TH
CONGRESSIONAL DISTRICT OF THE STATE OF NEW
YORK

Madam Chairman, some time ago I introduced H.R. 996, revised and re-introduced as H.R. 14605 in the last session of the 92nd Congress.

This legislation would amend the Internal Revenue Code of 1954 to permit any married individual or head of a household who is not otherwise covered by an employer's pension plan to establish a qualified pension plan for himself or herself in the same manner as if he were a self-employed individual earning \$13,000 per year (reduced by any income or additional income they might earn from self-employment).

My proposal, which has come to be known as the Housewives Pension Plan, and which I plan to re-introduce in this session of the Congress, will allow the wife, or the head of a household otherwise not covered by an employer's plan to put up to \$25 a week aside in a qualified retirement plan. That contribution, whatever it amounts to, up to \$25 a week, would not be taxed until it is withdrawn from the account beginning at age 59. I might add that the idea came to me because I used to watch my wife putting aside a few dollars in the cookie jar every week. I would certainly think that it would be in keeping with the President's fight against inflation, because it lessens the amount of money in circulation and thus contributes to the lowering of demand.

Mr. Chairman, one of the most neglected groups in our nation, from an economic standpoint, is the housewife. Most of us think of her as an attractive appendage to her husband, who keeps the home running on an even keel and doesn't let the children get out of hand. How many of us have ever sat down and tried to figure out just what is the economic value of the average housewife?

Just think of all the functions that such a woman has to perform. She is a nurse, a teacher, a cook, a maid, a gardener, a carpenter, a plumber, a chauffeur, a secretary, a manager, a nutritionist, and these are only a few of her jobs. It has been estimated that it would cost upwards of \$10,000 a year to purchase these services on the open market. But we do not assign any real economic worth to "women's work," as it is laughingly called.

And the attitude of society toward housewives and their work reinforces the tendency we all have—men and women alike—to look down at "women's work." For if a woman is not adequately compensated for the work she does, why should anyone consider such work to be economically valuable. And yet, we cannot deny for a moment that the work a housewife does in managing a home is as demanding and challenging as the work her husband may be doing in managing his office.

Not only are housewives discriminated against in the extension of credit, and in the general societal regard of the worth of their labors, but they suffer an added discrimination in their retirement years because of certain inherent inequities in the Social Security system. Consider this: Though the law prescribes equal benefits for everyone, it doesn't work that way, as all of us here today are aware. A husband and wife, for example, can receive a retirement benefit of \$150 a month in Social Security payments. If the wife dies, the husband continues to receive \$100 a month. If the husband dies, his widow will get only \$82.50 a month. Is it not unconscionable to accord a woman this final disrespect in her old age? What kind of law is it that says a woman is worth less than a man?

The Housewives Pension Plan I propose would achieve two important goals.

First, it allows citizens themselves to make their own preparations for retirement from their own income. It will reduce the number of persons in the future who are wholly dependent on Social Security. As we are all aware, it is well nigh impossible to survive solely on Social Security, particularly if you are old, in need of special medication, and living in a city.

The second goal my proposal would accomplish, would be to allow the retired couple to retain a measure of dignity too often snatched from them now when they find themselves without a sufficient income in their later years.

Under my Housewives Pension Plan, the contribution could not exceed \$25 a week. It would be tax deductible at the time it is earned. It comes off the top before Federal income taxes are paid. If this plan were fully utilized, the annual deduction would be equivalent to almost two additional dependents.

This plan would be available only to those with low or modest incomes. No matter how great a family's annual income may be, under this plan, they could never save more than \$100 a month. For the senior citizen of tomorrow, it could mean the difference between dignity and security or poverty and becoming a public charge.

There is nothing additional, which will appeal to many older citizens. Social security, as attractive as it is, is still something which comes from the Government. This retirement plan is something which a woman has created for herself over the years, perhaps the only tangible reward of decades of hard work in making a home and raising a family she will know in her old age.

Independence and dignity are the primary aims of my proposal. In general, it would give the people a measure of security and dignity garnered through their own efforts and from their own earned income that they have so far been denied. As the little guy and his housewife go through life, the tax man tries to get every penny he can from them. They are left with virtually nothing to tide them over in old age. All the while, major corporations—according to recent statistics, some 40 percent of major corporations—pay little or no taxes at all on their profits.

Mr. Chairman, we must put the problems of women in the context of the larger problems of society as a whole. For while there is serious economic exploitation of and discrimination against women as a class, so is there also exploitation of the Middle Class American. The aver-

age housewife is aware of this every day, as she tries to make ends meet in the supermarket. She knows this every time she and her husband sit down to pay the month's bills, and figure out whether they can afford to get Junior's teeth straightened, or go off with their children for a short vacation. When one corporation pays no taxes, it leaves a gap in revenues that has to be made up somewhere. That somewhere turns out to be the pocketbook of the middle-class man or woman.

The legislation I will be re-introducing soon will do what most of us want to see done. It will give women recognition that they are doing economically valuable work. It will tell the nation and the world something that each housewife has known since the day her husband put the wedding band on her finger—that she is gainfully employed, and that she is an indispensable part of our economic system.

My proposal is family legislation. It gives the family a chance to get more mileage out of its present income and gives them a larger income after their retirement so that they will be less of a drain on their children and on the Government. And this can be accomplished without creating any new tax loopholes for the rich to take advantage of, but merely by extending the provisions of the highly-successful Keogh Plan to a hitherto unrecognized group of self-employed individuals, the nation's homemakers.

The Housewives Pension Plan would not only do away with at least one of the large inequities of the law, but would also give the wife, whose work is literally never done, the economic recognition she has for so long been denied.

We must realize, that in spite of the Women's Liberation Movement, there will always be women who will make their careers in the home. With all the recognition we are finally according to women who have left the kitchen, it seems to me rather one-sided not to accord equal recognition to the work done by women in the home. A career is a career, whether it is pursued in the kitchen or the courtroom. My Housewives Pension Plan would accord women the sincerest recognition which the Government can give—letting them enjoy the benefits of a tax deferred pension plan, just as for any other self-employed individual.

EQUAL CREDIT LEGISLATION IN THE 93RD CONGRESS, ANALYSIS OF THE MAJOR BILLS

By MORRIGENE HOLCOMB *

This report analyzes four bills pending before the 93rd Congress which would prohibit sex discrimination in credit transactions. It brings up to date an earlier Congressional Research Service Report, "Analysis of Equal Credit Legislation Pending Before the 93rd Congress" (May 30, 1973). Because two of the bills analyzed herein would amend the Truth in Lending Act, a general analysis of relevant provisions of that statute is briefly set forth.

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INTRODUCTION

The women's rights issue which has received the most legislative attention in the 93rd Congress to date is the availability of credit to women. This issue has received increasing attention in the public press since May 1972, when the National Commission on Consumer Finance held hearings on the question. The report of the Commission, issued in December 1972, summarized the testimony presented at the hearings with respect to sex discrimination as follows:

1. Single women have more trouble obtaining credit than single men. (This appeared to be more characteristic of mortgage credit than of consumer credit.)
2. Creditors generally require a woman upon marriage to re-apply for credit, usually in her husband's name. Similar reapplication is not asked of men when they marry.
3. Creditors are often unwilling to extend credit to a married woman in her own name.
4. Creditors are often unwilling to count the wife's income when a married couple applies for credit.
5. Women who are divorced or widowed have trouble re-establishing credit. Women who are separated have a particularly difficult time, since the accounts may still be in the husband's name.¹

*Analyst, American National Government, The Library of Congress, Congressional Research Service, Sept. 21, 1973.

¹ Consumer Credit in the United States. Report of the National Commission on Consumer Finance. Washington: U.S. Government Printing Office, December 1972: 152-3.

In response to this report, as well as to public and private activity throughout the nation in the form of hearings and research projects on the subject, a number of equal credit bills were introduced early in the 93rd Congress. A Congressional Research Service Report, "Analysis of Equal Credit Legislation Pending Before the 93rd Congress" (May 30, 1973) summarizes the provisions of those bills (S. 1604, H.R. 246, H.R. 247, H.R. 248, H.R. 5414, S. 867). However, since mid-May 1973, other equal credit bills have been introduced, often by the sponsors of earlier credit measures.

For example, Representative Bella S. Abzug, who introduced H.R. 246, H.R. 247, and H.R. 248 earlier in the year, has combined the provisions of these bills in H.R. 8163, introduced May 29, 1973, and analyzed herein.

Representative Margaret Heckler, sponsor of H.R. 5414, which is treated in the earlier report, has since introduced H.R. 8393 and co-sponsored H.R. 8879, both analyzed in this report, and has co-sponsored a number of other bills which include the provisions of S. 2101, also examined in this paper.

The major Senate sponsors of earlier bills, Senators Harrison Williams (S. 867) and Bill Brock (S. 1604 and S. 1605) reached a compromise in the Senate Committee on Housing, Banking and Urban Affairs which resulted in adding Title III to S. 2101, which passed the Senate on July 23, 1973.

Four major bills are treated in this study. Both S. 2101 and H.R. 8163 would amend the Truth-in-Lending Act (TIL), 82 Stat. 146, to prohibit discrimination based on sex or marital status in credit transactions. H.R. 8246 is a new bill to prohibit discrimination based on sex or marital status by any creditor or credit card issuer. H.R. 8393 and Title IV of H.R. 8879 amend the National Housing Act to prohibit sex discrimination in federally-related mortgages.

All of these bills are pending in the House Banking and Currency Committee. It is expected that hearings will be held, perhaps this fall, in the Subcommittee on Consumer Credit on S. 2101 and other equal credit bills.

TRUTH-IN-LENDING ACT

Several major bills introduced thus far in the 93rd Congress to prohibit discrimination on the basis of sex or marital status in credit transactions, would amend the Truth-in-Lending Act. Before considering the provisions of two of these measures, S. 2101 and H.R. 8163, it will be helpful to review the mechanisms and enforcement apparatus of the Truth-in-Lending Act.

The Truth-in-Lending Act is Title I of the Consumer Credit Protection Act (PL 90-321, May 29, 1968; 82 Stat. 146). Basically a credit cost disclosure law, its purpose is to insure that every customer who has need for consumer credit is given meaningful information with respect to the cost of that credit, both in terms of the total finance charge and the annual percentage rate. Amendments added in 1970 limit the liability of a credit card holder, whose card is lost or stolen, to \$50; and prohibit the practice of issuing unsolicited credit cards.

The Truth-in-Lending Act requires disclosure of credit terms. It covers all creditors who regularly extend or arrange for the extension of credit for which the payment of a finance charge is required, or

which is payable in more than four installments. The consumer credit transaction is defined as one in which the money, property or services which are the subject of the transaction are primarily for personal, family, household, or agricultural purposes.

Thus, TIL, with some specified exceptions, covers virtually all credit transactions—including credit card applications, home improvement loans, mortgage credit, automobile financing, etc. Excepted in section 104 are the following:

(1) Credit transactions involving extensions of credit for business or commercial purposes, or to government or governmental agencies or instrumentalities, or to organizations.

(2) Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.

(3) Credit transactions, other than real property transactions, in which the total amount to be financed exceeds \$25,000.

(4) Transactions under public utility tariffs, if the Board determines that a State regulatory body regulates the charges for the public utility services involved, the charges for delayed payment, and any discount allowed for early payment.

In attacking sex discrimination in credit by amending TIL, then, a broad definition of credit transactions is used, and a broad spectrum of creditors are required to comply.

The Truth-in-Lending Act provides that the Federal Reserve Board will write regulations for all agencies charged with administrative enforcement to “contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.”

Administrative enforcement is charged to nine regulatory agencies which have general supervisory powers over the creditors through previous statutes, as follows (section 108):

“(a) Compliance with the requirements imposed under this title shall be enforced under

“(1) section 8 of the Federal Deposit Insurance Act, in the case of

“(A) national banks, by the Comptroller of the Currency.

“(B) member banks of the Federal Reserve System (other than national banks), by the Board.

“(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

“(2) section 5(d) of the Home Owners’ Loan Act of 1933, section 407 of the National Housing Act, and sections 6(1) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

“(3) the Federal Credit Union Act, by the Director of the Bureau of Federal Credit Unions with respect to any Federal credit union.

“(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

“(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

“(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

“(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its power under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

“(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other justificational tests in the Federal Trade Commission Act.

“(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.”

Stated simply, the Federal Reserve Board writes regulations used by the following agencies enforcing compliance with TIL:

A. *Banks* (all have deposits insured by the Federal Deposit Insurance Corporation)

The Federal Reserve Board itself has authority over state Federal Reserve member banks;

The Comptroller of the Currency regulates national banks which are members of the Federal Reserve System and have “national” in their titles; and

The Board of Directors of the FDIC regulates the remainder of banks insured by the FDIC.

B. *Thrift Institutions*

Savings and loan associations are regulated by the Federal Home Loan Bank Board.

C. *Credit Unions*

All federally chartered credit unions are regulated by the Director of the Bureau of Federal Credit Unions.

D. *Others*

Retail creditors, finance companies, and other credit unions—All creditors not otherwise covered are regulated by the Federal Trade Commission. However, common carriers are regulated by the Interstate Commerce Commission; air carriers, by the Civil Aeronautics Board; and certain agricultural creditors, by the Department of Agriculture.

Administrative enforcement of TIL has the potential to be especially strong in regard to banks because the agencies regulating them examine their members' records annually for financial soundness and for compliance with TIL. The Federal Trade Commission bears the heaviest burden under administrative enforcement provisions of TIL, as it covers an estimated 1,200,000 creditors and does not have a review network like that of the financial regulatory agencies.

The Truth-in-Lending Act provides for civil liability as well as administrative enforcement, as follows (chapter 2, section 130) :

(a) Except as otherwise provided in this section, any creditor who fails in connection with any consumer credit transaction to disclose to any person any information required under this chapter to be disclosed to that person is liable to that person in an amount equal to the sum of

(1) twice the amount of the finance charge in connection with the transaction, except that the liability under this paragraph shall not be less than \$100 nor greater than \$1,000; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

The section also limits the liability to provide for unintentional errors by the creditor, and provides, "Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation."

This provision of private enforcement powers lightens the burden of the government in administrative enforcement. According to one Federal Reserve Board analyst, it "elevates the Act to something more than a nuisance" especially the threat of class action. Although the Act does not specifically detail provision for class action suits, the potential cost of a successful class action suit, since no liability limit is set, could be so expensive that its implied threat presumably gives creditors pause.

It seems safe to say that civil action is a most effective way to attack non-compliance with TIL by institutions regulated by the Federal Trade Commission, due to the FTC's enormous enforcement responsibilities and limited staff.

Chapter 1 of TIL also provides criminal liability for willful and knowing violation of its requirements. Section 112 states,

Whoever willfully and knowingly

(1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder,

(2) uses any chart or table authorized by the Board under section 107 in such a manner as to consistently understate the annual percentage rate determined under section 107(a) (1) (A), or

(3) otherwise fails to comply with any requirement imposed under this title,
shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Section 114, "Reports by Board and Attorney General," requires annual reports, with recommendations, from the Federal Reserve Board and the Attorney General:

Not later than January 3 of each year after 1969, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with the requirements imposed under this title is being achieved.

The Truth-in-Lending Act, then, is divided into three chapters. Chapter 1 contains general provisions, including the following:

Sec.

101. Short title.
102. Findings and declaration of purpose.
103. Definitions and rules of construction.
104. Exempted transactions.
105. Regulations.
106. Determination of finance charge.
107. Determination of annual percentage rate.
108. Administrative enforcement.
109. Views of other agencies.
110. Advisory committee.
111. Effect on other laws.
112. Criminal liability for willful and knowing violation.
113. Penalties inapplicable to governmental agencies.
114. Reports by Board and Attorney General.

Chapter 2 deals specifically with credit transactions, including:

Sec.

121. General requirement of disclosure.
122. Form of disclosure; additional information.
123. Exemption for State-regulated transactions.
124. Effect of subsequent occurrence.
125. Right of rescission as to certain transactions.
126. Content of periodic statements.
127. Open end consumer credit plans.
128. Sales not under open end credit plans.
129. Consumer loans not under open end credit plans.

- 130. Civil liability.
- 131. Written acknowledgment as proof of receipt.

Chapter 3, on advertising, provides for :

Sec.

- 141. Catalogs and multiple-page advertisements.
- 142. Advertising of downpayments and installments.
- 143. Advertising of open end credit plans.
- 144. Advertising of credit other than open end plans.
- 145. Nonliability of media.

TITLE III OF S. 2101—THE TRUTH IN LENDING ACT AMENDMENTS OF 1973

In June 1973, a compromise was reached in the Senate Committee on Banking, Housing and Urban Affairs by the major sponsors of equal credit bills introduced in the Senate (Senators Bill Brock and Harrison Williams), and an amendment (Title III) was added in committee to the Truth in Lending Act Amendments of 1973 (S. 2101) to prohibit discrimination based on sex or marital status in virtually all credit transactions. The Truth In Lending Act Amendments of 1973 (sometimes referred to as the Fair Credit Billing Act), with this title intact, passed the Senate 90-0, on July 23, 1973, and is now pending in the House Committee on Banking and Currency.

Title III of S. 2101 prohibits discrimination based on sex or marital status in connection with any consumer credit transaction or in extensions of credit for commercial purposes. It incorporates civil liability provisions which include, for individual actions, penalties from \$100 to \$10,000, and, for class actions, a limit of \$100,000 or one percent of the net worth of the company, whichever is less. Administrative enforcement is provided by the Truth in Lending Act, and falls to federal regulatory agencies including the Board of Governors of the Federal Reserve System, which is empowered to formulate regulations to define the legal obligations of creditors and card issuers under the title.

Specifically, as provided in S. 2101, Title III may be cited as the "Equal Credit Opportunity Act." It amends the Truth in Lending Act by adding a new chapter, "Chapter 5—Prohibition of Discrimination Based on Sex or Marital Status," which outlines prohibited discrimination and civil liability in two sections, Sec. 181 and Sec. 182.

Section 181. Prohibited Discrimination

It shall be unlawful for any creditor or card issuer to discriminate on account of sex or marital status against any individual with respect to the approval or denial of any extension of consumer credit or with respect to the terms thereof or with respect to the approval, denial, renewal, continuation, or revocation of any open end consumer credit account or with respect to the terms thereof. Section 104 of this title does not apply with respect to any transaction subject to this section.

The section depends, for definition of its terms, on the definitions set forth in Chapter 1, Sec. 103 of TIL, as follows: "The term 'creditor' refers only to creditors who regularly extend, or arrange for the extension of, credit for which the payment of a finance charge is required,

whether in connection with loans, sales or property or services, or otherwise. The provisions of this title apply to any such creditor, irrespective of his or its status as a natural person or any type of organization." Equal credit bills introduced earlier in this Congress to amend TIL, and which depended on this definition of "creditor" were somewhat limited: In the area of credit cards, except in the sections of TIL added in 1970 to prohibit the issuing of unsolicited credit cards and limiting the liability of a cardholder whose card is stolen or lost (P.L. 91-508, 84 Stat. 1114), TIL applies only to credit card companies which allow payment in four or more installments and/or prescribe finance charges. Thus, the so-called "universal" credit cards like American Express, Dinner's Club, and Carte Blanche, which require a membership fee and do not provide for installment payment, are not covered, and therefore would not be required to comply with provisions of a general TIL amendment to prohibit discrimination based on sex or marital status.

Coverage of the "universals" is provided in S. 2101. Section 103 of the bill amends the definitions of "creditor" and "open end credit plan," to read as follows:

(a) . . . The term "creditor" refers only to creditors *who are card issuers*, or who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise. (Emphasis added.)

(b) . . . The term "open end credit plan" refers to a plan prescribing the terms of credit transactions which may be made thereunder from time to time and under the terms of which either a finance charge may be computed on the outstanding unpaid balance from time to time thereunder, or a credit card is issued.

Section 104 of TIL exempts the following transactions from coverage:

(1) Credit transactions involving extension of credit for business or commercial purposes, or to government or governmental agencies or instrumentalities, or to organizations.

(2) Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.

(3) Credit transactions, other than real property transactions, in which the total amount to be financed exceeds \$25,000.

(4) Transactions under public utility tariffs, if the Board determines that a State regulatory body regulates the charges for the public utility services involved, the charges for delayed payment, and any discount allowed for early payment.

However, Title III provides specifically that "Section 104 of this title does not apply with respect to any transaction subject to this section." Therefore, S. 2101 includes these transactions under the authority of the chapter on "Prohibition of Discrimination Based on Sex or Marital Status." The primary effect of this would be in the area of

business and commercial loans, including those for \$25,000 or more. Although the SEC and public utilities are regulated at present by federal or state agencies, there is, now, no federal legislation in effect which would prohibit discrimination on the basis of sex or marital status in decisions on applications for business and commercial loans. Yet there is some evidence that women in business have difficulty in this area. Last year, the National Conference on Business Opportunities for Women concluded that one of the chief barriers to business women was their difficulty in obtaining loans. The Small Business Administration has available figures for July–October 1972, which show that 11,054 loans were granted to men, for a total of \$657,109,000. During the same period, 98 loans were granted to women, for a total of \$2,401,150. These statistics have limited value because we do not know the percentage of loans granted to those applied for, in each category. However, the figures serve to indicate the small numbers of women obtaining business loans.

By including coverage of credit transactions generally exempted from TIL, Title III provides comprehensive coverage of creditors and credit transactions. It might be advisable, however, to study the administrative enforcement provisions of the Truth in Lending Act to determine whether or not additional provisions for administrative authority are made necessary by the inclusion of these four categories of transactions. The lender involved in the business and commercial loans and those other than for real property, of more than \$25,000, are already provided administrative enforcement authority under TIL, as they are the same banks, savings and loan associations, credit unions, etc., that lend money for consumer loans. As a practical matter, lack of provision for administrative enforcement mechanisms for the public utilities and broker-members of the SEC could be a problem.

Section 182. Civil Liability

Section 182 of Chapter 5 states, “The provisions of Section 130 of this title shall be applicable to any creditor or card issuer who violates section 181.” In other words, the civil liability provisions of TIL apply to the prohibited discrimination as described above. One of the provisions of S. 2101 amends the civil liability provisions of TIL to expand its coverage, provide for class action suits, and indicate certain responsibilities of the court in awarding class action liability. These proposed amendments to the civil liability section of TIL could prove important to some of the equal credit bills introduced in this Congress.

One potential problem with several equal credit bills introduced earlier in the year to amend the Consumer Credit Protection Act (specifically Title I, the Truth in Lending Act) was that these bills depended entirely on the civil liability provisions of TIL. The Truth in Lending Act is primarily a cost disclosure measure, and the civil liability section reads: “Except as otherwise provided in this section, any creditor who fails in connection with any consumer credit transaction to disclose to any person any information required under this chapter to be disclosed to that person is liable . . .” etc. (emphasis added). Therefore, no civil liability provisions would be made for the prohibition of discrimination based on sex or marital status in covered credit transactions. S. 2101 addresses itself to the potential problem,

and adds provision for class action suits, by rewording the civil liability section of the Truth in Lending Act to read:

(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter with respect to any person is liable to such person in an amount equal to the sum of

(1) any actual damage sustained by such person as a result.

(2) (A) in the case an individual action, twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery shall not be more than the lesser of \$100,000 or 1 per centum of the net worth of the creditor; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In addition, S. 2101 requires the courts to take into account certain specific considerations in awarding class action liability, as follows:

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

The bill provides for technical revisions in order to make the revised civil liability section (130) of TIL apply to the entire title, rather than just the section, and adds a new subsection to section 130, which provides,

(F) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a) (2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party.

The bill also adds a new subsection (e), which provides that "amendments made by this section shall apply in determining the liability of any person under chapter 2 of the Consumer Credit Protection Act (15 U.S.C. 1631 et. sq.), unless prior to the date of the enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise." Thus, TIL cases in which liability has not yet been awarded at the time of enactment of this measure, would be subject to the provisions of the civil liability amendments included in this bill. That is, the class action liability

is provided, and the courts would be instructed to take into account certain specific considerations in awarding that liability.

Title III makes a technical change in TIL to include Chapter 5 in the table of chapters, and provides, in Section 303, "This title takes effect upon the expiration of sixty days after the date of its enactment."

POTENTIAL CONFLICT WITH STATE LAW

Some observers see a potential problem with this bill and any bill which attempts to prohibit discrimination based on sex or marital status in credit transactions in terms of possible conflict with state community property laws. In some community property states, a married woman does not have control over her own earnings, much less the community property. Thus, she may not be able to borrow money or obtain credit. In Louisiana, New Mexico and Nevada, the husband is manager of the community property including wages earned by the wife while they are married. In two other community property states, California and Idaho, the husband has control, or management, over his wife's earnings if these earnings are commingled with community property; she may control her own earnings only if she keeps them separate.

Passage of S. 2101 with Title III intact would force some states to reevaluate their laws. A similar situation occurred with enactment of Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on sex. Since passage of Title VII, many state laws with classifications based on sex have undergone extensive examination. Some of these so-called state protective laws have been repealed by state legislatures, and others have been invalidated by state and federal courts. It has been suggested that courts would probably apply similar principles developed under the Title VII cases to new federal legislation prohibiting sex discrimination in the granting of credit.

At recent hearings on the economic problems of American women, held by the Joint Economic Committee in July 1973, Jane Chapman and Marge Gates, co-directors of a project on women in credit funded by the Ford Foundation through the Center for Women Policy Studies, testified, "It seems clear that under recent Supreme Court decisions these laws, which still exist in Louisiana, New Mexico and Nevada, violate the due process and equal protection clauses of the Fourteenth Amendment and are apt to be invalidated by the courts." For example, for the first time, the Supreme Court recently struck down a state law which made classifications based on sex, as a violation of the equal protection clause of the Fourteenth Amendment. The decision in *Reed v. Reed*, 404 U.S. 71 (1971), held unconstitutional an Idaho law which gave preference to males over females for appointment as administrator of an estate. It seems likely that cases similar to *Reed v. Reed* will be brought challenging the constitutionality of many aspects of state community property laws.

The Senate Committee Report on S. 2101 (S. Rept. 93-278) does not undertake a lengthy discussion of the potential conflict between the Title III and several community property laws, but states: "The Committee recognizes that, because of the laws of certain States creditors or card issuers may deem certain women less creditworthy than

other women or than men in otherwise similar circumstances. For example, under the laws of Louisiana, the earnings of a married woman, subject to certain exceptions, are deemed part of the community of acquets (assets) and gains that is managed by the husband; and, except in certain circumstances, a married woman may not subject such earnings to the claims of creditors. It is not the purpose of this Title to require any creditor or card issuer to extend credit to any person when such person is not deemed creditworthy. Nor can we condone or allow the continuation of discrimination against any person on the basis of sex or marital status."

It is possible that the question of the relationship between this proposed federal legislation and some existing state community property laws will be further explored in hearings, expected to be scheduled for the fall, by the Subcommittee on Consumer Credit in the House Banking and Currency Committee.

HOUSE BILLS

In the House, a number of bills have been introduced which contain the same provisions as does S. 2101. H.R. 9538 was introduced on July 24, 1973, by Representative Louis C. Wyman, and is the companion bill to S. 2101 as it was reported from committee. Several technical amendments were added to S. 2101 on the Senate floor, however, and H.R. 9996 was introduced by Representative Clair W. Burgener, and others, August 3, 1973, and is the companion measure to S. 2101 as passed by the Senate.

A number of other bills have been introduced in the House, mostly since passage of S. 2101 "to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such Act." These bills include only certain portions of the broader Truth in Lending Act Amendments of 1973: the amendments to the civil liability sections of TIL; and the addition of a chapter to TIL, "Prohibition of Discrimination Based on Sex or Marital Status". Because we have already analyzed these provisions in our discussion of S. 2101, and to avoid repetition, we have not undertaken a separate analysis of these bills, which include: H.R. 9388, introduced by Representative Matthew J. Rinaldo on July 18, 1973; H.R. 9499, introduced by Representatives Margaret Heckler and Edward Koch on July 23, 1973; H.R. 9880, introduced by Representative Heckler and others on August 3, 1973; and H.R. 9881, introduced by Representative Heckler and others on August 3, 1973.

H.R. 8163—THE EQUAL CREDIT OPPORTUNITY ACT

H.R. 8163, introduced on May 29, 1973, by Representative Bella S. Abzug and others, is a bill "to prohibit discrimination on the basis of sex or marital status in the granting of credit" by amending Title I of the Consumer Credit Protection Act (82 Stat. 146). Title I is the Truth-in-Lending Act (TIL).

H.R. 8163 includes a statement of "Findings and Purpose," which states the following:

Sec. 2. The Congress finds that there is a need to insure that the various financial institutions engaged in the extension of

credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

H.R. 8163 would amend TIL by adding a new chapter, "Chapter 4—Prohibition of Discrimination Based Upon Sex or Marital Status." The chapter would contain three sections, dealing with prohibited discrimination, civil liability, and effect upon other laws.

Section 151—Prohibited Discrimination

It shall be unlawful for any creditor, card issuer, or other person to discriminate against any person on account of sex or marital status in connection with the approval or denial of any extension of credit, or with respect to the issuance, renewal, denial, or terms of any credit card. Any denial of credit or variation in terms or restriction on the amount or use of credit imposed by a creditor in whole or in part on the basis of sex or marital status shall constitute discrimination within the meaning of this section.

H.R. 8163 depends, for its definitions of terms, on the provisions of TIL. As discussed earlier, the definition of "creditor" as provided in TIL as it now reads, excludes the "universal" credit card companies such as American Express, Diners' Club, etc. However, TIL contains no definition specifically for "card issuer," and H.R. 8163 states that "it shall be unlawful for any . . . card issuer, or other person to discriminate against any person on account of sex or marital status . . . with respect to the issuance, renewal, denial, or terms of any credit card." Thus, it is somewhat unclear as to whether or not universal credit cards would be covered by this bill.

Section 152—Civil Liability

As discussed earlier, to rely upon TIL for civil liability provisions to cover a chapter prohibiting discrimination based on sex or marital status in credit transactions would be to provide no civil liability at all, as those provisions of TIL, as they now read, provide penalties only for the failure to disclose credit costs. H.R. 8163 provides its own civil liability section. It provides:

(a) Any creditor, card issuer, or other person who violates section 151 of this Act shall be liable to the person aggrieved in an amount equal to the sum of—

(1) the principal amount of credit applied for, except that the liability under this paragraph shall not be less

than \$100 or greater than \$1,000 in an individual action, or greater than \$100,000 in a class action, and

(2) such punitive damages as the court may allow, and

(3) in the case of any successful action to enforce the foregoing liability, and the cost of the action together with a reasonable attorney's fee as determined by the court.

(b) The district courts of the United States shall have jurisdiction to hear and determine actions to enforce the liability created by this section without regard to the amount in controversy. Such jurisdiction shall be concurrent with that of State courts.

Section 153—Effect Upon Other Laws

S. 8163 states in Section 143 that:

This chapter shall not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to prohibition against discrimination on the basis of sex or marital status except that such laws are inconsistent with the provisions of this chapter or regulations promulgated thereunder, and then only to the extent of such inconsistency.

OTHER PROVISIONS OF H.R. 8163

The bill provides for including Chapter 4 in the contents at the beginning of the Truth-in-Lending Act.

H.R. 8163 provides, "Section 104 of the Consumer Credit Protection Act (PL 90-321) is amended by striking out "This title does" and inserting in lieu thereof "Chapters 1, 2, and 3 of this title do." The proposed effect is to include the four types of credit transactions excluded from TIL; as described earlier. Thus, H.R. 8163 would cover business and commercial transactions, transactions for \$25,000 or more that are not for real property, and transactions of public utilities and broker-dealers of the SEC.

The bill also adds a new subsection to Section 121 of TIL, which deals with "General requirement of disclosure." The new subsection would provide:

Each creditor and card issuer shall disclose clearly and conspicuously, in accordance with regulations of the Board or other appropriate regulatory agency, the criteria upon which judgments of creditworthiness are made. Each creditor or card issuer shall provide in writing to any person whose application for a credit card or other extension of credit is denied, the specific basis for such denial. The requirements imposed by this subsection shall not affect any other requirements of disclosure or explanation under the Consumer Credit Protection Act.

H.R. 8163 would take effect thirty days after the date of its enactment.

This bill has also been introduced by Representative Abzug and others as H.R. 9110, H.R. 9111, H.R. 9112, on June 29, 1973; and H.R. 9265, on July 12, 1973.

H.R. 8246—EQUAL CREDIT ACT

H.R. 8246, introduced by Representative Edward I. Koch, on May 30, 1973, would prohibit discrimination on account of sex or marital status by any creditor or credit card issuer against any individual with respect to the approval or denial or terms of credit in connection with any credit sale, any loan, or any other extension of credit, or with respect to the issuance, renewal, denial, or terms of any credit card.

It would specifically require the following (Sec. 2):

(2) "For the purpose of extending credit or issuing, renewing, denying, or determining the terms of any credit card—

"(A) with respect to a married couple or either spouse, any creditor or card issuer shall take into account the combined incomes of both spouses if both spouses are obligated; and

"(B) with respect to any individual, any creditor or card issuer may not rely on the probability or assumption that—

"(i) the income of such individual may be diminished because of the sex or marital status of such individual; or

"(ii) the rate of increase in the income of such individual may be affected by the sex or marital status of such individual."

Provisions for liability are as follows:

"(b) (1) Any creditor or card issuer who discriminates against any individual in a manner prohibited by subsection (a) is liable to such individual in an amount equal to the sum of—

"(A) in the case of an individual action, not less than \$100 nor more than \$1,000; or

"(B) in the case of a class action, not more than the greater of \$50,000 or 2 per centum of the net worth of the creditor or card issuer, as the case may be, as of the end of the creditor's or card issuer's fiscal year immediately preceding the fiscal year in which the discrimination occurred; and

"(C) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court."

The bill also provides that "Any action under this section may be brought in any court of competent jurisdiction during the one year period commencing on the date of occurrence of the violation."

In the area of administrative enforcement, this bill follows closely the provisions of TIL. Essentially, H.R. 8246 insures that its administrative enforcement is comprehensive by adding a paragraph which provides that banks other than cooperative banks which are not insured by the Federal Deposit Insurance Corporation are to be checked for compliance with this Act by the Board of Directors of the FDIC. TIL grants administrative enforcement power to the Civil Aeronautics Board, the Interstate Commerce Commission, and the Secre-

tary of Agriculture but H.R. 8246 omits mention of these agencies; presumably because the broader comprehensiveness of this bill would include enforcement of related loans elsewhere.

In addition, unlike TIL, H.R. 8246 provides that each agency with administrative enforcement responsibilities shall prescribe regulations to effectuate its provisions; unlike TIL, which requires the Federal Reserve Board to prescribe standard regulations, although agencies are authorized under TIL to write additional regulations.

The bill provides a criminal sanction: "Whoever willfully and knowingly violates any provision of" the measure "or any regulation prescribed to enforce the requirements imposed under such section shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

Terms are defined as follows:

(1) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(2) "Credit sale" refers to any sale with respect to which credit is extended or arranged by the seller.

(3) "Creditor" means any person who extends, or arranges for the extension of, credit in connection with loans, sales of property or services, or otherwise, whether or not a finance charge or late payment charge is required.

(4) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(5) "Card issuer" means any person who issues a credit card, or the agent of such person with respect to such card.

The effective date of the bill is ninety days after the date of its enactment.

