

CIVIL RIGHTS COMMISSION

HEARINGS

BEFORE

SUBCOMMITTEE NO. 5

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

SECOND SESSION

ON

H.R. 12652

LEGISLATION TO EXTEND THE LIFE OF THE CIVIL RIGHTS
COMMISSION, EXPAND ITS JURISDICTION TO INCLUDE SEX
DISCRIMINATION, AND FOR OTHER PURPOSES

FEBRUARY 24, 1972

Serial No. 23

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COMMISSION ON CIVIL RIGHTS

THURSDAY, FEBRUARY 24, 1972

HOUSE OF REPRESENTATIVES,
JUDICIARY COMMITTEE,
SUBCOMMITTEE No. 5,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Jack Brooks presiding.

Present: Representatives Brooks, Jacobs, Mikva, McCulloch, and McClory.

Staff members present: Herbert E. Hoffman, counsel; Franklin G. Polk, associate counsel.

Mr. Brooks. The committee will come to order. Subcommittee No. 5 of the Judiciary Committee meets this morning to take testimony on H.R. 12652, to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to permit it to inquire into sex discrimination, and to authorize appropriations with which to fund its activities.

This proposal was submitted to the Speaker of the House of Representatives by the Chairman of the Civil Rights Commission on January 25, 1972, as part of President Nixon's legislative program for the second session of the 92d Congress, and referred to the Committee on the Judiciary. It was introduced jointly by our chairman, Mr. Celler, who unfortunately cannot be with us this morning, and the ranking minority member of the committee, Mr. McCulloch.

At this point in the hearing record we will print the bill, the letter from Father Hesburgh which transmitted it, and a section-by-section analysis and memorandum of explanation which have been furnished the subcommittee by the Civil Rights Commission.

92^D CONGRESS
2^D SESSION

H. R. 12652

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1972

Mr. CELLER (for himself and Mr. McCULLOCH) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To extend the Commission on Civil Rights for five years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *That section 102 (j) of the Civil Rights Act of 1957 (42*
4 *U.S.C. 1975a (j) ; 71 Stat. 634), as amended, is further*
5 *amended by striking therefrom the first and second sentences*
6 *and substituting therefor the following: "A witness attending*
7 *any session of the Commission shall be paid the same fees*
8 *and mileage that are paid witnesses in the courts of the*
9 *United States."*

I

1 SEC. 2. Section 103 (a) of the Civil Rights Act of 1957
2 (42 U.S.C. 1975b (a); 71 Stat. 635), as amended, is fur-
3 ther amended by striking therefrom "the sum of \$100 per
4 day for each day spent in the work of the Commission," and
5 substituting therefor "a sum equivalent to the compensation
6 paid at level IV of the Federal Executive Salary Schedule,
7 pursuant to section 5315 of title 5, United States Code, pro-
8 rated on a daily basis for each day spent in the work of the
9 Commission."

10 SEC. 3. Paragraph (1) of subsection (a) of section 104
11 of the Civil Rights Act of 1957 (42 U.S.C. 1975c (a); 71
12 Stat. 635), as amended, is further amended by inserting
13 immediately after "religion," the following: "sex," and
14 paragraphs (2), (3), and (4) of subsection (a) of such
15 section 104 are each amended by inserting immediately
16 after "religion," the following: "sex".

17 SEC. 4. Section 104 (b) of the Civil Rights Act of 1957
18 (42 U.S.C. 1975c (b); 71 Stat. 635), as amended, is fur-
19 ther amended by striking therefrom "January 31, 1973" and
20 substituting therefor "the last day of fiscal year 1978".

21 SEC. 5. Section 105 of the Civil Rights Act of 1957
22 (42 U.S.C. 1975d; 71 Stat. 636), as amended, is further
23 amended as follows:

24 In section 105 (a) by striking out in the last sentence
25 thereof "as authorized by section 15 of the Act of August 2,

1 1946 (60 Stat. 810; 5 U.S.C. 55a), but at rates for indi-
2 viduals not in excess of \$100 per diem," and substituting
3 therefor "as authorized by section 3109 of title 5, United
4 States Code, but at rates for individuals not in excess of the
5 daily equivalent paid for positions at the maximum rate for
6 GS-15 of the General Schedule under section 5332 of title
7 5, United States Code".

8 SEC. 6. Section 106 of the Civil Rights Act of 1957
9 (42 U.S.C. 1975e; 71 Stat. 636), as amended, is further
10 amended to read as follows:

11 "SEC. 106. There are hereby authorized to be appro-
12 priated such sums as are necessary to carry out the provi-
13 sions of this Act."

UNITED STATES COMMISSION ON CIVIL RIGHTS,
Washington, D.C., January 25, 1972.

The SPEAKER,
House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Enclosed for your consideration and appropriate reference is a legislative proposal to extend the Commission on Civil Rights for a period of five years beyond its current expiration date of January 30, 1973; to expand the Commission's jurisdiction to include discrimination on account of sex; to remove the limitation on the authorization for appropriations for the Commission, and to strengthen the authority of the Commission so that it may better perform its statutory functions. The latter provisions would establish a new salary level for Commissioners; increase the maximum per diem payable to consultants, and increase the attendance fee and per diem allowance for witnesses at Commission hearings. These provisions are explained in the enclosed memorandum.

Congress established the Commission on Civil Rights in the Civil Rights Act of 1957. The Commission's reports and recommendations have provided the basis for both legislation and executive action taken during the past fourteen years to assure equal rights. In 1964 Congress authorized a civil rights clearinghouse function for the Commission. Since then the Commission has engaged in a vigorous program of fact dissemination to inform the American people concerning the dimensions of the problems of civil rights and the nature of the remedies required to solve these problems.

In 1967 Congress extended the Commission for a period of five years, until January 1973. As a result, the Commission was able to undertake studies on a variety of issues that would not have been possible otherwise.

We believe there is a continuing need for an independent agency in the executive branch, to appraise the changing status of civil rights, pointing out the progress that has been made and the areas where discrimination persists. There is also a continuing need for an independent agency to examine the impact of Federal laws and policies on civil rights problems. We believe that if the Commission continues it should be extended for a period sufficient to enable it to carry out its functions on a sound and efficient basis. An extension for five years would provide that opportunity.

Although the scope of several Federal agencies includes various aspects of the status of women, none has the authority to make inquiries regarding sex discrimination in all its forms and to make recommendations to eliminate this discrimination. Moreover, no agency has the authority to appraise Federal performance regarding sex discrimination. Since there are many parallels in race and sex discrimination, the Commission will be able to make considerable use of its fourteen years of experience in combatting racial discrimination in addressing itself to the denial of equal opportunity on account of sex. The subject is one of growing national concern, and we believe coordinated study and fact-finding is greatly needed.

Accordingly, it is recommended that the Congress promptly consider and enact this legislation.

We have been advised by the Office of Management and Budget that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

THEODORE M. HESBURGH, *Chairman.*

Enclosure.

SECTION-BY-SECTION ANALYSIS—H.R. 12652

To extend the Commission on Civil Rights for five years; to expand its jurisdiction to include discrimination because of sex, and to analyze appropriations for the Commission and for other purposes.

Section 1.—would provide for paying witnesses at Commission hearings at the same rate paid by Federal courts. Witness fees would be raised from \$6 a day to \$20, and expenses would be raised from \$10 to \$16. Commission witnesses thus would be paid at the same rate paid by many other boards and commissions, in addition to the Federal courts.

Section 2.—would adjust the daily compensation for commissioners. Instead of \$100 for each day spent in the work of the Commission, commissioners would be compensated at the daily rate paid at Level IV of the Federal Executive Salary Schedule. The present payment is at a level below the salaries of the

staff director and other senior Commission officials who are responsible to the commissioners. Many other boards, commissions, and authorities are compensated at Executive Level IV.

Section 3.—would expand the Commission's jurisdiction to include discrimination on account of sex. Present law governing the operation of the Commission would be amended to add sex discrimination to the forms of discrimination presently within the Commission's jurisdiction: color, race, religion, and national origin. The Commission would be empowered, regarding sex discrimination, to study and collect information, appraise Federal laws and policies, and serve as a clearinghouse of information.

Section 4.—would extend the life of the Commission five years. Instead of expiring in early 1973, the Commission would continue until the end of Fiscal 1978.

Section 5.—would authorize the Commission to pay consultants up to a daily rate equivalent to the maximum for Federal employees at the GS-15 level. This would enable the Commission to pay, under the current General Schedule, up to \$127.92 per day instead of the \$100 currently allowed. This procedure for relating the maximum pay for consultants to the General Schedule is in accordance with OMB recommendations.

Section 6.—would authorize the appropriation of such sums as are necessary for the work of the Commission. The present authorization is \$4,000,000.

MEMORANDUM OF EXPLANATION—H.R. 12652

To extend the Commission on Civil Rights for five years, to expand the jurisdiction of the Commission to include discrimination because of sex, to remove the limitation on Commission appropriations, and for other purposes.

INCREASE OF ATTENDANCE FEE AND PER DIEM ALLOWANCE FOR WITNESSES AT COMMISSION HEARINGS

Section 1

Section 102(j) of the Civil Rights Act of 1957 (42 U.S.C. 1975a(j); 71 Stat. 634), as amended, is further amended by striking therefrom the first and second sentences and substituting therefor the following: "A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States."

It seems appropriate to pay persons appearing as witnesses before the Commission at the same rate paid witnesses appearing in Federal Court. This approach is followed, pursuant to statutory language identical to that proposed above, by the following major Federal agencies with subpoena power: Civil Aeronautics Board (49 U.S.C. 1484(b)); National Labor Relations Board (29 U.S.C. 161(4)); Federal Maritime Commission (46 U.S.C. 1124(a)); Federal Power Commission (16 U.S.C. 825(b)); Securities and Exchange Commission (SEC Rule 14(c)); Federal Trade Commission (15 U.S.C. 49); Federal Communications Commission (47 U.S.C. 409(e)).

The adjustments incurred by the above language would increase the witness fees for each day's attendance at a Commission hearing from \$6.00 to \$20.00 and would increase reimbursement for subsistence expense from \$10.00 per day to \$16.00 per day, the higher figures reflecting the amounts currently provided witnesses in Federal Court proceedings pursuant to 28 U.S.C. 1821. Future amendment of 28 U.S.C. 1821 altering those fees or altering mileage fees (currently set at 10 cents per mile) payable to Federal Court witnesses would automatically be subsumed under Section 102(j) of the Civil Rights Commission's statute.

It is estimated that the enactment of this legislation will result in an annual increase of cost to the government of approximately fifteen hundred dollars.

ESTABLISHMENT OF A NEW SALARY LEVEL FOR COMMISSIONERS

Section 2

Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 635), as amended, is further amended by striking therefrom "the sum of \$100 per day for each day spent in the work of the Commission," and substituting therefor "a sum equivalent to the compensation paid at Level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, U.S.C., prorated on a daily basis for each day spent in the work of the Commission."

This amendment would provide for payment to Commissioners at the Executive IV level.

Under the existing provisions of Section 103 (a); Commissioners not otherwise in the service of the Government are to be paid at a rate of one hundred dollars per day for each day spent in the work of the Commission. That rate of one hundred dollars per day is insufficient to compensate Commissioners for the time which they must devote to Commission business. Moreover, under 5 U.S.C. 5316, the Staff Director of the Commission on Civil Rights is paid at the rate of Executive Level V. In addition, other senior level employees of the Commission are paid at GS-16 level and above. The Commissioners, to whom the Staff Director is subordinate, however, are paid at a rate somewhat below the top of the GS-15 level. Thus, the top policy-making officials in the agency are paid at a rate substantially lower than senior level employees of the agency. Should further Federal pay raises occur, the situation may become even more inequitable. To adequately compensate the Commissioners for their time and to eliminate this inconsistency in pay scales, it is proposed that Commissioners be paid for each day spent in the work of the Commission, at a rate equivalent to Executive Level IV, computed on a pro rata daily basis.

The following list indicates other commissions and similar agencies whose members are paid at Executive Level IV:

- Federal Maritime Commission
- Civil Service Commission
- Tennessee Valley Authority
- Securities and Exchange Commission
- Federal Trade Commission
- Interstate Commerce Commission
- Federal Deposit Insurance Corporation
- Postal Rate Commission
- Civil Aeronautics Board
- Occupational Safety and Health Review Commission

It is estimated that the enactment of this legislation will result in an annual increase of cost to the government of approximately six thousands dollars.

SEX DISCRIMINATION JURISDICTION

Section 3

Paragraph (1) of subsection (a) of Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635); as amended, is further amended by inserting immediately after "religion," the following: "sex;" and paragraphs (2), (3), and (4) of subsection (a) of such section 104 are each amended by inserting immediately after "religion," the following: "sex".

An important recommendation of the 1970 Report of the President's Task Force on the Rights and Responsibilities of Women was to extend the jurisdiction of the U.S. Commission on Civil Rights to cover discrimination on account of sex. In addition, there have been a number of proposals in Congress during the last two years to add discrimination on account of sex to the jurisdiction of the Commission on Civil Rights.

Many Federal equal opportunity requirements today, such as Title VII of the Civil Rights Act of 1964 and Executive Order 11246, as amended, cover discrimination on account of sex, as well as discrimination against minorities. Extending the Commission's jurisdiction would provide the Commission comparable jurisdiction to that held by two major Federal civil rights programs.

While several Federal agencies are concerned with the status of women, all are limited in that none are empowered to examine and make recommendations regarding the full range of women's issues. Furthermore, none are empowered to appraise Federal performance in this area. The Commission's Federal monitoring responsibility is now limited in that it cannot examine an area which represented, for example, 19 percent of the Equal Employment Opportunity Commission's caseload in 1970. Thus, the Civil Rights Commission would provide a focal point in the Federal Government regarding women's issues and fill a void which now exists.

While there are some differences, many parallels exist between race and sex discrimination. Institutional policies and practices reinforce both, and minority women, in particular, are the recipients of double discrimination.

Additional fact-finding with regard to the status of women is needed. Although more information than ever before seems available regarding the role and status of women in American society, on close examination, much of the information is meager, revealing blatant male-female disparities only for several traditional in-

dicators of status. The information which is available, however, indicates the depth and severity of the problem.

The Commission is prepared to undertake a significant program in the area of sex discrimination. Among the issues proposed for study are ones dealing with women and the administration of justice, including correctional institutions, women and the job market, the legal status of women, political participation of women, sex discrimination in housing programs and in education. In addition, the Commission would prepare and publish appropriate clearinghouse publications on women's rights, monitor sex discrimination in Federal programs and handle complaints of sex discrimination. It is estimated that the cost to the Federal Government of adding sex discrimination to the mandate and jurisdiction of the Commission would be one million dollars.

