

CIVIL RIGHTS IN DELAWARE

IN THE MID-1980s:

A STATEWIDE CONFERENCE

A Conference of the U.S. Commission on Civil Rights was held at the Radisson Hotel, 700 King Street, Wilmington, Delaware on Monday, November 19th, 1984, beginning at 9:30 a.m., before Dennis Corsi, Registered Professional Reporter-Notary Public, there being present.

PRESENT: SHIRLEY HOROWITZ, Chairperson

 DR. MARY FRANCES BERRY

 SHERRIE-LEE BLATT

 THOMAS MOTTER, ESQUIRE

 MSGR. THOMAS REESE

 VIVIAN HOUGHTON, ESQUIRE

 HON. KAREN E. PETERSON

 AIDA WASERSTEIN, ESQUIRE

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PRESENT: (Cont'd.)

BETTY GRANT

JAMES H. GILLIAM, SR.

U.S. Commission Members

Delaware Advisory Com. Mem.

Clarence M. Pendleton, Jr.
Chairman

William J. Conner,
Chairperson

Morris B. Abram,
Vice Chairman

William E. Alsip

Mary Frances Berry

Donald B. Coefield

Esther Gonzalea-Arroyo
Buckley

Sally V. Hawkins

Shirley C. Horowitz,
Conference Chairperson

John H. Bunzel

Glover A. Jones

Robert A. Destro

Ruth M. Laws

Francis S. Guess

Emily G. Morris

Blandina Cardenas Ramirez

Marilyn H. Morris

Linda Chavez
Staff Director

James W. Wright

Edward Rutledge,
Regional Director

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2 THE CHAIRPERSON: Good morning. I'd like
3 to formally call this meeting to order. My name is
4 Shirley Horowitz and I'm Acting Chairman of the State
5 Advisory Committee in Delaware to the U. S. Civil Rights
6 Commission. We have a very, very specific charge and
7 that is to fact find and investigate and to report both
8 to the Administration and Congress acts of discrimination
9 and deprivation of civil rights to protected classes,
10 and that includes sex, handicap, age, race, creed,
11 national origin. I'm delighted that you've come, be-
12 cause you are in fact some of our investigators and fact
13 givers. This is an official meeting of the Delaware
14 State Advisory Committee. There will be an official
15 record of this meeting. We have a court reporter here
16 who will help us remember everything that is said proper-
17 ly and correctly. So, what you say is important and will
18 be noted.

19 I would like to welcome to Delaware our
20 speaker, Mary Frances Berry. Dr. Berry is a member of
21 the U. S. Civil Rights Commission and will be our key-
22 noter. I would like to also introduce to you some of
23 the members of the Delaware State Advisory Committee and
24 I'm sure that we will be joined by others during the day.

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2 Starting at the far right, and that's an
3 unusual place for him to be, is Glover Jones, who has
4 been on the Commission for several years. Next to him
5 is Marilyn Morris, who is from down-state, from George-
6 town; Dr. Ruth Laws, who is a retired educator from the
7 Dover area; William Conner, who I'll have something nice
8 to say about later; and Donald Coefield, who is with
9 Chrysler and has been on the Commission for about a year.

10 We have called this meeting, as I said,
11 to investigate civil rights in the Eighties. There are
12 very, very, very few people who could do that job better
13 than our invited guest, Dr. Mary Frances Berry, who has
14 been in the news again, and that's good.

15 Over the last few days, I'm sure you've
16 heard of some personal statements made by Linda Chavez,
17 the Staff Director, and Clarence Berry, who is the Chair-
18 man of the Commission -- excuse me, Pendleton. I have
19 her on my mind, but I should not have confused those
20 two names. I'm sure she's going to tell you about
21 Commission process and when, in fact, it's avoided and
22 evaded.

23 After Dr. Berry's presentation, we're
24 going to come directly back to the Delaware scene, and

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2 I am very pleased with the caliber of the respondents
3 that we have with us this morning. You do have some
4 biographical material about them and I'd rather you read
5 it and hear them, instead of me standing here and recit-
6 ing it, but I would like to at least note their names
7 and the order in which they will make their presentations.