This is the only major equal credit bill which does not amend an existing statute. The others amend the National Housing Act, or the Fair Housing Act, and most of them are amendments to TIL. Some analysts have pointed out that there is a problem with amending TIL to prohibit discrimination based on sex or marital status in credit transactions: That is, TIL is primarily a credit cost disclosure act, and by adding an anti-discrimination chapter to the bill, Congress would give the act a dual purpose that was not intended. As mentioned before, the fact that the emphasis of TIL is on cost disclosure has caused potential problems with civil liability provisions for proposed equal credit amendments to TIL. H.R. 8246 avoids this potential problem as a self-contained measure which includes its own liability provisions.

A major characteristic of this bill is its specificity. Not a general statement of what creditors shall not do, H.R. 8246 makes an effort to detail some prohibited behavior. It prohibits a major practice that women and couples encounter in securing mortgages, by requiring a creditor or card issuer to count the combined incomes of husband and wife in calculating credit worthiness.

In addition, the bill attempts to forbid creditor reliance on certain assumptions based on sex or marital status, specifically forbidding reliance on "the probability or assumption that the income of such individual may be affected by the sex or marital status of such indi-

vidual." These specific prohibitions, and the complexity of the issues, would require very carefully drawn regulations to define permitted and prohibited behavior by creditors. H.R. 8246, provides that each agency with administrative enforcement powers under the bill shall prescribe regulations to effectuate its provisions, as opposed to most of these bills and TIL which require the Federal Reserve Board to prescribe standard regulations. There are strengths and weaknesses to this approach. Presumably, each regulatory agency would be most familiar with the business and the practices of the creditors it regulates and could draft very specific regulations for that industry. On the other hand, if one agency, such as the Federal Reserve Board, drafts standard regulations there will be a consistent and uniform policy of prohibited and permissible behavior under the Act. Some analysts fear that without standard regulations, differing standards will be promulgated, and cause confusion.

The bill provides civil and criminal liability. The civil liability provisions are somewhat different from those provided in S. 2101 in terms of class action awards: S. 2101 provides "not more than the lesser of \$100,000 or 1 per centum of the net worth of the creditor," and H.R. 8246 provides "not more than the greater of \$50,000 or 2 per centum of the net worth of the creditor or card issuer"—thus, H.R. 8246 provides a much higher potential class action liability.

H.R. 8246 takes effect 90 days after the date of its enactment. This represents a longer time period provided between passage and effective date than provided by any other equal credit bill, and is probably a strength of H.R. 8246. The agencies required to prescribe regulations for enforcement of an equal credit bill, if one is passed, will have a multitude of complex issues to take into account. The Federal Reserve Board was provided one year in which to draw up the regulations known as "Regulation Z" which apply to TIL. It may be imprudent to expect that regulations covering prohibition of credit discrimination on account of sex or marital status could be drawn up in a month or two.

This bill has also been introduced as H.R. 9690, on July 30, 1973, by Representative Koch, and others.

H.R. 8393—TO PROHIBIT SEX DISCRIMINATION IN CONNECTION WITH FEDERALLY RELATED MORTGAGES (ALSO H.R. 8879)

Another approach is followed by H.R. 8393, introduced by Representative Margaret Heckler on June 5, 1973, and title IV of H.R. 8879, introduced June 21, 1973, by Representative Barrett, and others. Each would amend the National Housing Act by adding a new section to Title V of the Act. Section 525, "Prohibition against Discrimination on Account of Sex in Extension of Mortgage Assistance" would provide the following:

- (a) No federally related mortgage loan, or Federal insurance, guarantee, or other assistance in connection therewith (under this or any other Act), shall be denied to any person on account of sex; and every person engaged in making mort-

gage loans secured by residential real property shall consider without prejudice the combined incomes of both husband and wife for the purpose of extending mortgage credit in the form of a federally related mortgage loan to a married couple or either member thereof.

For the purposes of subsection (a), the term "federally related mortgage loan" is defined as any loan which

(1) is secured by residential real property designed principally for the occupancy of from one to four families; and

(2) (A) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency; or

(C) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(D) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than \$1,000,000 per year.

These bills are less broad than some of the other equal credit bills introduced in the 93rd Congress in that they forbid discrimination based on sex in only federally-related mortgage transactions. However, providing that "every person engaged in making mortgage loans secured by residential real property shall consider without prejudice the combined incomes of both husband and wife for the purpose of extending mortgage credit in the form of a federally-related mortgage loan to a married couple or either member thereof," in effect forbids one of the major alleged practices of discrimination based on marital status in credit transactions: that of counting none, or only part, of the salary of a wife when a married couple seeks a mortgage. Another major problem of women seeking mortgages is that single women allegedly have a more difficult time than single men of equal means in obtaining mortgages. However, forbidding credit discrimination based on sex would presumably solve this problem. In addition, the bill is broader in terms of creditors covered than it first appears: It covers all large mortgage creditors by adding the last paragraph, and including "any 'creditor' as defined in section 103(f) of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than \$1,000,000 per year."

These bills depend on the National Housing Act for administrative enforcement. They also depend on the National Housing Act for civil and criminal liability provisions, and there are none in the National Housing Act. Therefore, these bills prohibit sex discrimination in federally related mortgage transactions but provide no civil or criminal liability sanctions.

BILLS INTRODUCED IN THE 93D CONGRESS TO PROHIBIT DISCRIMINATION BASED ON SEX OR MARITAL STATUS IN CREDIT TRANSACTIONS

Bill No.	Date introduced	Sponsor	Purpose	Committee
H.R. 246	Jan. 3, 1973	Abzug, et al.	To prohibit discrimination by any party to a federally related mortgage transaction on the basis of sex or marital status and to require all parties to any such transaction to submit appropriate reports thereon for public inspection.	Banking and Currency.
Duplicate bills:				
H.R. 3211	Jan. 30, 1973	do.		
H.R. 3376	Jan. 31, 1973	Dellums		
H.R. 247	Jan. 3, 1973	Abzug, et al.	To amend the Truth-in-Lending Act to prohibit discrimination by creditors against individuals on the basis of sex or marital status with respect to the extension of credit.	Do.
Duplicate bills:				
H.R. 3209	Jan. 30, 1973	do.		
H.R. 3374	Jan. 31, 1973	Dellums		
H.R. 248	Jan. 3, 1973	Abzug, et al.	To prohibit discrimination by any federally insured bank, savings and loan association, or credit union against any individual on the basis of sex or marital status in credit transactions and in connection with applications for credit, and for other purposes.	Do.
Duplicate bills:				
H.R. 3210	Jan. 30, 1973			
H.R. 3375	Jan. 31, 1973			
S. 867	Feb. 15, 1973	Williams	To amend the Consumer Credit Protection Act to prohibit discrimination by creditors on the basis of sex or marital status in connection with any extension of credit.	Banking, Housing, and Urban Affairs.
Duplicate bills:				
H.R. 4734	Feb. 27, 1973	Badillo		Banking and Currency.
H.R. 5092	Mar. 1, 1973	Thompson (N.J.)		Do.
H.R. 5414	Mar. 8, 1973	Heckler	To amend the Truth-in-Lending Act to prohibit discrimination on account of sex or marital status in connection with any extension of credit.	Do.
Duplicate bills:				
H.R. 5599	Mar. 14, 1973	Frelinghuysen		
H.R. 8553	June 8, 1973	Frenzel		
H.R. 8702	June 14, 1973	Conable		
1604	Apr. 17, 1973	Brock	To prevent discrimination on the basis of sex in housing.	Banking, Housing, and Urban Affairs.
S. 1605	do.	do.	To amend the Truth-in-Lending Act to prohibit discrimination on account of sex or marital status against individuals seeking credit. ¹	Do.
Essentially similar:				
S. 2082	June 27, 1973	Bellmon		
H.R. 8163	May 29, 1973	Abzug, et al.	To prohibit discrimination on the basis of sex or marital status in the granting of credit.	Banking and Currency.
Duplicate bills:				
H.R. 9110	do.	do.		
H.R. 9111	do.	do.		
H.R. 9112	do.	do.		
H.R. 9265	do.	do.		
H.R. 8246	May 30, 1973	Koch	To prohibit discrimination on the basis of sex or marital status against individuals seeking credit.	Do.
Duplicate bill: H.R. 9690.	July 30, 1973	Koch, et al.		
S. 2101	June 28, 1973	Proxmire (from committee).	To amend the Truth-in-Lending Act to protect consumers against inaccurate and unfair billing practices and for other purposes. Title III prohibits discrimination based on sex or marital status in credit transactions.	Banking, Housing and Urban Affairs.

See footnote at then end of table.

BILLS INTRODUCED IN THE 93D CONGRESS TO PROHIBIT DISCRIMINATION BASED ON SEX OR MARITAL STATUS
IN CREDIT TRANSACTIONS—Continued

Bill No.	Date introduced	Sponsor	Purpose	Committee
Duplicate bills:				Banking and Currency.
H.R. 9538				
H.R. 9996 (companion)				
H.R. 9388	July 18, 1973	Rinaldo	Incorporates 2 aspects of S. 2101:	Do.
Duplicate bills:			Amends the Truth-in-Lending	
H.R. 9499	July 23, 1973	Heckler, Koch.	Act to prohibit discrimination	Do.
H.R. 9880	Aug. 3, 1973	Heckler, et al.	based on sex or marital status	
H.R. 9881	do.	do.	in credit transactions and	
			amends the civil liability provisions of TIL.	
H.R. 8393	June 5, 1973	Heckler	To amend title V of the National Housing Act to prohibit discrimination on account of sex in connection with federally related mortgages.	Do.
H.R. 8879	June 21, 1973	Barrett, et al.	Omnibus housing bill. Title IV contains the provisions of H.R. 8393.	Do.

¹ Identical to H.R. 5414, except for class action liability.

THE WHITE HOUSE,
Washington, D.C., August 3, 1973.

HON. MARTHA GRIFFITHS,
*Chairperson, Joint Economic Committee Hearings on Economic
Problems of Women, Longworth House Office Building, Wash-
ington, D.C.*

DEAR MRS. GRIFFITHS: Because of the important role our Office of Women's Programs plays in dealing with many of the matters discussed at the July 1973 hearings on the Economic Problems of Women which you chaired for the Joint Economic Committee, this Office appreciates the opportunity to submit the enclosed statement for the record of the hearings.

We thank you for this opportunity and look forward to working closely with you in the future.

Sincerely,

ANNE ARMSTRONG,
Counsellor to the President.

Enclosures.

STATEMENT OF THE WHITE HOUSE OFFICE OF WOMEN'S PROGRAMS

The White House Office of Women's Programs is pleased to submit for the record this statement to the Joint Economic Committee which held hearings in July 1973 on the Economic Problems of Women. Because of the important role the Office plays in dealing with a number of problems on which the Joint Economic Committee held hearings in July 1973, the Office requests that a description of its role be inserted into the record of the hearings.

The White House's first Office of Women's Programs was established by Anne L. Armstrong in February 1973, following her appointment as Counsellor to the President. The Office is staffed by Mrs. Jill Ruckelshaus, Special Assistant to the Counsellor to the President, her assistant, Mrs. Vera Hirschberg, Director of Women's Programs, and a secretary.

The Office of Women's Programs addresses the economic problems of women and the problems of discrimination on the basis of sex by acting as an advocate for progress and change both within the Federal Government and in the private sector. In that role it has six major functions:

- consulting and cooperating with the Federal Departments and Agencies on their plans for the advancement of women;
- providing information and counselling to the public on matters of discrimination on the basis of sex and information on the laws that aim to eliminate such discrimination;

- acting as a liaison with national women's groups on matters of mutual concern;
- communicating to the public the programs of the Federal Government to advance women in the economy;
- channelling individuals' and groups' sex discrimination complaints and suggestions on how to deal with them to the proper government agencies;
- providing information to Mrs. Armstrong as a spokeswoman for issues of concern to women

The Office has provided information, advice, and clarification to individuals and groups on such issues as the Equal Rights Amendment, day care, Federal aid for grants, and affirmative action plans.

In addition, the Office provides continual briefings for Mrs. Armstrong on what progress Federal Government agencies are making in their affirmative action plans in hiring, training, and promoting more women. The Equal Employment Opportunities Act of 1972 requires each Department and Agency to submit such a plan to the Civil Service Commission annually and gives the Commission power to reject such plans as inadequate. To check first hand on progress within the government on the hiring and promotion of women, Mrs. Armstrong and Mrs. Jayne Spain, Vice Chairman of the Civil Service Commission, recently launched a series of visits to Federal Agency heads to urge them to appoint more women to top and mid-level government jobs.

Mrs. Armstrong and the staff of the Women's Programs Office feel strongly that more qualified women are needed at all levels of government. Their commitment to this goal is strong and their efforts are backed by the President.

As the 1973 Economic Report of the President pointed out, the average year-round, full-time woman worker earns less than 60 percent of her male counterpart. Differentials of this magnitude must and can be erased, and the sequestering of women in primarily "women's occupations" must be overcome. The steady progress in the Federal government is setting an example for the private sector, which this office believes will move the Nation towards these goals more rapidly.

Mrs. Armstrong and her Women's Programs Office staff are confident that when the Affirmative Action Plans are fully implemented throughout the Federal Government, many more qualified women will be hired for and promoted to jobs that previously were filled only by men. This in turn will create a ripple effect throughout the economy which will substantially enhance and advance women economically.

As evidence of its strong commitment to the goal of advancing women in the economy, the Office of Women's Programs is also working closely with the President's Advisory Committee on the Economic Role of Women. The Office is helping to plan agendas and programs for the Committee's meetings and to promote more public awareness of the Committee's work.

The Committee meets periodically with the Chairman of the Council of Economic Advisers, who also serves as its chairman, to exchange information and ideas on the economic problems of women. Recommendations based on the committee meetings and public forums which it sponsors are made to the Chairman of the Council of Economic

Advisers to ensure that the interests of women are represented when economic policy decisions are made.

The Office of Women's Programs also closely monitors the arms of the Executive Branch which enforce and/or deal with various statutes dealing with sex discrimination. Activities recently reviewed include those of the Office of Civil Rights of the Department of Health, Education and Welfare, the Equal Employment Opportunities Commission, the Office of Federal Contract Compliance of the U.S. Department of Labor and the U.S. Commission on Civil Rights. The results of these reviews are included in the Office of Women's Programs Fact Sheet, which follows. The Fact Sheet details significant progress over the past four years towards equal opportunity and equal justice for women in our Nation. At the same time, the Office of Women's Programs is cognizant of the fact, as these hearings have shown, that much remains to be done, and is prepared to join with others so that future progress in this important area of human rights is assured.

FACT SHEET—WOMEN IN THE FEDERAL GOVERNMENT

Background

In April 1971, the President took three major steps to intensify this Administration's efforts to place more women in top jobs in the Federal Government.

1. He directed the heads of executive departments and agencies to develop and implement action plans to attract and place more women in top and middle management positions in the Federal Government.

2. He appointed Barbara Hackman Franklin as Staff Assistant to recruit top-level female talent for full-time, policy-making positions in the Administration.

3. The President then appointed Jayne Baker Spain the first woman in ten years to be Commissioner and Vice Chairman of the Civil Service Commission, and asked her to do everything possible to see that women in the career Civil Service are guaranteed equal opportunity for employment and advancement.

Each of these steps is significant, and together they mark a new approach to the advancement of women in government.

Results Achieved

There are now more women in full-time, policy-making positions in the Federal Government than ever before in our nation's history. Ongoing efforts within the Administration have resulted in an unprecedented increase in the number of women holding top-level jobs.

Numerous Firsts

1. In January 1973, the President appointed Anne Armstrong, former Co-chairman of the Republican National Committee, to the position of Counsellor to the President, with Cabinet rank. Mrs. Armstrong is the first woman ever to hold this position. One of her major responsibilities is to advance the role of women throughout our society.

To help carry out this responsibility she established the first White House Office of Women's Programs.

2. At the policy-making level more than half of the women appointees hold positions never before held by women.

3. For the first time in history, three women are heading independent agencies in the Executive Branch at the same time. All three were appointed by President Nixon. They are: Catherine May Bedell, Chairman, United States Tariff Commission; Helen Delich Bentley, Chairman, Federal Maritime Commission; and Dixie Lee Ray, Chairman, Atomic Energy Commission.

4. The President nominated the first six women to the rank of General in the Armed Forces and the first woman to the rank of Rear Admiral in the Navy. One officer, Major General Jeanne Holm, who directs women in the U.S. Air Force, originally named a Brigadier General, now holds the highest rank ever held by a woman in the Armed Services.

5. There has been an upward trend in Federal Government employment of women over the past several years in such specialized professions as pharmacy, urban planning, law clerks, food technology, and transportation operations. In 1972, women were appointed for the first time as FBI agents, sky marshalls, Secret Service agents and narcotics agents.

6. Women have made significant progress towards equality in the U.S. Armed Forces since 1971. The number of women in the military services increased from 32,400 in fiscal year 1971 to 53,997 in fiscal year 1973. Under present plans, the number of women will grow to a minimum of between 80,000 and 85,000 by 1977. Military job specialties open to women rose from 35 percent of all specialties in 1971 to 81 percent in 1972.

7. In recognition of the increasingly vital role women are playing in our national economy, the President in September 1972 announced that, for the first time, he was creating an Advisory Committee on the Economic Role of Women. He named as its Chairman, Dr. Herbert L. Stein, Chairman of the Council of Economic Advisors.

8. For the first time, the Council of Economic Advisors included a chapter on the Economic Role of Women in its annual report to the President, submitted in January 1973.

9. In January 1972, President Nixon nominated Mrs. Marina von Neumann Whitman as the first woman member of the Council of Economic Advisors.

Other Efforts

The Executive Branch's influence on private employment extends by law only to those firms which contract with the Federal Government. But through its leadership efforts the Federal Government has helped to bring about equal opportunity for women not only in government, but in industry, education and other areas of the private sector. Major efforts are listed below.

1. Executive Order 11478, issued in August 1969, prohibited discrimination on the basis of sex, race, color, religion or national origin in the Federal service and specified that the Federal Women's Program become an integral part of the overall Federal Equal Employment Opportunity programs. This resulted in the appointment of more

Federal Women's Program coordinators in Federal departments and agencies in order to address the particular employment needs and problems of women.

2. For the first time in history, the Secretary of Labor issued guidelines (December 1971) requiring all firms doing business with the government to have action plans for the hiring and promotion of women (Revised Order No. 4).

3. In March 1972, the President signed the Equal Employment Opportunity Act of 1972 which impacts on both Government and the private sector. The Act gave the EEOC enforcement power through the courts in cases of sex discrimination. It also requires Federal agencies to submit affirmative action plans annually to the Civil Service Commission for approval. Programs providing opportunities for upward mobility for women and minorities are receiving additional attention under this legislation. The Act also broadened the jurisdiction of the Equal Employment Opportunity Commission to cover cases of alleged employment discrimination by States, their political subdivisions, and private educational institutions.

4. Under Executive Order 11246 (as amended by Executive Order 11375, October 13, 1967) this Administration is the first to conduct compliance reviews of Federal contractors and subcontractors to ensure nondiscrimination in employment on the basis of sex. The Executive Order, as amended, prohibits discrimination in employment on the basis of sex. As a result of this order Federal contractors and subcontractors, including higher education institutions, must have affirmative action plans to ensure nondiscriminatory treatment of employees. Between November 1971 and June 30, 1973, 203 compliance reviews were conducted in colleges and universities. As a result of the reviews, 35 affirmative action plans including upward mobility for women were approved on an interim or final basis, 59 were rejected as not meeting the minimum requirements, and 173 are pending review. In the period November 1971 to December 1972, 224 cases involving sex discrimination at higher education institutions were settled on the 554 complaints received.

5. Title IX of the Education Amendments of 1972, (Higher Education Act), which the Nixon Administration is vigorously enforcing, prohibits sex discrimination against students and employees in most institutions of higher education which receive Federal aid in the form of grants, loans or contracts.

6. The Administration proposed and Congress enacted legislation in 1972 to broaden the jurisdiction of the United States Commission on Civil Rights to include sex-based discrimination. As a result of its new jurisdiction, the Commission created a Women's Rights Program Unit which develops programs and analyzes ways by which the Commission can best deal with discrimination as it affects American Women of all races and ethnic backgrounds.

7. Most recently, in his 1973 State of the Union message and Human Resources message, President Nixon reaffirmed his support for the Equal Rights Amendment. His commitment to the Amendment goes back to 1951, when he co-sponsored it in the Senate. The Amendment, which was passed by the Congress in March 1972, is now in the process of being ratified by the States.

8. Under general revenue sharing legislation, the Federal Government is enforcing for the first time non-discrimination protections in Federal financial assistance covering women.

9. The President's Task Force on Women's Rights and Responsibilities, an ad hoc organization, published a report in 1970 which helped to give focus and constructive direction to women's aspirations. The report, entitled "A Matter of Simple Justice" called for a national commitment to basic changes in our institutions essential to eliminating discrimination against women and to bringing them into the mainstream of American life.

10. The Citizen's Advisory Council on the Status of Women, whose members are appointed by the President, has given continuing attention to the needs of women and the problems of sex discrimination. One of the Council's major achievements was to see the acceptance by the Equal Employment Opportunity Commission and the Courts of its legal theory for securing employment-related benefits for women for periods of absence because of childbirth and complications of pregnancy.

11. Under the leadership of the Department of State, the U.S. foreign affairs agencies promulgated fundamental policy changes in recent years to expand opportunities for women in the Foreign Service and to open to them types of assignments previously held exclusively by men.

12. Under the leadership of the Secretary of Health, Education and Welfare, a Women's Action Program was established on February 17, 1971, and a Secretary's Advisory Committee on the Rights and Responsibilities of Women was established at the Department on May 2, 1972.

Summary

In his March 1973 Human Resources Message President Nixon said:

Now that equal opportunity is clearly written into the statute books, the next and in many ways more difficult step involves moving from abstract legal rights to concrete economic opportunities. We must ensure real social mobility—the freedom of all Americans to make their own choices and to go as far and as high as their abilities will take them . . . Additionally, in the year ahead, we will continue to support ratification of the Equal Rights Amendment to the Constitution so that American women—not a minority group but a majority of the whole population—need never again be denied equal opportunity.

AMERICAN HOME ECONOMICS ASSOCIATION,
Washington, D.C., August 13, 1973.

HON. MARTHA GRIFFITHS,
*Joint Economic Committee, U.S. Congress, Senate Office Building,
Washington, D.C.*

DEAR MRS. GRIFFITHS: Enclosed is our statement for inclusion in the record of the hearings of the Joint Economic Committee on economic problems of women.

We appreciate the opportunity to participate in this important series of hearings. Thank you for making it possible.

Sincerely,

DORIS E. HANSON,
Executive Director.

Enclosure.

STATEMENT OF THE AMERICAN HOME ECONOMICS ASSOCIATION

By DR. KATHRYN E. WALKER *

The American Home Economics Association appreciates this opportunity to contribute to the hearings of this Committee on the subject of economic problems of women. The following resolution, unanimously adopted by the American Home Economics Association Assembly of Delegates, June 28, 1973, speaks to a very basic issue which we believe contributes to economic discrimination against women:

NATIONAL INCOME ACCOUNTING OF HOUSEHOLD WORK

(1) Whereas most household work is done by unpaid family members, especially women; and

(2) Whereas the economic and social contributions of those who do this work are currently ignored and even denigrated by national policies; and

(3) Whereas Gross National Product and National Income Accounts do not include household work and other nonmarket activities that affect the social and economic well-being of families and society; and

(4) Whereas economic discrimination against women prevails in and out of the labor market; and

(5) Whereas research has been done in the United States and abroad to show that it is now possible to measure the monetary value of household work, therefore Be it resolved that:

*Professor in College of Human Ecology, Cornell University, Ithaca, N.Y., for the Joint Economic Committee, United States Congress, Aug. 13, 1973.

American Home Economics Association promote and support governmental policies that recognize the value of the nonmarket component of household work, and Be it further resolved that:

American Home Economics Association promote and support governmental policies that provide freedom for all people to make meaningful decisions on their social and economic roles, whether in market or nonmarket activities or in combination of the two, and Be it further resolved that:

American Home Economics Association encourage the funding of research directed toward the goal of quantifying in the National Income Accounts the monetary value of household work.

Household work contributions of employed and nonemployed women, men, and older children have economic value to families and to the nation, but this nonmarket work has long been ignored by those who measure our national economic well-being. Economic indicators, such as the GNP, and national income measures provide basic information for governmental policy formation. Consequently, the omission of household production of services to the family indicates discrimination against women, who continue to be the primary contributors of such services. When national economic data provided policy decision-makers are incomplete and misleading, it follows that decisions which are based on them will be inadequate. If household work were valued in national economic indicators, women could benefit psychologically as well as economically, since the monetary value of goods and services is recognized in our system as an indicator of worth.

Failure to include the value of household production in economic indicators has contributed to discriminatory national and state policies in such areas as taxation, employment, social security, insurance regulations, family welfare, and child-care services. Partly because policy-makers do not realize that household work has a monetary value, and that this value varies over the family cycle, employment policies for women have not been equitable with those of men. Women have all too often been looked upon as secondary, peripheral workers and have thus been offered lower paying jobs and have even received lower pay than men for the same jobs. In many cases there has been inequality in such fringe benefits as workmen's compensation and disability benefits for non-work related illnesses. Some tax policies related to inheritance, social security and income tax do not take into account the economic value of the household work role in the marital partnership of husbands and wives. Another example of economic inequality is to be found in the new no-fault automobile insurance regulations in a number of states which ignore the significance of the wife's household production to the economic welfare of the family and society.

Inability to quantify household work is the main reason given by economists for not including the nonmarket value of production of household work in economic indicators. As early as 1889 Richard Ely called attention to the fact that household production by family members is a frequently overlooked productive element in society. Since that time there have been great advances in the statistical and analytical procedures for quantifying such economic data and there seems to be little reason for advancing this as an excuse for not including the

value of home production in national economic indicators (appendix 4, pp. 11-12).

In the New York College of Human Ecology at Cornell University, we have used time spent on household work as a measure of this work in an ongoing research project based on a stratified, random sample of 1,400 husband-wife families. Our research shows that time use can be a measure of household production, and that three major factors determine the amount of time spent on household work: (1) number of children; (2) age of the youngest child; and (3) whether or not the housewife is employed (appended item # 2, pp. 2-5 and pp. 21-23; item # 3, pp. 1-5).

We have assigned a dollar value to hours used for household work by using substitute labor rates to estimate its monetary value to families and to the economy (appended item # 4, pp. 15-19). We have projected these values to a large self-weighting national sample selected by the Bureau of the Census for the Survey of Economic Opportunity. To do this we matched data from our study of husband-wife families to similar households in the Survey of Economic Opportunity sample (56 percent of the total national sample). Using conservative monetary values of substitute labor rates to assign a dollar value to time use for household work in the matched Survey of Economic Opportunity households, we have determined that GNP would be increased by about one fourth if the household work of family members in the types of U.S. families used in the research were included. We do not know how great the increase would be if the household work times of other types of families for which we have no time-use data from the New York study were evaluated. These other types include such significant groups as single-parent and single-adult households, extended families, and households of unmarried individuals.

In addition, failure to include the value of household production has undoubtedly had a significant effect on forecasting economic trends which are used in determining policies for taxation, social security, etc. and as an evaluation of changes in living standards (appendix 4, p. 19). The changes in national income and product accounts would be significantly affected by changes in the amount and kind of home production and in the entrance and withdrawal of women from the labor force. Because such activities are highly correlated with number and age of children, the changes in the national economic indicators would be affected by the changes in these demographic characteristics of families.

The critical need for objective measures of the economic value of household work contributions, especially those of women, is attested to by the substantial number of requests from lawyers and economists which we received in response to our recent nontechnical publication of data on dollar value of household work (appended item No. 5). Lawyers have immediate problems of ascertaining economic loss to a family which results from injury or death of the wife, and of ascertaining appropriate economic settlements in cases of divorce and inheritance. Economists are interested in aggregating these values for a variety of purposes, such as including nonmarket activities in economic indicators and for cost-benefit analysis of various methods of providing such family services as child care.

However, additional research is needed before household work can be quantified in national economic indicators. Time-use data collected

nationally is needed to determine variations in household work patterns related to regional, cultural, or climatic differences. Such data must be collected to represent all types of households in the proportion they currently exist in the country. In all of this research, the household, not the individual, must be the unit studied. Further research is also needed as to appropriate methods for incorporating these data in national indicators and economic analysis.

There must also be continued debate on a methodology for assigning the monetary value of household work. Opportunity cost rates, proposed by some for valuing the contribution, seem to us to be an inappropriate measure for inclusion in National Income Accounts since the measure needed is one that quantifies what is produced in the household rather than what could be produced if family members were not engaged in household work. We are not completely satisfied at the New York State College of Human Ecology with our use of substitute labor rates of such workers as a cook, cleaning woman, and child care woman for attaching a monetary value to household work, because we assume that there are variations in standards of work between a housewife and such employees. Efforts in The Netherlands to use an arbitration board to establish satisfactory rates which are based upon functional analysis of the various types of household work is one example of how improved labor rates could be calculated. In the Dutch method, each type of household work is evaluated in terms of amount of theoretical and practical knowledge required, level of responsibility, working conditions, and extent of mental and physical requirements (appendix 4, pp. 12-15).

Only when nationally collected up-to-date time-use data and appropriate wage rates are available, will it be possible to attach monetary value to household production. Many economists have expressed interest recently in revising economic indicators to include nonmarket work such as household production.¹ Our research attests to the fact that quantification of this work is possible and provides a base for continued development in methodology. We believe, however, that data are not yet adequate for nationally quantifying household work. Clearly it is the responsibility of the Federal government to obtain the necessary data and for economic analysts to conduct the research required to incorporate them into the national economic indicators. We recommend that the Joint Economic Committee urge the Departments of Commerce and Labor to initiate the necessary research and development to include household production in the national income and product accounts, and to evaluate its impact on problems of economic discrimination.

Despite the need for additional data, we already know from our work here at Cornell that household production activities continue to take time at all stages of the family cycle, and a substantial amount of time is required in some of them (see appended item #3 and item #6). Much of this work cannot be automated. When it is, we erroneously

¹ For example, in the July 29, 1973 issue of the *New York Times*, Robert Reinhold reported on a newly recommended measure of national well-being, Nordhaus' and Tobin's, MEW (Measure of Economic Welfare) which was renamed by Samuelson in the last edition of his *Economics* as NEW (a measure of Net Economic Welfare). In the MEW, or NEW, "Values are placed on household chores performed by housewives and the productive work done in the house by husbands."

Similar research is being conducted by Dr. Theodore Suranyi-Unger, Jr. at The George Washington University, Washington, D.C., under a grant from the National Science Foundation.

assume that less physically demanding work means less time-consuming work. Our research shows little doubt as to who continues to do the major share of household work—the wife, whether or not she is in the labor force. The share carried by husbands and other family members unfortunately does not increase when she is employed (see appended items #7 and #8). Although the amount of household work done by the wife is reduced with employment, her total work week is long, an average of 70 hours.

[Editor's Note: The following papers, which were appended to the above statement, are available in the Committee files: New York State College of Human Ecology, "Time Use for Care of Family Members;" Kathryn Walker, "Effect of Family Characteristics on Time Contributed for Household Work by Various Members;" William Gauger, "The Potential Contribution to the GNP of Valuing Household Work;" Walker and Gauger, "The Dollar Value of Household Work;" Walker, "How Much Help for Working Mothers?"]

AMERICAN SOCIETY OF BIOLOGICAL CHEMISTS, INC.,
COMMITTEE ON WOMEN IN BIOCHEMISTRY,
Bethesda, Md., August 14, 1973.

Representative MARTHA GRIFFITHS,
*Joint Committee on the Economic Problems of Women, Dirksen
Senate Office Building, Washington, D.C.*

DEAR REPRESENTATIVE GRIFFITHS: The Committee on Women in Biochemistry of the American Society of Biological Chemistry has some data which it believes may be helpful to insert into the record of the hearings of the Joint Economic Committee on the Economic Problems of Women.

The Committee on Women in Biochemistry (hereinafter called the Committee) is an official committee of the American Society of Biological Chemists (hereinafter called the Society). The Committee, which consists of seven members appointed by the President of the Society, was established last year after a poll of Society members determined the desire of the membership for committees concerned with social issues such as the rights of minorities and women. The Committee is charged with determining the status of female professional biochemists, and, where necessary, devising methods for improving that status.

The American Society of Biological Chemists is the primary Society for biochemists. Membership requires not only that the individual possess the Ph.D, MD, or equivalent, but that he/she has demonstrated ability and initiative in independent research, as determined by recommendations, publications, and by the deliberation of the Membership Committee of the Society. Membership is thus selective; about 3500 biochemists are members, as compared with approximately 13,000 professional biochemists in the country. The Society is a member, together with five other biomedical specialty societies, of the Federation of American Societies of Experimental Biology.

The data presented below have a bearing on the economic problems of women, and strongly suggest sex discrimination in employment. These data show (a) That women chemists and biochemists with the doctoral degree have a lower status than their male counterparts, as indicated by their lower earnings and by their being represented in low proportions in the higher academic ranks; moreover, this situation has not improved at all over the last several years, and (b) That women chemists at all educational levels (BA, MA and doctoral) earn less than their male counterparts and have a higher rate of unemployment.

Table 1 shows the median salaries, by year and by sex, for chemists with doctoral degrees. The median salary for women is approximately 25% lower than the salary for men and this situation has not changed

over the last six years. (Although not subdivided as to specialty, it appears likely that all areas of chemistry, including biochemistry, are similar in these respects). Table 2 shows the composition, by sex, of biochemistry departments of 34 top-ranking universities. Data are presented for two years, 1963 and 1971, the latter being the latest published. There is no significant difference between the two years. The population of women available to fill such academic posts can be gleaned from the fact that approximately 15–16% of all PhD's in biochemistry in the last 10 years were awarded to females (figures from the National Center of Health Statistics) and that 85–90% of these women have continued in the work force (Women's Bureau, Department of Labor).

When the salaries of female and male chemists at all degree levels (bachelor's master's and doctoral) are compared (Table 3) it is apparent that this salary differential occurs at all educational levels. When the percent unemployment (among those seeking jobs) was measured for the same population, it was found to be only 1.5% for men but 4.2% for women. Another indication of the expendability of women is given by Figure 1, which shows that the starting salaries of women chemists rose slightly, relative to men, during the years of peak employment of chemists (1964–1969) but when the demand began to taper off (1969–1970), women suffered higher salary cuts, proportionally, than did men.

The above data indicate that women chemists and biochemists with the doctoral degree do not enjoy the same salary and professional status as their male counterparts, and, further, their lot has not improved during the years of formulation and purported implementation of affirmative action programs. In addition, women chemists at all educational levels have lower salaries and a higher rate of unemployment than do men, and are the first to suffer salary decreases in times of job scarcity. The Committee and the Society therefore strongly support new legislation to ameliorate these conditions, since the figures show that existing legislation is having no visible impact. In addition to the harm being done to the women themselves, such continued discrimination means that a reservoir of talent and expertise, trained at great expense to themselves and the nation, is not being utilized.

Yours very truly,

LORETTA LEIVE, Ph. D.,
Chairperson, Committee on Women in Biochemistry.

TABLE 1.—MEDIAN SALARIES FOR CHEMISTS WITH DOCTORAL DEGREES, ALL AGES

Year	Men	Women	Women earn this percent less than men
1968.....	\$15,600	\$12,000	25
1970.....	18,300	13,400	27
1971.....	18,500	14,100	24
1972.....	19,400	14,500	25
1973.....	20,900	15,300	26

Source: Statistics from the American Chemical Society, annual salary survey.