EXTENSION OF THE TERM OF THE COMMISSION ON CIVIL RIGHTS

Section 4

Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b): 71 Stat. 635), as amended, is further amended by striking therefrom "January 31, 1973" and substituting therefor, "the last day of fiscal year 1978."

Unless extended by Congress the Commission will cease to exist sixty days after submission of its final report, on January 31, 1973.

This amendment would extend the life of the Commission for a period of five years coterminous with the end of the fiscal year in calendar year 1978.

The Commission's principal function remains to find facts. During the life of the Commission several Federal civil rights laws have been enacted and major changes in Federal, State and local policies concerning civil rights have taken place. The problems that led to the creation of the Commission in 1957, however, continue to exist and deserve further action by the Commission. There is a continuing need for an independent agency in the Executive Branch whose main function is to appraise the changing status of civil rights, both to point out the progress that has been made and to point out the areas where discrimination persists.

There is also a continuing need for an independent agency to examine the impact of the Federal laws and policies on civil rights problems. As the Commission recently found, new laws and policies are not enough. A clear, strong commitment backed up by adequate enforcement machinery is needed to make real progress in the civil rights field. The Commission has yet to see that high a degree of commitment or strong enforcement machinery.

During the last four years the Commission has turned more and more attention to the problems of minority groups other than blacks. During the last few years, the Commission has issued several reports dealing exclusively with the problems of Mexican-Americans and has focused attention on this particular minority group through the hearing process and various State Advisory Committee activities. At the present time, the Commission is preparing for a major hearing dealing exclusively with the problems of Puerto Ricans in the Northeastern United States. The Commission has also devoted more of its resources to the problems of American Indians and will soon be publishing a Handbook on Indian Rights. Despite the Commission's increasing focus on the problems of various minorities that have previously been ignored by the Federal Government there is a great deal more to be done in these areas. Because of its long-standing experience and expertise in the civil rights area, the Commission is best suited to deal with these problems.

During the past 14 years there have been many significant accomplishments in civil rights. Among these are the enormous increase in the numbers of franchised black citizens, the substantial progress made in the desegregation of schools, and improved employment opportunities which have resulted from meaningful government action to attack the problem of denials of equal employment opportunity. Despite these gains, today there exists more segregation in housing than existed in 1957. This continues to complicate the desegregation of schools and the accessibility by minority groups to job opportunities in suburban areas. The trilogy of segregated housing, poor schooling and lack of job opportunity lead to the continued racial and ethnic polarization of the Nation. Antipathies and conflicts between law enforcement officers and the black, Puerto Rican, Mexican American and Indian citizens of the Nation are disturbing indicators

of continued difficulties in urban areas. Riots in prisons raise serious questions concerning the administration of justice behind prison walls.

After 14 years of legislative progress, it is not yet time for the Federal Government to abandon the necessary process of monitoring compliance with civil rights laws and policies and of designing and implementing new and improved policies to meet new problems and changing conditions.

In 1967 Congress extended the Commission for a term of five years until January 1973. As a result, the Commission was able to undertake studies on a variety of issues that would not have otherwise been possible. It has been able to plan for longer range projects and to carry out a more comprehensive agency program. For example, it has been possible to undertake a long-range study of Mexican American educational opportunities in the Southwest and issue a series of reports on various aspects of that issue (the project is still underway).

It is believed that if the Commission continues, it should be extended for a period of time sufficient to enable it to carry out its functions on a sound and efficient basis. An extension for five years would best provide that opportunity.

ESTABLISHMENT OF NEW MAXIMUM PAY FOR CONSULTANTS

Section 5.

Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d: 71 Stat. 636), as amended, is further amended as follows:

By striking out in the last sentence thereof "as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55a), but at rates for individuals not in excess of \$100 per diem," and substituting therefor "as authorized by section 3109 of Title 5, U.S.C., but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of Title 5, U.S.C."

Under present limitations, the Commission may pay experts and consultants a maximum of one hundred dollars per day.

This amendment would provide a new maximum pay level for experts and consultants:

Under existing legislation, a separate congressional enactment is necessary to enable the Commission to increase the compensation of experts and consultants to reflect higher living costs and higher pay rates for both public and private employment. The Commission has been severely handicapped by this limitation in its ability to retain qualified experts and consultants.

This problem is currently more acute since many other Federal agencies now are authorized to compensate experts and consultants at rates greater than one hundred dollars per day. In addition, limitations on compensation which may be paid by other agencies are often stated in terms of the general pay schedule for Federal employees, permitting increases in consultant pay pursuant to increases in the general schedule. In order to compete with other Federal agencies and with private employers for the services of experts and consultants, the Commission must be able to pay a rate of compensation which can keep pace with future economic developments, and with pay scales of other agencies. This amendment would permit the Commission to do so by setting step 10 of GS-15 as the maximum rate of compensation for experts and consultants.

The following is a partial list of other Federal agencies, and their limitations on consultants' pay, including a computation of the current daily rate:

Agency	Limitation	Computed daily rate
Department of Commerce	GS-18	\$138.48 per day
General Services Administration	GS-15, step 10	\$127.92 per day
National Labor Relations Board	GS-15, step 10	\$127.92 per day
Department of Justice	GS-15, step 10	\$127.92 per day
Equal Employment Opportunity Commission	GS-15, step 10	\$127.92 per day
Cabinet Committee on Opportunities for Spanish Speaking People	GS-18	\$138.48 per day

It is estimated that the enactment of this legislation will result in an annual increase of cost to the Government of approximately twenty five hundred dollars.

ELIMINATION OF THE LIMITATION ON ANNUAL APPROPRIATIONS

Section 6.

Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e: 71 Stat. 636), as amended, is further amended to read as follows:

"Sec. 106. There are hereby authorized to be appropriated, such sums as are necessary to carry out the provisions of this Act."

There are two important reasons for removing the statutory ceiling on the Commission's annual appropriation. First, such a ceiling is the exception rather than the rule; most Federal agency operating budgets, as opposed to grant programs, have open-ended appropriations provisions. As a practical matter, every annual appropriation request is subjected to a thorough review by the Office of Management and Budget and by the Congress. Under the existing legislation, however, in order to increase the Commission's annual appropriation, the Congress must first go through the complicated and time-consuming process of amending the Commission statute. Removal of the ceiling would permit the Office of Management and Budget and Congress to determine the Commission's financial needs on the basis of an annual review of the agency's work in light of the country's needs, without the hinderances and delay imposed by the necessity to seek new authorization legislation.

Second, the maximum amount set by the ceiling is arbitrary and has created a situation where at times the Commission's operating budget has had to absorb various cost increases. The maximum amount of the limitation has been raised three times since it was first passed in 1967, in order to cover increased costs and to provide for a small increase in the "real" budget of the Commission. Despite these increases, there has not been any appreciable increase in permanent staff positions or in the Commission's program. Costs, such as salary increases for Federal employees, travel, mailings, etc., however, are continuing to rise and, in a short time the latest increase in the appropriation ceiling to \$4 million will be insufficient to fund the Commission at even its present operating level. Complete removal of the appropriations ceiling would permit the funding of Commission activities in a manner which allows for increasing costs without forcing a reduction in operations. If the Commission is to be an effective agency, it must be free, as are other Federal departments and agencies, to seek the funds it needs on an annual basis without an arbitrary limit on its appropriation.

Mr. Brooks. Following the testimony we receive today, we will insert in the hearing record supporting statements which have been received from our colleagues, Bella S. Abzug, of New York, and Martha W. Griffiths, of Michigan, favorable reports from the Office of Management and Budget, the Department of Labor, the Department of Health, Education, and Welfare, the Equal Employment Opportunity Commission, and a supporting statement from the Women's Equity Action League.

We have four witnesses this morning, and I believe that we have the statements from three of them.

Do we have all the statements, now, Mr. Hoffman?

Mr. Hoffman. No, sir. Mrs. Haener cannot be here today, and has not forwarded her statement.

Mr. Brooks. That is quite all right. I hope that our witnesses will submit their statements in full for the record and speak from them as concisely as possible. We want this record to be complete and accurate. I am certain the testimony will fully justify the extension of this vital Commission.

As the first witness, I am pleased to recognize one of the six Commissioners on the Civil Rights Commission. We want to welcome Mrs. Frankie Freeman to the witness table. We are glad to see you here, Mrs. Freeman.

Mrs. Freeman. Thank you, Mr. Chairman.

Mr. Brooks. Prior to the testimony of Mrs. Freeman, the Honorable Bill McCulloch, who is, as you know, coauthor of this legislation and ranking Republican on this committee, has an opening statement. He is a very fine man for whom we have the deepest affection, developed over our many years of association in Congress.

Mr. McCulloch:

Mr. McCULLOCH: Thank you, Mr. Brooks.

STATEMENT OF HON. WILLIAM M. McCULLOCH, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. McCULLOCH: Since its inception in 1957, the U.S. Commission on Civil Rights has served as the conscience of our country. It has guided us so that we could take a few halting steps toward the goal of equal justice for all. With its insights and good counsel, the Congress has been able to enact historic legislation to desegregate public facilities and enfranchise minorities.

As a Nation, we have made some progress, but there is still a long way to go before we can rest. We have adopted many laws. But whether such laws live on as mere monuments to fleeting feelings or instead breathe life into the ever unfolding promise of equality for which this Nation stands, is yet to be seen.

The road ahead is arduous and narrow. The journey will test us as a people in a way we have never been tested before. We have made a promise. Can we keep it?

Not without the help of the Commission on Civil Rights. Their expertise in evaluating the impact of our laws on discriminatory practices will be indispensable in the years ahead. The political pressures against progress may often be overwhelming. But an independent agency can point the way. To its continued existence I pledge my support.

Mr. Brooks: Mrs. Freeman, would you proceed?

Mrs. FREEMAN: Thank you, Mr. Chairman.

TESTIMONY OF COMMISSIONER FRANKIE M. FREEMAN, U.S. COMMISSION ON CIVIL RIGHTS

Mrs. FREEMAN. I am Frankie M. Freeman, an attorney from St. Louis, Mo., and one of six members of the U.S. Commission on Civil Rights. I am pleased to appear here today to explain provisions of H.R. 12652 and to recommend its approval.

With me today are John Buggs, staff director-designate; Martin E. Sloane, acting deputy staff director; John Powell, General Counsel of the Commission; and staff members Carol Kummerfeld, Caroline Davis, and Larry Glick.

The Commission Chairman, Father Hesburgh, has urgent business at the University of Notre Dame and regrets that he could not be here today. He asked me to convey his warm greetings and best wishes.

I have had the honor of serving on the U.S. Commission on Civil Rights for nearly 8 years. During that time it has been my privilege, along with other members of the Commission, to observe at close range and participate in historic advances in civil rights in the United States.

The Commission is proud of its part in the great legislative accomplishments during the last decade: the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Civil Rights Act of 1968, and the voting rights extension in 1970.

These landmark measures have vastly changed American life. Up to the year in which I was appointed to the Commission, many Americans in much of the Nation shamefully were denied admittance to restaurants, hotels, theaters and other places of public accommodation because of their race, color or national origin. Thanks to the Civil Rights Act of 1964, this disgraceful form of discrimination now is limited to isolated violations. No longer are people barred by color from lunch counters or forced to drive hundreds of miles out of the way in order to find a motel, as was frequently the case just 8 short years ago.

Before the middle of the last decade, hundreds of thousands of black southerners were unable to go to the polls on election day and exercise their basic right as Americans. The Voting Rights Act hasn't solved all the voting problems facing blacks, but it has made it possible for thousands to cast ballots for the first time in their lives. Today there are hundreds of blacks holding public offices—mayors, sheriffs, legislators and others—who would not have dreamed of holding office only a few years ago. The Voting Rights Act likewise has helped disfranchised minorities in other parts of the Nation.

Fair housing, as we all know, is a goal that continues to elude us. But at least we now have a national policy and a law that make it possible to take action against those members of the home and finance industry who refuse to show housing outside the ghetto to minority families or who discriminate in other ways.

None of these historic advances could have occurred without the invaluable efforts of many people, including those of this committee and its distinguished chairman and ranking minority member. But the Commission on Civil Rights, I am proud to say, has had an important hand. The Commission has documented the facts about discrimination in America. We have made suggestions and recommendations leading to the legislation which has passed through the House Judiciary Committee. And once the legislation has been signed into law, the Commission has made frequent suggestions toward making the implementation more effective.

The Commission has been able to make these contributions because it occupies a unique position in American Government. Studies, hearings, and other forms of fact-finding are major Commission tools, but we are unlike most study commissions. Instead of reporting only to the President, as do the Presidential study commissions, we report to both the President and Congress. It is a source of pride to this Commission that we are responsible to both.

Instead of going out of existence after publishing one report, as do many advisory commissions, the Commission on Civil Rights continues to operate. Although it is temporary, the Commission has been extended five times by Congress. This continuity of existence has enabled the Commission to produce a steady stream of reports and other activities directed toward the myriad civil rights problems facing the Nation. We are able to persist in seeking implementation of our recommendations.

For example our original recommendations on voting, which were made in 1959, were not enacted until 1965. But during that time the Commission continued to focus attention on denials of the right to vote. We first recommended an enforceable equal employment opportunity law in 1961. Since that time we have reiterated our basic recommendations, supported the Civil Rights Act of 1964 which established the EEOC, focused critical attention on the Federal Government's contract compliance program, and made new recommendations to extend the coverage of title VII of the Civil Rights Act of 1964. This year, 11 years after our initial report on employment, we may see enactment of some of our recommendations.

The Commission is unique among study agencies in having the support of State advisory committees, which Congress authorized to be established in each State and the District of Columbia. Our State committees have been the eyes and ears of the Commission away from Washington. Their reports have been valuable sources of information to the Commission and have had substantial impact on the State and local level. No study commission has been as well structured as the Commission on Civil Rights to examine problems on both the national and local level. We see our State committees as a vital link in developing and strengthening civil rights in the communities, on the streets, in towns and cities, and State capitols.

Unlike many governmental agencies, we have no enforcement powers. We cannot cut off funds, put anyone in jail, or even take anyone into court. Some see our limited authority as a weakness, but some see it as a strength. Since we have no programs to administer or enforce, we have no vested interests to protect. Whatever strength we have lies in the accuracy of our reports and the value of our recommendations, more than 60 percent of which have been adopted over the years in one form or another.

Our continuing existence over a period of 14 years has given us considerable background and expertise in the field of civil rights. And as I have suggested, it has enabled us to go beyond making recommendations into the highly important matter of following up on recommendations to see how well they are carried out. As more laws have been enacted, our primary focus has shifted from the need for more legislation to the question of effective implementation. Our views, criticisms and suggestions have been solicited by this committee and by other committees of Congress, by the executive and by agencies charged with civil rights enforcement responsibilities.