8 First is Sherrie Blatt, who is an activist
9 working for handicapped people's needs, and I'm delighted
10 that she's here. We first met at the White House Confer-
11 ence on Children and Family, and I'm delighted that she's
12 still working hard. Next will be Thomas Motter, who is
13 with Community Legal Services and works with the aged.
14 Next is Msgr. Reese and I feel embarrassed even to intro-
15 duce him to an audience in Delaware. Msgr. Reese has
16 been one of the finest advocates for rights for everyone
17 that I think we've produced, and he's down at St. Mary's
18 seminar and is going to be returning to where we need him
19 soon, and Vivian Houghton, who is an activist of women's
20 rights. She is a feminist and has been active on the
21 scene not long enough, but for a long time. We intend
22 that she be around for much longer.

23 With that, I'm going to sit down and
24 allow Dr. Berry to make a presentation which I'm sure

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2 you will all find interesting and stimulating.

3 (Applause.)

4 DR. BERRY: Thank you, very much, and
5 good morning to you. Can you see me over this thing?
6 Hello. Is anybody out there? (Laughter.) I suppose
7 there's nothing we really can do, except to go on and
8 talk, and you can pretend I'm up here even if you can't
9 see me.

10 I was asked to talk about civil rights
11 issues in the Eighties, and I will talk about that.
12 And, I will also talk about what I think, how the
13 Delaware Advisory Committee is going to necessarily have
14 to go about its work given some different scenarios,
15 and I will do that at the end.

16 The civil rights, the matter of civil
17 rights was not a major issue in the presidential cam-
18 paign that was just concluded. That's what the polls
19 all tell us, and before the election, I did not believe
20 the polls, but now, I believe any poll I see. So, that
21 poll showed that most of the people in the country were
22 not concerned about civil rights issues at all. This
23 was not true of black people; it was not true of some
24 of the other people that we refer to as protected classes,

1 but the majority of folks who expected to vote were not
2 interested and didn't think it should be an issue in the
3 campaign, which means that if that's true, that despite
4 all the fights in which, and bruising battles in which
5 people who are interested in civil rights have been
6 engaged in the last four years, it failed to penetrate
7 the consciousness of people or they decided that it
8 really wasn't that important at all, which means that
9 we have a much more difficult job to do than we would've
10 thought otherwise. It means that nobody -- none of
11 those people really cared about Bob Jones and the tax
12 exemptions for schools that discriminate on the basis
13 of race. It means that they didn't care about the
14 problems of the Voting Rights Act enacted by the Congress,
15 with the Administration opposing it until after it was
16 passed and then, having a press conference at the White
17 House saying they were for it. It means that they
18 didn't care about the trashing of Martin Luther King
19 when the bill was up to create a holiday, some of the
20 very offensive things that were said about him, and
21 again, after the bill was passed, the ceremony at the
22 White House with people saying that they supported it,
23 when they didn't support it. It means people didn't
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2 care about that, those folks didn't. It means that they
3 also didn't care about the World City case in February
4 last year and that the Civil Rights Act of 1984 died in
5 the Senate, and that there are still places in this
6 country where, for example, children who are being dis-
7 proportionately put in classes for the mentally retarded,
8 black children, when they are not mentally retarded,
9 and the people can't get the local school system to do
10 anything about it, and they complained to the Education
11 Department and the Education Department refused to carry
12 out any investigation, saying that World City prevents
13 that. It means that people don't really -- those folks,
14 the ones who said civil rights were not an issue, didn't
15 care about all those things happening. And, that means,
16 again, that we have a very difficult task to carry out.
17 It means, finally, that they obviously didn't care about
18 the trashing of the Civil Rights Commission and what
19 has been going on there, even though the issue was
20 raised several times in the campaign and has had some
21 visibility.

22 There are a lot of folks who do care,
23 because not everybody, I mean, it was not millions for
24 an anti-civil rights position and then, zip on the other

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2 side. So, there are many folks who do care, but the
3 majority of those folks who voted, apparently, didn't
4 care.