TABLE 2.—SEX AND RANK OF FACULTY IN 34 DEPARTMENTS OF BIOCHEMISTRY

Year	Full professor			Associate professor			Assistant professor		
	Female	Total	Percent female	Female	Total	Percent female	Female	Total	Percent female
1963.....	4	186	2	10	120	8	6	143	4
1971.....	7	357	2	10	210	5	14	235	6

Source: From Directory of Graduate Research, American Chemical Society.

TABLE 3.—MEDIAN ANNUAL SALARY OF CHEMISTS, 1973, ALL AGES

	Men	Women	Percent less ¹
Bachelor degree.....	\$17,000	\$12,000	26
Masters' degree.....	18,000	13,000	28
Doctoral degree.....	20,000	15,300	27

¹ Calculated as for table 1.

Source: Statistics from the American Chemical Society, annual salary surveys.

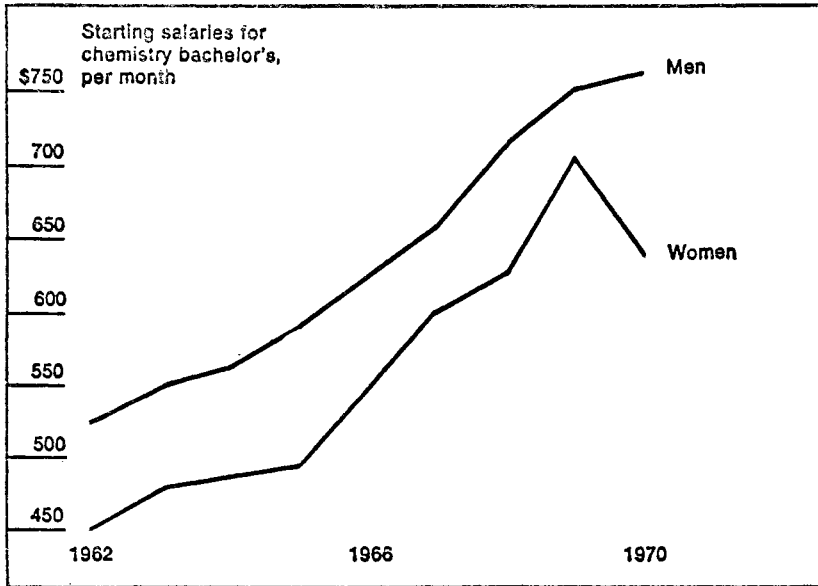


Figure 1. Starting Salaries offered to chemistry graduates at the bachelor's level during the past decade. Reproduced from Technology Review, June, 1973; Data from American Chemical Society.

STATEMENT OF THE PENNSYLVANIA COMMISSION ON THE STATUS OF WOMEN, ARLINE LOTMAN, EXECU- TIVE DIRECTOR

I am Arline Lotman, Executive Director of the Pennsylvania Commission on the Status of Women.

We would like to commend the Joint Economic Committee for holding these public hearings, and express our appreciation for this opportunity to enter our testimony before the Committee in the vital areas of credit and insurance.

The Pennsylvania Commission was created in February, 1972, to be a strong advocate for the rights of women in the Commonwealth of Pennsylvania, and to develop and implement programs to insure that women have the opportunity to fully participate in all areas of life in the state.

I would like to present information on two areas of concern to this committee—insurance and credit policies and practices as they affect women.

We are currently investigating discriminatory practices in the insurance industry, in cooperation with a newly appointed Task Force working with the Pennsylvania Insurance Department.

This investigation is a natural outgrowth of the credit investigation the Pennsylvania Commission on the Status of Women is now bringing to a close with formal recommendations for legislative and administrative action, since complaints concerning insurance practices were among those received during that investigation.

Preliminary studies in Pennsylvania have shown that widespread inequities exist, not only in the availability of coverage in all types of insurance, but in rates and benefits as well.

In the words of John A. Durkin, Commissioner of Insurance and Securities for the State of New Hampshire in testimony before the U.S. Senate Subcommittee on Antitrust and Monopoly:

As might be expected from a business run almost exclusively by males, females are discriminated against in the rates charged them for individual life insurance policies. Simply stated, they pay more than they should.

And not only are women paying more, but they are receiving less in benefits.

For example, in disability income insurance, coverage is automatically denied to women who are employed by a relative, engaged in a joint business venture with their husbands, or who work less than thirty hours per week.

Women are covered for less time than men in case of illness—two to five years for women versus up to life for men. Women have to be in the most desirable risk class to get coverage at all, and coverage usually doesn't include disability due to pregnancy or childbirth.

In other words, women seeking disability insurance are often denied it completely, or if eligible, are offered policies substantially inferior to those sold to men in the same profession or occupation.

The insurance industry, just as the banking and credit industry, continues to determine the so-called appropriate coverage for women on assumptions about women's behavior in the labor force which are inaccurate. Private insurance firms charge women substantially higher rates; in some cases women pay premiums as much as 150 percent higher than men in the same category.

The industry's justification for this disparity is that women work for personal convenience, not because of financial need; that women tend to be malingerers, marginal employes, and health risks, and therefore their participation in the labor market is not dependable.

Yet, social security disability claims for 1970 reveal that 5.3 men per thousand were awarded disability benefits and only 3.9 awards per thousand were made to women. And according to the U.S. Department of Labor, men lost 5.1 days due to sickness or injury in 1971 and women lost only 5.2 days, hardly a significant difference.

Among the inequities included in the complaints received by the Pennsylvania Commission on the Status of Women are:

Single women are unable to obtain maternity coverage on their health insurance policy, and married women are forced to add their husband to the policy.

For example, one complainant wrote:

I am appalled. This is an obvious act of blatant discrimination, both against married and single women. It is ridiculous that I, as a woman and married, cannot have maternity benefits without paying for my husband's inclusion in my policy. And it is just as absurd that a single woman cannot even pay to have these benefits.

The insurance industry appears to be making moral judgements for our society rather than supplying a service which can be purchased by those seeking protection.

In one case, a mother was denied insurance coverage on her child because she was unmarried. She stated:

I was told I could not take one out (a policy) as they consider it almost as if you were a criminal and had been imprisoned. I was greatly appalled at this because I feel I have as much right as any married mother to protect my child. I find this policy highly discriminatory and unfair in its existence.

In the area of rate disparity one woman complained that in an advertisement for group hospital insurance, the rates for women in two age brackets, under 40 and 40-49 are almost one-half more the cost of the rates for men in the same age bracket.

Denying women the protection they seek through the purchase of insurance is particularly injurious to the 337,000 women heads of households in Pennsylvania. These women must be given the opportunity to protect their families and their property with the kind of insurance coverage they feel they need to guard against unknown dangers and financial catastrophe.

Our investigation will also concern itself with employment practices of the insurance industry.

According to the 1970 Census, there are 1.3 million persons employed by insurance companies, almost half of whom—or 48 percent—are women. However, 83 percent of those women employees are in secretarial positions.

Federal legislation now requires that women be given the same employment opportunities as men, but it is evident the insurance industry has been slow to bring its hiring and promotion practices into line with the law.

It is our contention that Insurance Departments, as regulatory agencies, must exert their authority to insure that the industry abides by fair employment legislation.

Keeping women out of the decision-making roles in the insurance industry has been a major factor in creating a situation in which policies, coverage, eligibility, and benefits tend to be based on the needs of men rather than women. Or, as one woman professional in the insurance industry put it:

A man always selects insurance for women; it's either a husband, a male insurance agent or a male personnel officer.

It is our strong recommendation that all insurance companies be forced to provide all insurance coverage, rates and benefits to all applicants on an equal basis. When disparities are called for they should be based on criteria equally applied to men and women. We further recommend that the present bases for actuary tables be reviewed for accuracy and relevancy. For example, women are given—on the average—a three-year mortality advantage in computing rates, yet they live, on the average, seven years longer than males.

The second issue I would like to deal with is credit.

One of the projects undertaken by the Commission in carrying out its responsibility has been a comprehensive study and evaluation of the credit practices and policies as they affect women consumers in Pennsylvania.

We are currently preparing our final report and recommendations for corrective action to eliminate the widespread discrimination on the basis of sex and marital status which our investigation has revealed.

The use of credit in our society is so extensive that to deny it to any segment of the population because of sex or marital status places an unfair economic burden upon the individual, and frequently, her spouse and children as well.

Approximately \$125 billion dollars is currently outstanding in consumer credit, and it represents a significant portion of the economy.

Denying a woman head of household the opportunity to obtain a mortgage simply because she is a woman, or a single woman, is to exclude her from one of the basic benefits of our society—the opportunity to own a home and to provide her family with the accompanying amenities of life.

Who among us can afford to own a home, purchase an automobile, or send our children through college without the use of credit?

The reasons why women are denied credit are grounded in a view of the economy which is no longer relevant and which is damaging not only to women applicants, but to the economy itself.

Lenders indicate that discriminatory practices are based on the assumption that a woman's job is temporary, and her income is, therefore, unreliable as a basis for credit.

This view does not take into consideration the fact that women comprise 43 percent of the labor force today, and by 1980 will be fully half of the American working population.

It does not consider the U.S. Labor Department reports that seventy percent of women work because of economic necessity—they are either single, separated, divorced or widowed, or their husbands earn less than \$7,000 per year.

Nearly four of every five working women today help support a family. In fact, in 40 percent of our family units, both the husband and the wife are employed outside the home. Thirteen million mothers are in the labor force on a full-time basis, of whom half have school age children, and one third have children under the age of three.

In other words, it is an economic fact that women are in the labor force on a full time, permanent basis, whether or not they are married or have children.

The average married woman today will work 25 years and the single woman 45 years, two years longer than the average man.

However, it is significant to point out that although women are in the labor force on a permanent basis, they are not receiving equal pay for equal work. A study by the Chase Manhattan Bank points out that "job bias costs American women tens of billions a year in foregone wages and costs the nation as a whole billions more in lost economic output."

Our investigation revealed that women are being denied credit, not on the basis of financial inadequacy, but because of sex and marital status. A woman's income, no matter how high, still continues to be considered unreliable.

Lenders routinely discount part, or totally ignore all of a working wife's income, particularly if she is of "child bearing age." This widespread practice results in the denial of loans to many families who are forced to accept less desirable homes.

And it is an added economic burden on minority families where the wife's income often represents a significant contribution to the family's standard of living.

There is no economic justification for this practice. A study by the U.S. Savings and Loan League (*Anatomy of the Residential Mortgage*) released in 1964 indicated that loans to families where both the husband and wife's income were counted were less likely to be delinquent, than loans granted on the basis of a husband's income alone.

And today, with recent Federal guidelines which stipulate that pregnancy must be treated the same as any other temporary disability, there is even less justification for concern on the part of creditors.

It is, in fact, a shocking invasion of privacy on the part of lending institutions to require women applicants to produce statements concerning their use of birth control measures.

As for discrimination on the basis of marital status, the same Federal Home Loan Bank Board survey revealed widespread discrimination in the mortgage lending industry on the basis of marital status. Sixty-four percent of the lenders admitted that marital status was a factor in evaluating loan applications.

Yet, these discriminatory practices are without economic justification. A study by the National Bureau of Economic Research in 1970 (*Home Mortgage Delinquency and Foreclosure*) revealed that no re-

lationship could be demonstrated between marital status and the likelihood of mortgage delinquency foreclosure.

Discrimination on the basis of marital status means discrimination against those families without both a husband and wife present in the household. And here again, it is the minority woman who is affected most sharply, since 53 percent of minority women fall into that category.

Yet, despite these surveys, our investigation has shown consistent patterns of discrimination against women applicants for all kinds of credit.

The Commission began its investigation in August, 1972, with statewide public service announcements and news releases requesting complaints from women who had experienced difficulty in obtaining credit because of sex or marital status. We subsequently followed those announcements with written notices which were displayed in all state office buildings and state liquor stores.

Responses to these announcements indicate that patterns of discrimination do exist and can be demonstrated.

Complaints received were reviewed by our Attorney's Advisory Panel and representatives of the Department of Justice, and seven specific types of credit discrimination against women consumers were identified:

1. Extinction of a woman's individual credit upon marriage, and the requirement that her husband join in her application if she is to retain her own credit cards after marriage.
2. Requiring a married woman, who is objectively a better credit risk than her husband, to list financial information about her husband and have him join in a credit card application, without requiring a married man to do the same for his wife.
3. Extinction of a woman's credit after divorce because all credit during marriage was in her husband's name, regardless of the wife's contribution to her husband's credit rating.
4. Refusal of mortgage institutions to consider a wife's income, or such institution's refusal to grant an unmarried woman a mortgage regardless of her income.
5. Resistance of credit institutions to provide credit to widows.
6. Refusal of credit institutions to grant credit based in whole or in part upon court-ordered support payments.
7. Application of different and stricter standards for women than for men in determining whether to grant credit.

Following this preliminary survey, the Commission held public hearings in Philadelphia on March 27, 28 and 29th to hear testimony from complainants, and to further explore the policies and practices of lending institutions, credit bureaus and retail credit establishments.

Testimony presented at the hearing demonstrated that the seven types of discriminatory practices are widespread in the Commonwealth.

In addition, we learned:

That credit records are kept in the husband's name, even when the credit card is issued to a wife, making it virtually impossible for a married woman to establish a credit rating in her own name.

That widows and separated and divorced women who have not

established their own credit rating during marriage find themselves without any credit rating, and are treated in the same manner as applicants who have never used credit, even though they may have contributed a major share of the income of the family.

That because women are refused credit by commercial lending institutions, they are forced to pay a further penalty by utilizing the services of small loan companies who are permitted to charge higher interest rates. (It is interesting to note here that a representative of a small loan company testified to this effect, and to the significant reliability of such women in repayment of their loans.

That married women are often asked to have their husbands co-sign for charge accounts or credit cards, but are rarely asked to co-sign for their husband's credit cards.

That the best procedure for a widow to follow if she wishes to retain her credit rating is not to inform the store of her change in marital status.

That there is a significant difference between the stated policies of lending institutions and the implementation of those policies by their employes.

Representatives of two Philadelphia banks stated that their policy is not to discount a working wife's income, but that in practice it is still being done.

When questioned by the hearing panel, it was pointed out that if legislation were enacted providing penalties for such discriminatory practices, the institutions would insure that their employes did carry out the stated policy.

In order to alleviate these discriminatory practices in Pennsylvania, we have recommended:

That a Pennsylvania Fair Credit Reporting Law be enacted to eliminate problems in the Federal Act, and to include a provision which would require credit bureaus to keep records in a woman's name when requested, so that every woman will have the opportunity to establish a credit rating in her own name.

That lending institutions be required to submit written descriptions of their lending policies, and keep records stating whether a loan has been granted or denied and the reason for the action.

That all State-chartered lending institutions be prohibited from discriminating on the basis of sex or marital status, and specifically be prohibited from discounting a working wife's income.

That all state regulatory agencies be required to use the full extent of their authority to eliminate discriminatory practices based on sex or marital status by industries or agencies under their jurisdiction.

That legislation be enacted which would prohibit retail creditors, including department stores, credit unions, and small loan companies, from discriminating on the basis of sex or marital status.

In all cases, lending institutions and retail creditors should be required automatically to list the reason for rejection of an application for credit.

The consequences in personal and financial hardship caused by discriminatory practices in the granting of credit have been outlined. The lack of economic substantiation for such practices is clear. In fact, they

are unsound economically since they result in an economic cost not only to those discriminated against, but also to those who do the discriminating.

We urge that Congress support legislation to eliminate discrimination on the basis of sex and marital status by all credit institutions, including banks, savings and loan associations, credit bureaus and retail department stores.

In addition, we recommend that the Fair Credit Reporting Act be amended as follows:

The seven years adverse information requirement should be limited and reduced to four years and derogatory information on a spouse obtained prior to marriage shall in no way affect the credit report of the other spouse wishing to open an individual account. Nor shall the spouse's current records adversely affect the credit worthiness of the other spouse wishing to open an individual account.

Thank you.

COMMUNICATIONS WORKERS OF AMERICA,
Washington, D.C., July 20, 1973.

HON. MARTHA GRIFFITHS,
*U.S. House of Representatives,
Washington, D.C.*

MY DEAR MRS. GRIFFITHS: At a meeting of the Joint Economic Committee on July 12, Mr. William H. Brown, Chairman of the Equal Employment Opportunity Commission, responded to a question that you raised by charging the Communications Workers of America with failing to cooperate with the EEOC in litigation involving discrimination charges brought against the American Telephone and Telegraph Company.

We are truly appalled by Mr. Brown's charges and I am writing you to categorically and emphatically deny them, offering documentary evidence which clearly contradicts Mr. Brown's statement. This evidence includes an affidavit filed by the attorney who directed the EEOC's own litigation. These documents have previously been submitted to the Committee in order to set the record straight.

Our work with the EEOC included the joint development over an eight-month period of a questionnaire that was mailed by CWA to union members for the purpose of measuring discrimination within the Bell System. In addition, we presented testimony and engaged in numerous meetings, telephone conversations and exchanges of correspondence.

Because of what we believe to be the significance of the matter, I am sending you a copy of the testimony that we have submitted to the Committee in response to Mr. Brown's comments along with an affidavit that was submitted for the permanent record.

Sincerely yours,

JOSEPH A. BEIRNE, *President.*

Attachments.

STATEMENT OF THE COMMUNICATIONS WORKERS OF AMERICA

During his appearance before the Joint Economic Committee on July 12, 1973, William H. Brown, Chairman of the Equal Employment Opportunity Commission, testified that the Communications Workers of America failed to cooperate with the EEOC in litigation involving discrimination charges brought against the American Telephone and Telegraph Company.

CWA, which currently represents more than 550,000 men and women in collective bargaining, the majority of whom are employed by the Bell System, categorically and emphatically denies Mr. Brown's

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charges. We are submitting for the permanent record written evidence that contradicts Mr. Brown's remarks, evidence that includes an affidavit filed in the U.S. District Court by the attorney who directed EEOC's litigation against the Bell System. This document is far more representative in describing the role that CWA played in the discrimination suit than Mr. Brown's cursory remarks.

The Communications Workers of America has been keenly aware of discrimination in the telecommunications industry and has long opposed bigotry within the Bell System. It remains one of our top priority goals to cooperate with all federal agencies to eradicate prejudice against women, blacks, Spanish-surnamed Americans and other minorities both in the communications field and throughout the rest of American industry and society. We are deeply committed to this goal.

Contrary to the impression given by Mr. Brown in his remarks before the Committee, CWA joined with the EEOC in numerous activities including the development of a questionnaire on discrimination, the presentation of testimony discussing prejudice within the Bell System and numerous conversations, meetings and exchanges of correspondence all relating to eliminating discrimination within the telephone industry.

Working together over a period of eight months between March and December, 1971, an attorney from CWA and a lawyer from the EEOC composed a questionnaire that was mailed to a random sample of union members for the purpose of probing the degree of discrimination in the Bell System. After CWA tabulated the results of the survey, the information was submitted to the EEOC which included it in the affidavit deposited by the Commission as part of the evidence of discrimination by American Telephone and Telegraph.

In addition, CWA presented testimony recounting employment discrimination practices in the telephone industry. The testimony, which includes the CWA-EEOC questionnaire constitutes "Exhibit A" of the affidavit submitted by David Copus, the attorney for the EEOC who was in charge of litigation against A.T.&T. and is included for the permanent record.

There is one statement that Mr. Brown made in his testimony that is such a flagrant distortion of the facts that it needs to be brought to the special attention of the full Committee. Mr. Brown said:

After the settlement was made—and, of course, you read the newspaper accounts of it—after everything was worked out, then he comes forward saying I want to be a part of the settlement.

The truth is that neither President Joseph A. Beirne to whom Mr. Brown was referring nor anyone else at CWA ever contacted his office stating anything akin to what Mr. Brown alleges. To the contrary, CWA currently is before the United States District Court in Philadelphia with a motion to set aside the consent decree on the basis that the A.T.&T. Agreement referred to is indeed inadequate in eliminating or preventing discrimination between the sexes and races on full em-

ployment and promotion opportunities. This charge is absolutely and totally false.

We appreciate the opportunity to set the record straight on this matter and are submitting the following documents for the permanent hearing record.

EXHIBIT B

In the United States District Court for the Eastern District
of Pennsylvania

[Civil Action No. 73-149]

Equal Employment Opportunity Commission, James D. Hodgson,
Secretary of Labor, United States Department of Labor, and
United States of America, *Plaintiffs*, vs. American Telephone and
Telegraph Company, et al., *Defendants*.

Affidavit of David Copus

DISTRICT OF COLUMBIA, ss:

David Copus, being first duly sworn, on oath deposes and says that:

1. My name is David Copus. I am an attorney in the Office of General Counsel, Equal Employment Opportunity Commission, 1800 G Street, N.W., Washington, D.C. 20505 (hereinafter, EEOC).

2. Since October, 1970, I have directed the EEOC's litigation against the companies named as defendants in this action and referred to hereafter as the Bell System.

3. In October, 1970, American Telephone and Telegraph (hereinafter AT&T) filed with the Federal Communications Commission (hereinafter FCC) notice of a proposed increase in rates for long distance telephone calls.

4. On December 10, 1970, the EEOC filed with the FCC a petition to deny the requested rate increase because the Bell System engaged in "pervasive, system-wide and blatantly unlawful discrimination in employment against women, blacks, Spanish-surnamed Americans, and other minorities."

5. By memorandum opinion and order, on January 21, 1971, the FCC denied EEOC's request to reject the rate request but did order that the EEOC's allegations be fully adjudicated in a trial-type hearing; the FCC designated the matter for hearing under the caption FCC "Docket 19143". The following issues, among others, were designated for hearing:

(A) Whether the existing employment practices of AT&T tend to impede equal employment opportunities in AT&T and its operating companies contrary to the purposes and requirements of the Commission's Rules and the Civil Rights Act of 1964?

(B) Whether AT&T has failed to inaugurate and maintain specific programs, pursuant to Commission Rules and

Regulations, insuring against discriminatory practices in the recruiting, selection, hiring, placement and promotion of its employees?

(C) Whether AT&T has engaged in pervasive, system-wide discrimination against women, Negroes, Spanish-surnamed Americans, and other minorities in its employment policies?

(D) Whether any of the employment practices of AT&T, if found to be discriminatory, affect the rates charged by that company for its services, and if so, in what ways is this reflected in the present rate structure?

(E) To determine, in light of the evidence adduced pursuant to the foregoing issues, what order, or requirements, if any, should be adopted by the Commission?"

6. By order dated April 8, 1971, the FCC ordered the Bell System joined as respondents in Docket 19143.

7. In March, 1971, I contacted the office of Joseph Beirne, President of the Communication Workers of America (hereinafter, CWA) and talked with his administrative assistant, Charles McDonald. We discussed among other things, FCC Docket 19143 and whether the CWA would join that proceeding as a party. Mr. McDonald said the CWA would not formally participate in Docket 19143 even though the issues designated for hearing covered the entire range of Bell System employment practices.

8. Between March, 1971, and December, 1971, I had numerous conversations with Mr. McDonald concerning Docket 19143 and the implication of that litigation vis-a-vis the CWA, particularly regarding the transfer and promotion practices of the Bell System. On numerous occasions during this period we discussed the EEOC's view of the modification of the Bell System's employment practices, including transfer and promotion policies contained in bargaining agreements with the CWA, which would be required to bring the Bell System into compliance with Title VII of the Civil Rights Act of 1964.

9. Between March, 1971, and December, 1971, Mr. McDonald and I worked together developing a questionnaire to be sent by the CWA to a random sample of union members recently employed by the Bell System. In October, 1971, this questionnaire was mailed by the CWA and the results were later tabulated by the CWA for the EEOC. In November, 1971, Mr. McDonald agreed to testify for the EEOC in Docket 19143 as to the results of the questionnaire. On December 1, 1971, the EEOC filed with the FCC its direct case, in writing. As a part of its case, the EEOC filed the testimony of Mr. Charles McDonald, attached hereto as Exhibit A.

10. Between August 11, 1971, and January 25, 1972, under my direction, the EEOC and representatives of AT&T met on many occasions in an attempt voluntarily to resolve the issues designated for hearing in Docket 19143. These negotiations did not produce a settlement and the hearing in Docket 19143 commenced on January 31, 1972.

COPUS EXHIBIT A

Before the Federal Communications Commission

Washington, D.C. 20554

[Docket No. 19143]

In the matter of Petitions filed by the Equal Employment Opportunity Commission, et al.

TESTIMONY OF CHARLES J. MCDONALD

Statement of Qualifications

My name is Charles J. McDonald. I am currently the Administrative Assistant to the President of the Communication Workers of America, Joseph Beirne. In October, 1971, I supervised the distribution, collection and analysis of a CWA questionnaire on the employment process at the Bell System.

Methodology

The questionnaire used in this survey (see attachment) was designed to solicit information on the current employment procedures in the Bell System. The survey sample was limited, therefore, to persons who had joined the union since January, 1971, and who work for Bell companies. The names of these persons were pulled from a computer tape and the number of such persons was totaled for each local union.

The survey sample was selected as follows. For all locals which had less than ten new members, each new member was included in the sample. For those locals which had between ten and 100 new members, 10% were included in the sample. For those locals with over 100 new members, five percent were included. This technique created a survey sample of 3000 new members.

To determine which new members would be a part of the survey for those locals with ten or more new members, a random number was generated and assigned to each name. This file was then sorted by random number within local and a mail tape was written consisting of the first N new members within each local, where N is the designated number of new members in the local's sample.

The Results

As of November 26, 1971, 510 questionnaires had been returned and analyzed. Of these, 160 (31.4%) were Anglo males, 263 (51.6%) were Anglo females, 8 (1.6%) were black males, 41 (8.0%) were black females, 16 (3.1%) were males whose race was not identified and 22

(4.3%) were females whose race was not identified. The current classification of these employees is shown in Table 1.

In terms of previous work experience, females listed clerical (124), sales (79), previous telephone company work (57), and mechanical or electrical (10). Eighty females indicated that they had no previous experience. Males listed the following prior work experience: military (86), mechanical or electrical (59), sales (14), previous telephone company work (14) and clerical (9). Thirty-seven had no previous experience.

TABLE 1.—CURRENT CLASSIFICATION OF SURVEYED EMPLOYEES

Classification	Anglo, male	Anglo, female	Black, male	Black, female	Male (not specified)	Female (not specified)
Cable splicer's helper.....	14					
Clerical.....	5	49		4		5
Coin collector.....	2					
Commercial representative.....		1	1			
Frameworker.....	13					1
House services worker.....	3	1		1		
Installer.....	39	1	2		4	
Operator.....	3	180		30		16
Service representative.....	1	23	1	5		
Teller.....	0	1				
Other.....	180	7	4	1	11	
Total.....	160	263	8	41	16	22

¹ Includes: Lineman, central office repairman, garageman, repairman, switchman, auto mechanic, and transmissionman

Most of the sample had applied for work at Bell because of a referral from a friend. This source accounted for 193 females and 92 males. Newspaper ads motivated 46 females and 14 males; walk-ins accounted for 78 females and 38 males; other reasons were listed by 48 females and 39 males.

Ninety-seven males and 78 females indicated that they had no specific job in mind when they applied for work at Bell. Almost all females who applied for a specific job had in mind clerical, Operator or Service Representative positions. One female indicated initial interest in craft work. Of those males who desired a specific job, most sought the jobs of Lineman, Installer, Splicer, Repairman or electronics work. Two indicated an interest in an Operator or clerical position.

The new members were also asked to indicate why they applied for a particular job. The major reasons were as follows: (1) a friend or relative—103 females and 31 males; (2) the company's general reputation for jobs of this type—83 females and 20 males; (3) newspaper advertisements—32 females and seven males; (4) the Interviewer or Receptionist indicated that there were vacancies—31 females and 20 males; (5) other reasons—46 females and 23 males.

Prior to being tested, 76 males were told by company Interviewers about the jobs of Cable Splicer's Helper, Coin Collector, Framework, House Services or Installer; five females were told about these jobs prior to testing. The jobs of Switchman, Lineman or other craft jobs were described by the Interviewer to 74 males and three females before testing. The job of Operator, Service Representative, Teller and/or clerk were described to 209 females and 19 males before testing.

The same pattern existed in the jobs described during the main selection interview after testing. Most males indicated that the job

of Cable Splicer's Helper, Coin Collector, Framework, House Services, Installer, Lineman, Switchman, Combinationman, Supplyman, Central Office Repairman and/or Mechanic were described. Nine males were told of Operator, Service Representative or clerical jobs. The overwhelming majority of females were told about Operator, Service Representative, Teller or clerical jobs. Framework, the only craft job mentioned by females, was described only twice in the main interview.

The initial job classifications held by the surveyed employees are reflective of the current classifications listed in Table 1.

C. W. A. QUESTIONNAIRE

Company: _____ Location: _____

Date Hired: _____

Initial Job Classification: _____

Current Job Classification: _____

Age: _____ Sex: _____ Race/National Origin: _____

Years of Formal Schooling Completed: _____

Area of Primary Work Experience:

- _____ Previous Telephone Co. Work
- _____ Clerical
- _____ Mechanical or Electrical
- _____ Sales
- _____ Military (Specify)
- _____ No Experience
- _____ Other (Specify)

1. What prompted you to apply at the telephone company?

- _____ Newspaper Advertisement
- _____ Referral From a Friend
Or Relative
- _____ Just Walked In or Called
Employment Office
- _____ Other (Specify)

2. Did you have a specific job in mind when you applied at the telephone company? If so, what job?

3. If you applied for a specific job, why?

- _____ Recommended By a Friend
Or Relative
- _____ Vacancy Was Advertised
In The Newspaper
- _____ Interviewer (Or Receptionist)
Said There Were Vacancies
- _____ The Company's General Reputation
For Jobs of This Type
- _____ Other (Specify)

4. Which of the following jobs were described to you (as to their content and/or salary) by the interviewer?

	Described content	Described salary
Cable splicer's helper.....		
Clerical.....		
Coin collector.....		
Commercial representative.....		
Framework.....		
House services.....		
Installer.....		
Operator.....		
Service representative.....		
Teller.....		
Other (specify).....		

5. Which of the jobs in question 4 were described to you *before* you were tested?

6. What jobs at the telephone company would you be interested in being transferred or promoted to?

7. What jobs do you expect to be transferred or promoted to?

8. Did the interviewer explain to you a company policy to hire and promote all persons into all jobs without regard to race, color, religion, national origin, or sex?

SHORTCHANGED: MINORITIES AND WOMEN IN COMMERCIAL BANKING *

By RODNEY ALEXANDER AND ELISABETH SAPERY**

SHORTCHANGED: WHO, WHAT, WHEN AND WHERE

In terms of economic leverage and employment capacity, commercial banking plainly ranks among this country's most important industries. First, and most obviously, banks control 96% of the nation's money supply. Second, they are a major source of white-collar jobs, employing almost 970,000 people as of March 1971. In addition, 44 of the 50 largest banks in the United States are located in the 50 cities with the country's highest concentrations of black population, and Federal and state regulations prevent many of these institutions from joining the exodus to suburbia.

While banking has traditionally enjoyed a general public image of social concern and involvement with the community, this may now be changing, as indicated by a Louis Harris Associates survey ("Community Opinion Leaders' Views of Banks and Bankers"):

Banks appear to be facing something of a challenge in the community social sphere. There is overwhelming feeling that exercising leadership in community problems is the legitimate realm of bankers, and there is widespread feeling that bankers are among the most public-spirited citizens of the community. However, under close scrutiny, the effectiveness of bankers' efforts in the community area appears subject to some question, particularly in the areas of racial problems, helping the needy, and pollution. Bankers have the mandate . . . they are expected to exercise real leadership on a broad scale. Up to now, the leaders do not feel it has been done well. (PART II, p. 134)

The industry's power and the manner in which that power is used has in fact been heavily criticized by Wright Patman, Chairman of the House Committee on Banking and Currency:¹

Make no mistake about it, the banking institutions are powerful . . . I well know that most public officials hesitate to step on the toes of an influential and powerful banker. This has given the average banker an inflated opinion of just how far he can go before the American public blows the whistle. The banks operate pretty much on the theory that public opinion doesn't count. In my opinion, they are fooling themselves on

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**Assisted by: *Staff*—Jean Halloran, Alice Tepper Marlin, Stephen Moody, Marjorie Smith, and Joseph Zalkind; *Student Interns*—Nancy Blumenthal, Kathy Brownback, Dale Fredston, and Stephanie Trandeck; *Advisers*—Diana Beatty, James Byrne, Theodore L. Cross, Steve Glassman, and John Tepper Marlin. Edited by Marie Shear.

¹ Speech to Public Affairs Forum, Harvard Business School, Feb. 9, 1970.

this score. The banking community could do wonders if it would abandon its robber baron philosophy. It could help build schools and housing; it could help provide the money needed to wipe out pollution; with its practically unlimited resources and power, it could be the greatest source for good.

Whatever the image and potential of banking for exercising social responsibility in relation to minority groups and women, its performance has not been good. In 1960, banks employed on the average fewer than one black per banking establishment. By 1969, nearly 50,000 blacks (or at least three per establishment) were employed; barely more than 1,000 of them were executives.

In 1970, members of all minority groups accounted for only 2.7% of bank employees in the officials and managers category, compared with the 3.6% average for all white-collar industries, and 13.7% of the nation's workforce.²

Banks have also been charged by one member of the Federal Reserve Board with contributing to ghetto problems by refusing to lend money to inner-city projects.

The picture in relation to employment of women is somewhat different. For many years, a majority of bank employees have been females; the figure for 1970 was 61%. And more women are executives in banking than in any other industry. Yet only 10% of banking's officers are female, and most of that 10% hold jobs in the lower end of the category, like assistant cashier. According to an EEOC report published in January 1971, "greater than 9 of every 10 women (in banking) were situated in clerical jobs, compared to fewer than 4 of every 10 women in all industries." Therefore, while women have relatively little problem finding employment in banking compared with minorities, the positions obtained are likely to be low-level and the chances for advancement poor.

One personnel specialist has written: "Cliches [about employment for women] are usually one part truth and nine parts nonsense, but they are difficult to uproot."³ According to folklore, women work outside the home only to find husbands and, having found them, leave their jobs for kinder, kuche, kirche. In fact, as of March 1970, 66% or 20.7 million of the 31 million women in the labor force work to support themselves or their families, and unnumbered women have left their jobs when pregnant only at the insistence of employers. Although it is often suggested that females have higher rates of absenteeism and turnover, the Labor Department has stated that "women workers have favorable records of attendance and turnover when compared with men employed at similar job levels and under similar circumstances." Nevertheless, solemn nonsense about women workers is still commonly cited by banking officials. Women are said to be unable to travel because they cannot eat meals alone in a hotel; to be too emotional to take criticism; and to be unable to entertain male customers because they cannot pick up a restaurant check.

Minority group women encounter magnified problems. As Sonia Pressman, of the Equal Employment Opportunity Commission has written:⁴

² Bureau of the Census. "Minority groups" includes blacks and Spanish heritage, only.

³ Ray A. Killian. "The Working Woman: A Male Manager's View." American Management Association, 1971.

⁴ Sonia Pressman, "Job Discrimination and the Black Women" March 1970.

Civil rights is one of the principal issues facing the country today—if not the principal issue. But when most people talk about civil rights, they mean the rights of black people. And when they talk about the rights of black people, they generally mean the rights of black males. Black women generally earn less than either white women or black men and are more likely than the other two groups to be unemployed.

In Ms. Pressman's words, the black woman—has a significant amount of family responsibility and economic need, and a lower income than the black male or the white female. In sum, during a period in which more and more city-dwellers are members of racial minorities and in which national discussion of the status of women has increased, the economic power and urban location of the banking industry make it a logical focal point for minorities and women seeking employment opportunities and economic development.