As you know, we are bipartisan and are appointed by the President with the advice and consent of the Senate. Our service on the Commission is part time—although I must say that even when we are not in Washington or at one of our hearings, the work of the Commission is seldom far away. We are constantly in touch with the staff, and the material the staff gives us to digest for each meeting and hearing is prodigious.

Against that backdrop, Mr. Chairman, let me briefly outline some of the recent activities of the Commission—many of which are unfinished at this point.

Monitoring is among our more important undertakings of recent years. In late 1970 we issued a massive study called The Federal Civil Rights Enforcement Effort. As I have suggested, the imple-

mentation of legislation and regulations is as important as the legislation itself. "The Federal Civil Rights Enforcement Effort" represents a systematic study of what Federal agencies are doing to carry out their civil rights mandate. We have issued two followup reports and plan to issue others.

Under the prodding of this monitoring program, we already have been able to see improvements in the civil rights performance of Federal agencies. Our statute gives us this monitoring duty, and it is important that it be continued until Federal agencies are fully aware of, and are effectively discharging, their civil rights responsibilities. Through our monitoring efforts we communicate to Federal agencies our suggestions for correcting deficiencies and strengthening their civil rights enforcement efforts. I am pleased to be able to report that our contributions are welcomed by many agencies.

The most complete set of educational data ever collected about any American minority other than blacks is being compiled by the Commission in a study of education for Mexican Americans. Two reports already have been issued as a result of this study and four others are planned.

In recent years the Commission has been giving increasing attention to the long-neglected problems of Indians, Puerto Ricans, and other minorities. We are opening new field offices in the Midwest and issuing new publications for the purpose of dealing with the civil rights problems of American Indians. We have underway the most comprehensive examination yet undertaken by a Federal agency of Puerto Rican problems. Our recent New York hearing, about which you may have heard, was a part of that study, which will move ahead despite the unfortunate events at the hearing.

During the last 2½ years the Commission has been studying the problem of equal access to suburban housing and jobs for blacks and other minorities who are confined by tradition and practice to the inner city ghettos and barrios. We have held hearings in St. Louis, Baltimore, and Washington on the growing racial and ethnic polarization occurring in our urban areas. This polarization exacerbates many civil rights issues and will be the source of wider and more tragic divisions unless major efforts are undertaken to guarantee that the new opportunities and amenities in the growing fringe areas of our metropolitan centers are open to all. The Commission's work in this all-important field is by no means completed. We are producing studies to document the problems and to support major legislative recommendations.

As members of this subcommittee know, the Commission does more than produce reports and studies. I already have described the value of our State committees. In the last 2½ years we have made major strides in activating committees in every State and in integrating their work more closely with that of the agency staff in Washington.

For example, our study of the administration of justice in prisons will be based in part upon reports from at least 12 State committees which have agreed to undertake work in that area. To support the activities of our State committees, we have established field staff based in six cities—New York, Chicago, Atlanta, Los Angeles, San Antonio, and Washington.

An important part of the Commission's program is its clearinghouse function, given to it in 1964. Under our clearinghouse program the Commission has prepared and published information on civil rights in a variety of forms for dissemination. We are continuing to develop publications on civil rights similar to "Understanding School Desegregation," which has been an outstanding success in our clearinghouse program.

These, in outline form, are our major undertakings at present. Virtually all are long-range projects involving considerable data collection, factfinding, analysis, and—after the reports have been published—extensive followup.

The advances I mentioned at the beginning of my testimony represented the greatest stride forward for minorities in America since emancipation. They amounted to a major civil rights breakthrough. We have come a long way in a short span. Yet we have much, much farther to go.

We still have segregation in America. Minority group Americans still are denied equal opportunity in virtually every facet of life. We are moving ahead, but the pace is patently inadequate. The steps we have taken in less than a decade—historic as they have been—are only beginning steps.

That brings us, Mr. Chairman, to the necessity for H.R. 12652.

Despite the fact that the Commission has very limited powers and a relatively small staff, it has made contributions during the past 14 years that are undeniably significant. Yet much more remains to be done.

Perhaps there were those who voted to create the Commission in 1957 who felt that a few years of operation would be sufficient; that after a short time, the Commission would be able to declare the Nation's gigantic race problems solved and shut up shop. Nothing would please me more than to be able to say to you today that a Commission on Civil Rights is no longer necessary. We need only to read our daily newspapers and watch our television sets to know that such a declaration in this day and time is out of the question.

H.R. 12652 would extend the life of the Commission 5½ years. Instead of going out of business next January, the Commission would continue functioning until the end of fiscal 1978. Five and a half years is a sufficient period to conduct long-range programs we presently have in mind and to retain our dedicated staff of civil rights specialists.

An important provision of H.R. 12652 would take the Commission into an urgent new field and illustrates the point that civil rights is never a fixed and static subject. The new provision is contained in section 3, which would give the Commission jurisdiction over sex discrimination, in addition to our present jurisdiction over discrimination on account of race, color, religion, and national origin.

As the subcommittee might imagine, I am particularly pleased by this new section. I can attest personally to the fact that there is sex discrimination as well as racial discrimination. As I stated in my testimony before Congresswoman Edith Green's subcommittee in June 1970:

As a result of invidious forms of discrimination, women, like minority group persons, in many respects suffer substantial deprivation of the equal protection of the laws. Because of outmoded customs and attitudes, women are denied a

genuinely equal opportunity to realize their full individual potential and thereby are prevented from making their maximum possible contribution to improving the quality of life in this Nation, the manifold talents of American women constitute a vast untapped national resource.

I can also attest personally to the fact that women of minority groups suffer double discrimination. And it is difficult to say which form of discrimination is the most oppressive.

As the subcommittee knows, sex discrimination is a developing issue which is getting increasing attention across the Nation. A rather limited amount of dependable material is available, outside the fields of employment and education, on the various forms that sex discrimination can take and how it can deprive American women of full and useful lives.

There is a great need for systematic and objective documentation of basic facts about sex discrimination, just as there was an immediate need for objective factfinding in the field of race relations when the Commission was established 14 years ago. I am hopeful that the Commission will be able to move forward and meet the need for objective studies of sex discrimination as soon as possible. It is our intent that this additional responsibility would not divert attention from the work we are doing to combat other types of discrimination.

There are several other sections of H.R. 12652 which I will mention only briefly. These conform to the Commission's statute with those of other agencies in certain respects.

Section 1 would permit payment of witnesses at Commission hearings at the same rate paid by Federal courts.

Section 2 would increase the compensation for commissioners from \$100 a day to the equivalent of the pay for Federal employees at executive level IV.

Section 5 would allow the Commission to pay consultants at the maximum GS-15 level, instead of \$100 a day, bringing our pay for consultants in line with the scale paid by other Federal agencies.

Finally, H.R. 12652 authorizes to be appropriated such sums as are necessary for the work of the Commission. This is a change from our present authorization for appropriations.

For 10 years the Commission operated with a general authorization for appropriations. During the last 5 years, we have had authorizations ranging from \$2,650,000 upward to our present \$4 million. Although this is a \$1,350,000 increase, it represents, for the most part, mandatory salary increases and other cost increases necessary to keep the basic operation of the Commission going at the same level as when we were extended in 1967. It has enabled a modest expansion over a period of 4 years.

Our personnel strength authorized for fiscal 1968 was 153; our authorized strength for fiscal 1972 is 176. Out of this increase the Commission has established four additional field offices and increased slightly the strength of its Washington staff. As the only agency in the Federal Government engaged in research in the complicated field of civil rights, the Commissioners feel that such an expansion has not been commensurate with the enormity of the problems we face.

The principal advantage of a general authorization for the Commission is the flexibility it affords us in planning and in responding to major events in civil rights. Because of our limited authorization

the Commission has not been able to undertake significant work in response to legitimate requests from Members of Congress, the public, and civil rights groups to study major civil rights issues of immediate national concern.

The hardest decision I face as a Commissioner is to vote not to respond to such requests, because of our inability to obtain funds to undertake extensive projects without destroying our ongoing program.

I would like to suggest that if the Commission on Civil Rights were afforded an authorization which gave it the capacity to seek funds for such projects, an important missing link in our overall strength would be supplied. The Commissioners feel the need to respond to major civil rights developments in a timely manner. As things now stand, a timely response to major new developments often is impossible.

I should note that H.R. 12652 is part of the President's legislative program for 1972. You will recall that the President mentioned the Commission twice in his State of the Union Message last month—once in calling for a 5-year extension of the Commission and later in recommending that the Commission's jurisdiction be expanded to include sex discrimination.

Much of the Commission's most important work—including the enforcement study, the suburban access program, the Mexican-American project, our housing studies, and our study of political participation—has come during the last 5 years. These endeavors would not have been possible unless we had 5 years in which to work. If Congress decides to extend the Commission for a similar term this year, we will be able to continue the solid, painstaking efforts which have gone into the Commission's undertakings.

We have much unfinished business. Last summer members of the Commission met with our executive staff for a 3-day retreat. A large part of our discussion was devoted to identifying the unfinished civil rights agenda. We got rather specific and drew up a long list. I will not burden you with reciting it, but I would like your permission, Mr. Chairman, to submit it for the record.

Mr. Brooks: Does that include any plans you might have for the period for which this extension is requested?

Mrs. FREEMAN: Yes; it does.

Mr. Brooks: That would include all projects, probably more than you anticipate doing. But it would at least give the "ball park" estimate of everything you might be planning for the next 5 years, if you had the money and time, et cetera.

Mrs. FREEMAN: We have not included all that would be included if we obtained jurisdiction over discrimination on the basis of sex.

Mr. Brooks: All right. On that basis, why don't you, for the record, Mrs. Freeman, submit a statement as to what you plan to do. Anticipate the work that you have not done in the past, but could be done by the Commission if we passed this legislation to extend its life for 5½ years.

If you had additional moneys with which to operate, would you perhaps go into areas other than those that you reviewed in your statement, which really is quite good?

Mrs. FREEMAN: Yes, sir.

We face civil rights problems today different from those which existed in 1957, when the Commission was created, but every bit as

compelling. Because discrimination is less blatant, and more subtle and sophisticated, it is no less destructive to majority and minority Americans alike, and no less dangerous to the Nation.

It was relatively easy to identify the discrimination which barred black people from the ballot boxes. It is difficult and demanding to trace the hiring practices and screening techniques which bar minority Americans from jobs, schooling, and housing. Faced with these growing complexities, some of the private civil rights organizations have been forced to pull back their efforts for lack of resources to see the exacting task through. Out of frustration, some minority Americans have given up on what they call "the system."

There is a need now, perhaps more than ever before, for an agency within the Federal Government to assist and champion the frustrated, the defeated, and the deprived; an agency to keep some spark of hope alive for every American. I feel, Mr. Chairman, that the Commission on Civil Rights is that agency. And I believe that its efforts are as essential now, and will be in the years ahead, as ever.

Thank you. I will be glad to answer your questions.

Mr. Brooks: That is a very fine statement. We enjoyed it. We appreciate your coming down and making this presentation with your staff, Mrs. Freeman. Your statement was self-explanatory and very helpful, but I do have a couple of quick questions.

Do you have any estimates as to the costs involved in the amendments proposed by H.R. 12652? Can you give an estimate of the additional costs?

Mrs. FREEMAN. I believe we do have that.

Mr. BROOKS. Do you want to furnish that for the record?

Mrs. FREEMAN. Yes.

(The document subsequently furnished is as follows:)

U.S. COMMISSION ON CIVIL RIGHTS—COSTS OF H.R. 12652

The estimated section-by-section cost of H.R. 12652 is as follows:

Section 1 provides for paying witnesses at Commission hearings at the same rate paid by Federal Courts. Witness fees would be raised from \$6 to \$20, and expenses from \$10 to \$16. The estimated annual cost of this increase would be \$1,500.

Section 2 adjusts the compensation for the six members of the Commission. Instead of \$100 for each day spent in the work of the Commission, commissioners would be compensated at the daily rate paid at Federal Executive Level IV. Under the present Federal Executive Salary Schedule, the estimated annual cost of this section would be approximately \$6,000.

Section 3 would add sex discrimination to the Commission's jurisdiction. The Commission would be empowered to study and collect information, appraise Federal laws and policies, and serve as a clearinghouse of information, just as it presently does regarding other forms of discrimination. The estimated annual cost of this section would be one million dollars in the first year, increasing thereafter in amounts commensurate with the Commission's overall program.

Section 4 would extend the life of the Commission to June 30, 1978.

Section 5 would authorize the Commission to pay consultants up to a daily rate equivalent to the maximum for Federal employees at the GS-15 level. This would enable the Commission to pay, under the current General Schedule, up to \$127.92 per day instead of the \$100 currently allowed. It is estimated that this section would increase the annual cost for Commission consultants approximately \$2,500.

Section 6 would authorize appropriations for the work of the Commission.

Mr. Brooks. Now, one thing I note, and you seem to defend it fairly well, is the justification for an open ended appropriation authorization. I have some misgivings about open ended authorizations. They

are always dependent on management and the understanding you have with them. Congress is in sort of a budget-pinching mood right now. And they are urged to do that by the administration:

I just wonder if it might not be a surer, safer method of funding what we really believe to be worthwhile objectives to have some solid limitation, to have a projection in dollars of what your anticipated costs are, with pay raises, whatever the facts are, and with provision for additional studies that you conceivably can project right now for the foreseeable future. It would give you a stronger base on which to operate. An open ended authorization gives all people who are opposed to your doing anything an opportunity to complain bitterly about no limit on your use of Federal funds. And this, of course, is something I would like to avoid.

Mrs. FREEMAN. Mr. Chairman, we did have open ended authorizations until 1967. So for the first 10 years of the Commission's life, it was an open ended authorization. The problem is, first of all—I don't have to say to this committee that the Commission has been, in my opinion, underfunded during all of its existence. We never have had enough money.

To give you one example of the problem that has been before the Commission, the Commission had recognized a need to study the problems of prison reform over the years. It was actually programmed last year. Then we had to cut it back in order to meet the budget, the problem of the appropriation. And then came Attica.

This was an impelling need, as we saw it. But there were just no funds to really adopt any kind of a flexible program to move in on a development that is national in its implications. That is just one. We are now moving into the study of prisons and prison reform.

But when we get boxed into a \$4 million or \$3 million program that has a price tag on it that way, then when developments come—and, of course, now, if we anticipate the extension of our jurisdiction to discrimination on the basis of sex, then we would even have a compounded problem. I know, from my own experience, that we are not going to be able to anticipate all the problems that are coming.

It seems to the Commission that if perhaps our appropriation had been more adequate, in our opinion, to start with, we would not feel so strongly about it. We have had 10 years of experience, and we have not received a lot of money. Even during the 10 years that we had an open ended authorization, it was less than \$1 million that was ever appropriated to the Commission.