5 Now, the Commission, despite their not
6 caring and what we have to do about it, the Commission,
7 from its beginning, has operated in a context starting
8 in 1957 in which it was designed in part to raise the
9 consciousness of people about what was necessary to be
10 done in the area of civil rights; in other words, the
11 whole idea of legislative history support was to have a
12 body of folks who would, in a very judicious, delibera-
13 tive manner, using fact finding as a basis of what
14 they did, come out with some conclusions which would
15 reflect some sort of consensus position which would
16 support trying to get the country to move in the direc-
17 tion of increasing equal opportunity to folks and with
18 tearing down historic barriers. That was the whole
19 purpose of the Civil Rights Commission from the beginning.
20 It has operated in climates where there seemed to be a
21 national will to do something, and all it was doing was
22 reinforcing that will. It has also operated in climates
23 where there seemed to be a national reluctance to do
24 anything, and what it did was to try to encourage people

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2 to do something. Now we have a Commission, the majority,
3 which operates in a climate where there's a reluctance
4 to do anything and, it is trying to reinforce the
5 reluctance, and that makes it very different from what
6 we have done in the past. But, you have to understand
7 that in order to understand what you have to do and what
8 it is necessary to be done.

9 I was asked to fairly present, objective-
10 ly present the argument from the majority Commissioners'
11 point of view about what their position is on the issues.
12 And, since I was taught to be a lawyer in law school and
13 I know that there are at least two sides to every issue,
14 I think I can do that. So, I will do it. The majority
15 in the Commission, and this is all based on transcripts
16 of the Commission meetings which are available to the
17 public and which anybody can get if they want to read
18 them so I'm not making any of this up and it's not some-
19 thing that people have been trying to hide from public
20 view, it's been out in the open, so it's not any inside
21 story of some deal that was made somewhere. Beginning
22 with the Hunt Valley meeting of the Commission in
23 January last year, the Commissioners, in the majority,
24 have, one, adopted the position that they can make

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2 statements about civil rights issues without doing any
3 fact finding. For example, they made the statement at
4 the Hunt Valley meeting, you may remember, about the
5 Detroit police case in which they admonished the Supreme
6 Court for not granting social rarity and not overturning
7 the decision in that case. And, as Commissioner Ramirez
8 and I pointed out at the time, we had not done any hear-
9 ings; we hadn't done any consultation; we hadn't done
10 anything on the issue. That was the first meeting that
11 we had had and yet, they came out and took this position
12 on this issue. It has been true since then, everything
13 from the Memphis firefighters decision in which they came
14 out and made a statement about their opposition to it,
15 that in fact, they feel that it's all right to make
16 statements about things without doing any kind of fact
17 finding at all. That's clear.

18 The other thing is that they like to
19 draw this distinction -- well, first of all, they like
20 to trash the Commission that existed before they came
21 by saying that it was a pro quota, pro busing Commission,
22 and they come in and be anti quota, anti busing, and
23 that that was the whole issue and that's why the Presi-
24 dent wanted to replace Commissioners, and that is their

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2 position and they keep saying that over and over again
3 to people. That's their position, but it is erroneous.
4 First of all, if any of you read the Commission's 1981
5 statement called "Affirmative Action Dismantling the
6 Process of Discrimination", you will note that that
7 report comes out in favor of voluntary affirmative
8 action; it comes out in favor of goals and time tables
9 and other statistical remedies for affirmative action,
10 and what it says about quotas is that quotas are floors.
11 They are floors and not ceilings, and that in cases
12 where a court of competent jurisdiction has said that
13 there's been a defining of discrimination that has
14 taken place and that the only way to remedy it is to
15 have a quota for a period of time, that the Commission
16 would support the court in saying that. There is nothing
17 in that report that would serve to support the kinds of
18 statements that my colleagues make about the Commission's
19 position before, that we somehow thought every employer
20 in America ought to have quotas and with the inference
21 drawn that somehow it ought to be -- it didn't matter
22 if people qualified or not, you should just have to
23 hire a whole bunch of people all over the place, every-
24 where in America. That is a distortion and that is not

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2 true. That's what they keep saying is our position.