Considering the impact of banking both on the economy as a whole and on its own employees, CEP decided in 1971 to study this industry's employment practices in relation to minority group members and women. In May 1971, CEP selected a sample consisting of the three largest commercial banks, by total assets, in six cities. Five of the cities—New York, Chicago, Detroit, Philadelphia, and Washington—rank highest in the United States in black population. The sixth, Atlanta, ranks eleventh in the nation but was chosen because it adds geographical breadth and because it has a substantial black middle class and a reservoir of potential bank employees in the form of its large black college student population. The study, which took over a year to complete, is excerpted here. The banks, their assets, and the size of their work forces are as follows:

Bank	Assets † 1970 (thousands)	Employees, 1970
New York:		
First National City Bank	\$25,835,455	37,000
Chase Manhattan Bank	24,525,703	25,154
Manufacturers Hanover Trust	11,072,080	12,793
Chicago:		
Continental Illinois National Bank & Trust Co.	8,863,550	8,207
First National Bank of Chicago	8,028,398	5,758
Northern Trust	2,220,842	2,424
Detroit:		
National Bank of Detroit	5,175,332	5,213
Detroit Bank & Trust	2,220,042	3,753
Manufacturers National Bank of Detroit	2,150,790	2,491
Philadelphia:		
First Pennsylvania Banking & Trust Co.	3,287,717	6,525
Philadelphia National Bank	2,554,460	3,070
Girard Trust Bank	2,552,465	8,245
Washington, D.C.:		
Riggs National Bank	1,029,033	1,370
American Security & Trust	788,721	1,208
National Bank of Washington	511,745	730
Atlanta:		
Citizens & Southern National Bank	1,830,175	4,400
Trust Co. of Georgia	1,063,924	1,180
First National Bank	1,047,644	2,200

† Sources: *Fortune* & *Bankers Blue Book*.

CEP obtained employment statistics, either from the banks themselves or from the Equal Employment Opportunity Commission for the aggregate of the three banks in each of the six cities. These have been examined by CEP for evidence of racial or sexual patterns in

employment. CEP has been particularly interested in whether gross imbalances exist in comparing the percentage employment of any one group with the representation of that group in a given job category, or the total city labor force (see "The Status Quo" for discussion in detail).

In general, CEP has found that a statistical pattern of employment discrimination against minorities and women is endemic to commercial banking; that a majority of commercial banks are unwilling to permit public scrutiny of their employment and minority lending practices; and that both the secrecy and the pattern are perpetuated by Federal law, policy and complacency. More specifically, CEP has ascertained that:

A majority of employees in the sample, and the majority in the industry, are women, but they are overwhelmingly concentrated in low-level, poorly-paid jobs. In all six cities, women are employed in numbers exceeding their share of the local labor force. With only 69% of the jobs in the banks being office and clerical in nature, nearly 90% of all women employees find themselves in such positions.

In five of the six cities, minorities are employed at levels below their share of the labor force, with differences of from 18 percentage points below in Philadelphia to 38 percentage points below in Atlanta. At the three banks in New York, however, employment of blacks and Hispanic-Americans exceeds these groups' representation in the city's labor force by a difference of almost 5 percentage points.

Minority men and women constitute 25% of all employees but are primarily restricted to office and clerical work; many minority men hold jobs below that level, as janitors, for example. Minority group members constituted only 6.7% of all employees above office and clerical at the banks under study.

Of the six cities under study, using aggregate data for the three largest banks in each city, the banks in two stand out as having the worst record in placing women and minority group members respectively in positions above the office and clerical level: (A) Philadelphia, where only 4% of all officials and managers are women, (B) Atlanta, where just 0.5% of all officials and managers are minority group members.

No substantial improvements in the proportion of women and minorities in high-level jobs is likely to result if present practices are continued.

First-time promotions of white women to officer in 1970 at the banks supplying information⁵ ran from a high of 12.5% of all employees promoted at National Bank of Washington to a low of zero at First Pennsylvania. Minority men never received as much as 5% of those promotions, and no minority females received promotions of this kind at any bank which supplied data.

Executive-management training programs do not promise major chance, either. White women constitute a maximum of 17% of all trainees at Continental Illinois and a minimum of 4% at Citizens and

⁵ Chase Manhattan, Citizens & Southern, Continental Illinois, First Pennsylvania, Manufacturers Hanover, National Bank of Washington.

Southern, at the six banks reporting. The maximum for minority men is 25% at National Bank of Washington—but “25%” means only 4 men; the minimum is less than 4% at Citizens and Southern. Minority women fare worst, representing from 2% of all trainees at Continental Illinois to none at Citizens and Southern. These statistics belie for most sample banks the repeated assertions that they are eager to redress employment inequities.

Commercial lending is the most prestigious and best-paid aspect of commercial banking, and the commonest route to the top rungs on the executive ladder, but women and minorities are almost totally excluded from it.

Industry associations' efforts have brought little change. Indeed, the efforts are negligible. Neither the American Bankers Association, the National Bankers Association nor the National Association of Bank Women has taken any public position in regard to employment of women. In regard to minority employment, the NBA seems unable to take substantive action because of its weak economic status; despite the dynamic leadership of its executive director, Robert Davis, it cannot be considered a major force for monitoring and increasing black employment in white banks, particularly at the officials and managers level. The American Bankers Association has established various programs related to minority employment, but the number of participants in them is small. The ABA's urban affairs survey suggests public relations rather than serious research, for it preserves banks' anonymity.

Existing legislation regarding fair employment is adequate, but enforcement by the Treasury Department is not. The Department has never denied Federal funds to any major bank found to be in non-compliance, although CEP found extensive, obvious employment bias. The attitude of Treasury officials appears complacent; one official claimed that none of the 14,000 commercial banks has refused to conform to new EEOC maternity guidelines. Treasury does not publish the names of banks it reviews, can not publish the results of reviews, and claims that it does not keep records of banks which fail to comply because “there just aren't that many.” As a result, the public cannot judge whether the compliance section's limited resources are being allocated to major banks and cannot know, because the disclosure provisions of the law prohibited it, which banks are obeying the law and which are not.

By and large, minority economic development receives little attention from the banks. According to data supplied by the Small Business Administration (SBA), the 18 banks under study devote less than 0.1% of their total assets to minority loans covered by SBA programs. Only 10 participate in Minority Enterprise Small Business Investment Companies (MESBICs). Only four of these 10—Chase Manhattan, Manufacturers Hanover, Northern Trust, and Continental Illinois—are involved in a MESBIC capitalized at or above \$1 million, the minimum capitalization needed for success.⁶

Insufficient evidence was obtained to permit comprehensive evaluations of individual bank's minority lending programs, however. First,

⁶ According to Harvard Business School professors Richard Rosenbloom and John Shank.

the banks often refused to supply data. Second, a number of them made the novel claim that they themselves were not sure what they were doing in the area.

Minority and female employment practices are not apparently correlated with the size of a bank or the percentages of women and minorities in the city labor force or population.

A majority of the sample banks were highly uncooperative towards CEP's efforts to gather information about them. This, the fourth CEP in-depth study, is the first to encounter massive resistance on the part of the corporations being studied. In making inquiries, CEP offered to accept either of two forms which the banks had already completed for other purposes in lieu of CEP's own questionnaire. Nonetheless, only seven banks provided a reasonable amount of data. Six provided partial data and five declined to provide any. Cooperation ratings for each bank are as follows:

GOOD

Chase Manhattan, Citizens and Southern, Continental Illinois, First National of Chicago, First Pennsylvania, Manufacturers Hanover, National Bank of Washington.

FAIR

First National City, Girard, Manufacturers National of Detroit, National Bank of Detroit, Northern Trust, Philadelphia National.

POOR

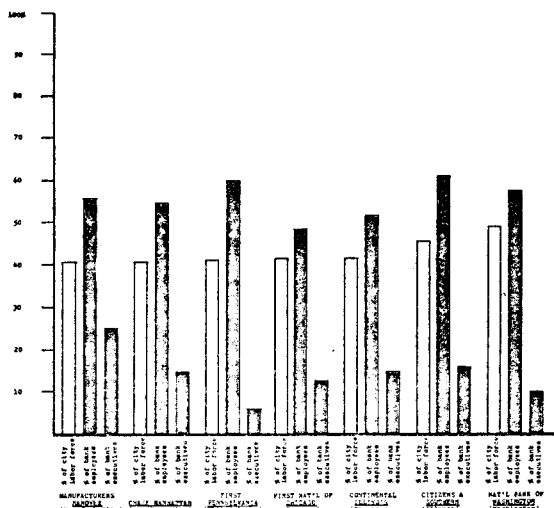
American Security and Trust, Detroit Bank and Trust, First National of Atlanta, Riggs, Trust Company of Georgia.

The lack of cooperation underlines the fact that banks enjoy power without accountability. Information on bank employment and lending practices is virtually unobtainable from any source except the bank itself, for the 1964 Civil Rights Act prohibits unauthorized disclosure of such data, and Small Business Administration (SBA) policy prohibits unauthorized disclosure of information on minority lending. Thus banks make decisions affecting millions of citizens without being subject to the checks and balances of informed public opinion. This secretiveness, coupled with power and protected by law, may well increase public cynicism and aggravate social ills.

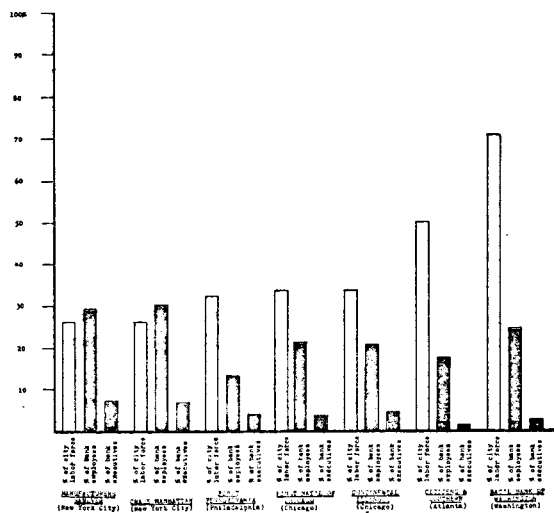
Of the seven banks reporting, the bank with the most responsible overall record with regard to women and minority group members in the areas of hiring and placement in executive positions, is Manufacturers Hanover in New York City (see graphs page 8).

[Note: CEP currently has underway a second in-depth study in the equal opportunity field, on retail trade corporations. The study focuses on the five largest companies, Sears, Ward's, Penney's, Grant's, and Kresge's. Hiring, pay, promotion, and training issues for minority groups and women will be reviewed, as well as health and safety problems of retail trade workers. The study is to be published in winter, 1973.]

WOMEN AS A PERCENTAGE OF CITY LABOR FORCE, BANK EMPLOYEES, AND OFFICIALS AND MANAGERS FOR SEVEN BANKS SUPPLYING DATA (1970)



MINORITY GROUP MEMBERS AS A PERCENTAGE OF CITY LABOR FORCE, BANK EMPLOYEES, AND OFFICIALS AND MANAGERS FOR SEVEN BANKS SUPPLYING DATA (1970)



THE STATUS QUO

Unlike other thrift institutions, such as savings and loan associations and savings banks, only commercial banks offer checking (demand) accounts. Commercial banks are also known as "full service banks" because they provide a variety of services to the individual and to the business sector, including savings and checking accounts, loans, and trust department services.

Banks have historically served as training grounds for the entire financial community. Employees have received their basic experience at a bank, and then left for greener—higher-salaried—pastures. The turnover rate for banking was about 20% in 1971; in better economic times, it has run as high as 40%. The industry therefore has a constant need for new talent, partly because most of its jobs are tedious and partly because, despite its status and power, its salaries are the lowest in the financial community.

A large urban bank may be organized into four to 25 departments, or more. These divisions usually include Lending, Trust, Personnel, and Operations, each headed by a senior or executive vice president who reports to top management. Many banks also have investment and loan committees which oversee policy and report to the president or chairman. Lending is generally divided into retail, commercial, and international sections. Trust Department services include research and money management for trusts and pension funds. Personnel includes recruiting, hiring, and counseling. Operations, which handles sorting and processing of checks and securities, is the largest department of all and may contain up to 50% of the bank's total work force. For example, one CEP bank, Chase Manhattan, had 13 major departments as of February 1971, and 8,300 or nearly half of the bank's 16,800 employees worked in Operations.

The majority of top executives, however, are found not in Operations but in the commercial and international departments, and, to a lesser degree, in trust departments. Commercial banks make money in four ways: interest and fees on loans; interest and dividends on investment securities; interest, profit, and commissions on trading accounts; and investment management fees. It follows, then, that the important jobs are located in these income-producing areas. Lending is the most vital. A survey by CEP of 19 top executives at 13 of the sample banks revealed that 14 of these officials—all of whom were white men—attained their present status as chairman of the board, president or chief operating officer by way of commercial or corporate lending. (Two more had held senior positions in trust departments; one had been an economist with the Federal Reserve; and the other two, both executives at Washington, D.C. banks, had held high political posts in the Federal government, one as a cabinet member, the other as an ambassador.)

Jobs

Throughout these departments, of course, jobs may be ranked according to salaries, responsibilities and prestige. Banking jobs fall into four main categories: blue collar service; office and clerical; professional, technical and sales; and officials and managers. In addition to describing the nature and pay scales for these jobs, it is also possible to determine the extent to which minorities and women are represented in the various categories at the banks under study.⁷ This may be done by ascertaining the percentages by race and sex employed in each category, and comparing them to the racial and sexual composition of all bank employees, and the city work force at large. Were race and sex

⁷ Using data supplied by the EEOC. All statistics are for the three largest banks in each of the six cities, on an aggregate basis. The EEOC is prohibited from releasing individual employment statistics for each bank without the bank's authorization.

not a factor in employment, it is reasonable to assume that these percentages would be approximately the same: that is, if blacks constituted 20% of the workforce of a given city, they would also constitute approximately 20% of all bank employees, and roughly 20% of the bank's officials and managers.

To begin with the overall employment situation, the 18 banks under study employ a total of 140,000⁸ workers, a majority of whom are women. In each bank, women are employed at a level above their representation in the relevant city work force in every city under study.

WOMEN AS A PERCENTAGE OF CITY LABOR FORCE AND BANK POPULATION AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent city work force	Percent bank employees	Difference
New York.....	40.7	54.7	+14.0
Chicago.....	41.3	50.9	+9.6
Detroit.....	38.7	65.2	+26.5
Washington.....	48.8	58.9	+10.1
Philadelphia.....	41.2	57.8	+16.6
Atlanta.....	45.3	57.3	+12.0

The same cannot be said for minority group members,⁹ however. Only in New York, of the cities under study, does minority employment in the banks exceed minority representation in the labor force. At the other five cities, minorities are underrepresented in the banks, with the greatest disparities occurring in Washington and Atlanta.

MINORITY GROUP MEMBERS AS A PERCENTAGE OF THE LABOR FORCE AND BANK POPULATION AT THE 3 LARGEST BANKS IN 6 SAMPLE STATES

	Percent city work force	Percent bank employees	Difference
New York.....	25.6	30.4	+4.8
Philadelphia.....	32.1	16.8	-15.3
Chicago.....	33.4	16.9	-16.5
Detroit.....	42.2	18.7	-29.5
Atlanta.....	50.2	13.9	-36.3
Washington.....	70.4	32.4	-38.0

MINORITY GROUP MEMBERS AS A PERCENTAGE OF THE LABOR FORCE AND BANK POPULATION AT THE 3 LARGEST BANKS IN 6 SAMPLE STATES

	Minority, males		Minority, females		Minority, total	
	Percent bank population	Percent blue collar	Percent bank population	Percent blue collar	Percent bank population	Percent blue collar
New York.....	9.7	19.9	20.9	1.9	30.6	21.8
Chicago.....	5.0	10.6	12.0	2.8	17.0	13.4
Detroit.....	4.3	35.6	14.3	1.9	18.6	37.5
Washington.....	11.6	66.8	20.9	23.0	32.5	89.8
Philadelphia.....	5.6	30.5	11.2	5.7	16.8	36.2
Atlanta.....	4.5	40.1	9.4	42.7	13.9	82.8

⁸ This figure, and the previously-noted figure of 970,000 employees for the industry as a whole, stem from Fortune 500 and Bankers Blue Book, published by Rand McNally, and do include branches. EEOC aggregate figures, used in the text which follows, which exclude certain branches, are based on 76,000 employees for the sample banks and 628,000 employees for the entire industry.

⁹ For purposes of this discussion, "minority group members" refers to blacks and Hispanic-Americans. Orientals and American Indians are not included.

Only a small number of the banks' employees (around 5%) are blue collar and service workers, the first category of banking jobs. These workers, who are mainly janitors, maids and attendants, are at the bottom rung at the banks in terms of pay and prestige. There are generally no education requirements for such positions and such employees are often paid the minimum wage.

These jobs tend to be held by men, and in particular by black men. In two of the cities under study, however, the overrepresentation of minority group members in this category is overwhelming; in Washington, D.C. minority group members constitute nearly 90% of all blue collar and service employees, as opposed to only 33% of the bank workforce, and in Atlanta, they are 83% of blue collar, though just 14% of all bank workers.

The next, and largest, category of jobs in the bank is office and clerical. These positions are held by 70 percent of the workers in the industry, rarely require a college degree, and are often monotonous. By EEOC definition, these workers include secretaries, stenographers, typists, bookkeepers, cashiers, tellers and messengers; they also include office-machine operators who sort and process checks and securities. Salaries in this category are generally in the neighborhood of \$80 to \$145 per week.¹⁰ In contrast, college graduates recruited directly from the campus and assigned to an executive management training program at First National City received starting salaries of approximately \$200 per week, or \$10,500, and executive trainees who held MBA's earned several thousand dollars more.

Office and clerical jobs are filled overwhelmingly by women—from a minimum of 70% in Chicago to 87.5% in Detroit at the banks and cities under study.

Above the office and clerical jobs are professional and technical positions, filled by accountants, auditors, mathematicians, computer programmers, and others. Professionals customarily have a college degree or the equivalent; technical jobs call for about two years of post-high school education or its equivalent. Salaries range from \$150 to \$250 per week.¹⁰

These positions account for almost 10% of those in the CEP sample, and along with the remaining upper echelon jobs at the banks, are predominantly the domain of males. Unlike the executive levels of the banks, however, minority males at most of the cities studied are employed in these technical positions at a level commensurate with their general employment in the bank (although these levels are of course far below their representation in the city labor force). The main exception to both these generalizations is the city of Atlanta. Almost 40% of its professional and technical workers are women, a very high level. However, exactly the opposite is true for minorities, most of whom are black in this city: a mere 4 out of the 419 professional and technical workers at the three largest Atlanta banks, or less than 1%, were minority group members.

¹⁰ Bureau of Labor Statistics.

WOMEN AS A PERCENTAGE OF THE LABOR FORCE, BANK POPULATION, AND PROFESSIONAL, TECHNICAL AND SALES JOBS AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent city work force	Percent bank employees	Percent professional, technical, sales
New York.....	40.7	54.7	27.9
Chicago.....	41.3	50.9	17.8
Detroit.....	38.7	65.2	17.1
Washington.....	48.8	58.9	21.4
Philadelphia.....	41.2	57.8	15.8
Atlanta.....	45.3	57.3	38.9

MINORITY MALES AS A PERCENTAGE OF THE LABOR FORCE, BANK POPULATION, AND PROFESSIONAL, TECHNICAL AND SALES JOBS AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent city work force	Percent bank employees	Percent professional, technical, sales
New York.....	14.8	9.7	5.7
Chicago.....	19.4	5.0	5.0
Detroit.....	24.9	4.3	5.5
Washington.....	36.3	11.6	9.5
Philadelphia.....	17.5	5.6	8.8
Atlanta.....	26.1	4.5	.4

At the top of the bank hierarchy are the officials and managers—middle and upper-level positions held by executives, loan officers, trust officers and department supervisors. Officials and managers accounted for about 15% of the work force at the banks under study. Employees at the lower end of this category may earn as little as \$7,000. But those at the upper end set policy and run the bank. They have the most interesting work, enjoy the greatest responsibility, and earn the most money—up to \$200,000 a year. The presidents and chairmen of the three CEP banks in New York all earned well over \$100,000 in 1971, not including stock options and fringe benefits, according to *Business Week*: Walter Wriston and William Spencer of the First National City were paid \$235,000 and \$200,000; David Rockefeller and Herbert Paterson of Chase earned \$230,000 and \$172,000; Gabriel Hauge and John McGillicuddy of Manufacturers Hanover earned \$200,000 and \$135,000.

Officials and managers are more consistently white and male than any other category of workers in the banks. While white males are on the average only about 35% of a bank's employees, they are from 79% to a maximum of 95% (in Philadelphia) of its officials and managers. White women were 13% of all officials and managers at the sample banks, minority men 5.5%, and minority women a tiny 2% of all employees in this category. These levels for women and minorities are all far below both their representation in the workforce and the bank population in general. The situation for blacks is particularly bleak in Atlanta, which has no black officials and managers.¹¹

¹¹ The .5% in the chart are Hispanic-Americans.

WOMEN AS A PERCENTAGE OF THE LABOR FORCE, BANK POPULATION AND OFFICIALS AND MANAGERS POSITIONS
AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent city work force	Percent bank population	Percent officials and managers
New York.....	40.7	54.7	16.3
Chicago.....	41.3	50.9	11.6
Detroit.....	38.7	65.2	18.6
Washington.....	48.8	58.9	17.7
Philadelphia.....	41.2	57.8	4.0
Atlanta.....	45.3	57.3	12.9

MINORITY GROUP MEMBERS AS A PERCENTAGE OF THE LABOR FORCE, BANK POPULATION AND OFFICIALS AND
MANAGERS POSITIONS AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent city work force	Percent bank population	Percent officials and managers
New York.....	25.6	30.4	7.6
Chicago.....	33.4	16.9	2.3
Detroit.....	42.2	18.7	4.6
Washington.....	70.4	32.4	5.3
Philadelphia.....	32.1	16.8	1.6
Atlanta.....	50.2	13.9	.5

Thus, certain broad racial and sexual characteristics do emerge for the various job categories. Blue collar and service jobs are filled by men, and particularly by minority group men. Office and clerical positions are overwhelmingly filled by women. Professional and technical jobs, are filled by men, particularly white men. As among the officials and managers, the dominance of white men is ever more extreme.

Another revealing way to look at employment patterns in the banking industry is from the point of view of minority group members and women themselves. We have already shown that women are employed in banking at a level above their representation in the general labor force, and blacks and Hispanic-Americans below. However, once they are working for the bank, what kinds of jobs are they given? What are their opportunities for advancement?

One way of answering these questions in detail is to look at job distributions among minority group members and women. These may be compared to job distributions for white males and for bank employees in general; were sex and race not a factor in employment, one would expect that these distributions would be about the same, i.e., if 5% of all bank employees are blue collar and service workers, then about 5% of all blacks, 5% of white males, and 5% of all women would also be employed in that category.

Minorities

One quarter of the sample banks' employees are minority group members. Most of these are black and the remainder are Hispanic-Americans.¹² Over two thirds of these minority groups employees are women.

¹² Most of these are in New York City.

Minority employees, and particularly minority females, are concentrated in office and clerical positions: such jobs are held by 68.8% of all black males employed, 77.2% of all Hispanic males, 95% of all black females, and 95.3% of all Hispanic females. In contrast, though 68.7% of all employees hold such jobs, only 36% of white men in the bank do.

EMPLOYMENT BELOW THE OFFICE AND CLERICAL LEVEL AS A PERCENTAGE OF ALL BLACK, ALL HISPANIC, AND TOTAL EMPLOYEES AT THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent bank employees	Percent black		Percent Hispanic-American	
		Male	Female	Male	Female
Atlanta	2.8	49.4	24.8		
Detroit	5.5	43.8	.5		
Philadelphia	5.1	39.3	3.6		
Washington	61.	38.3	7.4	2.9	0
Chicago	6.9	12.3	1.3	8.8	.7
New York	4.9	5.7	.2	6.2	.3

Many black males are employed in positions below the office and clerical level, however. The percentage who do blue collar work, a relatively small job category at the banks, ranges from 5.7% of all black males in New York to 49.4% at the three largest banks in Atlanta. In Detroit, Philadelphia and Washington, more than a third of black males hold blue collar and service jobs. Few black females hold such jobs, except in Atlanta; few Hispanic-Americans hold them anywhere.

In positions above the office and clerical level, minority women consistently fare the worst—in no case do more than 3% of these employees attain either professional and technical, or official and manager status. In contrast, over half of all white men are employed at these levels, and bank employees in general average 10% professional and technical, and 15% officials and manager.

Black men do somewhat better, particularly in professional and technical category. From less than 1% in Atlanta to a maximum of 12.3% in Philadelphia of black men are employed in this kind of work. Few black men are employed as officials and managers, however; from a maximum of 7.5% of all blacks employed, their representation ranges on down to no black officials and managers at all in Atlanta.

Although the actual numbers of Hispanic-Americans included in the CEP sample are small for all cities except New York, the evidence suggests that Hispanic males are more likely than all other minority group members to attain upper-echelon jobs.

The dearth of minority executives is even more conspicuous when those designated "officer," the banks' term for employees at or above the rank of assistant cashier, are viewed separately from the relatively broad officials and managers category, which includes low-level supervisors. For instance, Manufacturers Hanover has 187 minority and 599 female officials and managers, but only 29 of the former and 102 of the latter have "officer" status.

EMPLOYMENT IN PROFESSIONAL, TECHNICAL, AND SALES JOBS AS A PERCENTAGE OF ALL BLACK, ALL HISPANIC WHITE MALE, AND TOTAL BANK EMPLOYEES FOR THE 3 LARGEST BANKS IN 6 SAMPLE CITIES.

	Percent bank employees	Percent black		Percent Hispanic-American		Percent white male
		Male	Female	Male	Female	
New York.....	10.2	6.9	1.3	4.9	2.0	19.0
Chicago.....	10.7	11.0	.9	9.8	1.4	18.7
Philadelphia.....	7.8	12.3	.2	-----	-----	15.9
Washington.....	5.5	4.0	.7	8.6	0	12.7
Detroit.....	9.1	10.8	1.7	-----	-----	23.3
Atlanta.....	10.8	.6	.6	-----	-----	17.0

EMPLOYMENT AS OFFICIALS AND MANAGERS AS A PERCENTAGE OF ALL BLACK, ALL HISPANIC WHITE MALE, AND TOTAL BANK EMPLOYEES FOR THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent bank employees	Percent black	Percent Hispanic-American	Percent white male
New York.....	18.0	7.5	2.6	40.3
Chicago.....	16.5	5.6	.7	32.7
Philadelphia.....	12.8	2.0	.5	33.0
Washington.....	16.7	3.7	1.4	45.1
Detroit.....	17.5	7.1	2.7	45.5
Atlanta.....	20.0	0	0	45.9

EMPLOYMENT IN OFFICE AND CLERICAL JOBS AS A PERCENTAGE OF TOTAL EMPLOYEES, WHITE MALES, AND WHITE, BLACK AND HISPANIC FEMALES FOR THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent bank employees	Percent white males	Percent white females	Percent black females	Percent Hispanic females
New York.....	68.9	34.9	84.9	95.9	95.1
Chicago.....	67.3	42.0	85.8	97.0	97.9
Philadelphia.....	72.7	42.4	93.6	95.8	100.0
Detroit.....	68.3	22.6	90.7	95.1	87.8
Washington.....	71.8	40.3	90.1	90.5	98.4
Atlanta.....	64.0	35.1	86.0	74.5	100.0

Women

Like all minority females and most minority males, white women are for all intents and purposes restricted to office and clerical work. The concentration is smallest in New York, but even there, 84.9% of all white female employees hold such jobs. Philadelphia has the heaviest concentration, 93.6%. High as they are, these percentages tend to be even higher for minority females. In all cases, the percentages of females holding these jobs are at least twice the percentages for white males.

Very few white women are found in blue collar or service work (no more than 5% in any of the sample cities).

However, the percentages of white females employed above the office and clerical level are also small, ranging from a maximum of 14.7% of all white women in New York to just 3.5% in Philadelphia, as the table indicates. In all cities except Atlanta, this representation is smaller than that for minority males, but larger than that for minority females.

In sum, the following generalizations can be made, about distribution of jobs among minority group members and women at the banks under study.

Minority group members: (1) Black men are disproportionately concentrated in jobs below the office and clerical level, i.e. blue collar

and service. (2) Minority women are disproportionately concentrated in office and clerical jobs. (3) Minority men are employed in higher percentages than minority women in professional, technical and sales jobs. (4) Although evidence is sparse, Hispanic-American men seem to do better than black men, and both in turn do very much better than all minority women in regard to obtaining jobs as officials and managers.

Women: (1) White women are overwhelmingly concentrated in office and clerical jobs. (2) The percentage of white female employees who move into the upper echelons of the bank (as officials, managers, professionals, or technical workers) never exceeds 15% in the cities under study. For minority women the maximum is even lower—5%. In contrast, over 57.8% of white men, and over 25% of a bank's total employees are usually in jobs of this kind.

EMPLOYMENT ABOVE THE OFFICE AND CLERICAL LEVEL AS A PERCENTAGE OF TOTAL EMPLOYMENT BY RACE AND SEX FOR THE 3 LARGEST BANKS IN 6 SAMPLE CITIES

	Percent bank employees	Percent minorities		Percent white	
		Male	Female	Male	Female
New York.....	28.2	15.9	4.3	59.3	14.7
Chicago.....	27.2	18.2	1.8	51.4	9.4
Detroit.....	26.2	20.9	4.6	68.8	8.2
Philadelphia.....	20.2	16.6	.8	48.9	3.5
Washington.....	22.2	10.2	2.3	51.8	9.7
Atlanta.....	31.0	4.5	.6	62.9	4.1

FOR THE FUTURE: CORRECT CHANGE?

Five indices of any effort to change the current employment mix are: recruitment; ratings; executive-management training programs; promotions to officer; and the distribution of minority and female executives. Data in all five areas suggest that minorities and women will not attain positions of power and authority in large numbers in the near future.

Recruitment

Neither black talent search agencies nor placement directors on predominantly black campuses—where more than a third of the country's black college students are enrolled—are convinced that banks are serious about recruiting minorities. CEP's inquiries consistently revealed anxiety and distrust of bankers' motives.

The placement director at Howard University, Sam Hall, for instance says that many corporate recruiters leave the campus without hiring anyone because they seek blacks who can "walk water" and that some black recruiters, themselves Howard alumni, are "super blacks" looking for more "super blacks." Another director says that "corporations recruit here because they have to. The government is down on them." An executive of a major black talent search agency headquartered in New York, Lou Christian of Richard Clark Associates, says that "most corporations are looking for a black guy who is white." Back in the early 1960s, he adds, they wanted a light-skinned Negro with curly hair; now they want to hire people who look black

but act white. The head of a Detroit agency maintains that he sees more qualified people than banks are willing to hire, and one agency staff member says that "they just don't seem to be concerned."

Bank recruiters, however, complain about the level of "no-shows" on minority campuses—students who sign up for appointments then fail to appear. One personnel officer says he repeatedly telephoned the placement director of a black college in the South to confirm that a number of interviews had been scheduled, but when he arrived he found neither students nor placement director on hand. A personnel officer at a large Philadelphia bank recounts a similar incident at a predominantly black university in Pennsylvania. As a result of the incident, the bank has not recruited on that campus for four years.

Several placement directors at black schools vigorously denied the existence of a no-show problem. Sam Hill maintains that "black colleges have no more of a no-show problem than any of the white schools." W. Kirk Jackson of Atlanta University says he has a strict rule on the subject: "The only excuse for a student who fails to show for an appointment is a death in the family. His own."

At the same time, bank recruiters are also less than enthusiastic about minority employment agencies. Several say that the agencies charge too much for their services and "could not go any place the bank itself could not go."

Placement directors and bank executives agree that the competition for minority holders of MBAs is so intense that these students receive salary offers up to \$2,000 higher than those made to their white counterparts. Asked about this, a senior bank official in Detroit says, "We just can't compete on that level." But the president of a minority bank in Minneapolis stated, "Yeah, but it's catch-up allowance."

Less effort is made to recruit women on campus than blacks. Most sample banks which visit predominantly female schools began doing so very recently. First National City (New York) did not recruit at women's schools until its visit to Connecticut College this year. Manufacturers Hanover was scheduled to appear at the same school but cancelled without explanation. Chase recruited at Barnard. First Pennsylvania went to a women's college for the first time in 1972, interviewing 10 students at Beaver College in Pennsylvania but making no job offers. According to a school official, no other bank appeared there at all.

Senior vice president Walter Powell holds First Pennsylvania's own staff responsible for the poor record. But other banks have harsh words for college placement officials. A female recruiter at Citibank says that placement bureaus at women's schools are usually useful only at the graduate level. Some banks complain that bureaus either tell female students that banks "won't hire you" or neglect to inform them that bank representatives are coming to the campus to meet them.

Twelve of the eighteen banks under study say they recruit on black campuses; five more provided no response. Seven banks say they recruit at women's campuses: Manufacturers Hanover, Chase, First National City, First Pennsylvania, Citizens and Southern, First of Chicago, and Continental Illinois; three others say they do not: Girard, National Bank of Detroit, and Detroit Bank and Trust; seven declined to reply. The eighteenth bank, National of Washington, does no college recruiting because of its small size.

RECRUITMENT AT BLACK, FEMALE, AND TOTAL COLLEGES 1970

Bank	Number of colleges visited		
	Black	Female	Total
Chase Manhattan	11	(1)	73
Citizens and Southern	12	1	44
Continental Illinois	9	3	70
First Pennsylvania	5	0	26
Manufacturers Hanover	3	0	24
National Bank of Washington	(2)	(2)	(2)

¹ Not available.

² No college recruiting.

Ratings

All sample banks for which information is available use some form of rating or performance appraisal system for evaluating employees' past work and future potential. Usually an employee's immediate supervisor analyzes and comments on her or his progress and on any problems that may have arisen. Ratings are normally conducted annually, with variations depending on the particular bank and on the level of the job. In some cases, employers recognize the inherently subjective nature of appraisals and try to compensate for it by soliciting comments from all concerned parties: the supervisor, the department head, and—most important—the employee. Others do not.

Because promotions and salary increases depend upon a favorable rating, reports become a significant factor in upward mobility of minorities and women. First Pennsylvania, Continental Illinois, and Manufacturers Hanover confirmed that employees must be rated before they can receive promotions or raises.

Thirteen of the 18 banks supplied information on their rating systems. All state that supervisors are supposed to discuss ratings with employees. At nine of the 13, each employee is also supposed to see and sign or initial the report: Chase, Citibank, Manufacturers Hanover, Continental Illinois, First National Bank of Chicago, Northern Trust, Manufacturers National, National Bank of Washington, and Citizens and Southern. In addition, although First National Bank of Atlanta did not release any data, one of its female officers stated that the same practice is followed there. Four more banks indicated that ratings need merely be discussed with the employee, not signed: National Bank of Detroit, Girard, Philadelphia National, and First Pennsylvania.

Conducting appraisals is a time-consuming task, and follow-up utilization of them is rare. Some banks, notably Chase and Citizens and Southern, are exploring possible use of computers to indicate basic job skills, career paths, and the like. A related system is already in effect at Manufacturers Hanover, where completed ratings are key-punched into a computer; print-outs then rate performance on a scale of 1 to 5 and potential on a scale of A to D. The program's purpose is to identify skills and to increase staff mobility by revealing when an employee has stayed in one position too long.