Perhaps I am not doing as good a job of defending this as members of the staff. So, with your permission, I would like to call upon the General Counsel, Mr. John Powell, or our Staff Director, Mr. John Buggs, to add anything I might have omitted.

Mr. Buggs. Mr. Chairman, may I indicate one of the kinds of problems that we run into quite frequently? We have developed what we call a school self-study plan—a very unique instrument to be used in schools throughout the Nation to determine the character of the racial problems that exist, particularly in integrated schools.

Last fiscal year our authorization was \$3,400,000. The Bureau of the Budget had approved for the year of 1972 a figure of \$3,960,000. However, the authorizing committee in the Senate had not acted on our appropriations ceiling. Our ceiling was \$3,400,000, so that the additional

\$344,000 that the Appropriations Committee eventually provided for us was held up until such time as our authorization came through.

The net result was that we had to stop that project. A man we had hired as a scholar-in-residence to come into the Commission for a year for the purpose of developing it was unable to finish it before he had to return to his academic life in California. And we are just now able to get that project back on its feet, since the supplemental appropriation came through. This is only one of several instances of that kind which just keep us from moving when the appropriation is greater than the authorization.

Mr. Brooks. I understand the desirability. But I would just point out the vulnerability of such a provision. If there is any way that you can avoid it, you would be wise to. You should project what your anticipated expenses are, with some flexibility. I think that you would find this committee would be perfectly willing and happy to set a figure that would be generous and would authorize the programs which you thought were necessary. With some flexibility in it, the Appropriations Committee, I think, would also in all likelihood be sympathetic.

Do any of the members have any questions? Mr. Jacobs?

Mr. Jacobs. I notice in your statement a request to raise consultant fees from \$100 a day to a somewhat higher figure, level IV of the Federal Executive Salary Schedule. I was wondering, does the consultant's fee include the consultant's expenses? Or can he or she draw expenses beyond the fee if he has to travel?

Mrs. Freeman. If there is travel, it would be in addition.

Mr. Jacobs. I was just wondering. What is the reason for increasing the \$100 a day consultant's fee?

Mrs. Freeman. We want to be competitive with other Federal agencies.

Mr. Jacobs. There are two ways to accomplish equalization of those matters, as I mentioned before. One is to increase those that are lower. And the other is to decrease those that are higher. One hundred dollars a day is a quantum which would be most agreeable to most Americans.

Mr. Buggs. Mr. Jacobs, the average amount we pay today is even under the \$100 consulting fee limitation. It is far less than \$100. We have consultants we pay \$30 a day. We have some we pay \$50 a day. One hundred dollars a day is not usual, because we just don't have that much money. Often we are accused of cheating people who ought to be paid more when we get them for less.

However, there are times when we need people who are at the very top of their field, and who can provide the kind of information for the Commission as a consultant that we just couldn't get from anybody else. These people many times command large fees, much larger than what we are asking for, which is \$128 a day.

Mr. Jacobs. Does that mean, sir, that you can't get them?

Mr. Buggs. No, we have been able to get a few of them. We haven't been able to get all of them we would like to have. It just gives us a little better chance at them if we can become competitive with other agencies that pay that same figure.

Mr. Jacobs. I don't mean to be a stickler about it. I think you will find that some of the most adverse publicity and comment around the country about the Federal Government generally is in the area of

consultants' fees. It strikes me that particularly with this Commission a little altruism on the part of those who should be motivated and those who are best educated would not be terribly un-American.

I would not for a moment stand still for a disparity of consultants' fees available to this Commission as compared with the Pentagon or any other agency or entity in the Federal Government. It is just that I think the average citizen would feel a lot better about his Government if the consultant fees were something he could comprehend a little better.

I have no further questions.

Mr. BROOKS: Mr. Mikva?

Mr. MIKVA. First of all, let me say that I also appreciate your statement. As you know, many members of the committee and other Members of Congress have adopted a similar approach to the overall proposals dealing with discrimination against women, discrimination based on sex. And H.R. 916, of which I am the principal sponsor, includes most of what you are suggesting.

And so I assure you that most of the members of this subcommittee are sympathetic to what you are trying to do in extending the Commission and in extending its jurisdiction. But I have to echo what our chairman has said. I think the idea of an open ended authorization just gets you in trouble; trouble which is not necessary. We have had several similar struggles with other subcommittees. I hope that somewhere along the line you will make a figure available so that if this committee or the full committee decides that there ought to be a specific authorization, you will have an amount that will be sufficient for you to operate. I doubt very seriously that you can get any open ended authorization through this committee, let alone through the House.

Mr. BROOKS: Mr. McClory?

Mr. McCLORY. Thank you, Mr. Chairman. This has been a very helpful statement. But I do have a couple of questions. I would like to make one recommendation to you. You mentioned that you had a clearinghouse program on prison reform.

Mr. FREEMAN. No, it is not a clearinghouse program. It would be a report—a statutory report.

Mr. McCLORY. Would it be a Commission report, not a clearinghouse report? You authorized it and then you funded it. That is what you would do with a clearinghouse publication.

Mr. FREEMAN. I would like to ask Mr. Powell to respond and give that distinction.

Mr. POWELL. Unlike the clearinghouse report which is sometimes one by people other than Commission staff, the statutory report is done by the staff. It is closely reviewed by the Commissioners. The text is approved. We make findings and recommendations. It is an entirely different type of publication.

Mr. McCLORY. It is not a clearinghouse publication?

Mr. POWELL. The prison study would be a statutory report.

Mr. McCLORY. But the penal reform study—was that intended to be a clearinghouse report?

Mr. POWELL. Not now. We do not have that intention.

Mr. McCLORY. I have been critical of some of the clearinghouse reports which have been issued by the Commission. I think this was partly because I felt there was a lack of objectivity on the part of the authors of some of the reports, that they had an ax to grind

and they presented a particularly slanted point of view; I felt this was unfortunate for the civil rights cause.

Mrs. FREEMAN. This is certainly not contemplated in the prison studies, sir.

Mr. McCLORY. As you know, we have had an exchange of correspondence on that. I suppose all I want to do is to urge you to try to keep in mind the importance of being as objective and detached as possible in your study of the various civil rights problems.

Now, is the subject of sex discrimination being programmed or considered for a Commission report or a clearinghouse study?

Mrs. FREEMAN. If the Commission received jurisdiction over sex discrimination, there would be much work to be done. As examples of the kinds of activities the Commission would have to undertake, first would be such things as a hearing. For example, we would have a hearing on women in the job market. We need to examine the barriers to female entry into several traditionally male fields.

Mr. McCLORY. You would exercise all of the authority that the Commission is given?

Mrs. FREEMAN. Yes; we would.

Mr. McCLORY. With regard to the subject of sex, you would take individual cases of sex discrimination and so on?

Mrs. FREEMAN. In many instances, an existing study would just be extended to include the area of sex. Some of the hearings that we have already programmed would just be extended to look into the areas of discrimination on the basis of sex.

Mr. McCLORY. As you indicated, in his state of the Union message the President made a strong statement in support of the elimination of sex discrimination. And I guess you could say that almost unanimously the House of Representatives has expressed opposition to discrimination based on sex. At the present time there is pending in the Senate a constitutional amendment which would eliminate sex discrimination.

Do you feel the authority you are requesting might dilute the support for the constitutional amendment?

Mrs. FREEMAN. Sir, because of the 14th amendment and its existence since 1868, and reading where we still are in terms of race, I do not see that we could anticipate that even the enactment of that amendment would turn this country around so much faster.

Mr. McCLORY. Well, you are for the amendment, aren't you?

Mrs. FREEMAN. I am for the amendment. I am for every bit of legislation that would eliminate discrimination on the basis of sex.

Mr. McCLORY. And you are not suggesting, are you, that this legislation, or the comprehensive bill which is sponsored by my colleagues, would obviate the need for the constitutional amendment, are you?

Mrs. FREEMAN. No. I am suggesting that there is a need for the enactment of this bill now pending before this committee.

Mr. McCLORY. I am agreeing with you. But I am also interested in this constitutional amendment. I just want to be sure that we maintain our support for that as we move ahead toward eliminating discrimination based on sex. That is your view, too, isn't it?

Mrs. FREEMAN. Yes.

Mr. BROOKS. Thank you very much, you and your staff. I would now like to call Mr. David L. Norman.

Mrs. FREEMAN. Thank you, Mr. Chairman.

Mr. BROOKS. Mr. Norman is the Assistant Attorney General who heads the Civil Rights Division of the Department of Justice.

Mr. Norman, you have a gentleman with you. Please introduce him and present your statement. We are glad to have you here.

**TESTIMONY OF DAVID L. NORMAN, ASSISTANT ATTORNEY
GENERAL, DEPARTMENT OF JUSTICE**

Mr. NORMAN. Thank you, Mr. Chairman. My colleague, Mr. Walter Barnett, in the Civil Rights Division has as one of his responsibilities, the overseeing of legislative matters that are of concern to the Civil Rights Division.

Mr. Chairman, I have prepared a brief written statement for the subcommittee. And I think it has been distributed to you. I would beg leave of the committee that it might be filed and be made a part of the record.

Mr. BROOKS. Without objection the statement will be placed in our record at this point.

**STATEMENT OF DAVID L. NORMAN, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS
DIVISION, BEFORE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE No. 5**

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to testify before you on behalf of the Department of Justice and the Administration in support of H.R. 12652, now before this Subcommittee.

This bill would extend the existence of the Commission on Civil Rights for five years beyond the current statutory date of January 1973, and expand the jurisdiction of the Commission to include discrimination on the basis of sex. The proposal would also increase the compensation of the Commissioners, and of witnesses appearing before the Commission, and establish a new maximum pay level for the experts and consultants it uses. Finally, the proposed statute would remove the existing statutory ceiling on annual appropriations for the Commission.

As President Nixon said in his written message to this Congress accompanying his State of the Union address, this Administration supports both the extension of the Commission for an additional five-year period and the inclusion of discrimination on account of sex among its areas of concern. Our nation has made substantial progress in recent years in identifying and dealing with some of the myriad problems of racial and other discrimination. The Congress has enacted several important laws in the last fifteen years which have helped insure that all of our citizens are accorded equal treatment in a variety of areas. Other portions of both the public and private sectors have, on the national, state and local levels, taken a wide variety of actions in a continuing effort to guarantee equal rights to all persons. But there is much which remains to be done to achieve this goal and there is a continuing need for a careful examination of the problems which still exist, and the creation and implementation of appropriate means to deal effectively with them.

Since its inception in 1957, the Commission on Civil Rights has played an important role in the nation's efforts to combat discrimination against minority groups. The Commission, through its hearings, investigations, reports, recommendations, and service as a national clearinghouse for information, has done much to inform both our citizens and all levels of government of the problems of discrimination in this country and to suggest appropriate remedial steps. The numerous reports and recommendations prepared by the Commission for the legislative and executive branches have often provided a variety of materials which have been of assistance in considering legislative and administrative actions to correct problems of discrimination. By extending the life of the Commission for an additional five years, the nation will be assured of the continuing benefits derived from the efforts of the Commission.

There is a growing awareness and concern in the United States with the problems of discrimination on the basis of sex. It is our judgment that the Civil Rights Commission is the appropriate agency to study this problem because of its experience and expertise. By expanding the jurisdiction of the Commission to include sex discrimination, the Commission will be able to gather facts to indicate the scope of this problem and to make recommendations for whatever legislative, administrative or legal action it finds appropriate in this area.

Finally, we also support the other provisions of the bill which eliminate the statutory ceiling on appropriations for the Commission and deal with compensation for the Commissioners, the witnesses who appear before it, and the experts and consultants it employs. In brief, these provisions equate the Commission with other agencies and commissions of the federal government. In light of the important areas with which the Commission is concerned, these changes are, in our judgment, appropriate.

Mr. Chairman, that concludes my prepared statement and I would be happy to receive any questions you or members of the Subcommittee may have.

Mr. NORMAN. Thank you, sir. Mr. Chairman, on behalf of the administration, I am pleased to endorse wholeheartedly the statement of the distinguished Congressman McCulloch and the statement of distinguished Commissioner Freeman. I am pleased to appear to support H.R. 12652. I think the work in our Civil Rights Division proves the need for a continued existence of the Civil Rights Commission.

Our case load continues to increase. And that fact alone indicates to us that there are a great deal of problems yet to be solved in the civil rights field. We are working at it very hard. As long as those problems are not solved, we need an agency like the Civil Rights Commission. The Civil Rights Commission's function has been very valuable to us, even though from time to time we disagree with them.

The fact of our disagreements does not detract in the least from the value of its service.

Second, I would like to address myself briefly to the question of sex discrimination. We are finding through complaints and otherwise that there are problems with sex discrimination. We do not know the scope of those problems. We do not know the subtleties of them. We think it is entirely appropriate that the Civil Rights Commission be empowered to investigate and to uncover, to find out the scope of the problem, to expose subtleties, that we might solve the problems.

We do not think that it would detract in any way from the proposed constitutional amendment, which we also support, because the constitutional amendment is not self-executing. If the 14th and 15th amendments were self-executing, for example, we would never have had a Voting Rights Act or a Civil Rights Commission or a Civil Rights Division. They are simply complementary in our view.

With those remarks, Mr. Chairman, I appreciate the opportunity to appear here. And I am ready for any questions that the committee might have.

Mr. BROOKS. Mr. Norman, we are pleased to have you here and appreciate your contribution. We hope we can work out some legislation that will be helpful. Do you have any preference as to the reporting date for the Commission?

Mrs. FREEMAN, periodically the date on which you submitted your annual report has been changed. This bill changes it now to June. Is this satisfactory?

Mrs. FREEMAN. June is fine.

Mr. NORMAN. From the standpoint of the Justice Department, it is not material what the date is.

Mr. BROOKS. Are there any questions? Mr. Jacobs, do you have any comments?

Mr. JACOBS. I would like to thank the witness for his testimony and make a statement about Mr. McCulloch.

I for one would like to say for the record that Mr. McCulloch quite regretfully is retiring from Congress at the end of this term. I am sure that every member of the subcommittee—and indeed, every member of the full committee—would agree with the sentiment that the loss is tremendous to the committee and that Mr. McCulloch is one of the giants, one of the real towers of the civil rights movement in the United States. He will be missed very much.

Mr. BROOKS. This is an appropriate comment about Mr. McCulloch, who for years has been a leader in doing what is right for the people of this country, regardless of who is directing the executive branch and regardless of the current popularity of a position. He has had the courage of his convictions. And it took, sometimes, an awful lot of courage. He has always had that strength of character that has made him much loved by Democrats and Republicans, and certainly by those who are close to him. He has played a major part in the movement for equal rights for all people in our country.

Mr. NORMAN. Mr. Chairman, we echo those sentiments.

Mr. BROOKS. Are there any other comments? Mr. McClory?

Mr. McCLORY. I would certainly like to join in this expression of praise for Mr. McCulloch, who from my personal experience and observation has championed the cause for civil rights faithfully in the committee, on the floor of the House, and in all his public service. And this is an opportunity to recall that and to recall his tremendous service to this cause.

I also want to commend the Department of Justice for its support of this extension of the Civil Rights Commission and the expansion of its jurisdiction to sex discrimination.

Mr. BROOKS. I want to thank you very much, Mr. Norman, for your presentation.

Mr. NORMAN. Thank you, Mr. Chairman.

Mr. BROOKS. Our third witness is Miss Osta Underwood. Miss Underwood is president of the National Federation of Business and Professional Women's Clubs, Inc.

Please sit down and introduce the individuals who have accompanied you. We will be pleased to meet them, too.

Miss UNDERWOOD. Thank you, Mr. Chairman. This is Lucille Shriver, our Federation director, and Miss Judy Wiebe, our legislation director. And we do appreciate very much the privilege of appearing before you this morning.

Mr. MIRVA. Mr. Chairman, may I ask that Congressman Jacobs and I be excused? We have to attend a meeting of the District of Columbia Committee on the question of Home Rule.

Mr. BROOKS. I would really rather have you here. But I suppose if you must go, you must.

Please proceed, Miss Underwood.

TESTIMONY OF MISS OSTA UNDERWOOD, PRESIDENT, THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

Miss UNDERWOOD. Thank you, Mr. Chairman.

Mr. Chairman, as president of the National Federation of Business and Professional Women's Clubs, Inc., I am honored and pleased to have the privilege of appearing before this subcommittee today to testify in favor of H.R. 12652, a bill which would extend the life of the Civil Rights Commission and expand its jurisdiction to include discrimination on the basis of sex.

The opportunity to testify on this measure is especially welcomed because the expansion of the Commission's authority to include the study and investigation of sex discrimination has for some years been a priority item on our federation's national legislative platform. You have a copy of it. This platform is adopted at our annual national convention by delegates representing our 175,000 members, all working women, who live in the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands.

The need for extending the life of the Civil Rights Commission is, we believe, self-evident. In the years since its creation in 1957, the Commission has played a unique role in the area of civil rights. Its studies and comprehensive reports to the President and to Congress have provided invaluable information on the civil rights problems facing our Nation.

As a result of these reports and recommendations, many important and far-reaching steps toward our goal of full equality for all Americans have been taken. Some examples of legislative actions which were based, at least in part, on the findings of the Commission include the Civil Rights Act of 1964, the Voting Rights Act of 1965, and title VIII of the Civil Rights Act of 1968.

The Civil Rights Commission has been particularly effective, in our opinion, because it is an independent agency. Its findings carry great weight precisely because the Commission is impartial and non-partisan.

Although considerable progress has been made in the area of civil rights, much, much more needs to be done. The work of the Civil Rights Commission is by no means finished. The civil rights problems facing our country in the 1970's are diverse and complex. Because the Commission makes such an important contribution, we strongly support its extension for another term.

We are pleased to note that President Nixon, in his state of the Union address, recommended such an extension. We feel this support from the President indicates the value of the contributions made by the Commission in the past and the necessity of continuing its activities.

In addition, we are most encouraged to see that the President also recommends broadening the jurisdiction of the Commission to encompass sex-based discrimination. With this we heartily concur.

Mr. Chairman, discrimination on the basis of sex is a fact of life for the American woman. In the job market, in education, in property rights, in a hundred different ways, the American man and the American woman do not have equal legal rights.

The extent of this discrimination is not fully known. The President's Task Force on Women's Rights and Responsibilities, which recommended that the Civil Rights Commission be empowered to study sex discrimination, pointed out that the hearings and reports of the Commission "would help draw public attention to the extent to which equal protection of the laws is denied because of sex." The task force report said:

"Perhaps the greatest deterrent to securing improvement in the legal status of women is the lack of public knowledge of the facts and the lack of a central information bank?" (*A Matter of Simple Justice*, the Report of the President's Task Force on Women's Rights and Responsibilities; April 1970, page 9.)

Although more and more information appears to be available on the status of women in our country, most of it is limited to the field of employment, and even there it is not complete. What the available information does indicate, however, is that discrimination against women in the work force is both real and prevalent. For example, a comparison of the median wage or salary incomes between 1955 and 1969 of men and women who worked full time reveals not only that incomes of women are consistently less than those of men, but also that the gap has widened in recent years.

In 1955, women's median income was 63.9 percent of that earned by men. This dropped to a low of 57.8 percent in 1967. In 1969, the most recent year for which figures are available, women's median earnings of \$4,977 were only 60.5 percent of the \$8,227 received by men—not even as high as the 60.8 percent figure for 1960.

The radical differences in wages for men and women today is revealed also by the fact that only 6 percent of men full-time workers in 1969 earned less than \$3,000, while 14 percent of the women were at that pay level. And 51 percent of the women, but only 16 percent of the men, earned less than \$5,000. At the other end of the scale, only 5 percent of the women, but 35 percent of the men, had earnings of \$10,000 or more.

Equally disturbing is the fact that, with only one exception, the more education a woman has, the greater the gap in her income as compared with men who have a similar education. The median income in 1969 for full-time working women with less than 8 years of elementary school was 62.5 percent that of men with the same educational background. A woman with 4 years of high school had a median income of only 58 percent that of men in the same category.

It was even worse for women with 4 years of college, for they earned \$7,396, while the men earned \$12,960—a difference of 57.1 percent. Only women with 5 years or more of college even came close, and their median income equaled only 67.2 percent that of men in their educational group. (*Fact Sheet on the Earning Gap*, Women's Bureau, U.S. Department of Labor, 1971.)

Not only do such facts point to economic deprivation for women, but they also reveal that women are deprived of self-fulfillment and development simply on the basis of sex. The American Society for Personnel Administration and the Bureau of National Affairs, Inc., conducted a survey indicating that women are deliberately placed in less challenging, less responsible, and less remunerative positions on the basis of sex alone. (*ASPA-BNA Survey: Employment of Women*, American Society for Personnel Administration, Bureau of National

Affairs (Washington, D.C.; Bureau of National Affairs, c1970.)) A woman's education, experience, and ability in the labor market do not qualify her for jobs that her sex has automatically denied her.

Education is another area in which the available information indicates widespread discrimination on the basis of sex. An independent task force report funded by the Ford Foundation found that "discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community." (*Report on Higher Education*, an independent task force report to HEW, funded by the Ford Foundation, 1971. See also Congressional Record, February 15, 1971, page S1771.)

This discrimination is found both in admissions and in employment. According to the 1972 "Report of the Women's Action Program," Department of Health, Education, and Welfare:

Women seeking higher education at both undergraduate and graduate levels are subject to unequal consideration and treatment by colleges and universities—in admissions, in the classrooms, in financial aid and fellowships, and in continuing education opportunities. Both the 1971 "Newman Report" on Higher Education and the extensive hearings on sex discrimination before the House Special Committee on Education, held by Congresswoman Edith Green during June 1970, confirmed these patterns—

The bias against women professors and administrators in colleges and universities has denied both professional women a just opportunity for work and students a chance to observe "models" of female achievement. Few women doctorates are hired because of the male-dominated faculty recruitment system and communications network, the nepotism rule, and the lack of part-time positions. Advancement for the few women appointed is limited by lack of tenured positions for women, maternity policies, double standards for promotion, and underrepresentation of women in decision-making groups. (*Report of the Women's Action Program*, January 1972, U.S. Department of Health, Education and Welfare, Washington, D.C. Pages 63, 66.)

Discrimination against women is not limited to education and employment. It pervades all areas of American life. For example, some States restrict a married woman's contractual capacity. In some instances she must have the consent of a court, or of her husband, before she can enter into an independent business. In others, she does not have the legal capacity to become a surety or a guarantor.

In community property States, a working wife may have no say over how her income is spent. Only a few States permit a married woman to run for office where she lives, regardless of her husband's domicile, and in many States a married woman's jury service depends on her husband's domicile. A number of States permit women to be excused from jury service on grounds not available to men, and in at least one State women are called for jury service only if they indicate that they wish to serve.

More study is needed in all these areas, as well as in matters of housing, the administration of justice—including correctional institutions and length of sentences—marriage, divorce, alimony, child support, taxes, and social security, among others. We believe the Civil Rights Commission is the logical agency to make these studies.

One reason for this is that, at present, there is no one central source of information concerning discrimination on the basis of sex. For example, the Equal Pay Act of 1963 is administered by the Wage and Hour Division of the Department of Labor. But this is a specialized

area. And the law, as a part of the Fair Labor Standards Act, applies only to those women employees who are covered by that act.

The Equal Employment Opportunity Commission administers title VII of the Civil Rights Act of 1964. Again, the information available pertains only to employees who are covered by that act, and does not apply to employees of educational institutions or of employers with fewer than 25 employees, among others. The Office of Federal Contract Compliance also works in the area of sex discrimination, but only as it applies to Federal contractors.

The Civil Service Commission is concerned with the problems of sex discrimination in the Federal Government. And the Women's Bureau of the Labor Department contributes valuable information about women, but this, too, deals primarily with sex discrimination in the work force and related areas.

Thus, it can be seen that there are a number of agencies studying the problems of sex discrimination in employment. But many of these agencies also study discrimination on the basis of race, color, religion, and national origin, as does the Civil Rights Commission.

The point is that, because of its unique position of independence and impartiality, the Civil Rights Commission can explore all areas of sex discrimination, not just discrimination in employment. As it does now with race, color, religion, and national origin, the Commission can be a clearinghouse for information concerning discrimination on the basis of sex in all areas of American life. And its important and widely read reports can do much to create a climate in which all traces of discrimination can be wiped out. We strongly believe that giving the Commission the authority to study sex discrimination would go a long way toward making equality under the law for American women and men a reality.

In order to do this, of course, the Commission would need to have adequate funds. We realize that adding sex to the other subjects of discrimination it studies would place an additional burden on the Commission's resources.

Naturally, it would benefit no one if the Commission were granted the authority to study sex discrimination and did not have the money to do the job. Therefore, we hope that the Civil Rights Commission will be given the additional staff and financing necessary to carry out its important tasks.

We are greatly encouraged to see that H.R. 12652, and its counterpart in the Senate, S. 3121, have received widespread bipartisan support. Mr. Chairman, we respectfully urge that this measure be given, in this Congress, the high priority it deserves, so that the Civil Rights Commission can make its important contributions to help erase those remaining pockets of inequality in our Nation.

Mr. Brooks. I want to thank you very much, Miss Underwood, for your splendid statement. It covers the questions I had in mind and considerably more.

Do you have any comments, Mr. McCulloch or Mr. McClory? Congressman McClory.

Mr. McClory. Thank you, Mr. Chairman. I would like to pay highest tribute to Miss Underwood and to the National Federation of Business and Professional Women for the tremendous leadership role which

they are playing on behalf of American women. It doesn't seem to me that ever in our history has such a substantial—shall I say, stable, thoughtful—number of women of America combined as they have at this time to serve their own legal rights, their own constitutional position as citizens in our Nation.

This change in the law is important. And I am glad to have your support for it. But I also note in your testimony that you have described a number of areas of discrimination which are forms of legal discrimination. I understand this Commission might be able to comment upon or expose these to public view, but they can only be corrected by an amendment to the Constitution as embodied in the equal rights amendment.

Miss UNDERWOOD. This is correct, Mr. McClory. As it was stated by a prior person at this microphone, we have the 13th, 14th, and 15th amendments. But we did not have the information that made their implementation possible until the Commission.

Now, we need the information that they can compile on this. Had we had the information available sooner, we believe that the equal rights amendment would have passed sooner. And we think that it is absolutely essential that it pass. We are much encouraged by the attitude of the Congressmen, and of the Senators at this time, believing that with the presentations of the responsible leadership of women in this country, that they are seeing the necessity for the equal rights amendment.

Thank you very much.

Mr. McCLORY. I want to thank you for your testimony, and compliment you and your organization, as well as other organizations for that matter, for the very responsible positions you have taken on behalf of civil rights. It is of benefit to all of us.

Miss UNDERWOOD. We appreciate very much what you and other Congressmen have done.

Mr. BROOKS. Thank you, Mr. McClory, for your most appropriate comments about the business and professional women.

I would like to say again that we are pleased to have you all here. Thank you very much for your testimony.

Miss UNDERWOOD. Thank you.

Mr. BROOKS. Our next scheduled witness, Mrs. Dorothy Haener, international representative of the United Automobile Workers Women's Department, is not present. We will print her statement in the record if and when it is received.

This will conclude our hearing. We were delighted to have you all here. And you can be sure that action on this will be expedited.

At this point in the record we will include the statements of Hon. Bella S. Abzug and Hon. Martha W. Griffiths, the reports from the executive agencies, the material to be supplied by the Civil Rights Commission, and any additional views received by the committee before the hearings are printed.

Whereupon the committee adjourned at 10:30 a.m.

STATEMENT OF HONORABLE BELLA S. ABZUG, A U.S. REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

The evolution of the new American woman has begun. For me, the most remarkable development in the past decade has been the way in which women from so many different backgrounds and occupations have begun to fight and organize for their rights. Hundreds of thousands of women are stirring out of

their homes and are becoming involved in all aspects of political and social change to a degree that has never before occurred in our culture. Several thousands of women are in law and medical schools today where formerly there were only several hundreds. Twenty-nine million women currently work full or part-time, and more are entering the labor market daily—at a far greater percentage than men.

All over America, women are getting together to challenge a way of life that has made them an oppressed majority. But the discrimination which operates against women is of a qualitatively different sort than that inflicted upon Blacks and other minorities. It is far more subtle and pervasive, penetrating women of all races, and preventing us from obtaining jobs and earning equal pay for equal work; preventing us from going on to graduate education; preventing us from rising through the ranks of a profession (and thereby effectively vitiating the great American myth that hard work and perseverance alone will get a person from rags to riches).

The decisive, winning battle in the fight for our rights—to obtain equality of access with men, in jobs, education and professions—is still a long way off. We are still in the woods skirmishing.

We have reached an impasse. At this time, we must enlist all the resources of our nation to bring to light and destroy the discrimination practiced against women, just as we have been doing for racial minority groups.

One of the most important tools we could have would be the resources and spirit of the Civil Rights Commission. Since 1957, The United States Commission on Civil Rights has researched and reported on the Federal Government's civil rights enforcement efforts. Discrimination and attendant abuses in the areas of housing, voting, education, and employment as well as the administration of justice which have a direct or indirect repressive effect on our minorities have been carefully documented and detailed in reports beginning in 1959. The chief function of the Commission has been to gather the facts that can lead to changes in the abusive patterns found. The Commission cannot prosecute or cut off funds. It cannot file suits or remove officeholders. The power of the Commission is the power of persuasion that the facts exert. And they have been extremely successful because they have been able to deal with the problems of discrimination in a comprehensive manner. They are an independent agency with unlimited scope—they are free to look into any aspect of the problem of discrimination in any area of our lives, and after marshalling the facts, make recommendations to correct the situation.