While ratings are meant to be objective, the possibilities for subtle discrimination are obvious. One woman at a large New York bank commented that they are "like putting the cart before the horse." Regardless of how they are supposed to work, she continued, ratings

are generally believed to reinforce a supervisor's desire—or reluctance—to grant a promotion or raise; either one therefore depends on the supervisor's personal viewpoint, not on actual job performance.

CEP asked Walter Powell, senior vice president for Personnel at First Pennsylvania, about possible bias in the use of ratings. Mr. Powell maintained that they are not misused but admitted that he could not offer any foolproof method for insuring fair treatment of employees. Mr. Powell indicated that his bank encourages supervisors to show reports to employees and to solicit their signatures. But he said that First Pennsylvania will not make this practice official policy until 1974 because the bank does not trust its supervisors' objectivity and wants to sensitize them to minorities and women before formally revising the rating policy.

Some of the employment discrimination suits being brought against banks allege that performance appraisals are used with sexist intent. Beverly Wadsworth has testified that First National City asked her to initial a partially blank report of her work and used ratings in attempts to transfer her out of the commercial lending department. Another former employee of First National City, a woman who worked on the staff of the bank's training programs, commented that she had never been shown her ratings during her four years of employment.

In contrast, several other Citibank employees, including one minority male, have stated that the bank does indeed adhere to its policy of permitting employees to see and initial their reports.

In sum, the concept behind ratings is an equitable one, but opportunities for irregularities and bias in their application are readily apparent.

Training and Promotion

Banking seldom recruits from the outside for major jobs. It promotes from within. Consequently, a bank's top executives come largely from its own management training programs. Robert Feagles, senior vice president for Personnel at First National City, told CEP that Citibank's college training program will “. . . hopefully supply in the long run, the senior decision-makers of the organization.” Another bank, Chase Manhattan, calls its credit training program its “principal source of officers.”

The content, duration, and structure of training programs differ from bank to bank. They are variously named credit training, college training, or credit workshops. All of them combine on-the-job learning with formal, in-house course instruction, and all of them train people to be officers. It is here that an employee on the way up obtains the credentials needed for commercial lending. Most trainees are newly-graduated from colleges and universities. For example, 17 of the 20 trainees in First Pennsylvania's credit workshop so far this year were recruited from the campus.

Minority and female participation in executive-management training programs at sample banks is minimal. CEP obtained data on 2,669 participants for the years 1968–70; only 233 or 8.7% of them were women, and only 188 or 7.0% were minority males or minority females. Of the 1,003 participants at 6 banks during 1970, only 100 trainees or 10.1% were women; all but 11 of the women were white; there were 72 minority males or 7.2% of the total.

As the table below indicates, during 1970 Continental Illinois ranked best in regard to females; 18.9% of its trainees were women; Citizens and Southern ranked worst with 4.4%. In regard to minorities, National Bank of Washington had the highest percentage, 25.0% and Citizens and Southern the lowest, 3.7%. But "highest percentage" meant little at National Bank of Washington because only 12 trainees of all races and both sexes took part in the program, so that "25%" amounted to only three minority men.

MINORITIES AND WOMEN AS A PERCENTAGE OF PARTICIPANTS IN EXECUTIVE-MANAGEMENT TRAINING PROGRAMS, 1970

	White females	Minority females	Minority males	Total females	Total minorities
Continental Illinois	16.9	2.0	5.5	18.9	7.5
First Pennsylvania	9.8	2.2	11.1	12.0	13.3
Manufacturers Hanover	7.9	1.7	11.3	9.6	13.0
Chase Manhattan	8.0	0.6	5.2	8.6	5.7
National Bank of Wash.	8.3	0	25.0	8.3	25.0
Citizens & Southern	4.4	0	3.7	4.4	3.7

Only three banks—Continental Illinois, First Pennsylvania, and National Bank of Washington—had a larger proportion of women trainees than women executives. For minority males, the picture was even more discouraging: only at National Bank of Washington were they represented more heavily as executive trainees than as current holders of jobs above the office and clerical level.

Recent promotions to the officer level—i.e. assistant cashier, assistant treasurer, or above—are not changing employment patterns, either.

Six banks supplied data on such promotions. They promoted a total of 741 people to officer for the first time during 1970. Of that number, 47 or 6.3% were white women. Twenty-five or 3.4% were minority males. None were minority women.

Looking at the banks individually, from 83.3% (at National Bank of Washington) to 93.3% (at Chase) of the promotions went to white men. As already noted, no such promotions went to minority females. White women fared best at National Bank of Washington, where they received 12.5% of the promotions, worst at Continental Illinois with 3.3%. At most, minority males accounted for 4.9% of promotions at Manufacturers Hanover; at First Pennsylvania, none were promoted to the officer level for the first time during the year.

PERCENTAGE OF 1ST TIME PROMOTIONS TO OFFICER—1970

	Males		Females		
	White	Minority	White	Minority	
Chase Manhattan	93.3	2.7	4.0	0	
Continental Illinois	92.3	4.4	3.3	0	
Manufacturers Hanover	86.4	4.9	8.7	0	
Citizens and Southern	88.4	1.5	10.4	0	
First Pennsylvania	91.7	0	8.3	0	
National Bank of Washington	83.3	4.2	12.5	0	

In addition, the distribution of minority and female executives does not afford them maximum opportunities for prestige, high salaries, and advancement to the top-most rungs.

The primary source of a bank's income is interest and fees earned on loans, and the largest share of loan income derives from commercial lending. As an illustration, First Pennsylvania's 1971 annual report states that the bank and its subsidiaries earned \$200,900,000 from loans, 80.2% of it from commercial lending, 11.7% from consumer (i.e. retail) lending, and 8.1% from mortgage and real estate lending.

It is not surprising, then, that most presidents, chairmen, and chief operating officers at CEP banks attained their present status by way of commercial lending. Yet the area has historically been closed to minorities and women. CEP staff members observed four commercial lending departments, two in Detroit and two more in Chicago. Every woman in them had a typewriter at her desk. Few minority males were observed in any capacity at all. And only one of the 8,000 members of the National Association of Bank Women is formally listed as a commercial lending officer. Female officials and managers seldom have charge of operations departments, either, although the vast majority of employees in those departments are women and many are minority women; only 86 NABW members are listed as operations officers. Instead, female executives are most often found in personnel departments or in branch banking, where the lending activity is retail-oriented and the size of the loans comparatively small. As one female officer at a large New York bank put it, commercial lending today remains "very male and very white."

Legal Challenges

One final avenue through which women and minority group members may seek elimination of inequities is through legal challenges. Employment practices in the banking industry are affected by four major laws. Three of them are executive orders which are enforced primarily by the Department of the Treasury. As presently administered, however, it is difficult to tell what, if anything, the Department is accomplishing in this area.

Banking is also indirectly affected by precedents which have been set as a result of fair employment suits brought against corporations in other industries.

Compliance with the three executive orders constitutes the method by which employment practices of most banks are monitored. Banks may be in compliance with the orders, which require filing of information and enacting of improvement programs (such as "Affirmative Action") and not necessarily be in compliance with the legislation, namely the Civil Rights Act, which prohibits discrimination altogether.

Title VII of the Civil Rights Act of 1964 forbids employment discrimination on the basis of race, color, sex, religion or national origin. It also establishes the Equal Employment Opportunity Commission (EEOC) which provides ways in which an individual—or, in special situations, the Department of Justice—can obtain legal remedies for discrimination. The EEOC generally acts only upon receipt of a complaint.

Executive Order 11246, issued in 1965, requires banks and other Federal contractors to take "affirmative action" to remedy employment discrimination. It requires them to permit access to pertinent books and records. It also establishes the Office of Federal Contract Compliance (OFCC) within the Department of Labor. As a result of the

Civil Rights Act and Order 11246, government contractors with 50 or more employees must file annual statistics on all employees on a standard form, EEO-1. The statistics must show three things: sex; race—e.g., Negro, Oriental, Spanish-surnamed American, or American Indian; and level of employment according to specified occupational categories—i.e. officials and managers, professionals, technicians, sales workers, office and clerical, craftsmen, operatives, laborers, and service workers.

Executive Order 4, issued in 1970, requires the setting of goals and timetables for the redress of employment inequities affecting racial and ethnic minorities. It requires an Affirmative Action Program, i.e. a “set of specific and result-oriented procedures to which a [Federal] contractor commits himself to apply every good faith and effort.”

Revised Order 4, issued in 1972, extends the provisions of the original order to women.

Responsibility for obtaining banks' compliance with the three executive orders rests with the Treasury Department's compliance section formally called the Equal Opportunity Program. If a bank does not comply, the Department can end its status as a Federal contractor, with the result that it can no longer be a repository for Federal funds, collect Federal taxes, or sell or cash bonds.

Treasury has never ended the contractor status of any major bank, although it has invoked this procedure against four small ones. Furthermore, when David Gottlieb, a program specialist in the compliance section, was asked how Treasury judges whether a bank is in compliance he replied, “We generally take a bank at its word.” He said that the Department has found up to 17 deficiencies at a single bank; asked how, then, Treasury judges whether a bank has *corrected* deficiencies, he replied, “. . . they tell me they're doing X, Y, Z. How do I know they're telling me the truth?” Mr. Gottlieb also told CEP that the Department does not maintain records on banks which are not in compliance because “there just aren't that many.” He estimated that 350 to 400 compliance reviews were conducted during the past year. Mr. Gottlieb declined to release the names of the banks which have been reviewed on the grounds that such information is “not a matter of public record,” but he stated that the banks chosen for review are the country's largest. This statement should be evaluated in light of the fact that Treasury did not review the world's largest bank, the Bank of America, until after a fair employment suit had been filed against it in U.S. District Court.

Even bank employees are not necessarily aware of the results of compliance reviews. The director of the Equal Opportunity Program, David Sawyer, told CEP that “It's common knowledge that a bank doesn't have to tell its people whether it's in compliance.”

As a result of these Treasury Department policies, CEP could not find out whether the sample banks had been reviewed and, if so, which were in compliance and which were not.

A person claiming job discrimination by a bank may also complain to the Equal Employment Opportunity Commission (EEOC). In response, EEOC may investigate, conciliate, and persuade, but it may not issue cease-and-desist orders, and it is required to defer to the fair employment commissions of the state. While a new law, the Equal Employment Act of 1972, authorizes the agency to bring civil suit against an employer on behalf of an employee, the law's effect has yet

to be felt. Last year, the U.S. Commission on Civil Rights assailed EEOC for failing to reduce its backlog of unresolved charges and denounced the "inertia [of] the Federal bureaucracy—in some cases a blind, unthinking fidelity to the status quo, in others a calculated determination to do nothing to advance the cause of civil rights."

Compliance with the executive orders, as was pointed out above, is not necessarily compliance with Title VII of the Civil Rights Act of 1964 prohibiting discrimination in employment. The executive orders provide some incentive for and framework within which management may consider rectifying discriminatory practices; they create general administrative procedures which facilitate redress on the part of individuals; and they do require reporting of the employment situation at each firm.

They do not however provide any definition of discrimination. To approach "discrimination" we must turn to the tests employed by the judicial system.

There is no universally-accepted and legally-defined statistical standard to prove that a firm is discriminating. In the few cases (e.g. *Parham vs. Southwestern Bell*, U.S. 8th Circuit Court, 1970) where statistical evidence was ruled to constitute *prima facie* evidence of discrimination, a failure to hire more than a few minority people from a labor force with heavy minority group representation served as the basis for upholding the plaintiff.

Statistical evidence of a pattern of discrimination does, however, constitute grounds for investigation into the causes of such discrimination. The test for such a pattern is frequently a "gross imbalance" or disparity between, for example:

- the percentage of a group employed by a firm and the percentage of that group in the local labor force, or
- the percentage of a group employed by a firm and the percentage of that group represented in a given job category, or it may be some other statistical test which indicates an imbalance.

Acceptability of evidence is determined *ad hoc* by the courts. Gross imbalance is a subjective criterion and is not meant to imply any rigid quota or parity system. Furthermore, because it is a preliminary indication of discrimination it almost always must be accompanied by other evidence of a pattern of discrimination under Title VII. The power of the statistical data rests with the fact that it shifts the burden of proof of non-discrimination from the plaintiff to the defending firm.

The firm must prove that this pattern results from one of a variety of practices. Barriers to employment must be justified by "business necessity," a term which is to be narrowly construed and must involve a bona fide occupational qualification, such as lifting heavy weights.

The courts have specifically found that "neutral policies" violate equal employment rights if they perpetuate past discrimination; that tests must be reasonable and job-related; and that different hiring policies for women and men with pre-school age children violate Title VII unless they involve a bona fide occupational qualification.

Where discrimination has been found, courts have set precedents for the granting of affirmative relief. Extensive minority recruitment programs and preferential hiring of minorities have been required; and victims of discrimination have been awarded back pay.

Several important equal employment suits have been brought by women against banks.

In October, 1971, the Women's Equity Action League, a three-year old women's rights organization with chapters in 25 states, filed a class-action suit with the Treasury Department charging 27 Dallas banks with violating Executive Order 11246.¹³

Specifically, WEAL maintained that the banks took longer to promote female employees to the executive level than males; that they paid women less than men for the same work; and that many fired women upon learning that they were pregnant while others forced them to leave work at a given state of pregnancy and still others "moved them into the back room."

The response of the Treasury Department was totally unsatisfactory to WEAL. In January 1972, the Department sent 8 men to conduct compliance reviews in Dallas. According to *Newsweek*, several of the banks promoted women to vice-president or added them to their boards of directors the day before the Treasury men arrived. The men reviewed 20 banks in 4 days, then returned to Washington. In accordance with Treasury policy, the Department has declined to inform WEAL of the results of the review, nor has the organization heard any other word from the Department since January. CEP asked the highest-ranking woman in Treasury's compliance section, Inez Lee, about WEAL's activities. Ms. Lee said, "Oh those ladies. They do upset me." Ms. Lee added that a lot of female employees at Dallas banks "think of their jobs as second jobs" and "are not interested in becoming officers because if they were they might have to travel on the spur of the moment."

WEAL also complained to the EEOC, but has again received no reply. Weary of the unresponsiveness of two Federal agencies, WEAL now plans to ask the Justice Department to file suit against the banks. The group has also sued several Ohio banks and may sue in New York, as well.

Beverly Wadsworth, a *cum laude* Harvard graduate who worked at First National City Bank in New York from October 1968 to August 1970 is the protagonist in another major challenge. In response to her complaint, the New York State Division of Human Rights has filed suit on her behalf, charging that the bank and two of its officers discriminated against her by placing her in a training program leading to branch, rather than commercial, lending and then by repeatedly trying to transfer her from commercial lending into retail lending or investment research. The suit also charges that she was discriminated against in regard to the nature of her initial job and in regard to rating reports, promotions, salary, and job responsibility and authority.

Before her employment began, Ms. Wadsworth expressed an explicit desire to work in commercial lending in conversations with several of the bank's officials and in a letter to a senior vice president. Ms. Wadsworth charges that the bank deceived her into believing that she was being placed in a training program leading to the commercial lending area. In fact, 3 programs then existed in the Metropolitan Division: a) college training, for "outstanding graduates of colleges or graduate schools recruited . . . as potential members of senior management" b) platform management training (people who handle general supervision of the branch) and c) credit management,

¹³ None of these banks is included in the study since Dallas ranks fourteenth in the nation in black population.

which was similar to platform management but was meant for people with less experience. Despite Ms. Wadsworth's education and several years business experience, she was assigned to this last program, which has since been discontinued.

After three months' training, Ms. Wadsworth was made a service assistant, a job which she subsequently described as "back-up investigative work not involving customer contact and requiring typing." On three occasions, she complained to her supervising officer about not having been assigned any accounts; once she was told in reply that "there was nobody else to do the work" she was doing. After she complained directly to the vice president in charge of all mid-Manhattan regional centers, she was given the title of official assistant, which carried account responsibility. The following month, July 1969, her first account was delegated to her; in August, she was given a second one. The next March, she was made an account manager. In comparison, the complaint alleges, a certain male employee who began work as a college trainee two months *after* Ms. Wadsworth had 24 accounts by the time she had been given one. Ms. Wadsworth claims that the disparity resulted from the bank's desire "to keep me . . . doing routine paperwork and odd jobs to support the men."

Ms. Wadsworth's department had no female officers, and only 14 of its 166 non-clerical personnel were women. Ms. Wadsworth maintains that an examination of recruitment, training, and promotion statistics would reveal "massive prejudice in favor of the males." CEP could not verify this charge because Citibank declined to supply statistical data, despite repeated requests. When Citibank was reorganized in January 1970, Ms. Wadsworth was transferred to the Personal Banking Group, a retail area; after vigorous protests, she was transferred back into commercial banking. At the time of the reorganization, there were no women with account responsibility in the commercial banking area.

The complaint also deals with the granting of signing powers, which involved a salary increase and was a prerequisite for promotion to assistant cashier. Two male trainees were granted this authority, but Ms. Wadsworth was not. When she protested, a Citibank vice president told her that "women should not be out at night and should therefore not be promoted to a position where they would have to sign documents and to seal the branch at the end of each day." The same executive told her that women are not good at getting new business and that the only reasons for promoting women are the 1964 Civil Rights Act and the fact that men are less likely to lose their tempers when complaining to a female employee.

Finally, the complaint alleges discriminatory use of rating systems. Ms. Wadsworth maintains that the senior officer in her branch gave instructions that her periodic performance ratings not be discussed with her, as they were with other employees. She was rated twice while at Citibank. Both times, she says, she had to ask to see the results instead of being shown them automatically as bank policy dictated. Both times, the ratings were high. Yet both reports suggested that she be transferred to another department because, Ms. Wadsworth says, the bank did not want women in commercial lending.

Public hearings in the case were completed in June 1972. Attorneys for both sides are preparing final briefs, with an opinion expected from the hearing examiner by year's end.

STATEMENT OF DR. JULIA GRAHAM LEAR, FEDERATION OF ORGANIZATIONS FOR PROFESSIONAL WOMEN

ECONOMIC EQUALITY FOR WOMEN IN EDUCATIONAL INSTITUTIONS

I am Dr. Julia Graham Lear, coordinator of the Subcommittee on Affirmative Action for the Federation of Organizations for Professional Women. I am a political scientist specializing in political and economic development. Currently I am Associate Editor of *Development Digest*, a quarterly journal on international developmental issues. Formerly I taught at Federal City College and Howard University. I am speaking today on behalf of the Federation of Organizations for Professional Women, an umbrella organization of professional groups dedicated to equal rights for women.

The Federation of Organizations for Professional Women has felt an on-going and deepening concern about the failure of the executive branch of the federal government to enforce the several national laws and regulations prohibiting discrimination against women in the field of education. On May 21, 1973 Dr. Irene Tinker, Presiding Officer of the Federation, testified to this concern before the Labor-H.E.W. Subcommittee of the House Appropriations Committee. Dr. Tinker pointed out that despite the promulgation of Executive Order 11246 as amended and the enactment of Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "the enforcement of the federal laws and regulations concerning sex discrimination in educational institutions by the Office for Civil Rights [H.E.W.] has been woefully inadequate." At that time Dr. Tinker stressed that a first step towards implementation of laws and regulations prohibiting sex discrimination in education would be the authorization of a significant staff increase for the Office of Civil Rights. The Federation remains committed to the need for this staff expansion and, indeed, the Federation would support increases in all compliance staffs to implement the federal laws prohibiting discriminatory personnel practices. On this occasion, however, the Federation would like to focus on civil rights enforcement problems in a particular segment of the education industry and bring to the attention of this committee difficulties the Federation has had in gathering information on the implementation of Federal directives prohibiting sex discrimination.

For the past seven months the Federation has been inquiring into the status of women at major research institutions. The research organizations were a special interest to the Federation because they hire significant numbers of social scientists holding Master's and Ph. D. degrees, and at a time of hiring cutbacks at universities it appeared especially important to determine if opportunities for women existed within these organizations.

The Federation inquiry has centered on the implementation of affirmative action plans to end sex and race discrimination at research organizations. On August 31, 1971, the Office of Federal Contract Compliance issued Revised Order Number 4 which required contractors with 50 or more employees and a contract of \$50,000 or more to develop a written affirmative action program. These plans must include not only a detailed analysis of the composition of the contractor's workforce, but also establish goals towards which the organization must work and specify measures which will be taken to correct earlier deficiencies. Revised Order Number 4 lists penalties for those who discriminate against women and minorities but perhaps more importantly the order provides organizations with an opportunity and means to re-evaluate their personnel policies through the development of affirmative action plans.

A preliminary survey of the composition of workforces at eight local research organizations indicated that a thorough study of affirmative action plans at the research organizations was in order. One economic research organization, Resources for the Future, employed only one black as of March, 1973; he was in the mailroom. There were no female professionals, white or non-white, employed as research associates. Another similar organization, Gladstone Associates, employed 3 black females in the spring of 1973, but no female, white or non-white, was employed in the professional research ranks. (A number of women were employed as research assistants, but these slots required no professional training and were not stepping stones to mid-level and senior level research positions.) Perhaps most telling of all was the failure of any research organization to publicize, as required by law, the existence of an affirmative action plan or the designation of an affirmative action officer. At The Brookings institution, 45 of 47 women contacted did not know that there was an affirmative action plan for women. (There are approximately 200 female employees at Brookings.) The failure of research organizations to inform their employees of their affirmative action plans suggested to the Federation that the plans were either non-existent or were a closely guarded secret between the organization director and his affirmative action officer. In either event, the objectives of Revised Order Number 4 to end discrimination against women and minorities through affirmative action plans were aborted.

On the basis of these findings, the Federation undertook to examine the affirmative action plans of leading research organizations and to determine the enforcement procedures which were used by the compliance office overseeing the research organizations. As a result of our efforts to obtain information on these points, the Federation has concluded that changes should be made in procedures guiding the oversight of affirmative action plans at research institutions. We would like to recommend two changes which we believe would improve the enforcement of affirmative action at the think tanks. Our recommendations include the following:

(1) *All research organizations should be brought within the purview of one compliance office.* As it stands now, oversight of the research organizations is divided among four agencies—the Agency for International Development (AID), the Department of Defense (DOD), the General Services Administration and the Treasury De-

partment. The principle which guides assignment of responsibility among the different agencies appears to be that a research organization is assigned to AID unless that research organization contracts primarily with one agency, such as the Institute for Defense Analyses does with the Department of Defense.

The division of authority among several compliance offices has had several bad effects. First, what is the responsibility of all becomes the responsibility of none. In some cases, the agency compliance offices are not sure which research organizations they oversee. Thus, the Department of Defense informed the Federation that the RAND Corporation was the responsibility of the Agency for International Development. After some correspondence, AID convinced DOD that the RAND Corporation is the responsibility of Defense. Obviously no oversight is maintained when a compliance office does not know which organization it is to oversee.

Second, the splintering of the research organizations among several agencies results in the research organizations being of minor importance compared with other classes of contractors with which the compliance office must deal. At the Department of Defense, for example, the Institute for Defense Analyses (IDA) and other research institutes probably receive little attention from a compliance office which must also review the affirmative action plans of all the defense industrial contractors. Note, too, that the research organizations with their essentially academic orientation, may be very different in organization and personnel requirements from the other contractors that their respective compliance offices oversee. Job skills which effectively enforce affirmative action at Lockheed might not be the same ones which would adroitly analyze an affirmative action plan at the RAND Corporation.

(2) *An apparent gap in the affirmative action plan regulations must be closed.* According to present law (Section 718 of the Equal Employment Opportunity Act of 1972) "an Affirmative Action Plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan." The practical effect of this provision is that understaffed compliance offices will not request affirmative action plans from contract holders until such time as they are able to conduct an immediate review of the plan. The Agency for International Development compliance office informed the Federation that if AID requested a plan from a research institution and made no negative comment on that plan, the plan would be considered acceptable. With limited staff, such a review might not be scheduled for several years. Thus inadequate affirmative action plans remain unchanged indefinitely.

The Federation has found that it may be foreclosed from conducting its own inquiry into affirmative action programs. If a compliance office has not requested that a contractor submit an affirmative action plan and if the contractor refuses to make the plan available for inspection, the Federation and similar public interest organizations will have no access to needed information on the implementation of public laws. In the case of the RAND Corporation, the Defense Department has not requested that RAND submit its affirmative

action plan and thus does not have a copy of the RAND plan to show us. RAND has refused to make its plan available to us. It is sad to note that despite this failure to review affirmative action at RAND, the U.S. Commission on Civil Rights awarded a \$120,000 contract to the RAND Corporation in July, 1973 to design a national study on school desegregation.

When Dr. Bernice Sandler, Director of the Project on the Status and Education of Women, Association of American Colleges, appeared before this committee on July 11, 1973, she noted that a "legislative explosion" had occurred concerning sex discrimination in education and suggested that "Congress had clearly mandated a national policy to end sex discrimination in education." But, she noted, despite this mandate, the executive branch has not translated the new legislation into effective policy and procedure. Women remain subject to extensive, crippling discriminatory practices by educational institutions. The Federation agrees wholeheartedly with Dr. Sandler's testimony and wishes to join in her plea that "If the will of Congress is indeed to be translated into federal practice, federal policy at all agency levels must now be re-examined to ensure that women achieve full economic equality. The time to begin is now."

INTERSTATE ASSOCIATION OF COMMISSIONS,
ON THE STATUS OF WOMEN,
Washington, D.C., August 12, 1973.

Representative MARTHA GRIFFITHS,
*Joint Economic Committee,
Longworth House Office Building,
Washington, D.C.*

DEAR REPRESENTATIVE GRIFFITHS: The Interstate Association of Commissions on the Status of Women has followed the hearings which you have conducted on economic discrimination against women with intense interest. I know that the record of these hearings will be of great value to women's organizations throughout the country as well as to legislative committees of Congress.

One of the several areas covered in the hearings which is of active concern to IACSW is credit discrimination. I understand that you have already received material on this subject from the Pennsylvania Commission on the Status of Women. I am pleased at this time to submit to you reports and related material concerning sex discrimination in credit availability which have been prepared by the District of Columbia Commission on the Status of Women (in conjunction with the Women's Legal Defense Fund), the Idaho Commission on Women's Programs, the Iowa Commission on the Status of Women, and the Michigan Women's Commission.

I hope that these reports will be useful to you and your staff and that at least some of their contents can be included in the record of the hearings.

Please let me know if there are any other ways in which IACSW and our member Commissions can be helpful to you.

Sincerely yours,

JOY R. SIMONSON,
President.

[Editor's Note: Report of the D.C. Commission on the Status of Women follows. The Idaho, Iowa, and Michigan reports are available in the Committee files.]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON THE STATUS OF WOMEN

RESIDENTIAL MORTGAGE LENDING PRACTICES OF COMMERCIAL BANKS,
SAVINGS AND LOAN ASSOCIATIONS, AND MORTGAGE BANKERS

A Report Based on a Joint Survey With the Women's Legal Defense
Fund, Inc., June 1973

ROOM 205 DISTRICT BUILDING WASHINGTON, D.C. 20004
629-5238

The D.C. Commission on the Status of Women welcomes the participation of interested women and men in its various task force activities-

consumer interests, criminal justice, education, employment, health, legal status.

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Helen S. Lewis, *Executive Director*
 Deborah Kimball, *Staff Assistant*
 LaRene F. Haley, *Staff Secretary*

ACKNOWLEDGMENT

The Commission gratefully acknowledges the assistance of members of the Consumer Credit Task Force for advice in planning this project and for assistance in determining the scope, content and uses of the survey. Particular thanks to Sharyn Campbell of the Women's Legal Defense Fund for her assistance in all phases of the project.

Sharyn Campbell	Mary Howard
Jane Chapman	Mabelle Long
Margaret Gates	Patricia A. Massey
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INTRODUCTION

Evidence reported in 1972 by the National Commission on Consumer Finance¹ indicates that nationwide many women have difficulties in obtaining residential mortgages. In response to that report and to supportive local anecdotal evidence, the Commission decided that it was necessary to establish certain facts with respect to the residential mortgage lending policies of institutions in the metropolitan Washington area. A survey was undertaken in cooperation with the Women's Legal Defense Fund to determine if:

- there is a general policy among lending institutions in the metropolitan area pertaining to the approval of residential mortgages in which either individual or joint applications of women are treated differently from those of men, and
- there are differences in policy resulting from consideration of the marital status of men and women as applicants.

Questionnaires and covering letters (see Appendix A) were sent in

¹ *Consumer Credit in the United States*, U.S. Government Printing Office, Stock No. 5200-00005, December 1972. (\$2.75 at U.S. Government Printing Office Book Stores.)

November 1972 to 42 commercial banks, 24 savings and loan associations, and 41 mortgage bankers. Responses were received from 50 of these 107 institutions (see Appendix B). This report is based on the replies of the 40 respondents that process single-family residential mortgages.

The Commission believes that *recognition* by concerned parties that discriminatory policies *may* exist is the first step toward correction and is pleased that the first step is being taken by some.

Toward the goal of elimination by *all* institutions of any residual discriminatory policies, this report is being distributed to the lending institutions surveyed, to organizations in the metropolitan area working for the attainment by women of opportunity for economic equality, and to agencies of government with authority to promulgate legislation and regulations prohibiting discrimination on the basis of sex and/or marital status in the evaluation of residential mortgage loans.

TABULATION OF RESPONSES

Sex and Marital Status as Factors (Questions 1 and 8)

Responses show that policies relating to sex and marital status of applicants vary among institutions, but that sex and marital status frequently determine whether or not mortgage loans will be granted. Most institutions make residential mortgage loans to married couples and single or divorced men and women. Least favored are married persons as sole applicants. Some loan to separated individuals; separated men are less favored than separated women.

Questionnaire responses indicate a general difference of opinion among lending institutions as to the impact of state or District of Columbia inheritance laws on the risks involved in the granting of mortgage loans to separated individuals and to married individuals as sole applicants.

NUMBER OF INSTITUTIONS THAT MAKE RESIDENTIAL MORTGAGE LOANS TO MEN AND WOMEN, ACCORDING TO MARITAL STATUS

Marital status	Men	Women
Single	40	40
Separated	1 22+9	1 26+8
Divorced	40	40
Married, as sole applicant	1 18+5	1 19+4
Married, as joint applicants	37	37

¹ Conditionally affirmative. Concerns expressed: Existence of a legal separation, property agreement or premarital agreement concerning distribution of property, the effect of applicable inheritance laws, the legality of a waiver of rights by spouse.

Most mortgage lenders indicate that they do not favor married men over single men, nor married women over single women. Most indicate that single men and single women with comparable incomes are equally reliable as mortgage borrowers. One mortgage banker that prefers married over single individuals indicates that "degree of motivation" is the basis of the preference.

NUMBER OF INSTITUTIONS RESPONDING TO QUESTION 8

	Men		Women	
	Yes	No	Yes	No
Are married individuals more likely than single individuals to get loans?.....	10	29+ 1 1	4	35+ 1 1
		Yes	No	Other
Are single men and single women with comparable incomes considered equally reliable as mortgage borrowers?.....	37		2	2 1

¹ "Not necessarily."² "Age has some bearing."*Sources of Income (Question 2)*

In evaluating mortgage applications of both men and women, responding institutions consistently regard current earnings and generally regard disability and retirement payments to be valid income sources. About half the respondents consider projected earnings valid income sources for men and women equally. Alimony and child support are considered valid income sources for women by approximately half the institutions, and for men by one-third.

NUMBER OF INSTITUTIONS THAT CONSIDER VALID VARIOUS INCOME SOURCES

Income source.....	For men	For women
Current earnings.....	40	40
Projected earnings.....	22+ 1 3	22+ 1 3
Alimony.....	12+ 2 2	19+ 2 3
Child support.....	13+ 2 2	19+ 2 4
Disability or retirement.....	37+ 4 2	37+ 4 2
Other.....	5 17	5 17

¹ Conditional, such as "if substantiated" and "depends on circumstances."² Conditional: 1 for both men and women "not given full consideration due to instability over long term," 1 for men and 2 for women depends on whether alimony can be verified.³ Same conditions as in alimony, plus an additional institution that counts child support for women only if pursuant to divorce decree.⁴ Conditional: "only if guaranteed" and "retirement only."⁵ Dividends, interest, investment or trust income, part-time employment (2 cases), overtime if of continued duration are among the sources specified by respondents.*Counting a Working Wife's Income (Question 3)*

In determining a couple's maximum loan eligibility, 27 of 40 respondents count fully the income of a "professional" woman and 13 count fully the income of a "nonprofessional" woman. When a woman's income is evaluated individually, among the factors considered are stability, length and nature of employment; age; family structure and status; purpose for which employed; history of maternity leave; ages of children.

NUMBER OF INSTITUTIONS THAT GIVE VARIOUS WEIGHTS TO WIFE'S INCOME

Type employment	Weight given to wife's income			Individual consideration
	100 percent	75 percent	50 percent	
Professional.....	27+ 1 2		1	10
Nonprofessional.....	13+ 2 1	2	4+ 2	18

¹ Conditional: "if it is established that it is a family unit" and ". . . governed by the [varying] policies of our different investors."² Conditional: "if it is established that it is a family unit."³ Conditional: "if 3 years steady" and ". . . governed by the [varying] policies of our different investors."

Institutions' Understanding of Veterans Administration (VA) and Federal Housing Administration (FHA) Policies With Respect to Counting a Wife's Income (Question 4)

We assume that the 24 institutions that answered substantively Question 4 are the only ones among the respondents that currently make VA-guaranteed and FHA-insured loans.

There is wide discrepancy among these institutions in the understanding of VA and FHA policies with respect to counting a working wife's income.

Half of the 24 believe that VA and FHA policies are the same. Some examples of their responses:

- “. . . If a married woman is beyond child-bearing age, and if she has established an existing pattern of employment, her income would be considered 100%. However, if the married woman is young and recently married, and could be expected to have children unless otherwise stated, none of her income would be considered.”
- “. . . Will consider in entirety the salary of a wife who is gainfully employed in a permanent position with tenure.”
- “Each case determined on individual merit.”

A mortgage banker states that compared with VA policy, FHA policy is “similar. Permanency and motivation for working must be established.” Another states that FHA is basically the same as VA but “. . . somewhat more liberal in defining ‘pattern’ ” of employment.

Examples of lenders that believe VA and FHA policies differ:

- VA counts a professional wife's income only against payment of short-term family bills and a nonprofessional wife's income 0%; FHA counts a professional wife's income in full and a nonprofessional wife's income only against payment of short-term family bills unless she has worked over 5 years, in which case it counts in full.
- VA counts a wife's income if it can be established as a family pattern and the wife has worked 2 or 3 years; FHA policy is much more liberal and “training is given a lot of weight in cases where couple is not married too long.”

Wife As Primary Earner (Question 5)

31 lenders report that a couple where the wife but not the husband has an adequate income and good job record has the same chance for a loan, all else being equal, as a couple depending primarily on the husband's income. 4 other lenders consider additional factors, one citing “. . . age of the wife, number of children at home.” 3 institutions report that such a couple does not stand an equal chance with a couple where the husband is the primary earner.

Number of institutions responding to Question 5

Couple has the same chance when wife, not husband, has adequate income and good job record.....	31
Couple has not the same chance when wife, not husband, has adequate income and good job record.....	3
Additional factors considered.....	4
No response.....	2

Liberalization of Policies Toward Working Wives (Question 6) and Unmarried Women (Question 7)

Half the responding institutions indicate that their lending policies toward working wives have been liberalized in recent years. 15 indicate that the incomes of working wives and working husbands have never been treated differently.

Number of institutions responding to Question 8

Policy toward working wives liberalized.....	20
Policy toward working wives not liberalized.....	2
Never treated differently.....	15
Does not apply.....	1
Each case individually considered.....	1
No response.....	1

40% of the responding institutions indicate that their policies toward unmarried women have been liberalized in recent years. Nearly 20% *volunteered* that unmarried women have never been treated differently from other applicants.

Number of institutions responding to Question 7

Policy toward unmarried women liberalized.....	16
Policy toward unmarried women not liberalized.....	2
Never treated differently.....	7
Does not apply.....	8
No response.....	7

Family Plans (Question 9)

Most responding lenders ask all applicants to report number of dependents; about 40% ask about marital plans. 10% ask both men and women about birth control practices. 5 of 40 respondents indicate that they ask parental plans of men, while 9 ask parental plans of women. One institution indicates that men sometimes volunteer information about parental plans and birth control practices; two institutions indicate that women sometimes volunteer this information.

NUMBER OF INSTITUTIONS RESPONDING TO QUESTION 9 (8 PARTS)

Information requested	Of men				Of women			
	Yes	No	No response	Other	Yes	No	No response	Other
Marital plans.....	17	20	2	1	17	20	2	1
Parental plans.....	5	27	3	5	9	24	2	5
Birth control practices.....	4	31	4	1	4	31	3	2
Number of dependents.....	38	2			38	2		

Institutions' Understanding of VA and FHA Policies With Respect to Requiring Information Pertaining to a Couple's Parental Plans or Birth Control Practices (Question 10)

Substantive responses to Question 10 total 26. Each respondent believes VA and FHA policies to be identical. Of the 22 that answered substantively both Questions 4 and 10, 18 believe that VA and FHA do not require parental plans or birth control information, 2 believe they do, 1 answered "sometimes volunteered" and 1 "... more factual

information would be obtained directly from VA and FHA." The 4 that answered substantively Question 10 but not Question 4 believe that VA and FHA do not require such information.

NUMBER OF INSTITUTIONS RESPONDING TO QUESTION 10

Policy	Yes	No	Other	No response	Does not apply
VA requires information regarding parental plans or birth control practices.....	2	22	2	4	10
FHA requires same.....	2	22	2	4	10

DISCUSSION OF RESPONSES ²*Validity of the Sample*

Findings in this report summarize the policies of respondents, and cannot be assumed to reflect the policies of non-respondents. It is possible that responses reflect a liberal rather than a random cross-section of lenders' policies. Some lenders who failed to respond may have been reluctant to publicly acknowledge outdated or discriminatory elements of their policies.

An indication that responses may represent a liberal cross-section is that separated people are not disfavored by all respondents: 6 commercial banks indicate that they make residential mortgage loans to separated men and 7, to women; 8 mortgage bankers make loans to separated men and 11, to separated women. These responses conflict with reports from other sources (National Organization for Women and Women's Legal Defense Fund files), which indicate that separated women find it virtually impossible to obtain residential mortgage loans, except perhaps with the cosignature of the estranged spouse. One responding banker is reluctant to make loans to separated men because of legal problems regarding the inheritance rights of wives, but will make loans to separated women regardless of the inheritance rights of husbands.

Married People Are Preferred Mortgagors

Although all 40 institutions respond to one question that they make loans to single men and single women, 10 respond to another question that married men are more likely than single men to obtain loans, and 4 state that married women are more likely than single women to obtain loans.

Similarly, all respondents state that they make loans to divorced men and divorced women. However, since one who relies for part of his or her income on alimony and/or child support payments often earns less than would be the case without these sources, respondents (over half) that consider current earnings and refuse arbitrarily to consider alimony and child support as valid income sources in effect discriminate against separated and divorced applicants.

² For further analysis of the credit problems of women, establishing credit projects, and suggested actions by individuals and organizations, see "Women and Credit" by Sharyn Campbell, published by National Organization for Women, 1973. (\$5 from NOW, 1957 E. 73rd St., Chicago, IL 60649.)

Alimony and Child Support Are Often Disregarded

Of 40 lenders, 12 will count alimony for men and 19, for women; 13 will count child support for men and 19, for women. One lender responds that alimony and child support are "not applicable" to men. These financings indicate discrimination against men insofar as men as well as women are legally entitled to alimony and child support.

Failure to count alimony and child support as valid sources of income discriminates—as stated previously—against the separated and divorced in general, and may systematically discriminate against women because more women than men currently rely on these sources of income.

The lender who refuses to count child support may be denying adequate housing to children, the intended beneficiaries of child support payments voluntarily made to provide a desired living standard. Families that enjoy a \$10,000 income with the help of child support payments should be able to live as well as families that derive a \$10,000 income solely from wages.

One lender considers these sources of income valid only if pursuant to a court order. A more sensible policy is reliance on alimony and child support when payments are made pursuant to a *voluntary* contractual agreement, since default is more likely if payments are sought from an unwilling source.

The applicant should be presumed to be in the best position to determine whether or not a source of income is reliable. While in some cases alimony and child support payments are not reliable, discounting by a lender is arbitrary rather than rational when the applicant believes payments are reliable—especially if a pattern of payment has been established. Alternatively, lenders should realize that a person relying on support payments will necessarily seek an alternative source of income if such payments are discontinued. In any event, there is little reason to assume that a mortgage foreclosure will result from suspension of support payments. In public statements about this issue, mortgage lenders have offered no statistics or support for a policy refusing to count alimony and child support. There is no evidence that mortgage payments are discontinued in situations where a couple separates and the woman, depending on the help of alimony and child support, continues to reside in the family home. On the other hand, there is evidence that it is difficult for a woman to obtain a new mortgage when she is separated or divorced because the issue of alimony and child support is treated as a controlling factor.

Counting a Working Wife's Income

Despite the fact that in determining a family's ability to carry a loan all 40 lenders consider current earnings to be valid income sources for both men and women, only 27 count 100% of a woman's income if she is "professional" and 13 if she is "nonprofessional." One institution, a savings and loan association, arbitrarily discounts 50% of the income of a "professional" woman; 6 arbitrarily discount 50% or 25% of the income of a "nonprofessional" woman; 10 consider individual factors in the case of a "professional" woman, and 18 in the case of a "nonprofessional."

There appear to be differences among institutional types in the percentages that fully count a woman's income and that differentiate between professional and nonprofessional women:

NUMBER OF INSTITUTIONS THAT COUNT 100 PERCENT OF A WIFE'S INCOME

Wife is	Commercial banks (of 14)	Savings and loan associations (of 12)	Mortgage bankers (of 14)
Professional.....	8	10	9
Nonprofessional.....	6	5	2

These differences may correlate with the fact that mortgage banks and savings and loan associations process a far greater volume of veterans Administration (VA) and Federal Housing Administration (FHA) loans than do commercial banks and may therefore reflect the policies—as understood—of these agencies, which also will review loan applications.

Placement of a premium on the “professional” class implies that a “professional” person is more motivated to work and is a more consistent member of the labor force than a “nonprofessional.” Such an assumption is ill-founded. There are no uniform definitions of “professional” and “nonprofessional” categories. Furthermore, motivation to be in the paid labor force—among women as well as men—derives from various needs: economic, for social contact or identity, and/or for status. However, capacity to earn, not type of or motivation for employment, should be the concern of lenders.

Consideration of so many personal criteria (stability, length, purpose and nature of employment; age; family structure and status; maternity leave available; ages of children; etc.) in determining the reliability of a woman's income suggests that:

- Women are held to more stringent standards than are men in determining credit-worthiness; lenders apparently accept the word of male applicants that within the limits of their control their incomes are reliable.
- There is a presumption that women are not permanent members of the labor force, but a presumption that men's employment is permanent.
- Factors such as age, possible parenthood and ages of children are predominant concerns regarding women, but are assumed irrelevant to the employment reliability of men.
- Lenders are concerned with the likelihood of pregnancy of women, but are unconcerned with the possible disability of men.

Reality disputes these myths. For example, nationally

. . . the average woman worker has a worklife expectancy of 25 years as compared with 43 years for the average male worker. The single woman averages 45 years in the labor force.

Studies on labor turnover indicate that net differences for men and women are generally small. In manufacturing industries the 1968 rates of accessions per 100 employees were 4.4 for men and

5.3 for women; the respective separation rates were 4.4 and 5.2.³ In the Washington metropolitan area in 1970:

- women comprised 43% of the labor force, compared with 38% nationwide;
- 50% of all women, and 46% of all married women, worked;
- in husband-wife families with children under six, 31.8% of all women, and 50.9% of District of Columbia women, worked.⁴

It is recognized that not all married women are permanent members of the labor force; it should be similarly recognized that not all married men are permanent members of the labor force. Currently, men are given a presumption of continued employment; women are given a presumption of unreliability. This distinction based on sex is discriminatory, unfair, and without rational justification. There is no reason, for example, to presume that the married woman who asks that her income be counted in order that her family obtain a maximum mortgage loan will be the married woman who plans to quit work in the event of pregnancy. Every individual should be given a presumption of reliability if he or she undertakes to support a financial burden justified by earning capacity. People should be treated as individuals rather than as members of a class.

*Veterans' Administration and Federal Housing Administration
Policies With Respect to Counting a Wife's Income*

Customarily, the maximum loan eligibility for a mortgage applicant is an amount reflecting 2½ times the applicant's gross income. When the applicants are a married couple relying on the gross income of the family unit, a problem may arise because lenders and federal agencies dealing with mortgage loans traditionally have refused to consider the income of a working wife as a valid, reliable source of long-term income. This policy apparently is predicated on the presumptions that a working wife is likely to become pregnant and necessarily terminate her income-producing employment. Regardless of the merit of these presumptions, VA and FHA guidelines delineate general policies concerning the circumstances under which a married woman's income may be counted.

Responses to our questionnaire indicate that both VA and FHA policies are little known and less applied by lenders. While all respondents question whether a wife's income will be counted at all, and many believe that the income of a "professional" has a better chance than that of a "nonprofessional" of being counted, views on how to reach the necessary determination differ.

RESPONDENTS' VIEWS OF VA POLICY

Each of the 5 respondent commercial banks interprets differently VA policy; 2 believe a wife's income will probably be applied only against short-term personal debt. The same 2 distinguish a "professional" from a "nonprofessional" woman, one citing that half and sometimes more, depending on her age and length of employment, of

³ "The Myth and the Reality," Women's Bureau, U.S. Department of Labor, March 1972.

⁴ From U.S. Bureau of the Census.

the income of a professional will be considered. Another bank doubts that the income of a young professional woman will be counted. Only one commercial bank reflects an apparently accurate understanding of VA policy.

The 6 savings and loan associations have a more liberal understanding of VA policy, with strong emphasis on secure, gainful employment. They tend to agree that each case is determined individually, the burden on the working woman varying with type and length of employment.

Responses of the 13 mortgage bankers vary. Indications are that the salary of a "nonprofessional" woman will be either discounted or counted in some cases with long and stable work histories. In all cases, emphasis is on a man's ability to repay the loan.

VA POLICY

The VA looks primarily to the income of the veteran, presumed male, in determining whether the contemplated terms of mortgage payment bear a proper relation to the applicant's income and expenses. If a married veteran's income is insufficient to qualify him for a loan, his wife's income *may* be considered. Applicable guidelines allow the exercise of judgment and discretion by VA field stations based on the facts in each case.

VA guidelines provide that a wife's income *may* be included if an employment pattern is well established and the woman's age, the nature of her employment, and family composition indicate that her income is likely to continue. Unless these conditions are met, only such portion of the wife's income deemed reasonable may be considered. The VA states that:

(a) Where the wife has previously had children and the pattern of employment indicates that she has been able to work after each addition to the family, it would be proper to give *some* consideration to her income and (b) where the wife is a professional, e.g., a registered nurse, some weight *may* be given to her income since in the average case it is likely that she will continue her employment. (Emphases added.)

The VA *may* count 100% of the income of a woman beyond child-bearing age with an established existing pattern of employment. The VA will not count the income of a woman who is young, recently married and could be expected to have children *unless otherwise stated* (e.g., by written statement regarding birth control practices or parental plans).

VA policy gives rise to the following objections:

- Delegation to VA field stations of discretion to determine consideration given to a wife's income may result in arbitrary and capricious application of VA guidelines and consequently in general a nonuniform, and in some instances an unfair, system of loan approval.
- Criteria to be met by a working wife in order that her income *may* be counted demonstrate the unreasonable burden placed on working wives and married couples earning two incomes. These criteria also dictate a lifestyle to veterans' families, precluding freedom of choice to those who wish to take advantage

of benefits they are entitled to—a veteran supported by his or her spouse should be no less entitled to veterans' benefits than a veteran who is the sole supporter of a family. Moreover, a couple should not be prevented from purchasing a home they can collectively afford merely because they have chosen to have no children—surely couples should not have children merely to demonstrate that the woman “. . . has been able to work after each addition to the family.”

- Use of the labels “professional” and “nonprofessional” as determinants of employment reliability is non-rational, as discussed on page 15.
- Institutions should recognize that a woman's income, like a man's, is presumably reliable if she undertakes that it is.

RESPONDENTS' VIEWS OF FHA POLICY

Three of four commercial banks, four of five savings and loan associations, and five of thirteen mortgage bankers believe that FHA and VA policies regarding counting a wife's income are the same. One savings and loan association declared that it has minimal experience in FHA lending and is not competent to comment. The remaining mortgage bankers generally view FHA policy as more liberal than VA policy.

FHA POLICY

FHA considers the source as well as the amount of all income in determining a purchaser's ability to meet family housing and other recurring expenses. In determining effective income, no source of income is arbitrarily excluded.

If a source of income is attributed to a working wife of child-bearing age, FHA recognizes that her continued motivation for employment is strongly influenced by “necessity to maintain an acceptable standard of living” or, in many instances, desire to “maintain a *better* standard of living” than that allowed by her husband's earning ability. FHA apparently realizes that such motivation outweighs the likelihood of termination of gainful employment due to childbirth if the result would be a lesser standard of living—specifically, that mortgage payments would not be made. FHA is concerned with the loss of income due to maternity leave but, since most employers provide as an inducement of employment maternity leave with job retention, concludes that failure to return to work after pregnancy would probably be due to unpredictable causes and should therefore be accepted as a calculated risk.

In summary, FHA will consider a wife's income if the woman appears to be strongly motivated to continue working and has established a stable pattern of income. There is no evidence that the default rate on FHA mortgages, based on a policy clearly more progressive than VA policy, has increased.

CONCLUSIONS

Lenders may deter the submission of applications due to narrow or incorrect construction of either VA or FHA policy.

Indication by half the respondents that VA and FHA policies are the same demonstrates that lenders lean toward and may prefer VA

policy. The outmoded substance of VA policy is negatively affecting the processing of FHA applications.

VA and FHA policies are so vague that they are commonly misunderstood by lenders, inviting arbitrary interpretation and abuse. The lender, as the middle person between the applicant and VA or FHA, must accurately and clearly interpret policy for equitable implementation. Both agencies need more specific policies and improved communication with participating lenders and prospective loan applicants.

Joint Applicants Are Less Favored When the Wife Is the Primary Earner

Three respondents indicate that a couple will not have an equal chance for a loan if the wife, but not the husband, has an adequate income and a good job record; four other respondents apply additional conditions. Institutions that apply different criteria to the income of married couples depending on which party is the primary earner may be imposing their own moral values on couples who choose not to follow traditional patterns in which the husband is the primary earner.

RECOMMENDATIONS

1. Sex and marital status

PROHIBITION AGAINST ARBITRARY DISCRIMINATION

Credit-worthiness of a mortgage loan applicant should be determined without regard to sex and/or marital status. Arbitrary denial of an application based on an individual's membership in a class (sex and/or marital status) constitutes unjustifiable discrimination and should be prohibited. Each application should be evaluated on its individual merit.

INHERITANCE LAWS AND WAIVER OF RIGHTS

Lenders should explain to the married as sole applicants and to the separated in simple non-technical language the substance of inheritance laws and their possible deterring effects on the approval of mortgage loans. Similarly, the validity of a spouse's waiver of rights to property under inheritance laws should be explained in simple non-technical language. If a waiver of rights is valid, there is little if any justification for failure or refusal to extend credit to credit-worthy people, regardless of their marital status.

2. Sources of Income

ALIMONY AND CHILD SUPPORT

Lenders who routinely refuse to count alimony and child support as valid sources of income should revise their policies so as to consider each case on individual merit. While alimony and child support payments are not reliable in all cases, it should be presumed that each applicant knows—especially where a pattern of payments has been

established—whether or not these sources of income *are* reliable in his or her case. In cases where such sources terminate, persons previously relying on them have to seek an alternative source; it is therefore unfounded to assume that a mortgage foreclosure will result from termination of payments. Arbitrary discounting of alimony and child support as valid sources of income results in discrimination against separated and divorced persons—particularly women, who more frequently than men retain child custody and rely on these sources.

OTHER SOURCES OF INCOME

Sources of income other than current earnings, disability and retirement—such as dividends, interest, predictable overtime, etc.—should not be arbitrarily excluded.

3. Consideration of Working Person's Income

PROHIBITION AGAINST ARBITRARY DISCOUNTING OF ANY PERSON'S INCOME

If a working couple applies for a mortgage and requests that both incomes be counted to determine maximum loan eligibility, the lender should recognize that both parties are motivated to continue working and count in full all income sources of both spouses.

Lenders should revise policies concerning the weight given a person's income where those policies discriminate against individuals on the basis of sex and/or marital status. A married woman who applies for a mortgage, the payments of which would require her continued employment, should be given the same presumption of continued employment as a married man. The assumption that all married women contemplate pregnancy is not valid; the assumption that a married woman who contemplates maternity will discontinue employment is unrealistic and unfair. The realistic assumption is that pregnancy and childbirth do not necessitate termination of employment. This assumption is consistent with the Equal Employment Opportunity Commission *Guidelines on Discrimination Because of Sex*, which provide that "disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities..."

NATURE OF EMPLOYMENT

Lenders should revise policies that arbitrarily discriminate against women on the basis of type of employment. A woman is either gainfully employed or she isn't. The kind of work she does, whether considered professional or nonprofessional, should not determine the weight given her income.

DISCLOSURE OF LENDER POLICIES

Lenders should disclose to the general public their policies toward counting the income of working women. Couples who randomly seek a lender that counts wives' income waste time and effort, and also may, due to a time stipulation lose their contract rights to a property.

4. Wife As Primary Earner

Lenders should revise policy that evaluates differentially incomes of couple on the basis of which partner is the primary earner. Lenders that prefer the loan application of a couple supported primarily by the husband's rather than the wife's income arbitrarily discriminate against couples who voluntarily or necessarily do not follow traditional roles in which the husband was the primary earner.

5. Liberalizing Policy

Many responding lenders have liberalized their policies toward women. Institutions whose standards continue to be more stringent toward women than men should liberalize their policies. The reliability of women as wage-earners is an established reality that should be recognized by all lending institutions.

6. Information About Parental Plans and Birth Control Practices

Lending agencies should not ask mortgage applicants to divulge private information about marriage or parental plans or birth control practices. Rather, lending institutions, real estate institutions, and public service organizations should make readily available to all mortgage applicants facts about costs of home-ownership and of child-rearing so that individuals and couples can relate them to current and projected earnings and number of dependents, and accordingly make sound judgments about the size of mortgage they can realistically afford.

7. Veterans Administration and Federal Housing Administration Policies Regarding Joint Applicants

The VA should publish revised and more specific mortgage loan eligibility guidelines. Guidelines should remove the heavy burden of individual proof that income of both spouses should be counted, and provide that the income of both spouses—regardless of which is the veteran and which provides the greater source of income—should be counted.

The FHA should clarify that its references to primary and secondary mortgagors do not reflect an assumption or requirement that the primary mortgagor be the husband. Similarly, the VA should acknowledge that the income of a veteran's spouse, and the couple's ability to purchase a home based wholly or partially on that income, indeed enures to the benefit of the veteran.

Counting a wife's income and the necessity or desirability of a couple's providing information pertaining to parental plans and/or birth control practices: both VA and FHA policies should be clearly stated and carefully communicated to all lending institutions that deal with VA-guaranteed and FHA-insured loans.

The VA and the FHA should discontinue guaranteeing or insuring loans generated by lenders that discriminate on the basis of sex and/or marital status. Each agency should demand a warranty (see, e.g., FNMA Conventional Selling Contract Supplement, Part VII. General Warranties) from each lender participating in its loan program

that said lender does not discriminate against mortgage applicants on the basis of sex or marital status. Violations of this warranty should result in suspensions for a given period of time of the lender's privilege to generate government-insured loans.

APPENDIX A

[Text of Covering Letter Sent November–December 1972 to 107 Institutions]

We are writing to solicit your cooperation in a study being conducted jointly by the D.C. Commission on the Status of Women and the Women's Legal Defense Fund.

The purpose of this study is to establish certain facts with respect to residential mortgage lending policies of commercial banks, savings and loan associations, and mortgage brokers. The study is being undertaken because evidence collected earlier this year by the National Commission on Consumer Finance indicates that nationwide many women have difficulties in obtaining residential mortgages and because numerous women locally have indicated that they have encountered problems in obtaining mortgage loans. In response to inquiries from women in our jurisdiction, it is important for us to learn if there is a general policy among lending institutions in the metropolitan area pertaining to the approval of residential mortgages in which either the individual or joint applications of women are treated differently than those of men, and in addition, whether there exists in this field any differences in policy resulting from consideration of the marital status of men and women applicants.

The Commission on the Status of Women is an agency of the District Government charged with the responsibility of conducting studies, reviewing progress, and making recommendations for the improvement of the status of women in the District of Columbia. The Commission has been in existence since 1967. Our studies of the status and needs of women in employment, to name just one field, have resulted in cooperative corrective action by both public and private agencies.

The Women's Legal Defense Fund, established in 1971, is a local, private nonprofit organization concerned with attaining equal rights for women. In the initial year of its existence, WLDF received numerous inquiries from women who have encountered problems in obtaining mortgage loans. WLDF's interest in the study is to determine the current norms with respect to mortgage lending in order to be able to counsel women in the mortgage market, and to evaluate the need, if any, to seek new remedies.

Identical letters and questionnaires are being sent to you and to other mortgage lenders in the metropolitan area who invite the patronage of D.C. residents and prospective homeowners. In each case we are asking the president of the company to direct the questionnaire to the highest ranking official in the residential mortgage department.

We deeply appreciate your cooperation and that of the head of your residential mortgage loan department in completing and returning the enclosed questionnaire, along with a sample copy of your mortgage loan application form and any additional questions which women applicants are required to answer, and we look forward to cooperative remedial action should the study indicate such a need.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
 COMMISSION ON THE STATUS OF WOMEN
 Room 204 District Building
 14th and E. Streets, N. W.
 Washington, D. C. 20004

WOMEN'S LEGAL DEFENSE FUND
 1736 R Street, N. W.
 Washington, D. C. 20009

QUESTIONNAIRE ON RESIDENTIAL MORTGAGE LENDING POLICIES OF
 COMMERCIAL BANKS, SAVINGS AND LOAN INSTITUTIONS, AND MORTGAGE BROKERS

1. Does your institution make residential mortgage loans to

	yes	no		yes	no
single men	_____	_____	single women	_____	_____
separated men	_____	_____	separated women	_____	_____
divorced men	_____	_____	divorced women	_____	_____
married men as sole applicants	_____	_____	married women as sole applicants	_____	_____
married men as joint applicants	_____	_____	married women as joint applicants	_____	_____

2. In evaluating mortgage applications, which of the following income sources do you consider valid sources of income for

	a. male applicants	b. female applicants
1. current earnings	1. _____	1. _____
2. projected earnings	2. _____	2. _____
3. alimony	3. _____	3. _____
4. child support	4. _____	4. _____
5. disability or retirement	5. _____	5. _____
6. other (specify)	6. _____	6. _____
7. all the above	7. _____	7. _____

3. When a couple applies jointly for a loan, what weight do you give wife's income as a factor in the family's ability to carry the loan, if she is a

	100%	75%	50%	less than 50%	none
a. professional	_____	_____	_____	_____	_____
b. nonprofessional	_____	_____	_____	_____	_____

4. With respect to counting a wife's income in determining a couple's maximum loan eligibility, please state your understanding of

(a) Veterans Administration policy

(b) FHA policy

If necessary, please continue response on back of this page.

5. When the wife but not the husband has an adequate income and good job record, would a couple have the same chance for a loan, all else being equal, as a couple which depends primarily on the husband's income? yes no

6. If your institution ever weighed working wives' incomes differently from working husbands' incomes in determining families' maximum loan eligibility, has that policy been liberalized in recent years? yes no
 never treated differently

7. If your institution's policies ever were more stringent toward unmarried women than toward other applicants, have these policies been liberalized in recent years? yes no

8. Are married men more likely to get loans than single men? yes no
 Are married women more likely to get loans than single women yes no
 Are single men and single women with comparable incomes considered equally reliable as mortgage borrowers? yes no

9. Do you ask applicants to provide information concerning any of the following:

	Men		Women	
	yes	no	yes	no
marital plans	_____	_____	_____	_____
parental plans	_____	_____	_____	_____
birth control practices	_____	_____	_____	_____
number of dependents	_____	_____	_____	_____

10. According to your understanding of VA and FHA policy, does either agency require information pertaining to a couple's parental plans or birth control practices?

VA: yes no FHA: yes no

INSTITUTION _____

ADDRESS _____

DATE _____

Please return this completed form to

D. C. COMMISSION ON THE STATUS OF WOMEN
Room 204, District Building
14th and E Streets, N. W.
Washington, D. C. 20004

Please enclose a sample application form that you use for mortgage loan applicants. If you require additional answers and information from women, please indicate the questions and describe the supplemental material required.

Thank you very much for your cooperation.

APPENDIX B

[Survey of Residential Mortgage Lending Policies in the Metropolitan Washington Area. November–December, 1972]

I. Completed questionnaires were returned by the following institutions:

- Advance Mortgage Corporation, Marlow Heights, Md. 20031
- American Federal Savings & Loan Association, Washington, D.C. 20003
- Associates Financial Services, Arlington, Va. 22203
- Atlantic Mortgage Company, Inc., Alexandria, Va. 22312
- Bank of Virginia—Potomac, Springfield, Va. 22150
- Berens Associated of Washington, Inc., Washington, D.C. 20036
- Bogley Harting Mahoney & Lebling, Inc., Rockville, Md. 20852
- Capital City Federal Savings & Loan Association, Washington, D.C. 20008
- Clarendon Bank & Trust Company, Arlington, Va. 22210
- Columbia Federal Savings & Loan Association, Washington, D.C. 20001
- Dominion National Bank, Falls Church, Va. 22041
- Eastern-Liberty Federal Savings & Loan Association, Washington, D.C. 20003
- First Federal Savings & Loan Association of Alexandria, Alexandria, Va. 22313
- First Federal Savings & Loan of Washington, Washington, D.C. 20005
- First & Merchants National Bank, Richmond, Va. 23261
- First National Bank of Washington (The), Washington, D.C. 20006
- George H. Rucker Mortgage Corporation, Fairfax, Va. 22030
- Guardian Federal Savings & Loan Association, Washington, D.C. 20036
- Hamilton Federal Savings & Loan Association, Washington, D.C. 20006
- H. L. Rust Company, Washington, D.C. 20005
- Home Federal Savings & Loan Association, Washington, D.C. 20005
- Intercity Mortgage Corporation, Washington, D.C. 20001
- Interstate Building Association, Washington, D.C. 20005
- Maryland National Bank, Silver Spring, Md. 20910
- McLachlen National Bank, Washington, D.C. 20005
- National Bank of Washington (The), Washington, D.C. 20005
- National Permanent Federal Savings & Loan Association, Washington, D.C. 20005
- Peoples National Bank of Maryland, Suitland, Md. 20023

Percy Wilson Mortgage & Finance Corporation, E. Vienna, Va. 22180

Perpetual Building Association, Washington, D.C. 20004

Potomac Bank & Trust Company, Fairfax, Va. 22030

Public National Bank, Washington, D.C. 20005

Riggs National Bank of Washington (The), Washington, D.C. 20013

Security National Bank, Washington, D.C. 20036

Thomas J. Fisher & Company, Inc., Washington, D.C. 20036

Union Trust Company of the District of Columbia, Washington, D.C. 20005

Walker & Dunlop, Inc., Washington, D.C. 20005

Washington Permanent Savings & Loan Association, Washington, D.C. 20004

Weaver Brothers, Inc., Chevy Chase, Md. 20015

W. S. Steed Mortgage Company, Wheaton, Md. 20902

II. Questionnaires were returned by the following institutions which do not make mortgage loans to single families:

Capital Mortgage Investments, Chevy Chase, Md. 20015

District of Columbia National Bank, Washington, D.C. 20006

Eastern Mortgage Corporation, Washington, D.C. 20036

Enterprise Federal Savings & Loan Association, Washington, D.C. 20004

Fidelity Investment Company, Washington, D.C. 20004

First Mortgage Advisory Corporation, Bethesda, Md. 20014

Frank S. Phillips, Inc., Washington, D.C. 20005

Franklin Mortgage & Investment Company, Inc., Washington, D.C. 20006

Madison National Bank, Washington, D.C. 20036

United Virginia Bank-First & Citizens National, Alexandria, Va. 22314

III. Responses were not received from the following institutions:

Alexandria National Bank, Alexandria, Va. 22313

American Fletcher Mortgage Company, Inc., Springfield, Va. 22150

American National Bank of Maryland, Silver Spring, Md. 20910

American Security Corporation, Washington, D.C. 20005

American Security & Trust Company, Washington, D.C. 20013

Arlington Fairfax Savings & Loan Association, Arlington, Va. 22205

Arlington Trust Company, Inc., Arlington, Va.

Associated Mortgage Companies, Inc., Washington, D.C. 20005

Chevy Chase Bank & Trust Company, Chevy Chase, Md. 20015

Citizens Bank & Trust Company of Maryland, Riverdale, Md. 20840

Citizens Building & Loan Association, Inc., Silver Spring,
 Md. 20907
 Citizens National Bank (The), Laurel, Md. 20810
 C. W. Blomquist & Company, Inc., Kensington, Md. 20795
 Equitable Trust Company (The), (Balt.), Laurel, Md. 20810
 Fairfax County National Bank, McLean, Va. 22044
 Falls Church Mortgage Corporation, Falls Church, Va.
 22246
 First Federal Savings & Loan Association of Arlington,
 Arlington, Va. 22201
 First Funding Corporation, Arlington, Va. 22201
 First National Bank of Maryland, Gaithersburg, Md. 20760
 First National Bank of Sandy Spring, Sandy Spring, Md.
 20860
 First Realty Mortgage Corporation, Rockville, Md. 20850
 Floyd E. Davis Mortgage Corporation, Washington, D.C.
 20006
 Gibraltar Mortgage Investment Corporation, Arlington, Va.
 22204
 Home Building Association of the District of Columbia,
 Washington, D.C. 20006
 Industrial Bank of Washington, Washington, D.C. 20011
 James W. Rouse & Company, Inc., Washington, D.C. 20036
 Jefferson Federal Savings & Loan Association, Washington,
 D.C. 20006
 Liberty Savings & Loan Association, Washington, D.C. 20005
 Lincoln Federal Savings & Loan Association, Hyattsville,
 Md. 20782
 Loyola Federal Savings & Loan Association, Laurel, Md.
 20810
 Maryland Mortgage Company, Silver Spring, Md.
 McLean Bank (The), McLean, Va. 22101
 Metropolitan Federal Savings & Loan Association, Bethesda,
 Md. 20014
 Monroe Mortgage Corporation, Vienna, Va. 22180
 Mortgage Investors of Washington, Bethesda, Md. 20014
 National Capital Bank of Washington (The), Washington,
 D.C. 20003
 National Mortgage Corporation, Washington, D.C. 20006
 National Savings & Trust Company, Washington, D.C. 20005
 Northern Virginia Bank (The), Springfield, Va. 22150
 Northwestern Federal Savings & Loan Association, Wash-
 ington, D.C. 20005
 Orlando W. Darden, Inc., Washington, D.C. 20001
 Peoples Bank & Trust Company of Fairfax, Alexandria, Va.
 22306
 Potomac Savings & Loan Association of Reston, Reston, Va.
 22070
 Provident Mortgage Corporation, Springfield, Va. 22250
 Prudential Building Association, Washington, D.C. 20005

Southern Maryland Bank & Trust Company, Hillcrest Heights, Md. 20031
State National Bank of Maryland, Bethesda, Md. 20014
Suburban Trust Company, Hyattsville, Md. 20783
Union Trust Company of Maryland, Wheaton, Md. 20902
United Community National Bank, Washington, D.C. 20019
United Virginia Bank of Fairfax, E. Vienna, Va. 22180
United Virginia Mortgage Corporation, Annandale, Va. 22003
University National Bank, Rockville, Md. 20852
Virginia Mortgage & Investment Company, Inc., Arlington, Va. 22207
Virginia National Bank, Arlington, Va. 22204
Virginia Savings & Loan Association, Springfield, Va. 22150
Winston Carey Company, Washington, D.C. 20006

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., August 8, 1973.

HON. MARTHA W. GRIFFITHS,
*House of Representatives,
Joint Economic Committee,
Washington, D.C.*

DEAR CONGRESSWOMAN GRIFFITHS: The Commission on Civil Rights is pleased to submit the enclosed statement of the Honorable Frankie M. Freeman in connection with the Committee's hearings on the Economic Problems of Women. The Commission's statement, which is submitted for the record, highlights the results of two recent studies which relate to mortgage financing and the discrimination against women in employment.

The Commission's recently concluded Mortgage Finance Study reveals rampant discrimination in the sale and financing of housing against women due to sex and marital status. Commissioner Freeman's statement outlines in some detail the findings and conclusions which we think will assist the Committee in its investigation. The statement concludes by outlining the positive and negative accomplishments of the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance (DOL) in enforcing the laws and executive orders respecting sex discrimination.

The Commission is moving ahead with the implementation of its sex discrimination responsibilities and would be pleased to cooperate with you in your continuing investigation into the economic problems of women. If we can be of further assistance, please contact Bud Blakey, Acting Director of Congressional Liaison at 254-6644 or Carol B. Kummerfeld, Director of Women's Rights Unit at 254-8127.

Sincerely,

JOHN A. BUGGS,
Staff Director.

Enclosure.

STATEMENT OF HON. FRANKIE M. FREEMAN, MEMBER
OF THE U.S. COMMISSION ON CIVIL RIGHTS, ON THE
ECONOMIC PROBLEMS OF WOMEN

I am pleased to take this opportunity to present information on behalf of the U.S. Commission on Civil Rights to the Joint Economic Committee which I hope may assist the Committee in its investigation of the economic problems of women.

The Commission on Civil Rights was originally established by the Civil Rights Act of 1957. The Commission's jurisdiction, however, was generally limited to investigating denials of the equal protection of the laws under the Constitution because of race, color, religion, or national origin. The Commission had no general jurisdiction to study and make recommendations concerning sex discrimination.

The 92nd Congress remedied this situation with Public Law 92-496 which was approved on October 14, 1972. This law expanded the Commission's jurisdiction to include the denial of the equal protection of the laws because of sex and extended the life of the Commission for five years. The inclusion of sex discrimination within the Commission's jurisdiction was in conformity with both the recommendations of the President's Task Force on Women's Rights and Responsibilities and with President Nixon's State of the Union Message of January 20, 1972.