In the past 13 years of 185 formal recommendations made, action in one form or another has been taken on 118—63.8%. This is a commendable record, but the glaring omission is the lack of facts and recommendations to combat sex discrimination. If H.R. 12652 is passed, it will be a positive mandate by Congress to direct the Commission to undertake studies and reports similar to those which have proven so successful in combatting racial discrimination. For example, we need information on women who are the sole support of their families and who have been prevented from getting mortgage loans for houses just because they are women. We need a thorough investigation into the banking industry and its loan practices in regard to women. We need an investigation into real estate practices. We need to explore the more subtle aspects of employment discrimination and we need massive studies on an industry by industry and union by union basis. I urge the Committee, Congress and the Administration to extend the jurisdiction of the Civil Rights Commission so that we will be able to ferret out and expose that discrimination which prevents women from being effective members of a free and equal society.

FEBRUARY 24, 1972.

STATEMENT OF HONORABLE MARTHA W. GRIFFITHS, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

"Perhaps the greatest deterrent to securing improvement in the legal status of women is the lack of public knowledge of the facts and the lack of a central information bank." This was the conclusion of the President's Task Force on Women's Rights and Responsibilities in April 1970, and this is my judgment today.

Many people are not aware of the serious harm caused by sex discrimination. Others mistakenly believe that sex discrimination exists merely in social custom, not in the law. And those who realize that sex discrimination causes the wide-

spread denial of legal rights lack sufficient supportive data to obtain totally effective corrective action. In order to improve the legal status of women, comprehensive information on the exact nature and extent of sex discrimination in our society must be gathered, publicized and evaluated, and the results of corrective laws and policies must be assessed.

By extending the jurisdiction of the Civil Rights Commission to include discrimination because of sex, H.R. 12652 would achieve this result. H.R. 12652 would require the Civil Rights Commission to study and collect information on legal developments concerning sex discrimination, to serve as a national clearinghouse for information on sex discrimination, to appraise federal laws and policies with respect to sex discrimination, and to submit reports, findings, and recommendations regarding sex discrimination to the President and to the Congress. I wholeheartedly support H.R. 12652.

How many banks discriminate between men and women in granting federally insured mortgages? How many states discriminate between male and female prisoners in making "good time" benefits available? How many universities discriminate between men and women in admissions and scholarships? How effectively has the federal government enforced the statutory prohibitions against sex discrimination in employment? These are the kinds of questions for which H.R. 12652 would provide much-needed answers.

Under present law the federal responsibility for gathering and disseminating information on sex discrimination is fragmented and incomplete. The Equal Employment Opportunity Commission and the Department of Labor deal with sex discrimination in private employment. The Civil Service Commission deals with sex discrimination in federal employment. And the Department of Health, Education, and Welfare deals with sex discrimination in education. Thus, each of the few agencies which deal with sex discrimination has a severely limited jurisdiction, and no agency is responsible for studying the denial of civil and political rights because of sex. H.R. 12652 would require the Civil Rights Commission to examine denials of equal protection because of sex in all areas of the law.

H.R. 12652 would require the Commission not only to gather, disseminate, and study information on sex discrimination, but also to appraise federal laws and policies with respect to sex discrimination. In September 1970 the Civil Rights Commission published an excellent 1115-page evaluation of the federal civil rights enforcement effort concerning discrimination based on race, color, religion, and national origin. No similar report has ever been prepared on the enforcement effort concerning discrimination against women, for under present law no federal agency is authorized to evaluate federal laws and policies with respect to sex discrimination.

The Civil Rights Commission is the proper agency to investigate, publicize and study the problem of sex discrimination. The Commission's invaluable past contributions to the cause of civil rights demonstrate the Commission's effectiveness. In dealing with discrimination based on race, color, religion, and national origin, the Commission has acquired considerable expertise in the field of civil and political rights. Moreover, because the Commission is a bipartisan agency which reports to both the President and the Congress, the objectivity of its work is assured. By virtue of past performance, expertise and objectivity, the Civil Rights Commission is the agency best qualified to act as the federal watchdog against sex discrimination.

Because H.R. 12652 would remove the ceiling on appropriations for the Commission, the extension of the Commission's jurisdiction to include sex discrimination would not dilute the Commission's efforts on behalf of blacks and other minority groups. Nor would the dollar cost of extending the Commission's jurisdiction be high. The estimated cost of one million dollars is a mere pittance to pay for the benefits which would accrue to this nation by including sex discrimination within the jurisdiction of the Civil Rights Commission.

Support for H.R. 12652 is strong. In its 1970 report entitled "A Matter of Simple Justice," the President's Task Force on Women's Rights and Responsibilities recommended the extension of the jurisdiction of the Civil Rights Commission to include sex discrimination. In his state of the Union message submitted to Congress last month, President Nixon requested the same action. And ever since 1967 I have sponsored legislation to achieve this result. H.R. 12652

should be passed *now*. Lack of information about sex discrimination is the greatest obstacle to achieving legal equality for women, and H.R. 12652 would remove this hindrance.

FEBRUARY 24, 1972.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, D.C., February 22, 1972.

HON. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for this Commission to comment on H.R. 12652, a bill "to extend the Commission on Civil Rights for five years, to expand the jurisdiction of the Commission to include discrimination because of sex, etc."

This agency is particularly acutely aware of the problems posed by sex discrimination in employment in this Nation. Having been given the responsibility for administering Title VII of the Civil Rights Act of 1964, which prohibits discrimination of employment on the basis of race, religion, color, ~~sex~~ or national origin, the EEOC is daily confronted with the pervasive existence of discrimination, on the basis of sex in all aspects of employment. Of the approximately 81,000 charges of employment discrimination which this agency has received since its inception in 1965, approximately 25% have been charges based on sex discrimination. As the number of charges filed with the Commission continues to climb, so similarly the number of cases involving sex discrimination also continues to grow.

Cases of sex discrimination in employment are coming before this Nation's Courts in ever-increasing numbers and the Supreme Court, as well as the circuit and district courts have recently had to decide a number of major decisions involving employment discrimination based on sex.¹ Also the issue of sex discrimination in other aspects of this Nation's day-to-day operations is becoming more common.²

The great service that the Civil Rights Commission has done through its present mandate is well-known. The various reports issued by the Commission in recent years providing a detailed examination of the various aspects of racial discrimination in our society have been invaluable tools for all segments of this Nation. The number of times that the Congress alone has referred to these reports provides clear evidence of the service which is rendered by the Commission's research and study efforts.

While this Commission only deals with the employment aspects of discrimination, the broad mandate for examining all aspects of discrimination which the Civil Rights Commission possesses gives that agency the added advantage of being able to study the problem of discrimination in total perspective giving this Commission, as well as other Federal agencies, which have responsibility for insuring equal treatment for this Nation's citizens, a method whereby the efforts and effectiveness of each agency may be assessed.

Since the problem of sex discrimination continues as one major aspect of the entire concept of civil rights in this country, and since the Civil Rights Commission is the agency best qualified to examine and provide guidance in this complex and subtle area of civil rights, it should be granted jurisdiction to examine problems of sex discrimination along with its studies of other forms of discrimination.

For these reasons, this Commission strongly supports expansion of the Civil Rights Commission's jurisdiction to include sex discrimination.

The Office of Management and Budget has advised us that there is no objection to the submission of this report and that enactment of this bill would be in accord with the program of the President.

Sincerely,

WILLIAM H. BROWN III, Chairman.

¹ See e.g., *Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971); *Diaz v. Pan American World Airways*, 442 F. 2d 385 (5th Cir. 1971); *Weeks v. Southern Bell Telephone Co.*, 408 F. 3d 228 (5th Cir. 1969); *Bowe v. Colgate Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969).

² See e.g., *Reed v. Reed*, — U.S. — (Nov. 22, 1971) dealing with administration of estates.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, February 28, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on H.R. 12652, a bill "To extend the Commission on Civil Rights for five years; to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes."

This Department has a particular interest in the activities of the Commission in view of our activities under the Equal Pay Act, the contract compliance program, and the activities of the Women's Bureau in relation to rights of women.

I believe that extending the life of the Commission for five years, eliminating the limitation on annual appropriations, and increasing salaries, consultant and witness fees, should assure continued performance of the Civil Rights Commission's important function as an independent agency analyzing civil rights problems, and appraising the impact of Federal programs in this area. Furthermore, the Commission's fourteen years of experience in dealing with racial and other forms of discrimination should provide it with the expertise necessary for its proposed inquiry into all aspects of the problem of sex discrimination.

The Commission will continue to have the full cooperation of the Department of Labor. I favor enactment of this legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of this bill would be in accord with the President's program.

Sincerely,

J. D. HONGSON,
Secretary of Labor.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
February 24, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 1, 1972 for a report on H.R. 12652, a bill "To extend the Commission on Civil Rights for five years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes."

The bill would provide, first, that witnesses attending Commission sessions be paid the same fees and mileage as are paid witnesses in courts of the United States.

Section 2 would compensate the Commissioners at a rate equivalent to compensation paid at the Executive IV level of the Federal Executive Salary Schedule, for each day spent in the work of the Commission.

Section 3 would empower the Commission to examine and make recommendations on the subject of sex discrimination.

Section 4 would extend the Commission for five years, until the end of the fiscal year 1978.

Section 5 would authorize the Commission to increase the per diem compensation paid to experts and outside consultants, at a rate not to exceed the maximum equivalent rate paid at the GS-15 level.

Finally, Section 6 would authorize the appropriation of such sums as are necessary to carry out the Commission's work.

The Department believes that since its inception the Commission on Civil Rights has performed an invaluable service by focusing on the problems of discrimination and encouraging action to resolve these problems. In 1968 the Congress extended the Commission for a period of five years, and we believe another such extension is necessary so that the Commission may continue to conduct studies and make recommendations on a sound and efficient long-term basis.

Section 3 of H.R. 12652 would authorize the Commission to examine and report on problems of sex discrimination. The Department of Health, Education and

Welfare has been delegated certain responsibilities for enforcing Executive Order 11246, as amended by Executive Order 11375, which prohibits discrimination in employment on the basis of race, color, religion, sex and national origin by Federal contractors and subcontractors and on federally assisted construction projects. In carrying out its compliance program, HEW has found that the problems of sex discrimination are serious and widespread. This conclusion was underscored in a recent report issued by the Department's Women's Action Program on the status of women at the Department and in areas affected by HEW-administered funds. The additional responsibility provided to the Commission by the bill could have a substantial impact in encouraging private organizations as well as all levels of government to deal affirmatively with discrimination against women. Therefore we strongly support Section 3.

The other amendments to the Civil Rights Act of 1957 contained in H.R. 12652 would place the Commission on a more equitable footing vis-a-vis other Federal agencies with respect to the rate of compensation paid to witnesses before the Commission and to outside consultants. Their participation is necessary if the Commission is to continue to carry out its important functions. In addition, Commissioners would be compensated under the bill at a level commensurate with their responsibilities.

We would therefore recommend that the Congress approve H.R. 12652.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program and that enactment of H.R. 12652 would be in accord with the program of the President.

Sincerely,

ELLIOTT RICHARDSON, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 10, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of February 1, 1972, for the views of the Office of Management and Budget on H.R. 12652, a bill: "To extend the Commission on Civil Rights for five years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes."

Concerning your specific request for our views on Sections 2 and 5 of the bill, the establishment of a new salary level for commissioners and the increase of maximum pay rates for consultants proposed in these sections would generally conform practices of the Commission to those of other agencies. We therefore recommend favorable consideration of sections 2 and 5.

This bill was originally presented to the Congress by the Commission on Civil Rights. For the reasons given in the memorandum of explanation accompanying the bill we recommend approval of H.R. 12652. Enactment of H.R. 12652 would be in accord with the program of the President.

Sincerely,

WILFRED H. RÖMMEL,
Assistant Director for Legislative Reference.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., March 6, 1972.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: During the hearing held by Subcommittee No. 5 on H.R. 12652 on February 24, 1972, the witness for the Commission, Frankie M. Freeman, was asked to supply an estimate of cost for the Commission's programs for the five-year term of its proposed extension as well as the Commission's plans for the coming five years. We also were requested to furnish the Subcommittee with

a specific suggestion for an authorization for appropriations in lieu of the general authorization contained in Section 6 of H.R. 12652.

I am forwarding with this letter the information and materials requested by the Subcommittee.

The Commission requests an authorization for fiscal year 1973 in the amount of \$6,500,000. We are informed that the Office of Management and Budget has no objection to this request. This amount will enable the Commission to request the full amount of the \$4,821,000 appropriation requested for it in the Budget for fiscal year 1973, as well as \$1 million for the first year of operation with an expanded jurisdiction covering sex discrimination (as tentatively allowed by the Office of Management and Budget) and will make possible a supplemental appropriations request for an Asian American Program, and for studies to be undertaken in response to civil rights emergencies.

If the Commission is to reach its mid-point program goals in fiscal year 1974, it would need an increased authorization for fiscal year 1974. Accordingly, following the request of the Subcommittee for our projected program needs, we suggest that the Commission be given an authorization for fiscal year 1974 in the amount of \$8,500,000. This increase would enable the Commission to reach its mid-point program goals without encountering delays in securing new authorizing legislation and supplemental appropriations.

The major requirements for our fiscal year 1974 budget will be for sufficient resources to meet anticipated demands on the Commission for an adequate sex discrimination program without taking away resources for our programs in the areas of discrimination on account of race, color, religion and national origin, for completion of expansion of our field staff to serve the needs of our 51 advisory committees and for other major program requirements, including the development of improved research capabilities.

If in future years the Commission feels that an increase in its authorizations for appropriations is necessary, appropriate legislation will be sought. In the meantime, the Commission requests that the amount of \$8,500,000 be authorized for each fiscal year until the end of the proposed five year term of the Commission in June, 1978, in accordance with past practice.

If I can be of further assistance, please call upon me.

Sincerely,

JOHN A. BUGGS,
Staff Director-designate.

Enclosures.

PROPOSED AUTHORIZATION FOR APPROPRIATIONS FOR COMMISSION ON CIVIL RIGHTS

H.R. 12652, as introduced by Mr. Celler and Mr. McCulloch, would extend the term of the Commission on Civil Rights for five years, expand its jurisdiction to include discrimination on account of sex and provide for other statutory changes to conform certain per diem payments with those of comparable agencies. The bill, as introduced, does not contain a specific authorization for appropriations for the Commission. Accordingly, the Commission has been asked by Subcommittee No. 5 of the Committee on the Judiciary to supply a justification for a specific authorization for appropriations.