Although the Commission has had sex discrimination jurisdiction for less than a year and is still in the process of fully implementing its sex discrimination program, we have already compiled information in two important areas of concern to the Joint Economic Committee: sex discrimination in mortgage lending and the Federal effort to eliminate sex discrimination in employment. This statement will outline the Commission's findings in these areas.

I. SEX DISCRIMINATION IN MORTGAGE LENDING

Discrimination by mortgage lenders on the basis of sex permeates the attitudes, policy, and behavior at every level of the lending industry across the country. Such discrimination exists in large part because, at this time, no Federal law, regulation, or statute prohibits discrimination in housing based on sex or marital status. Title VIII of the Civil Rights Act of 1968 prohibits discrimination because of race, color, religion, or national origin in the sale or rental of housing and the granting or conditions of housing loans or other financial assistance for housing. The prohibition of sex discrimination is conspicuously absent from this landmark legislation.

During the past year, Commission staff members have interviewed lenders, brokers, and homebuyers in Oakland, California, Nashville, Tennessee, Cleveland, Ohio, El Paso, Texas, and Hartford, Connecticut, in an effort to determine the scope of discrimination against minorities and women in mortgage lending. Our examination of lending policies and practices in Hartford is the subject of a forthcoming report. In one section of this report, we document a number of specific complaints of discrimination against women in mortgage lending. Women who are working wives, as well as those who are unmarried, widowed, divorced, or separated, receive discriminatory treatment. In addition, those women—whether they be working wives or single—who are members of minority groups, are placed in a position of double jeopardy. They often encounter discrimination both because of their sex and because of their race or ethnicity.

Some of the findings of the Commission's study are reviewed below.

Discrimination Against the Working Wife

In Hartford, there is an enormous disparity in lending policy with regard to counting wives' income as part of total family income for the purpose of securing a loan. In the mortgage lending community the wife traditionally has been viewed as a temporary member of the labor force whose income is entirely unreliable. Lenders subscribe to the anachronistic, but popularly held belief that when a woman becomes pregnant she drops out of the labor force for good or at least until the

last of her children enter school. Consequently, the families most affected by this thinking are those young families whose wives are in their "childbearing years."

This view is tenaciously subscribed to despite data on the declining birth rate and the steady increase in the number of employed women. The Census Bureau in 1972 recorded the lowest total of births since 1945 and the lowest estimated fertility rate in American history.¹ In 1972 over 40% of the labor force consisted of women and about 60 percent of all women in the labor force were married. Married women have not always made up this large a portion of the female labor force, however. Two decade ago, they constituted only 49 percent of all women workers, and, in 1940, married women totaled only 30 percent of all women in the labor force.

The practice of disallowing wives' income as security for loans impinges more severely on minority families. In 1972, of all married women with a husband present, 40.5 percent of white women and 51.9 percent of black women worked. A similar disparity between young black wives and young white wives is documented in a 1971 Bureau of the Census report on the *Social and Economic Status of the Black Population in the United States*. The report states:

In 1970 and 1959, Negro wives were more likely than white wives to have worked. In the North and West, the number of young Negro families in which both the husband and wife worked has increased by about 95 percent since 1959.

By 1970, about 68 percent of young black wives in the United States contributed to family income by working, as contrasted to 56 percent for young white wives. The report states further that 52 percent of the young black working wives are employed full time compared to 36 percent of their white counterparts.

In the Hartford study, we found that working wives with preschool age children are least likely of any female subgroup to have their income counted towards maximum mortgage allowance. Lenders make determinations relying on assumptions about the likelihood of more children, continued absence from employment, and costs of child care. Although they have no evidence to prove that there is a higher default rate among young families, lenders assign them to a high risk category and view with alarm young families' ability to meet mortgage payments over a long period without some assurance of stability of the wives' incomes.

One method of assuring the lender that the wife will not quit her job is the "baby letter." This method has received public attention in the past year only because one woman finally complained loudly enough, and in the right quarters, that the practice is an unconscionable invasion of privacy. The "baby letter" is a physician's statement which discloses the birth control method practiced by the couple or states that the couple is unable to have children. In one case in Washington, D.C., a couple was required by the mortgage company to submit not only the standard physician's statement on birth control, but also affidavits signed by both the husband and wife in which they each agreed to abortion and/or vasectomy should their method of birth

¹ U.S. Department of Commerce, Bureau of Census. *Estimates of the Population of the United States and Components of Change: 1972 Series P-25, No. 499.*

control fail. A copy of these documents is attached. In Hartford, two savings and loan branch managers required a young wife to provide a "baby letter" before they would qualify all of her income.

Without these assurances, lenders are extremely reluctant to want more than 50 percent of a young wife's income. The following situation underscores the damage this policy does to a couple's ability to purchase a home.

The complainant, 23 years of age, is a fifth grade teacher who earns an annual salary of \$9,000. His wife, 22 years of age, is a secretary earning \$6,000. They have two children, one 5 years old and a second born in October 1972.

When the couple contacted a savings and loan in October, 1972, they applied for a \$16,000, 8 percent, 30 year mortgage on a house for which the contract sales price was \$17,000. Although the application was approved by a private mortgage insurance company, it was subsequently orally rejected by the lender on the grounds that, as co-signer on an automobile loan for his brother, the complainant created a liability to the loan. Two months later, in December 1972, having removed his name as co-signer on the auto loan, the husband reapplied to the savings and loan. By this time his wife had assumed a position as a full-time employee of the University of Hartford. Several weeks later they received a letter of rejection from the lending institution. This time the lender reasoned that because the wife is young and in her childbearing years, she is likely to become pregnant and drop out of the work force. For this reason her income could not be counted, and, thus, the family income was too low to qualify for the loan. It should be noted that this decision was made in spite of the fact that the wife was working full time, though she was already the mother of two young children.

This case well illustrates the perplexing, sometimes erratic behavior of lenders in processing mortgage applications. If the initial application was indeed rejected because of the liability on the husband's income created by the auto loan, the complainant should have received an official letter to that effect. If, on the other hand, the rejection was merely a request that he remove his name from the note before the loan committee would consider the application, then this was not made clear to him.

However, it can be inferred from the wording of the letter which they did receive that the wife's income was necessary to secure the loan even though, in October, before she had begun to work, the lending officer had accepted the application and the private mortgage insurance company had approved it on the strength of the complainant's income alone. When the question of wife's income was introduced, the lender apparently applied a different set of standards. The couple was denied the loan and lost the chance to buy the house.

Besides the factors of age and children, the type of job the wife holds is considered in the loan decision. The income of wives categorized as professional by lenders is counted more readily, and a greater percentage of it is counted, than is that of those categorized as non-professional. For example, a woman who is a store clerk or a bank cashier will have a lower percentage of her income counted than will a nurse, teacher, or a business executive. The woman in her childbearing years who is granted 50 percent credit on income allowance must

be a professional; a woman in a blue collar job would have no income counted at that age. The presumption here is that the so-called professional jobs are stable—as are the women who fill them—whereas “non-professional” jobs are temporary and unstable.

A look at one of the mortgage institutions covered in the Hartford study indicates that 298 of 346 female employees are in office or clerical positions. These female employees, ironically, probably could not borrow from the institution that employs them because the “non-professional” status prohibition applies to them as potential mortgagors i.e. their jobs were temporary and unstable. Although black women showed “significant” increases in income relative to black (or white) males as well as white women in the period 1960–70,³ black women (and white women) continue to occupy the lowest paying jobs in so-called “non-professional” categories.

The discretionary nature of the application evaluation with regard to wives' income is underscored in the following case: A Puerto Rican couple applied for a mortgage with a lender in Hartford. They were both 29, childless, and had been school teachers for the preceding 5 years, earning a joint income of \$20,000 annually. The couple applied for a \$16,000 mortgage on a \$20,000 home and were told that their income was insufficient. They subsequently obtained a mortgage at a savings and loan where half of the wife's income was counted, giving them an adjusted income of \$15,000.

This case demonstrates two operational rules of lenders. At the first institution denial on grounds of insufficient income meant that only the husband's salary was counted towards the loan. A woman of 29 still falls within the “childbearing age” category which some lenders deem prohibitive. At the second institution half of the wife's income was counted. It can be inferred that the latter loan committee applied the less stringent but equally indefensive rule for women holding professional positions during their childbearing years.

Finally, this case points up the arbitrary character of loan committee decisions. Whereas one institution legitimized the woman's salary another did not. Even where credit was given to her income, she was still treated only as a half wage earner rather than as a full wage earner.

The practice of discounting the wife's income wholly or in part is clearly discriminatory because it restricts the access of all young families to available housing. It is racially discriminatory in effect because of its impact on the large number of minority families who rely on wives' income. This insidious practice permeates lending institution policy nationwide and affects more than 15 million families where the husband and wife both work.

Aggravating this problem is the total discretionary power of each loan officer to discount all or portions of wives' income. The Commission's Hartford Study found differences of policy on allowing wives' income within the same institution as well as among the various financial institutions interviewed. In general, senior vice-presidents favored greater inclusion of wives' income, unlike more conservative branch managers. (See Exhibit B). To date, those Federal agencies which regulate the lending industry—the Federal Home Loan Bank Board,

³ Freeman, Richard B. “Changes in the Labor Market for Black Americans” *Brookings Papers on Economic Activity* I, p. 111.

the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve Board—have not commented on the practice of discounting wives' income.

The Federal Housing Administration, however, has addressed itself to wives' income and makes particular reference to the pregnancy factor:

The principal element of mortgage risk in allowing the income of working wives as effective income is the possibility of its interruption by maternity leave. Most employers recognize this possibility and provide for maternity leave, with job retention, as an inducement of employment. With strong motives for returning to work any failure to do so after maternity leave would probably be due to causes which would be unpredictable and would represent such a very small percentage of volume that it could be accepted as a calculated risk.³

However, the "strong motive" standard is vague and open to personal interpretation. For example, two brokers stated their mistaken belief that FHA simply would not count the income of a woman under age 36 even when the "strong motive" is the financial necessity of meeting house payments.

The position of the Veterans Administration has been much more restrictive and equivocal, placing greater discretion at the disposal of the loan officer. A March VA circular stated:

A proper conclusion that the wife's income may be considered toward the repayment of the loan obligation requires a determination as to whether her employment is a definite characteristic of the family life; i.e., a condition which normally may be expected to continue. Her entire income may be included if it is derived from steady employment and her age, the nature and length of her employment, and the composition of the family indicate it is reasonable to conclude that such income is likely to be reliable in the future. Unless that condition is met, only such portions of the wife's income as is determined to be reasonable may be considered.⁴

On July 18, 1973, however, the Veterans Administration approved a new circular stating that, in consideration of present-day social and economic patterns, the Veterans Administration will hereafter recognize in full both the income and expenses of the veteran and his or her spouse in determining the ability to repay a loan. All of the Veterans Administration's regional offices have been instructed that they should no longer discount income on account of sex or marital status in making such determinations.

The Commission on Civil Rights strongly applauds the Veterans' Administration for adopting this new policy. We hope that the Administration will now move to implement an effective system of data collection to ensure that the new policy is fully and quickly implemented.

Both the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have issued guidelines on wives'

³ Mortgage Credit Analysis Handbook for Mortgage Insurance on One to Four-Family Properties—U.S. Department of Housing and Urban Development, July 1972, Section 1-22.b.

⁴ Letter from Edward Echols, Director of the Loan Guaranty Program, Veterans Administration, to Sally Knack, Commission on Civil Rights, March 19, 1973. See Exhibit C.

income allowance. However, as guidelines to lenders, they lack the force of law which would carry compliance procedures.

The Federal National Mortgage Association directs the lender to count wives' income if "the circumstances reasonably indicate that the income, jointly or severally, will continue in a manner sufficient to liquidate the debt under the terms of the note and mortgage."⁵

The Federal Home Loan Mortgage Corporation goes further by asking lenders to determine whether the two sources of income will continue during the early period of mortgage risk, normally the first five years. This guideline points out that maternity leave should not be used as a criterion in discounting wives' income.

The Federal regulatory agencies directly supervise the various lending institutions—federally and State chartered banks, mutual savings banks and Federal savings and loan associations. It is within the potential domain of these agencies to eliminate the discriminatory treatment of women among the lenders within their jurisdictions, but to date Federal regulatory agencies have failed in both the primary and the secondary market to take a strong nondiscriminatory position with regard to the working wife.

Discrimination Against the Single Woman

The single woman—unmarried, divorced, separated, or widowed—currently enjoys no protection under Title VIII of the Civil Rights Act of 1968. The Federal Housing Administration states that "The mortgagor who is married and has a family generally evidences more stability than a mortgagor who is single because, among other things, he has responsibilities holding him to his obligations."⁶ Single women have obtained FHA insured mortgages, but the odds are against them.

A myth which persists and is being challenged by consumer finance and women's rights groups across the country is that women are inherently unstable and incapable of conducting their own affairs. According to the myth a woman needs the protection of a man, usually a husband or father. In the lending industry this myth translates into an extreme reluctance to grant a woman a mortgage loan outright and, often, into a requirement that a woman either assume an existing loan or obtain a male co-signer.

A peculiar working corollary to the idea that women need protection is the lenders' disinclination to grant a loan to a woman who wants to purchase a multi-family dwelling. Lenders apparently reason that she would be unable to do the maintenance. One lender stated that "a man would do the repairs himself whereas a woman has to hire someone." The same lender, a branch manager, cited the case of a widow who worked part-time and received social security. She wanted to buy a multi-family property. He approved the loan but the Veterans Administration rejected the application on the grounds of insufficient income. The lender felt, however, that this excuse was used to camouflage the true reason for rejection—the repair issue.

The "inherent weakness" theory is seldom articulated by lenders. However, in the case of an unmarried younger woman, what is cited as a reason for denial of financing is the likelihood of marriage and/or

⁵ Federal National Mortgage Association, *Conventional Selling Contract Supplement*, Sec. 311.03 (c), October 6, 1972.

⁶ Mortgage Credit Analysis Handbook, *supra* note 2. Section 207.2.

pregnancy, and a consequent shift in economic status, which sends shivers up the spines of prudent loan officers everywhere.

Policies vary both among and within institutions with regard to unmarried women. Officials of lending institutions at the central level generally stress length of employment while branch managers emphasize age and type of job. One lender in Hartford stated that an unmarried woman could obtain a loan only if she had a professional career. A broker said that of all categories of single women, the unmarried woman, particularly if she is young, will have the most trouble obtaining a mortgage. The marginal case for the loan officer would be that of the older, unmarried woman who is in a non-professional occupation, such as a waitress or store clerk, and has a reasonably long record of employment and a modest downpayment. Nevertheless, it is unlikely that she would be approved for a home mortgage because her occupation is considered unstable. These policies are doubly burdensome on minority women since they have traditionally been relegated to non-professional jobs because of discrimination in both education and employment.

The widow applying for a home loan generally exercises more leverage than other single women as she more often can rely on life insurance proceeds, social security payments, or the settlement of an estate to provide a healthy down payment and a regulated income.

The most awkward legal status for a woman who is trying to purchase a home is that of being separated. The wife separated from her husband has few rights: she cannot apply for credit under her own name because creditors place full accountability on her husband and fear he will not pay her bills. In a similar fashion, lenders view the separated woman as a dependent person, legally responsible to her husband and unable to act on her own. A vice-president of one savings and loan stated flatly that separated women are not eligible as mortgagors.

Aside from the problems associated with their legal status, separated women have difficulty obtaining mortgages because their status allegedly reflects "domestic strife." For example, the Federal Housing Administration traditionally has been skeptical of discordant marital relationships. As the FHA underwriting manual states:

It has been demonstrated that inharmonious domestic relationships are an important cause of foreclosure. The determination as to this risk will be dependent upon recognition of items in the credit report and personal history of the mortgagor which give evidence of family discord, pending divorce suits, reconciliation after initiation of divorce suits, and other items which point to unstable family conditions.⁷

This policy underscores the stigma imposed on "domestic strife" and leads to a case by case interpretation of the property rights of separated women. Moreover, it is common operating policy of lenders to look to FHA for guidance.

The divorced woman, like the separated woman, obtains a mortgage with considerable difficulty, both because of the probability of an unstable economic situation and because of her social position.

The divorcee whose support is court ordered has a fair chance of successfully negotiating a loan if she can make a reasonable down pay-

⁷ Mortgage Credit Analysis Handbook, *supra* note (24), 2-7.

ment or obtain private mortgage insurance, and if her total income can sustain the monthly payments.

Divorced women whose support is not court ordered must demonstrate a substantial work history and a separate source of income in order to qualify for a loan. Lenders will not rely on support payments which are not court ordered, although one lender modified this position by stating that the pattern of payments would determine its conclusion in total income.

Credit ratings are a significant factor in mortgage applications. But for the divorced woman who has not established independent credit any adverse information regarding her former husband's rating reflects on her. Thus, despite her prompt payment of charge accounts in his name, any negligence by him will appear on her credit rating, because only through him does she obtain credit.

Even when income and credit rating are sound, however, divorced women are turned down for mortgages for no apparent reason. The following case illustrates this.

A 51-year-old divorcee with no dependents worked as a supervisor at Travelers Insurance Company in Hartford. She purchased a three bedroom house in November 1971. The sales price was \$20,000. At the time, her annual gross income was \$8,600 and she had worked at Travelers for 15 years. She was willing to put \$5,000 down and consequently was applying for a \$15,000 mortgage.

Because she worked downtown, she walked into the main offices of four lending institutions to apply for a mortgage. At one savings and loan she was told not to fill out an application because the loan officer apparently did not feel that she was qualified or that the loan committee would approve it. At two others she was told that she didn't fit their formula, i.e. 30 percent of income for housing expenses. Having been turned down by three institutions, she went to a fourth savings and loan and obtained a 25 year, 7½ percent mortgage. She stated that her credit standing was quite adequate and that she had only two charge accounts, both with department stores. This shows that what is a bad risk to one or more lenders is as easily considered a gilt-edged risk to another lender.

The Commission's study of mortgage finance practices in Hartford indicates the pervasiveness of sex discrimination in the lending industry. Specifically, the abuses the Commission discovered included those of discounting young working wives' income, refusing to give full credit to the income of working wives in non-professional occupations, requiring the heinous "baby letter," and imposing extremely unrealistic and often unattainable standards on women who are single, divorced or separated. These practices affect not only the more than 67 million women in this country who are 21 years of age and older, but also the more than 15 million families in which both husband and wife are employed.

The Congress should act at once to remedy the continuing discriminatory treatment of women by the Nation's financial institutions. Until regulations are established and enforced which set fair and just standards for mortgage underwriting for women, women will continue as disenfranchised persons excluded from the enjoyment of equal protection under the law with regard to homeownership opportunities and mortgage lending. Minority women will be doubly deprived in the housing market.

II. FEDERAL EFFORTS TO END SEX DISCRIMINATION IN EMPLOYMENT

Since 1970, the Commission on Civil Rights has issued a series of studies evaluating the Federal civil rights enforcement effort. In accordance with the Commission's expanded jurisdiction, we will complete in this fiscal year an examination of the Federal Government's enforcement effort with regard to sex discrimination. We are happy at this time to provide the Committee with our preliminary observations concerning the two most important Federal agencies in this area, the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance of the Department of Labor.

The Equal Employment Opportunity Commission

The Equal Employment Opportunity Commission is the Federal agency charged with the primary responsibility to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. Title VII, as the Committee is well aware, prohibits discrimination in employment based on the race, color, religion, sex, or national origin of the employee or person seeking employment.

Ironically, some of those persons who supported adding the prohibition against employment discrimination based on sex to Title VII—which as originally proposed dealt only with racial, religious, and ethnic discrimination—did so with the expectation that the inclusion of sex would overburden the EEOC and make its enforcement efforts ineffectual. While the EEOC has continually operated under a greater burden of complaints than it has to date been able to efficiently resolve, it has played the major role in the effort to end both racial and sexual discrimination in employment.

The Equal Employment Opportunity Commission performs two primary functions under Title VII. First, through its decisions and interpretations, through the guidelines it promulgates, through its *amicus curiae* briefs, and now, under the Equal Employment Opportunity Act of 1972, through its own enforcement litigation, the EEOC has been instrumental in defining the law under Title VII. In this capacity EEOC has served well the cause of equal employment opportunity for women.

We praise in particular EEOC's "Guidelines on Discrimination Because of Sex." These guidelines are a thorough and far reaching statement of EEOC's interpretation of Title VII's scope with regard to sex discrimination.

EEOC's second major function is to ensure that the law defined under Title VII is enforced. Unfortunately, EEOC has been less successful in this vital area.

The prime deficiency in EEOC's enforcement, not only with regard to sex discrimination but with regard to its entire jurisdiction, is the agency inability to efficiently and effectively handle the large number of complaints it receives. In our January 1973 report *The Federal Civil Rights Enforcement Effort—A Reassessment*, the Commission on Civil Rights reported that the charge backlog before EEOC had risen to 53,140 by June 1972. Although data on the Fiscal Year 1973 backlog are not yet available there are indications that this backlog has continued to grow since 1972. For example, as of May 1973, the Chicago Regional Office was still investigating complaints filed in 1971.

The Equal Employment Opportunity Act of 1972, which became effective March 24, 1972, made EEOC responsible for three new groups of employers: (1) public and private educational institutions; (2) State and local governments; and (3) effective March 24, 1973, employers and unions with 15 to 24 members. The Act authorized EEOC to enforce its decisions in the courts against private employers. The Act gave EEOC a substantial opportunity to improve its enforcement efforts. Unfortunately, the Commission has not moved quickly to utilize its new authority or to exercise its expanded jurisdiction.

EEOC has made little progress with regard to State and local government employment. The agency's large backlog of complaints has prevented it from investigating many charges of sex and other discrimination against State and local governments. In addition, EEOC has not yet begun to collect racial, ethnic, and sex employment data from State and local governments to document the extent of discrimination by these employers.

The failure of EEOC to effectively implement this area of its expanded jurisdiction is particularly disheartening. State and local government employment has long been recognized as an area in which discriminatory employment practices deny jobs to women and minority workers. Such discrimination also often results in discrimination in the delivery of government services to women and minority group members.

The Equal Employment Opportunity Commission has also been very slow in making use of its authority to bring enforcement suits in the Federal courts. During the period from March 24, 1972 when the Equal Employment Opportunity Act of 1972 became effective until the end of Fiscal Year 1972, EEOC filed only five court cases. As of May 1973, more than a year after passage of the act, EEOC has filed only 56 suits which alleged sex discrimination and 129 suits in all.

In large part the inability of EEOC to file suits from its failure to move quickly to hire the personnel and set forth the procedures necessary for carrying out its court enforcement authority. As of April 30, 1973, EEOC had not filled 95 of its 270 authorized positions (35.5 percent) in its newly established trial litigation centers. In addition, of 152 positions in its General Counsel's Office, 28 (18.4 percent) were vacant at that time. As of June 27, 1973, EEOC was still in the process of preparing directives and instructions which would set forth all of the standard operating procedures for the litigation offices.

In addition, EEOC plans to consolidate the processing of all complaints against employers of national and of regional significance. It expects to bring Commission charges against these major respondents to facilitate and expedite its investigations. EEOC has not, however, issued instructions to its staff which would require that these charges cover all affected classes. There is, therefore, no guarantee that sex discrimination complaints will receive the attention they warrant.

The Office of Federal Contract Compliance

The Office of Federal Contract Compliance has ultimate responsibility for seeing that Federal contractors comply with Executive

Order 11246, as amended. The Executive order requires contractors to abandon discrimination against applicants or employees on the basis of race, ethnicity, sex, or national origin, and to take affirmative steps to remedy continuing effects of past discrimination.

In its January 1973 report *The Federal Civil Rights Enforcement Effort—A Reassessment*, The Commission on Civil Rights criticized OFCC for failing to provide other Federal agencies with adequate mechanisms for resolving compliance problems and for failing to adequately monitor the compliance activities of these agencies. The report also criticized the Department of Labor for failing to accord OFCC a proper priority in the Department's organization and budget requests. In addition to these general difficulties, the Commission has also found several other specific problem areas.

First, OFCC's own employment profile, unfortunately, indicates a severe underutilization of women. According to information supplied to the Commission by OFCC, it employs 34 professional staff members in its Washington office. Of these employees only 5 are female. OFCC has 24 professional staff members in its regional offices, none of whom are women. In contrast, all of OFCC's 23 clerical/support employees in Washington and all of its 9 regional clerical and support personnel are women. OFCC's own employment shows a lack of the very sensitivity necessary for executing its mandate to ensure equal employment for women in Federal contracts or federally assisted construction.

Second, OFCC's Sex Discrimination Guidelines are substantially weaker in several important respects than the EEOC guidelines on the same subject. The OFCC guidelines have two major weaknesses with regard to pregnancy and maternity leave. First, the OFCC guidelines permit employers to maintain policies that make maternity leave mandatory. This allows such employers to prevent healthy pregnant women from working although the women desire to and are physically able to work. The EEOC guidelines prohibit such policies. Second, unlike the EEOC guidelines, the OFCC guidelines do not require that pregnancy be treated as a temporary disability under health, or temporary disability insurance or sick leave plans available in connection with employment.

Additionally, the EEOC Sex Discrimination Guidelines specify that the bona fide occupational qualification (BFOQ) exception should be interpreted narrowly; the guidelines give a large number of examples in which the BFOQ exception is not warranted. Revised Order No. 4 acknowledges that the BFOQ exception should be narrowly construed under Executive Order 11246. The OFCC Sex Discrimination Guidelines, however, contain frequent reference to the BFOQ exception, but do not advise employers that it must be narrowly interpreted. Clearly, the OFCC Sex Discrimination Guidelines must be strengthened to meet the standards set forth in the EEOC Guidelines on Discrimination Because of Sex.

Third, OFCC regulations create wholly unwarranted distinctions between what is required of State and local governments that contract with the Federal Government and the stricter requirements placed on private employers. Under present OFCC regulations the equal employment opportunity clause in Federal contracts with State and local governments is applicable only to agencies, instrumentalities, or subdivisions of governments which participate in the contract. In con-

tracts with private employers, however, the equal employment opportunity clause applies to employment at all of the employers' facilities. In addition, present OFCC regulations only require that State and local public educational and medical facilities with Federal contracts file annual compliance reports and maintain affirmative action plans. All major private Federal contractors, however, must file compliance reports and maintain affirmative action plans.

OFCC has not used the full authority of the Executive Order 11246, as amended, to bring about equal opportunity in Federal contracts. OFCC should expand its requirements for compliance reports and affirmative action plans to all State and local government agencies covered by the Executive order.

Fourth, OFCC only requires compliance agencies to submit a limited amount of data on goals set for minority and female employment by Federal contractors. OFCC does not collect data on the extent to which these goals have been met. Thus, at present, OFCC does not measure the effects of the compliance program on the employment of women and minorities by Federal contractors.

Finally, OFCC recently published in the Federal Register Revised Order No. 14 changing the procedures for compliance reviews. The revised order contains unnecessary and harmful provisions concerning the confidentiality of information submitted to OFCC. Although Executive Order 11246 clearly permits OFCC to require contractors to submit, for offsite review, all information necessary to evaluate compliance status and provides for no exceptions regarding confidentiality, Revised Order No. 14 permits companies to refuse to submit for offsite review certain information on the grounds of confidentiality. Furthermore, Revised Order No. 14 stipulates that, should allegedly confidential information be taken offsite, the contractor and the compliance agency may agree that the data are considered not to be in the custody of the agency and, therefore, apparently not subject to the disclosure requirements of OFCC regulations.

The implementation of these provisions may seriously hinder compliance agencies' ability to carry out the mandate of Executive Order 11246. In addition, these provisions have no basis in the Executive order.

I, as a member of the United States Commission on Civil Rights, wish to thank the Joint Economic Committee for the opportunity to submit this statement. We hope that these hearings will enable the Committee and the Congress as a whole to formulate effective remedies to eliminate the discrimination because of sex or marital status which has resulted in the inferior economic status of women which these hearings have helped to expose. As we expand our activities under our new jurisdiction over sex discrimination, we will continue to present our findings of fact and recommendations for corrective action to the Congress and the President. We trust that through our joint efforts we can achieve our mutual goal of eliminating all discrimination in the United States.

WRITTEN STATEMENT FROM NOW, THE NATIONAL ORGANIZATION FOR WOMEN, INC.

By WILMA SCOTT HEIDE, *President*

First, NOW commends Congresswoman Martha Griffiths for again exercising leadership in obtaining the economic needs and rights of women, till fairly recently the too long and too silent majority. The Committee should know and the record should show that NOW, The National Organization for Women, Inc. is the largest unequivocally feminist organization in the world with over 500 chapters, most of them in the United States. NOW is generally credited with initiating the national consciousness-raising and movement that intends to redress the economic and other institutionalized disadvantages of women and girls. I regret that a variety of circumstances precludes my sharing this testimony orally and personally. I understand it will be included in the record of Hearings and the Deliberations of the Joint Economic Committee of Congress.

This testimony will not duplicate but could reinforce and additionally document much testimony already given. We could not support and indeed could refute *some* of the testimony given by Chairman Stein of the Council of Economic Advisers, Professor Paul Samuelson, and Pennsylvania Insurance Commissioner Herbert Denenberg, for examples as well as some of that advanced by some representatives of the U.S. Department of Labor.

Indeed, I shall begin with the Labor Department and its Secretary and then touch on other departments and agencies to fulfill the request to note how well they enforce civil rights laws and executive orders applying especially to employment opportunity and affirmative action thereof and some of the other areas that contribute to the economic disadvantages that burden women. My observations and recommendations shall be conceptual, educational, legislative and programmatic but only exemplary, not exhaustive.

On May 29, 1973 Labor Secretary Brennan met with representatives of 7 national organizations including a NOW officer. He promised them the name Manpower would be changed to Humanpower. We have long advocated that or would accept the term Workpower or Workforce. I ask the Committee to introduce appropriate legislation to change the relevant statute from Manpower to either Humanpower or Workforce Administration and Division of the U.S. Labor Department. Included in that legislation should be the principle and practice that in employment, "he" is not generic for person, that it is non-job related, discriminatory and can not be considered generic.¹ Same thing goes for his, him and man when the pronoun refers to both sexes. Alternatives I've suggested to the U.S. Civil Service Commis-

¹ Fuller, Dr. Mary M. "In Business, the Generic (sic) pronoun 'He' is Non-Job Related and Discriminatory", Training and Development Journal, May, 1973, American Society for Training and Development, Madison, Wisconsin.

sion are: she, woman and female; they include he, man and male as does womanpower include manpower.

NOW is pleased that the Labor Department now includes 30 days paternity leave for the co-equal parent; this will help eliminate the most basic of sex role stereotyping i.e. the mother as the only or primary child care person. I would advocate that the Labor Department and U.S. Census Bureau and Congress, for openers, take Federal initiative to eliminate the phrase Head of Household. Neither being primary economic provider or a male should entitle one to that differential status. Be specific and descriptive: use the phrase economic provider(s) which is no more and perhaps no less important than child caretaker and homemaker. Women, men, and all of our children, indeed society need that reconceptualization to eliminate sexism² at one of its sources. This could be companion legislation to changing name and concept of Manpower.

Also, a source and reflection of sex discrimination is research. The 1972 edition of the Department of Labor *Manpower* (sic) *Research and Development Projects* reveals that *only* 39 of over 800 on-going or completed topical research and development projects funded by the Manpower (sic) Administration related directly *or* indirectly to women as a force or potential force in the labor market. This and other alarming revelations are available from NOW.³ One (only) of similar letters I receive constantly from well qualified researchers seeking funding for the kinds of research projects recommended in these hearings and elsewhere by countless knowledgable people states: ". . . After a year of negotiations and reformulations, the Research Division of the Department of Labor has finally turned the project down, admitting that they had nobody on their staff who had any knowledge about women's jobs. (sic—there are only jobs—not women's *or* men's—Wilma Scott Heide) The Women's Bureau had been in favor—but had no money."⁴ The Women's Bureau Director, as long as that Bureau is necessary, should be at least an Assistant Labor Secretary with much more adequate resources and considerable more autonomy.

The Office of Federal Contract Compliance (OFCC) is not adequately funded, committed, supported or trained to enforce Executive Order #11375 forbidding sex discrimination by and requiring affirmative action of federal contractors and subcontractors or withdrawal/withholding of funds. Others have testified in this. NOW, who was instrumental in obtaining this Executive Order as well as having Order #4 applied to women, could write volumes on the actions required by us and others to obtain implementation let alone any enforcement of Executive Order #11375. It could be enormously effective *if* the administration were committed.

Finally, Secretary of Labor Brennan must be confronted via this testimony as he and/or his staff have refused to meet with NOW representatives independent of other more conservative activists, tough I have tried since April, 1973; and he has not responded to my

² Gardner, Dr. JoAnn. "On Sexism", 2-minute presentation at the White House Conference on Children, Washington, D.C. December, 1970, attached. Available from KNOW, Inc., P.O. Box 86031, Pittsburgh, Pa. 15221.

³ *Strategies for Business Compliance and Government Compliance*, NOW Task Force on Compliance and Enforcement, Joan Hull, Coordinator, 1957 E. 73rd St., Chicago, Illinois 60649. \$3.00 prepaid 39 pp.

⁴ Private correspondence to author, July 23, 1973.

serious charges of sex discrimination in projects funded or administered by the Labor Department in a letter dated April 11, 1973.⁵

Mr. Brennan's April 10, 1973 testimony to the House of Representatives General Subcommittee on Labor is outrageous. He stated in part: "Proposals have been made that would extend coverage to domestics in household employment. Mr. Chairman, I cannot express too strongly my concern for this group of workers". Most of these workers are presently women and with friends like Mr. Brennan, they need no enemies. He believes a required minimum wage for domestics "could have a severe disemployment effect". The same could be said for every other group for whom coverage has been advocated. Mr. Brennan continues: "A housewife (there should be no such word—no one marries a house—Wilma Scott Heide) who hires a maid typically has just so much budgeted for that purpose with no more available" (limited largesse of husband?) . . . "If it comes down to it, the housewife can substitute her labor (even cheaper than minimum wage?) and that of other family members for the domestic." He also cites projected enforcement problems. The sexism for the testimony alone should disqualify Mr. Brennan for Labor Secretary.⁶

Only for reasons of some brevity will I limit my observations and recommendations to a few of potential thousands of examples of the inability, unwillingness, insensitivity of most top government officials to act effectively to end economic and other discriminations against women. More on that later.

The U.S. Civil Service needs to adopt the E.E.O.C. guidelines on maternity policies for governmental consistency. One year after receiving jurisdiction on sex discrimination, reports from the U.S. Commission on Civil Rights are silent on sex discrimination. The U.S. Department of Agriculture funds programs and exercises no leadership to change the agribusiness corporations and courses from the practice of considering "women in the way" for field trips; not to be considered because "women make no decisions". Also "women are regarded about the same way as cattle; their needs are to be manipulated—create demands and stimulate new needs etc. etc."⁷ Imagine stimulating new needs in an affluent land of unmet needs that countenances hunger and malnutrition—most of it visited on women and girls of all races. The U.S. State Department and others continue substantially with policy that assures foreign policy is a foreign affair to most women though a few women there and in other cabinet departments are trying valiantly to raise some consciousness and issues.

The Department of Health, Education and Welfare which reflects in subject matter remarkably those issues in which women have had to have or been permitted some concerns is run mostly by men incapable of or unwilling to be sensitive to humane needs. Notice this area is generally the first victim of budgetary cuts that disproportionately disadvantages women of all races, minority men and our children. HEW should be in the vanguard of seeing e.g. that court orders for child support and home maintenance are enforced and that the provider parent meet his/her obligations thereof. This is the poorest area of en-

⁵ Letter to Secretary Brennan April 11, 1973 from NOW President Wilma Scott Heide—attached.