The Commission on Civil Rights requests an authorization for appropriations for fiscal year 1973 in the amount of \$6,500,000 and for fiscal year 1974 in the amount of \$8,500,000 and for each fiscal year thereafter until the end of fiscal year 1978, the amount of \$8,500,000. The formulation of this request is in keeping with past authorizations for appropriations for the Commission.

The authorization for appropriations for fiscal year 1973 will enable the Commission to request the full amount of appropriations requested by the President in his Budget Message for FY 73 (\$4,821,000, as amended) as well as \$1 million for the first year of operation with an expanded jurisdiction covering sex discrimination, as tentatively allowed by the Office of Management and Budget, and will allow for an Asian American Program and for studies in response to civil rights emergencies. The Office of Management and Budget has no objection to an authorization in the amount of \$6,500,000.

The increased authorization for fiscal year 1974 will enable the Commission to reach its mid-point program goals without encountering delays in new authorizing legislation and supplemental appropriations. The major requirements of our increased budget for fiscal year 1974 are for meeting anticipated demands on

Commission resources for an adequate sex discrimination program without taking away resources for our programs in the areas of discrimination on account of race, color, religion and national origin, for completion of expansion of our field staff and for other major program needs, including improved research technological capabilities.

If in future years the Commission feels that an increase in the authorization for appropriations is necessary, appropriate legislation will be sought. In the meantime, the Commission requests that the figure \$8,500,000 be authorized for each fiscal year until expiration of the Commission in FY 78.

EXPLANATION OF REQUEST FOR AUTHORIZATION FOR APPROPRIATIONS, FY 73.

The Commission on Civil Rights requests an authorization for appropriations for fiscal year 1973 in the amount of \$6,500,000.

This amount represents these categories:

(1) Budget request of the President for the Commission on Civil Rights	\$4,821,000
(2) Specific costs of H.R. 12652 other than program	5,000
(3) Contingent salary increase	160,000
(4) Cost of sex discrimination program	1,000,000
(5) Contingent programs	514,000
Asian-American program	
Response to civil rights emergencies	
Total authorization request	6,500,000

¹ Includes \$174,000 supplemental appropriations request for salary increases mandated, January 1972. See schedule A.

² Adjusted for less than a 12-month fiscal year (approximately 6 months). See schedule B.

³ See schedule C.

SCHEDULE A

REQUEST FOR APPROPRIATIONS, FISCAL YEAR 1973 BY OBJECT CLASSIFICATION

Personnel compensation	Request	Increase
Permanent positions ¹	\$2,927,000	\$448,000
Positions other than permanent ²	237,000	60,000
Other personnel compensation ³	34,000	4,000
Special personal service payments ⁴	2,000	1,000
Total personnel compensation	3,200,000	513,000
Personnel benefits ⁵	245,000	40,000
Travel ⁶	350,000	95,000
Transportation of things ⁷	7,000	4,000
Rent, ⁸ communications, ⁹ utilities	279,000	72,000
Printing and reproduction ⁹	301,000	152,000
Other services ¹⁰	367,000	114,000
Supplies and materials ¹¹	47,000	6,000
Equipment ¹²	25,000	11,000
Total appropriations request	4,821,000	1,006,000

¹ This represents an estimated increase in permanent positions from 176 to 216.
² Temporary and part-time employees, Commission consultants and experts, and Commissioners.
³ Primarily employee overtime.
⁴ Reimbursable details, such as the payment to a person detailed temporarily from another agency.
⁵ Retirement, social security, and health benefits.
⁶ Includes transportation of materials to and from hearing sites and the movement of household goods when an employee of the Commission transfers to a field office.
⁷ Rent applies to space rental for new positions in Washington and in field offices, rental of meeting rooms for hearings and meetings and reproduction equipment rental.
⁸ Total communications cost is estimated at \$168,250 for fiscal 1972; an increase of \$40,393 is predicted for 1973.
⁹ Costs of printing reports of Commission and State Advisory Committees.
¹⁰ This item includes program contracts and contractual services. The GSA service contract for payroll, financial, reporting, security investigations, messenger and other office services, costs, the Commission \$39,000 in fiscal 1972, it is estimated at \$41,000 in fiscal 1973.
¹¹ This item includes library purchases and periodical subscriptions.
¹² Item includes office machines and furniture.

Note: This appropriations request is the amount requested in the budget for fiscal year 1973, as amended, it does not reflect an allowance of \$1,000,000 contingent upon legislation to amend the jurisdiction of the Commission on Civil Rights to study and collect information on sex discrimination.

SCHEDULE B

Fiscal Year 1973 Costs of H.R. 12652

[Estimated cost for 6 months]

Increasing witness fees ¹ -----	\$1,000
Increasing Commissioners' per diem salary ² -----	3,000
Increasing rate for consultants ³ -----	1,000
Increase for sex discrimination ⁴ -----	1,000,000
Total -----	1,005,000

¹ Increasing witness fees from \$6.00 per day to \$20.00 per day, the amount paid witnesses in the courts of the United States.

² Increasing Commissioners salaries from \$100 per day to the daily rate of Level IV of the Federal Executive Salary Schedule.

³ Increasing the maximum rate for consultants from \$100 per day to the daily rate of the maximum step of a GS-15, \$127.28.

⁴ See attached schedule C and table "Sex Discrimination Fiscal Year 1973."

SCHEDULE C

Sex Discrimination Program Fiscal Year 1973

The Commission on Civil Rights, if it is given jurisdiction to deal with sex based discrimination, proposes to undertake the following activities in this field during fiscal year 1973.

I. Incorporating sex discrimination as an issue in on-going projects and activities

Complaints.—Among the first actions of the agency will be to expand the Complaints Unit to handle an anticipated increase in the number of complaints which will be received due to the assumption of jurisdiction to deal with problems of sex based discrimination. It is anticipated that the current number of complaints (1800) processed by the Commission will double in the first year of operation with an expanded mandate.

Revising Commission Publications.—Basic civil rights information publications of the Commission will be revised to reflect the agency's responsibilities in the area of sex discrimination. These will include the Commission's compiled "Statute, Rules and Regulations of the Commission on Civil Rights", the brochure which describes the agency, and the "Annual Civil Rights Directory". In addition, the *Civil Rights Digest*, quarterly, will be expanded to include editorial content on sex discrimination.

Evaluating Federal Programs and Policies.—The Office of Federal Programs Evaluation will be expanded in staff and will monitor Federal Departments and Agencies with respect to sex discrimination on the same basis as Departments and Agencies are monitored for enforcement of civil rights.

Additional Professional Staff.—New professional staff will be added to the Office of General Counsel and the Technical Assistance Division of the Office of Community Programming. This latter Office provides staff support and services for the 51 Advisory Committees in each State and the District of Columbia. Other staff will be added to the Commission's liaison unit under the agency's clearing-house program on civil rights information.

Expanding Information Services.—The Commission's Civil Rights Documentation Center and Library will begin acquisition of materials and data on sex-based discrimination. Publications and programs on sex discrimination will be initiated.

II. New Studies

The Commission on Civil Rights has developed contingency plans during the past year in anticipation of an expanded mandate. It is tentatively proposed to undertake studies in some or all of the following subject areas:

1. Women's Role and Image in Television
2. Sex Discrimination in Higher Education Programs
3. Sex Discrimination in Elementary and Secondary Education Programs
4. Sex Discrimination in Practices of Financial Institutions
5. Women in the Job Market
6. Expanded activities by State Advisory Committees to the Commission, including public meetings, information programs and reports to the Commission with recommendations for action.

Sex discrimination, fiscal year 1973

	<i>New costs</i>
Complaints.....	\$40,500
Revision of publications.....	111,512
Evaluating Federal programs.....	60,768
State advisory committee programs.....	125,000
Women and administration of justice.....	125,000
Nonlegal studies on status of women.....	250,000
Liaison with private groups and general public.....	93,024
Establishing data bank on sex discrimination.....	173,024
Total.....	978,428
Total authorization request for sex discrimination.....	\$1,000,000

Authorization request, fiscal year 1974 increase

Fiscal year 1973 authorization.....	\$6,500,000
Fiscal year 1974 increase:	
Expansion of field program (see attached estimate of cost).....	498,000
Phase II sex discrimination program (see attached estimate of cost).....	1,250,000
Additional program needs ¹	252,000
7 Authorization request, fiscal year 1974.....	8,500,000

¹ These are program needs over and above those programmed for expansion of the field staff and for assumption of jurisdiction over sex discrimination. It includes funds for printing and contractual costs and would afford the Commission the flexibility to request supplemental appropriations for new projects and for unforeseen contingencies without curtailing ongoing programs and projects.

EXPANSION OF FIELD PROGRAM, FISCAL YEAR 1974

The basic objective of the field program in fiscal year 1974 is to have all eight regional field offices staffed so that every Advisory Committee to the Commission in each of the 50 States and the District of Columbia will be able to conduct an adequate program and to fulfill the obligation of the Advisory Committee to report to the Commission on developments in its State.

As the need for civil rights legislation continues to be met, the reviewing and monitoring of enforcement and compliance becomes increasingly important. The State Advisory Committees to the Commission are exceptionally well suited for carrying out the important role of finding out what is happening at the local level by relating complaints and other information with an examination of equal opportunity programs in a given community or State. The published reports of the Advisory Committees are forwarded to the Commission as well as to State and local officials and Members of Congress.

In carrying out its goals for the proposed five-year extension of the Commission, the Commission expects that its State Advisory Committees will play an important role in developing Commission programs in the areas of its expanded mandate to study sex discrimination as well as in the full development of the Commission's mandate to study denials of equal protection of the laws on account of race, color, religion and national origin.

This will require approximately 26 new permanent positions in fiscal year 1974 together with the support and other requirements engendered by increased staff. The total cost of the increase is projected at \$498,000.

PHASE II—SEX DISCRIMINATION PROGRAM FISCAL YEAR 1974

During fiscal year 1974 the Commission on Civil Rights would continue the development and expansion of its sex discrimination program in the following ways:

Expansion of information activities. During fiscal year 1974 the Commission will have in full operation an extensive information program on sex discrimination including maintenance of a documentation center for sex discrimination information, publications, films and other informational activities. This effort will be central to the Commission's obligation to collect and disseminate information.

New Studies.—The Commission will undertake the following new studies, in addition to those carrying over from the previous year, in fiscal year 1974:

1. Legal Status of Women.
2. Discriminatory "Channeling" of Women by Educational Institutions.
3. Women and Health Services.
4. Social and Economic Status of Women.
5. Sex Discrimination in the Federal Service.

FIVE YEAR PROGRAM

The Commission on Civil Rights has a number of major program goals which it hopes to accomplish during the next five years. Among them are these ten goals:

- I. Completion of Studies on the "Unfinished Business Agenda" of the Commission.
- II. Full development of the Commission's mandate in the field of sex discrimination.
- III. Completion of the expansion of the Field Program so that every State Advisory Committee to the Commission and the Commission's regional offices is fully supported.
- IV. Directing increased attention to the civil rights enforcement responsibilities of State and Local Governments.
- V. Continuation and expansion of programs and studies in areas of civil rights problems of Mexican Americans, Puerto Ricans, Native Americans and Asian Americans.
- VI. Institution of major studies on the subject of discrimination on account of religion.
- VII. Institution of major studies of discrimination on account of national origin.
- VIII. Development of the Agency's capability to utilize new research technology in the field of civil rights.
- IX. Major research into basic causes of racial and minority discrimination in society and developing new approaches to promoting compliance with civil rights.
- X. Continuation of the intensive monitoring of the Federal civil rights enforcement effort.

The Commission has established its broad five year program goals in the context of its fourteen year history. Originally, the Commission undertook to study denials of the right to vote on account of race and color. Although its first report in 1959 covered other subjects, the principal findings and recommendations awaited by Congress and the Nation were in the field of voting. This focus led the Commission naturally to concentrate on denials of equal protection in the South and against Blacks.

In succeeding years the Commission maintained its efforts to seek redress of grievances of black Americans living under a *de jure* segregated system. At the same time the Commission gave increased attention to denials of equal protection of the laws in other areas of the Nation and against minority groups in addition to black Americans. Through its evolving program the Commission undertook new studies of denials of equal protection in the fields of housing, employment, education, administration of justice and against minority groups including American Indians, Mexican Americans and Puerto Ricans. Paralleling this growth has been an increasing capability on the part of the Commission to study intensively the complicated operations of government bureaucracies and programs to identify those aspects of substantive government operations which work denials of equal protection of the laws to citizens who are of minority groups.

The ten program goals outlined are intended to carry out a full development of the Commission's mandate as stated in the Civil Rights Act of 1957 and the proposed amendment to that statute giving the Commission jurisdiction to study denials of equal protection of the laws on account of sex. Thus, the Commission would undertake programs and studies in unexercised areas of its jurisdiction as in denials of equal protection of the laws on account of religion and national origin. In addition, the Commission has made priority commitments to undertake programs on problems of Asian American groups and to continue programs on problems of Native Americans, Mexicans and Puerto Ricans.

As the only Federal agency charged with a major responsibility for conducting research in the field of civil rights, the Commission plans to undertake a substantial expansion of its capacity to do research in this field. Research technology today makes extensive use of computers. This is expensive. Under its present budget allocations the Commission is unable to do extensive analysis of data by computer. For example, the Mexican American Education Study can utilize only a fraction of the data collected because the Commission does not have sufficient funds for the extensive programming of data required. The lack of this capacity seriously hinders, and eventually will weaken the accuracy and reliability of its research.

Another major thrust of the Commission's program is based upon its view that State and local governments need to strengthen their civil rights enforcement programs. Most of the burden of carrying out this effort will fall upon the Commission's State Advisory Committees and its regional field staff.

UNFINISHED COMMISSION BUSINESS

(Denver program planning meeting, August 27-29, 1971)

VOTING

1. Appraisal of the effectiveness of the Voting Rights Act as amended, especially Section 5.
2. Assurance of equitable reapportionment for minority groups, such as the Mexican Americans in California, so that they will be able to elect their fair share of State legislators and Congressmen.
3. Analysis of the process and effectiveness of minority group participation in voting in those States where there are no roadblocks to participation.
4. Overall participation of minority group members in the political process, including political parties and party conventions.
5. Vote fraud is within the Commission's jurisdiction but has been neglected due to lack of funding.

EDUCATION

1. Completion of the Mexican American Education Study and dissemination of its findings.
2. Examination of the unitary school system and how it is in fact operating.
3. School testing and placement procedures and their effect on over-representation of minority group children in educable mentally retarded classes.
4. Racial imbalance in the public schools.
5. The power structure of school boards and how minorities can get into decision-making positions.
6. Scrutinize teacher training systems of the country, and the training systems for school administrators, to identify the extent to which they prepare participants for integration.
7. Examination of the impact of Federal funding at the college level.

HOUSING

1. Suburban land-use control.
2. Equal access to home financing.
3. The whole issue of suburban access.
4. Possibility of offering incentives to encourage integration of housing.
5. Continual monitoring of HUD housing programs.

EMPLOYMENT

1. A study of union discrimination, including analysis of Philadelphia-type plans.
2. Enforcing anti-discrimination laws, including providing cease-and-desist powers to Equal Employment Opportunity Commission.
3. Minority economic development, including franchising and other types of entrepreneurship.
4. Displacement of agricultural workers by mechanization.
5. Large-scale unemployment among teenage, minority youth.

6. Problems of migrant workers.
7. Examination of job training and upward mobility programs to see how well people are trained and what kind of jobs they get after training.

ADMINISTRATION OF JUSTICE

1. Police-community relations.
2. Civil rights of prison inmates.
3. The way Spanish surnamed persons not fluent in English are affected by the probation and court system.
4. The role of the Department of Justice in civil rights enforcement activities.
5. The juvenile justice system and how it functions vis-a-vis minority group youth.
6. Disparate treatment afforded minority people by the bail system, parole system, probation system, and the court system.
7. Disparate treatment and punishment of people of lower income levels.
8. Military justice.

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., March 2, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CELLER: The American Civil Liberties Union supports the enactment of H.R. 12652, which will extend the existence of the Civil Rights Commission for five years and will expand its jurisdiction to include sex discrimination. The fight to eradicate racial discrimination in our country is nowhere near completion. The battle to end sex discrimination in our society has just begun to claim its share of national attention. An extended and expanded Civil Rights Commission will be an important asset in these continuing efforts.

We need not discuss in detail the past achievements of the Commission. Others have done so and their contributions are well known. In our view, two factors emerge from these past efforts as the most important reasons for continuing the Commission's existence—its independence and its ability to investigate in depth problems which other governmental agencies have not had the time or the inclination to undertake.

The Commission's independence has enabled it to report honestly and uncompromisingly on the federal government's own failures in implementing civil rights laws and policies already in existence. As such, it serves, in the words of Senator Hugh Scott, as "the conscience of the Nation." Its fact-finding ability has resulted in extensive investigations, hearings and reports which provided the necessary factual justification for portions of the most important civil rights legislation of the last decade—the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Civil Rights Act of 1968. The need for an institution to gather this kind of factual information has in no way come to an end. The problems of racial discrimination in housing, education, and employment are, if anything, more complex and difficult in the 1970's than they were in the 1960's.

Its years of experience examining racial discrimination also make the Commission uniquely competent to expand its responsibilities to include sex discrimination. Perhaps as a result of blossoming public attention, the federal government has begun to recognize its responsibilities in the area of discrimination against women. However, we are very far from solutions and lack vital information on the extent of discrimination in all areas of our society, including education, employment, housing, on the degree of discriminatory application of federal and state laws, and on the wide range of possible solutions. Allowing the Commission to bring its expertise to the problem would be a significant step forward.

As it develops this factual background, the Commission can also play a valuable education role. In 1873, in *Bradwell v. Illinois*, 83 U.S. (16 Wall) 130, 141, three justices of the United States Supreme Court joined in denying women the right to practice law, writing of the woman's role:

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"The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood." (Concurring opinion)

Although almost 100 years have passed since these words were written and despite the fact that, according to the 1970 census, women make up 43% of the adult work force, this attitude is still often a significant factor in blinding many of the impact of the pervasive sex discrimination which exists in this country today. Education and information would certainly aid in reforming these stereotypes.

Information presently available indicates the serious inequality to which women are subjected. The 1969 statistics show the median income of women was 60% of that earned by men. Average earnings of male college graduates today is \$13,320; for women the income figure is only \$7,930. A 1966 EEOC report on private employers revealed that women hold only one in ten managerial positions and one in seven professional jobs, whereas they hold nearly 45% of lower paid service jobs. Civil Service Commission figures for the federal government are no better. In 1969, 77.8% of women employees found themselves in grade levels GS-1 through GS-6. Less than 2% were in GS-12 through GS-18. In education, the situation is no better. Women often need higher grades to be admitted, both to undergraduate and graduate study. Schools still maintain quota systems for women. Faculty appointments, promotions and the grant of tenure all show extremes of discrimination.

Discrimination against women in housing, insurance, mortgages, financial aid for education, and in our systems of justice and corrections, is prevalent but more difficult to document. Careful study by the Commission will be especially important in these areas.

Assigning the Commission a responsibility for seeking solutions to sex discrimination also blends significantly with the Commission's present role in racial discrimination, for it is undeniable that the problems of minority women will not be solved until both race and sex disappear as sources of discrimination. As the Report of the President's Task Force on Women's Rights and Responsibilities clearly indicated:

"Sex bias takes a greater economic toll than racial bias. The median earnings of white men employed year-round full-time is \$7,396, of Negro men \$4,777, of white women \$4,279, of Negro women \$3,194. Women with some college education both white and Negro, earn less than Negro men with 8 years of education.

"Women head 1,723,000 impoverished families, Negro males head 820,000. One-quarter of all families headed by white women are in poverty. More than half of all families headed by Negro women are in poverty. Less than a quarter of those headed by Negro males are in poverty. Seven percent of those headed by white males are in poverty" (*A Matter of Simple Justice*, pp. 18-19 (1970)).

Some have suggested that expansion of the Commission's jurisdiction in this area would merely duplicate, or even interfere with, the actions of the EEOC and the Labor Department which are presently responsible for the administration of federal laws and programs to combat sex discrimination. Where other agencies lag behind in performance, the Commission has and will continue to play an invaluable prodding role. They have an independence which no other agency has. And because they have no program to administer, they are better equipped to do the fact-finding which can then be utilized by all the other agencies in implementing their programs.

For all of the above reasons, the ACLU urges prompt enactment of H.R. 12652. We would appreciate it if this letter could be inserted in the hearing record on this legislation:

Sincerely,

HOPE EASTMAN,
Acting Director.

STATEMENT OF THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

The League of Women Voters of the United States, with members in all 50 states, the District of Columbia, the Virgin Islands and Puerto Rico, wishes to be recorded in favor of HR 12652.

The League of Women Voters was organized following the final success of the extraordinary efforts of a dedicated group of citizens whose aim was to achieve suffrage for women. Since 1920, League members have worked tirelessly to overcome discriminatory practices in education, employment, housing, or voting—whether these practices were against children, women, or racial minorities. Since the 1954 school decision, members have concentrated on achieving equal opportunity for minorities.

We therefore considered establishment of the Civil Rights Commission in 1957 a major step forward in implementing civil rights statutes and in demonstrating the federal government's commitment to equal opportunity for all citizens. As a non-partisan, independent agency the Civil Rights Commission has established itself as an objective advocate for non-discriminatory practices in all aspects of American life, and the volunteer members of State Advisory Committees, representing broad segments of the community, have helped provide essential interpretation and oversight of each newly enacted civil rights law.

The League supports the work already done by the Commission, citing as an example the comprehensive report of 1970 documenting the failures of the federal government to use its structures, mechanisms and procedures to enforce adequately the civil rights laws already on the books.

New federal initiatives to improve federal agency compliance have resulted from that 1970 report. Why? Because interested citizen groups for the first time had factual evidence on which to base efforts to bring the federal establishment into compliance with the law. Without the Civil Rights Commission the general public would have no way to determine whether or not hard-won laws to protect civil rights are buried in legal code books or are put to work to effect change. The League, therefore, supports continuation of the Commission.

Because the investigation and determination of compliance with law requires continuous work over long periods of time, and because social change resulting from compliance with civil rights laws takes place slowly, the League favors the proposed extension of the Civil Rights Commission. Furthermore, it is important to League members that sufficient authorization of funds be included to enable the Commission to carry out its mandates effectively.

In order for the distinguished citizens who serve on State Advisory Committees to use their time and expertise to best advantage, an adequate Civil Rights Commission field staff should be available to them.

To do the necessary work under a new mandate giving jurisdiction over sex discrimination, additional funds are required.

Asian-American and other minorities have particular problems which must be faced by the Commission in the months and years to come.

The Civil Rights Commission has many requests for timely studies in response to civil rights emergencies, such as recent prison uprisings.

The League is therefore fully in support of the authorization for \$6.5 million for fiscal 1973 and \$8.5 million for fiscal 1974 and each fiscal year thereafter. Were such increased support not available, the Commission would not be able to cope with any new mandates without curtailing or reducing present programs, thereby losing not only the timeliness and relevance of previously collected data, but also the momentum already built.

The existence of the Commission provides a monitoring eye on governmental activities leading to compliance with existing statutes and correction when compliance policies are inadequate. There is a persistent need for an agency which can point out progress made and pinpoint areas where discrimination persists. In addition, League members are not convinced that sufficient enforcement machinery exists to make necessary progress in civil rights. Such machinery must have an unbiased advocate; the Commission has acted in this capacity in the past and should continue so to act in the future.

League members have consistently supported citizen involvement in governmental decisions—and change through evolution, not revolution. The Civil Rights Commission stands for the kind of response to citizen needs which shows that representative government can and does work—for both the majority and minority. The members therefore stand firmly behind HR 12652 and urge favorable Congressional action to extend the Commission and to fund it adequately.

MARCH 20, 1972

STATEMENT OF THE WOMEN'S EQUITY ACTION LEAGUE

The Women's Equity Action League (WEAL) is a national voluntary, non-profit organization formed to press for full enforcement of existing anti-discrim-

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ination laws affecting women, to gather and disseminate information and educational materials thereon, to seek solutions to their economic, educational and employment problems, to combat job discrimination against women by government or private employers, working for reappraisal of Federal, State, and local laws limiting women's employment opportunities. H.R. 12652 would be a step in carrying out such purposes.

WEAL therefore supports H.R. 12652, which would have the effect of conferring upon the U.S. Civil Rights Commission jurisdiction to consider denials of equal protection of law because of sex in addition to its present jurisdiction with respect to race, color, religion and national origin.

"Equal protection of the laws" under the Fourteenth Amendment has long been withheld from women. The distinguished Chairman of the House Judiciary Committee, who introduced this bill, the Hon. Emanuel Celler, stated in 1956 during debate on the legislation which created the U.S. Civil Rights Commission that:

"The 14th Amendment to the constitution . . . prohibits the denial by state action of the equal protection of laws, but distinctions based on sex have never been considered within the purview of this prohibition" (102 Cong. Rec. 13552, 84th Congress).

With this statement we are in full agreement. The U.S. Constitution means what the U.S. Supreme Court says it means. Distinguished members of Congress both of the House and the Senate, advocating approval of the Equal Rights Amendment, have placed in the record complete analyses of Supreme Court decisions showing continuing and long-standing denial of the Fourteenth Amendment protection to women.¹ Constitutional scholars and teachers of constitutional law have testified before Judiciary Committees of both houses of Congress to this same effect and have advocated a constitutional amendment as the broad and conclusive guarantees of constitutional equality.²

Authoritative and centralized resource data is a fundamental need in achieving legal equality. Informed women and women's organizations working to throw off their legal inferiority status, have long recognized the lack of comprehensive, organized research, documentation, and centralization of authentic source materials which are prerequisite to combatting discrimination in laws and practices. Their individual efforts and data are not coordinated or centralized in a publicly available source. Data focused upon discriminatory laws and practices is scattered and piecemeal. To adequately effectuate the purposes of this Bill requires a reliable comprehensive and voluminous storage bank of information, publicly available, respecting the whole network of existing state and federal statutes and their court interpretation. This is an undertaking beyond the scope of an unfunded, volunteer group, no matter how dedicated. It is a proper job for government.

Government agencies do not now provide a centralized and comprehensive source of data focussed upon discrimination and denial of constitutional protection. The laudable statistics of the Women's Bureau have not been so focussed. Its studies have been factual analyses of statutes and practices without measurements for discrimination. Its prescribed duties point to the interests of "wage-earning women", to "women in industry". P.L. 259, 66th Congress. The Equal Employment Opportunity Commission is statutorily directed to elimination of sex discrimination in employment only, and limited to private employment and to larger employers. The Civil Service Commission reports and statistics are not designed to frame constitutional equal protection issues. All women, employed outside the home or inside, should be brought into protection of their property rights and their civil and political rights.

The establishment of a national clearing house of authoritative data is a proper task for the U.S. Civil Rights Commission, an assignment on an equally urgent and needed level as its present areas of concern with race, religion and national origin. Women of every race, religion, and national origin should be legally emancipated. The Civil Rights Commission by authorization, by valuable experience, by governmental support, is in a position to extend its expertise of hearings, reports, and activities in educating the public, to the cause of equal

¹ Cong. Rec. 91st Cong. 2d sess., pp. H-7953-7985 debate preceding passage of amendment; hearings before Senate Subcommittee on Constitutional Amendments, May 5-7, 1970, pp. 112-135 for case analyses. (Rawalt) Cong. Rec. 92d Congress, Oct. 6, 1971, pp. H-9235 et seq.; hearings, Subcommittee No. 4, House Judiciary Committee, Mar. 24-31, 1971, on H.J. Res. 208, pp. 36-42 (Griffiths); p. 194-209.

² Hearings before Senate Judiciary Committees, 91st Cong., Sept. 9-15, 1970, on S.J. Res. 61 and S.J. Res. 231: p. 298 (Emerson); 312 (Dorsen); 161 (Kanowitz).

legal protection of women. To that end, we support the provision for appropriations necessary to adequately and sincerely discharge the functioning of this extra field of action.

The Women's Equity Action League is gratified that President Nixon included a recommendation for this legislation in his recent message to Congress as embodied in this Bill introduced by the Chairman of the Judiciary Committee. The measure should continue to have bi-partisan support. The 1969 Report of President Nixon's Task Force on Women's Rights and Responsibilities recommended this action.

We would point out that this measure, desirable as it is, is not a substitute for the Equal Rights Amendment to the constitution which would bring women of all races and classes within the ambit of the constitution as human beings and citizens without restrictions or distinctions based solely upon the circumstance of having been born female. It is a colorful thread in what should be a complete tapestry of equality. This bill would propel American women a full step higher on the escalator of constitutional recognition in this democracy.

We support passage of H.R. 12652. The experience and effective work of the U.S. Civil Rights Commission, as thus extended to women, would contribute materially toward achieving our goal of "equal justice under law" which is the principle inscribed above the portals of the U.S. Supreme Court building.

FEBRUARY 24, 1972

NORMA RAFFEL, Ph. D.,
President of Women's Equity Action League.
MARGUERITE RAWALT,
Attorney at law, Chairman, Ad Hoc Committee, WEAL.