⁶ Brennan, Peter J. Statement on Minimum Wage Legislation to the House Subcommittee on Labor April 10, 1973.

⁷ Private correspondence to Author, June 28, 1973.

forcement. States have neither commitment nor mechanisms to end the economic disadvantages to women and children consequent to divorce. NOW has advocated that HEW collect necessary data and design effective enforcement of support needs. NOW has numerous other recommendations for HEW.

The Office of Economic Opportunity was considering one or more \$3,000,000 grants to the U.S. Jaycees which excludes all women. The Jaycees membership policy puts them in violation of the Economic Opportunity Act of 1972 as recipient of any public monies. NOW has protested this as an organization by seeking a restraining order and joined in a class action suit originating with an individual woman.

The literature and policies of the Interior Department are blatantly sexist. Their Johnny Horizon pamphlet states: "This land is your land" and since only he, men and boys are mentioned, Interior needs to be reminded that women and girls believe this land is also *our* land.

The Commerce Department's Office of Minority Business directs itself primarily to men as reflected in one of its major posters addressed to "Mr. Small Businessman". That's clear violation of (civil rights) law and (Executive) order.

The symbol of justice in the United States is a blindfolded woman. Though feminists have removed the blindfold, the U.S. Department of Justice and the President have not. Attached to this testimony is a November 1, 1972 letter to former Attorney General Kleindienst and a letter of the same date to President Nixon. To date, neither has been even acknowledged though I sent a copy of the Kleindienst letter to Attorney General Richardson for response.

I would not accept they have more "important" thinks to do. Could it be because this Administration has paid attention to "men's business" and men's concept of justice that has helped get them and thus all of us in such greivous difficulty i.e. is the near exclusion of women and that we've been conditioned to value and nurture not central to their present difficulties. As Congresswoman Griffiths well knows: social and other concerns of this nation have been defined primarily by men.

The authentic voice of women as we really are and can be are just beginning to be heard. Only pressure from the growing women's movement in general and in the Congress from dedicated, effective people like Congresswoman Griffith will assure that the real silent majority will be silent no more. Most men are demonstrably unable, without the equal partnership of women at every level of public life to fully conceptualize let alone solve our deepest problems of sexism, racism, poverty and violence. Indeed, the very absence of women may *be the problem* itself. The Congress and other branches of government consult on everything else. It is surely time to consult on the reality and potential of the feminist movement and with feminists. With that in mind, I ask that the following be included as integral addenda to my testimony.

Directory of Association of Feminist Consultants

Letter from Heide to Labor Secretary Brennan 4-11-73

Testimony of Heide on HR11167 Employment and Manpower

(sic) Act of 1972

Letter from Heide to Kleindienst 11-1-72

Letter from Heide to Richardson 5-30-73

Letter from Heide to Nixon 11-1-72

Gardner 2-minute speech "On Sexism"

Heide Keynote Speech to NOW Conference '73, "Revolution: Tomorrow is NOW!"

[Editor's Note: The papers referenced above are available in the Committee files.]

NOW does not (yet) speak for every woman. NOW does speak *to* the potential of every girl and women to be fully human and is committed to creating fully human and humane institutions. These hearings and effective consequent actions will contribute to that by moving women to economic parity with men. For that and more, NOW commends the Committee and again Martha Griffiths for her initiative and commitment.

WOODBIDGE, VA.,
July 26, 1973.

HON. STANFORD PARRIS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PARRIS: I would like to bring to your attention the situations I have experienced in trying to obtain credit in my own name. As a married woman, credit is invariably issued in my husband's name, even though I have prepared the application in my name.

In the past six months, however, I have been denied credit twice. In the first case, I applied for a credit card with Sunoco (an oil Company) at their solicitation. I applied in my own name and did not give any information regarding my husband. My salary as a full-time administrative assistant is sufficient to meet Sunoco standards. Nevertheless, credit was denied. In their letter, Sunoco said there were criteria which I did not meet, however the criteria were not mentioned.

In the second case, I applied for a credit card with Pan American Airways, again at their solicitation. I applied in my own name but listed my husband's salary and name in the appropriate places. I gave complete credit references. Again the credit card was denied.

Perhaps it would be helpful to you to know that we have in my husband's name at least 8 oil company credit cards, 2 airline credit cards, two major bank credit cards, a substantial home mortgage, an auto loan, and a signature loan. We also have charge accounts at all major stores in the Washington area.

I believe that I am being discriminated against the granting of credit because I am a married woman. I realize that there is no law against this now, but I certainly feel that the Fair Credit Reporting Act or whatever should be extended to include prohibition of discrimination in credit on the basis of marital status.

I urge you to work for the passage of such legislation.

Very truly yours,

LAURINDA W. PORTER.

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STATEMENT ON THE ECONOMIC PROBLEMS FACED BY WOMEN IN AMERICA

By N. JEANNE WERTZ

WOMEN WHO ARE IN BUSINESS FOR THEMSELVES

Committee Chairman—The Honorable Martha W. Griffiths, and Members of The Committee, I welcome the opportunity to contribute to these hearings on the serious issue of economic problems for American women. I believed it is exactly this type of activity, at this level, that will lead to the necessary corrective measures. We as women must share equally in the economic opportunities and rewards of this country.

The purpose of my testimony is to introduce the economic problems faced by a group of women who have not yet been heard from or about.

These are the American women who are in business for themselves.

My testimony is based both on extensive personal experience as an entrepreneur and on the study which I conducted during the past year for the Small Business Administration. This study resulted in a 150-page study report, *The SBA And Women* (March, 1973). That report includes a detailed affirmative action plan for the first SBA assistance to women.

One Woman Entrepreneur

By way of introduction, I have been in business for myself for the past twelve years in New York City. During this time and on earlier staff positions, I have specialized in the so-called "women's interest" activities, in marketing, research, communications and human relations.

I began my formal career with major corporations and non-profit organizations in the Midwest, Southwest and West. By 1961 I decided that I could create, on an outside basis, the same projects I was producing for employers. As my own boss the doors would not be closed to me for higher status, title and salary. It was natural then, for me, to set out for New York City.

One of the personal satisfactions of my entrepreneurship has been my clients. These include: The Chase Manhattan Bank, AT&T, E. I. Du Pont de Nemours & Co., Inc., The Ford Motor Company, and Standard Oil of New Jersey, before it become EXXON.

For another client, The Continental Oil Company, I conducted in the mid 1960s the first study of a major corporation and women; all of the roles by which women interact with a corporation. This study pre-dated the women's movement, yet most of the problems surfaced clearly in that study.

In May, 1972, I began looking into what federal assistance was available to help me to transform my enterprise into an expanded corporate structure so that I could provide services for clients on a national basis.

When I discovered how poor the picture was for women, I proposed to SBA that I conduct a major study for that agency. They, in turn, assigned a lesser project to me in late 1972. I completed the exploratory study and submitted a report to SBA in March, 1973.

We Do Exist

The reasons why attention has not turned to us before now, I have learned, very probably begin with the fact that hardly anything statistical is known about women entrepreneurs. And, unfortunately, those who are leading the way for all women, are either not aware of us or do not understand us. Also, we are not organized into an association or an action group.

The lack of statistical data is quite significant. It represents the basis of critical neglect by the federal government. It compounds and perpetuates the problems and the discrimination which we face.

Enough is known about us, however—about our problems and needs—to warrant attention as the focus pivots to economic issues. I hope that this testimony will help to establish a frame of reference on which to consider further hearings. We may learn that the subject even calls for extensive investigations, both in the federal and private sectors, of the discriminatory practices and policies which affect us.

American women entrepreneurs are subject, today, to severe and unique difficulties as we pursue our careers. A vast number of these difficulties stem directly from the prejudices and discrimination against us. The major problem is money: we do not have equal access to business loans, to investment capital, to credit, or to federal assistance.

Yet, while the business of women going into business is now booming, it is business as usual toward women by the business community and by the federal government. The syndrome of "the business world is a man's world" is alive and thrives.

We Seek Profits

As entrepreneurs we are, of course, very concerned with the other issues explored in these hearings: the lower wages paid to women; the bias against women in insurance, in pension plans, in the Social Security system. We are keenly concerned with the discriminatory credit and lending practices. And we, too, are being damaged by the failure to enforce federal laws which prohibit many of these practices.

Our main concern, however, is that we must have the right to compete equally with men for profit dollars.

It is important here to understand a basic difference. Unlike the majority of working women, we are not employed. We do not fall into the category seeking *equal employment opportunity*.

We seek equal economic opportunity through *ownership in the private enterprise system*. While we may pay ourselves salaries, our goal is the net profit which, by our business skills and our wits, we can gain from the difference between what it costs to produce a product or a service and the sales price.

We, Too, Are Important

American women as entrepreneurs are both citizens and taxpayers. We have essentially paid for our assistance program. We are not asking for handouts. We are asking for the opportunity to move up into higher tax brackets. And we qualify fully by the present administration's inaugural statement—"Let us measure what we will do for others by what they will do for themselves."

In the late 1960s, as federal assistance was first extended to minority-owned enterprises, two who were instrumental in generating this assistance said the following:

President Nixon explained that the goal was "... to bring the members of our minority groups into full participation in the American society and economy."

Maurice H. Stans, then Secretary of Commerce, where the Office of Minority Business Enterprise was established, said: "The OMBE program addresses itself to one of the Nation's vitally important unfinished pieces of business—affording members of minority groups an opportunity to own a fair share of America's businesses."

I call your attention to one other piece of this Nation's vitally important unfinished business. That is to recognize and afford women—the majority—the right to own their fair share of America's businesses.

Women In Business For Themselves

The first question is, how many women are in business for themselves? The quick answer is, no one knows.

In my study, I looked first for statistics. I learned that although millions of dollars in federal monies have been spent studying business and industry—including the eight million small-business enterprises—not a single statistic exists on the numbers of female-owned enterprises.

It is as if today one would call the U.S. Labor Department and learn that there is neither a Women's Bureau, or an answer to how many women are in the United States labor force.

Yet, it is the federal government's job to know. Besides, it is the only institution that has access to the data and can do the job through the Bureau of Census, General Economics Statistics Division.

Beyond the basic numbers, a great deal of qualitative data is missing: Who are we, where are we located, what kinds of businesses are we in, who are we in business with, in what kind of legal structure, what do we gross, how many do we employ, what special problems do we have as women, and what help do we need?

A similar dearth of information existed about minority-owned enterprises in the late 1960s. Yet, the \$1.3 million federal dollars spent, to date, on statistical studies of minority enterprise has not yielded the simple fact of how many of these 322,000 enterprises are owned by minority women.

A second major stumbling block, I discovered, is that the federal agencies operate on the premise that we women who are in business, are in business with our husbands. They refer to these enterprises as "momma and poppa" businesses.

This myth belongs with the one that says women work only for pin money. This situation goes a long way toward explaining the lack of statistical and qualitative data. It contributes greatly to our problems. It says, in essence, that we do not exist.

Women Entrepreneurs: The Reality

The real picture of women in business is a vivid contrast to the federal agency assumptions.

In my survey I found that the business of women going into business is booming. Women are in and are entering business ownership in significant numbers; at all ages; in all types of business; in every geographic area.

By far most of these new entries are women setting up shop by themselves or with other women. One can speculate that this phenomenon is a fallout from the women's movement, the result of new options, new freedoms, new life styles.

By asking for estimates, by hand-computing tallies at SBA's Washington, D.C. field office, I found the following figures refute SBA's basic premise: 90% of all telephone inquiries are from women; one third of all those participating in going-into-business workshops are women; one third of those attending one-to-one counseling sessions are women; and of these SBA clients, only one in ten is in business with her husband.

New Trends

I found several interesting trends among the new entrepreneurs.

1. While most are in their 30s and 40s, there are surprising numbers in their early 20s with little if any on-the-job experience. Equally impressive numbers are women in their late 40s and 50s seeking new careers after raising their families. And untold numbers are thinking and talking about going into business.

2. Women are pioneering into previously considered male domains—like banking, construction, manufacturing, home modernizing, to name a few.

3. Women are showing considerable talent for highly creative, innovative types of business, particularly in the service areas, both to solve old problems in new ways and to filling society's developing needs.

4. It is significant that there is a proliferation of women-only law firms springing up across the country, with indications that women accountants and other professionals are rapidly following suit.

5. There is also a strong collateral trend, in itself highly indicative, of women seeking to do business with other women. Yellow-page type directories are now out in major cities.

From Banks to Bikinis

These are a few of the women I learned about: A Maryland woman who specializes in evaluating educational systems is launching her own enterprise to provide the same service on a profit basis. Another Maryland woman owns a successful boat marina. In New York City, two groups of women are establishing the first women-owned banks.

A 24-year-old entrepreneur in Arizona manufactures bikinis with business growing so fast it is almost getting out of hand. In Alexandria, Virginia, a 22-year-old high school dropout, "because all they taught was cooking and child care", began an electronics equipment

retail store with \$2,000, a ten-year lease, and last year grossed \$908,000.

In Westchester, New York, a former black domestic set up a professional cleaning service. She and her co-workers now have higher status, income, benefits, and security.

In Florida, a 25-year-old law school graduate does legal research by mail through her own firm. In San Francisco, a woman has set up a corporation to help other women go into business. In the New York City area, where women are into every type of business, one woman designed cooking clothes which she markets as Kitchen Rags. Several women created Rapping Paper, a kraft note paper on a waxed-paper-type dispenser.

In Washington, D.C., two sisters set up an auto repair center; two wives and mothers, formerly in the social set, specialize in hanging wallpaper; a 19-year old contractor strips-and-resurfaces bathtubs for a large hotel.

Some women are turning to national franchises. Vast numbers are attracted to their own real estate firms. Others set up the greatly needed child-care centers on a private enterprise basis. Thousands and thousands still turn to the more traditional women's firms: beauty salons, secretarial or telephone answering services, gift and decorating shops, while a *New York Times* article (August 3, 1973) announced that ladies' tearooms (mostly run by women) are a dying breed.

Things in Common

Beyond the fascinating differences in the types of businesses we are into, we have a great deal in common.

Along with all entrepreneurs, women are investing to the hilt with their capabilities, their time and every cent they can latch onto. A few of these women will be highly successful, perhaps at the same ratio that women reach the heights in other professions.

More, however, will fail. The failure rate for all small business is devastating; one half million each year. And each time the economy slows down, the failure rate increases.

But, in addition to becoming a business statistic, failure is a psychologically damaging as well as a financial disaster, for anyone. For a woman it may be a particular dilemma. Where can she go? Or what can she return to?

Looking back on my own career—from a twelve year vantage point—I can see that there was never any other course for me but to survive.

The factors that determine the difference between success, even survival, and failure, are in this order: Money, motivation, determination, expertise in a particular field, access to expert advice, and time—which brings one back to money. It takes money to buy that time.

Here and there is a highly successful woman—even a prominent woman—whose success usually is directly attributed to an access to money. But these women, along with the most successful businesses, do not want federal interference. However, I have found, the majority share similar motives, problems and are actively seeking help.

These entrepreneurs are not asking for special considerations just because they are women. They are asking, simply, for a fair chance.

Motivations

The American dream of going into business for oneself has always been encouraged for males. Just accidentally, it seems, this star dust has fallen on some women.

In my own case, I believe I followed in my father's footsteps. He was an independent building contractor. I began with my sisters at the proverbial lemonade stand. My first career goal was to go into business with my father, decorating the homes which he built. He also encouraged me to a love of sports, and thus to competition.

Today, a new generation of women seeks the flexibility they need to combine careers with home and family. And many of the young entrepreneurs are saying that they see the picture, they will not waste years in dead-end jobs.

The primary motivation, I believe, for the majority of women is that this is the only means by which to drop out of a discriminatory employe situation. Most women in their 30s and 40s, who are capable and experienced, are creating for themselves their first opportunity to reach for their full potential.

While extensive scientific studies are needed for definitive answers to both motivations and problems, I believe the differences for men and women are significant. Males seem to be motivated toward entrepreneurship, perhaps unrealistically, as a way to make a great deal of money. Which may explain, partially, why the high annual failure rate.

Women seem to be motivated less by money and more by opportunity.

Problems

Regardless of motivation, the problems which face women are enormous; they are for most, overwhelming. In addition to the problems facing all entrepreneurs, women have the added barriers of sex discrimination. Minority women have the double barriers of sex and race discrimination.

The problems begin the moment a woman decides to go into business. Because, what it takes first and most of to set up a business, is money. And money is precisely what women do not have a lot of. And money is precisely what women do not have equal access to.

Going back to the motivation for most women, to drop out of a discriminatory employment system, we are immediately penalized. On lower paying jobs, with the same living costs, we have not been able to accumulate capital for our ventures. Also we have not been included in the management training corps, or in the management positions.

As one entrepreneur puts it, "It's like jumping out of the frying pan into the fire. But, at least it's a change." Another says, "All women face the twin barriers of inexperience and discrimination in their attempts to set up businesses." And a Washington, D.C., woman says: "Most women do not know what they're getting into. They have to get a very big education in a very big hurry. It is rough."

This is a summary of the problems:

1. Lack of equal access to bank loans, investment capital or venture capital, and to credit.

2. Discriminatory laws which in some states require a woman to obtain her husband's or father's signature, perhaps even a court approval, to buy a business or a store.

3. We are excluded in our communities from the local business organizations; the Chambers of Commerce, the Junior Chambers of Commerce, the Kiwanis, the Rotary, the Lions. These, among other things, provide contacts for men, open doors to business referrals.

4. Prejudices against working women are intensified for a woman in business for herself. These prejudices are held by the largely male dominant groups of bankers, landlords, utilities, insurance agencies, suppliers, accountants, lawyers. These prejudices can even affect our customers and our employees.

(Think again about the familiar myths: Women are not business like enough; are not good at making hard business decisions; do not take their business commitments seriously; are poor loan risks because they might skip off to have babies; are difficult to work with; since women are inferior, it stands to reason that their products and services are too, and are worth less; and since women really don't need the money, there is no need to pay them on time. The final blow used to be that a woman in business was not feminine. Is there another myth that says women have to play Monopoly blindfolded, with their hands tied behind them?)

5. Lack of encouragement and assistance. While the picture is changing, girls generally have not been encouraged toward either competition or going into business. Business training for girls has been typing and bookkeeping. Only recently the major graduate business schools have opened their doors to women. Further, women have not had access to either the advice or contacts of their fathers' business friends or those of their college roommates.

6. Lack of federal assistance. In my study, I found that this lack has been and is particularly damaging to women entrepreneurs. I also found that those women are not aware there is at least one federal agency that is in business to help them.

Money: The Major Problem

Since money—access to money and to credit—is the major problem, that is where the attention and effort must be concentrated.

Where do women get the money to go into business? A few inherit it, or the business. A few have generous or indulgent husbands, or ones looking for a tax write off.

Some use their total savings. Others borrow where ever they can: From their families, their friends, on their homes, even their life insurance, their jewelry, and their cars. And many, many do without. They literally go into business on "spit", as the saying goes; on determination and by making do.

Very, very few women, I learned go into business with a loan from the Small Business Administration. In fiscal year 1973, for example, in the total SBA loans of 33,948 only 123 went to women.

In my own case, it has been my mother, Gertrude N. Wertz, who no matter how far fetched her daughter's plans may have seemed, time and time again has provided the capital that was needed, at exactly the right time.

I have never applied for nor received a business bank loan. At the times when capital was needed, I knew it would be a futile exercise. When you hear examples of women (perhaps of child bearing age) who earn excellent salaries yet are denied bank loans or are subjected to the indignities of furnishing birth control information, imagine the reception a banker will extend to a non-salaried woman, who also perhaps is of child bearing age.

Some women are able to turn to friends, mostly other women, for small loans. While these are appreciated, and do help keep the doors open, it is not ideal. They are personal loans, they put a strain on friendship. Business loans should be on a business, not a personal basis. They should be an investment, or a joint risk based on the one person's capabilities. It is the same as when women are required to personally guarantee their corporation's lease, bank loan, utilities, supply orders, etc.

In Business Alone, On A Shoestring

The business of going into business takes money. A lot of money and a lot of credit. Women should not have to operate on a shoestring, just because they are women. Women should not have to miss out on quantity buying, and discounts, or have to pay premiums for space, insurance, resources, or employees, just because they are women.

The odds are stacked against anyone who goes into business. But these odds should not be greater for a woman than they are for a man. Yet they are.

Most women in business have the feeling, I believe, that they are out there alone by themselves. That they have to go it alone; they have to make it on their own. Most also have assumed, with considerable justification, that they will not qualify for assistance. Unfortunately, I found, turning to the Small Business Administration reinforces these conclusions. For a woman, it is a repeat performance.

Federal Assistance: Lack Of

What does the federal government do to assist women who are in business for themselves? In brief, very little. As noted earlier, our government hardly knows that we exist.

During the study I learned that federal attention first turned to small business in the 1940s, early in World War II. In the 1960s, special programs were established for economically and socially disadvantaged entrepreneurs through the Economic Opportunity Act, then for minorities through OMBE at Commerce and a Minority Enterprise Program at SBA. Most recently, SBA has instituted special assistance programs for Vietnam veterans and POWs.

Consistently since the beginning, however, this federal recognition and assistance has been provided to a business community perceived as one composed predominantly of males. The policies, programs and services have been perceived, implemented and administered by men.

I find that the situation for women entrepreneurs, today, is strikingly similar to that which existed in the late 1960s for those American entrepreneurs designated as minorities.

We are citizens and taxpayers. Yet, as entrepreneurs, we have not been recognized; we have not even been counted. No federal agency seems concerned that we have specific problems, that we are blocked

from equal access and fair competition. And no federal agency has developed or provided the necessary assistance.

Also, I have found, the federal government has turned a deaf ear to us, as it did previously to minorities. The federal agencies have not heard our requests, or the growing protests.

The Small Business Administration

SBA is the independent federal agency created through the Small Business Act of 1953. SBA was chartered expressly to help small business in the nation's private enterprise system.

SBA's job is to serve actively as the advocate for small business, in the federal establishment as well as throughout the business community. SBA provides management assistance aids and services; issues direct and guaranteed loans; assists small business in securing a fair share of federal contracts; licenses, regulate and fund SBIC's (Small Business Investment Companies); and conducts studies of the economic environment.

In assessing these basic responsibilities from women's viewpoint, the conclusion is that SBA has not yet taken even the elementary steps on the woman's behalf, to further her cause in the federal government, in her business community, or to help her secure the business capital which she needs.

Yet, I found a number of SBA executives receptive to my proposal to do a study of SBA, specifically on women. During the study of SBA—of its policies and programs—I found an attitude favorable to change. SBA personnel were, without exception, helpful, cooperative, and often concerned as we discovered inequities for women. No hostility toward women surface during the entire study.

In the study report, *The SBA And Women*, a basic conclusion was that SBA neglects or ignores women, perhaps because it has not seriously thought about it. And therein may lie the root of the problem:

It is possible that the prejudices which males generally if unconsciously hold toward women—including males within SBA and the business community—are so complex or so deeply submerged that they are not discernible to those males. In effect, SBA may be unable to see that it, indeed, does discriminate against women; how it discriminates; and what it must do to end that discrimination.

Nonetheless, whether by neglect if not intent, SBA policies and practices do now discriminate against women. Further, SBA perpetuates discrimination against women through the business community.

SBA Policies In Action

The present policies at SBA do not provide equal access or equal opportunity for women, either as clients or as employees.

DATA

SBA does not maintain *any* client records by sex, other than the incomplete exception this past year of loan statistics. SBA has not done the basic studies (through Census) for statistics, or other qualitative studies, on female-owned enterprises.

LOANS

The first SBA loan statistics, by sex, show these figures for fiscal year 1973 (July 1, 1972—June 30, 1973):

	All SBA loans	Gross	SBA commitment
Total	33,948	\$2,196,157,576	\$1,915,767,442
To women.....	123	3,965,030	3,338,022

The total for women is not broken down by types of loans. It also includes "a whole slew of \$250 loans to Indian women." Data was not available on the numbers of women who applied for loans during this period, or on the repayment or failure rate for women, or the comparison of the rate with that for men who have received SBA loans.

CONTRACTS

Data was not available, by sex, on all types of SBA contracts. Two categories are: 406 Contracts and 8(A) Contracts. None of SBA's 406 Program contracts (22 in FY 1973 totaling \$2.7 million) were awarded to women's enterprises. A few of SBA's 8(A) Contracts (\$200 million in FY 1973) were reportedly awarded to minority women, and a few minority women are listed in SBA's 2,088-firm directory, *Firms Approved For 8(A) Contract Assistance*. (SBA acts as a prime contractor to secure federal contracts for small business owned by minorities and other disadvantaged persons.)

OUT-REACH ACTIVITY

SBA does not reach out to women entrepreneurs through its 86 field offices. These efforts are channeled mostly through Chambers of Commerce, Junior Chambers of Commerce, Kiwanis, Rotary, Lions, etc, and to specific groups of male entrepreneurs. One SBA comment was, "If a women's group calls us, then we'll be happy to cooperate with them."

SEXIST PHRASEOLOGY

All SBA materials refer exclusively to men: client correspondence and aids, films, posters, news releases, annual reports, job descriptions, even the criteria set forth for SBA's annual multiple awards to The Small Businessman Of The Year. Typical is the large red-white-and-blue poster (displayed prominently in both SBA headquarters and field offices and distributed by SBA to local banks) which pictures Uncle Sam pointing his finger at the reader, saying: *Mr. Businessman I want you to grow and prosper.*

Women are pictured in subordinate roles, or among those being advised, men in positions of authority. A new 1973 film, *The Business Plan For The Businessman*, booked through banks for community showings, features men as entrepreneurs and counselors, and two women: one a black secretary, the other a white waitress.

VOLUNTEERS

SBA uses ACTION volunteers as client counselors at its field offices, with a token number of women. Professional and business women are not recruited. The ACTION public service announcements are directed to "the small businessman who may have a problem."

SBA estimates there are "perhaps 125" business women among SBA's 2,000-member volunteer Advisory Council, which advises SBA on its programs and serves in liaison throughout all communities.

MINORITY ENTERPRISE PROGRAM

Minority women do not have equal access, as clients or employees, through SBA's Minority Enterprise Program (begun in 1968, expenditures to date over \$1.2 billion). This is true also through OMBE at the Department of Commerce. OMBE began in 1969; expenditures to date total over \$111 million, with only one allocation of \$32,000. to a seminar for women.

SBA'S EEO PROGRAM FOR WOMEN

Of 3,800 SBA employees, 1,615 are women with 1,468 at GS ratings of 9 or below. In jobs GS 10 through 15, women number 147 of the 1,944. No women are among the 32 employees with GS ratings of 16, 17 or 18. Key SBA field positions: No women are District Directors; 4 out of 67 Management Assistance Officers are women; 50 out of 945 Loan Officers are women; and SBA estimates that "maybe 25%" of the 92 field office Minority Enterprise Representatives are women.

SBA's compliance posters are out of compliance by several years. They do not include the required clause of non-discrimination on the basis of sex, for their employees or clients.

Study Report Recommendations

The first recommendation in the study report, *The SBA And Women*, is that the subject of women entrepreneurs requires the immediate attention of the SBA Administrator.

These recommendations follow: That the SBA Administrator designate women as a specific SBA client group; institute a total assistance program for women; assure equal access for women to all SBA loans, contracts, and other financial assistance; promptly allocate the necessary funds for the basic research studies and program activities; and accelerate SBA's EEO program for women employees.

With regard to the specific program for women, it was recommended that the program:

Include all women entrepreneurs; be directed, administered by women, and open to direct participation by women entrepreneurs.

Not be placed in SBA's Minority Enterprise Program, which would place women in competition with minorities for SBA assistance.

Begin simultaneously with research studies, assistance aids and services, and extensive out-reach activity.

Coincide with a significant increase in the numbers of SBA women promoted or recruited for the critical field office positions, as well as numbers of women recruited for volunteer counselors and Advisory Committee members.

As to the best method for SBA procedure, the following was recommended for expediency, economy, and in keeping with SBA's 406 Program contracting format: To delegate the job of basic research studies and initial program activities to a small-business firm of professional women with both the required expertise and sensitivity. (SBA's 406 Program refers to Section 406 of the Economic Opportunity Act, amended in 1972 to prohibit sex-discrimination.)

SBA's Position: Vulnerable

The study report fully apprises SBA of its increasingly vulnerable position, vis-a-vis women. In my opinion, SBA is in an untenable position, that continuing its present policies leads the agency toward defending an indefensible position.

I have strongly urged that SBA take the initiative; that it not wait until, by legislative and legal action, women force the agency to act on their behalf.

This latter choice, of course, sets the stage for a repeat performance of crisis-oriented, crash-basis programs. As we have learned, simply throwing millions of dollars at problems does not necessarily solve them. While crisis-generated programs are no substitute for the course of orderly, economically-sound procedure.

Federal agencies can look to the private sector, at least for poor examples, where test cases and costly lawsuits easily absorb millions of dollars. These dollars could have been otherwise channeled into positive program action.

Can SBA Afford To Help Women in Fiscal Year 1974?

Yes. SBA is expected to outlay a total of \$800 millions in fiscal year 1974. SBA will make a loan commitment of \$2 billion plus in fiscal year 1974. SBA's 406 Program budget for fiscal year 1974 is \$5 million. SBA's 8(A) Contract Program for fiscal year 1974 will secure over \$200 million in federal contracts for small business.

The question is, can SBA afford not to help women in fiscal year 1974?

What Is the Status at SBA Now?

As previously stated, the SBA executives were receptive to the proposal of a study about SBA and women. Throughout the study the SBA attitude was positive. In March, 1973, the study report was extremely well received; affirmative action was assured.

I have consistently believed that SBA preferred to take the initiative. I know that a vast number of SBA personnel are concerned that SBA now act on behalf of women, as it has done so well for others.

Last March, an SBA Assistant Administrator, writing to 15 Members of Congress, informed them that a review was underway of the use of SBA programs by women. The letter stated that any changes in the agency's regulations and policies would await the recommendations of that review.

SBA has now had access to the study report, with its recommendations, for four and one half months. The new fiscal year has begun. Program decisions and budget allocations are underway.

Assurances of positive action have steadily diminished while a delaying course—if not a hard line—appears to have developed. In July, two Assistant Administrators pre-empted the SBA Administrator's area of responsibility by stating: There should not be an SBA program specifically for women; SBA is not particularly interested in special efforts for women; SBA has scheduled more pressing priorities.

Decisions Are Issued

On July 19, upon the express recommendations of SBA executives, I submitted a copy of *The SBA And Women* study report directly to the office of the Administrator, along with a specific proposal that SBA allocate a minimum of \$1 million from its fiscal year 1974 budget of \$800 million, just to begin to fulfill SBA's statutory obligations to women entrepreneurs.

On July 20, apparently considering one day as adequate time to review both the subject and the proposal, SBA's General Counsel set forth the following as the official SBA position, stating that it reflects the decision of the Administrator:

"The priorities which have been established for this Agency, and our immediate goals and objectives, do not contemplate the focus of any substantial part of our attention or efforts on the problems dealt with in your study report.

"We feel that the needs of small business will best be served if we pursue the goals and objectives already established by us.

"We do not believe that the present policies and practices of SBA are in violation of the laws guaranteeing equal rights to women."

Those statements were followed by a final one:

"It is our intention not to consider proposals with such a cost basis and subject matter at the present time."

Are Women Taking Action?

Yes. Increasingly, individual women are writing to Members of Congress, to SBA and to feminist organizations, protesting both the difficulties in securing SBA loans, and the "inensitive" phrases SBA uses in addressing them, such as "businessmen."

During their last annual conventions, both WEAL and NOW resolved to take direct action against SBA. WEAL is exerting pressure on SBA to include women in the agency's programs for socially and economically disadvantaged entrepreneurs.

NOW has launched both task force study and test case action across the country. Further, NOW has begun legal action to restrain OEO (Office of Economic Development) from issuing a \$3 million grant to the Jaycees to disseminate stories of men who have succeeded in business with OEO help.

On August 1, I called on all women who are Members of Congress, and the presidents of women's organizations—business, professional, educational and feminist—as well as private individuals, to urge the SBA Administrator to act immediately, decisively.

Finally, I have invited the SBA Administrator to meet, at his earliest convenience, with a small group of noted women, representative both of women's interests as well as of vast numbers of women. The purpose of this meeting is to hold a positive, informal discussion about women entrepreneurs and the SBA, so that the Administrator will have access to qualified opinion as he formulates the necessary policy and program for women.

Conclusions

The picture for women entrepreneurs, today, is a paradox. It is extremely positive, equally negative. We are encouraged by the new career freedom, about the choice now to consider going into business for ourselves. Then, we meet head on with the horrible crunch of dollars and cents. Of prejudices and of discrimination. On the one hand we are encouraged; on the other we are held down. It is costly. And it is unfair.

We are asked to be positive, to promote, to vote for, and to support with our tax dollars our system of government and society which offers such vast economic potential and rewards. At the same time, there is a double standard which does not permit us to compete equally. The message is: Look but don't touch.

How can we end this situation and discrimination?

I believe it will take several factors, working together:

First, we who are entrepreneurs must stand up, and speak up. We are business people, we should know how to get things done. We are not in business to sit and wait for things to be handed to us. I hope that a great number will come forward together to solve the problems.

Second, hearings such as these are vitally important. They permit a public airing of the problems and needs.

Third, present laws prohibiting sex discrimination must be enforced. The Equal Rights Amendment must be ratified in all states and in force. Consideration must be given to new legislation and certainly to equitable practices such as concerns credit and lending, the Social Security and federal tax systems, et al.

Fourth, the impetus must be from the top; from the Presidency, the heads of all federal agencies, the chief executives in all private sector institutions and organizations.

Fifth, all relevant federal agencies must be reviewed, even investigated, to determine the facts, the necessary data, and the best methods for corrective procedure. This includes SBA and OMBE. (In the Department of Commerce, there are among other things: An Office of Business Economics, an Office for Economic Development, even an Ombudsman for Business. Why not an Office of Female Business Enterprise, and an Ombudswoman for Business?)

Sixth, the entire federal tax structure should be reviewed on behalf of all women, with appropriate changes. In fairness, as long as women entrepreneurs are penalized as women, shouldn't our tax then be proportionate?

Seventh, women working together will help women. Women are beginning to support women's enterprises by doing business with them (there is a slogan promoted by minority enterprises: Buy Black!) But women have not yet begun to invest in women's enterprises. In turn,

I believe that women entrepreneurs can help other groups of women, through contributing their business skills.

Eighth, for the Small Business Administration to delay any further, is both immoral and economically unwise. The SBA must act now, with FY 1974 funds. Women must not have to accept one more year's excuse of "no funds."

Ninth, if it becomes necessary, we women who are in business, who seek our livelihood through the private enterprise system, must be prepared to turn to legal action in order to achieve what should be our Constitutional right.

In closing, I thank you again for the opportunity to participate in these hearings. I hope that you will now include women entrepreneurs on the list of those who seek equal economic opportunity, and an end to economic discrimination.

I have not intended, and I hope that I have not given the impression, that I am qualified to speak adequately on the successes or problems of all women entrepreneurs. I do not believe that my career is typical. In fact, living with it, I find it is quite modest. I only wish I could claim ownership to a multi-million dollar enterprise for your review. But then, that is something that very few women can do.

Finally, perhaps it is because I am a business woman, not a lawyer, but I do not fully understand why it takes a law, or an act, or an amendment to prohibit a federal agency from discriminating against a woman, when that federal agency operates on her tax dollars, and should be acting to benefit her, as a citizen.

What does a woman's citizenship stand for?