3 Also, our position before that was not
4 that every school child in America ought to be bussed
5 all over the place whether they want to be bussed or not.
6 What we were talking about was precise cases where the
7 court found that the only remedy that was available in
8 that particular situation was to have one that included
9 bussing, and the Commission supported that. Anyway,
10 that's what they say.

11 Now, the other part of their position is
12 that this issue of groups, intent and victims, which
13 comes up all the time. The argument of the majority of
14 the Commissioners, my colleagues, Abram, Bunzel, Pendle-
15 ton, et al, and their staff director, is the same as
16 the Justice Department argument that Mr. William Bradford
17 Reynolds makes and the Administration's position. You
18 will find curiously that my colleagues' position on
19 every issue is the same as the Administration's position.
20 I don't know how that got to be, but that is something
21 that has turned out to be true.

22 Anyway, groups: The argument is that you
23 do not need group remedies for discrimination; that is,
24 remedies that say women or blacks or Hispanics or who-

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2 ever, disabled people, certain things shall happen to
3 them. You don't need remedies like that because that is
4 in violation of the historic understanding of the Con-
5 stitution which focuses only on the rights of individ-
6 uals, and that in this country, before the civil rights
7 movement and before some of the benighted people who
8 ended up being on the Civil Rights Commission and people
9 who were in the civil rights movement came along, every-
10 body in America was an individual and nobody belonged to
11 a group. And, then, we came along and started talking
12 about groups and that that's contrary to American tradi-
13 tion, history, the Constitution, and that's where we
14 got all these remedies from, including affirmative
15 action remedies and that what we need to do is discard
16 those remedies in the recognition that we have been
17 undermining the bedrock of the Constitution.

18 Well, on groups, of course, what the
19 Commission has said before and what the position of
20 civil rights advocates is, as I understand it, is that
21 historically Americans have always been members of
22 groups; that they can't remember a time when folks
23 weren't members of groups. And, the way they reinforce
24 that example is that women were subordinated because

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2 they were women and not because their names were Suzie
3 or Jane. And, the blacks were slaves because they were
4 blacks and not because their names were Sambo and Codjo,
5 and that Jews were discriminated against because of
6 their religion as a group. And so, when people started
7 saying there weren't any groups in America before, it
8 jars the mind and people will be taken back. So, that
9 is their position and that they stand on the side of the
10 Constitution and we're somehow acting against the Con-
11 stitution, which never recognized that.

12 Intent and effect: They would argue, as
13 in the debate over the Voting Rights Act of 1982 reauthor-
14 ization, that unless a person can prove that someone who
15 discriminated against them intended to discriminate
16 against them, that they, in fact, should not be able to
17 prevail. And, we have always resisted that concept,
18 because we know that it's very difficult to prove that
19 somebody intended to do something to you, and we have
20 always opted for an effect standard, which is that if
21 the continuing effect of someone engaging in behavior is
22 to deny opportunity to you, you don't care whether they
23 intended to do it or didn't intend to do it, or whatever.
24 The fact remains that this happened, and that to raise --

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2 put in a standard of intent would mean that your burden
3 of proof becomes so much higher that you probably could
4 never prevail even if the act went on forever and ever
5 and ever. That argument, the one I just made, was
6 accepted by the Congress in the reenactment of the
7 Voting Rights Act, but my colleagues on the Civil Rights
8 Commission and the majority of them still think that
9 there ought to be one.

10 Now, let's get to victims. There's a lot
11 of talk about who is a victim. Like the Justice Depart-
12 ment again, my colleagues keep saying that if you're
13 going to have a civil rights remedy, it ought to only go
14 to those who are victims, actual victims of whatever
15 has happened. What they mean by that is, for example,
16 the Justice Department just filed suit in a case in San
17 Francisco, and in the Memphis firefighters case against
18 Stotz, my colleagues wrote an opinion, applauding that
19 decision, and in the Detroit police case statement that
20 they made. Their argument is that if you have a dis-
21 crimination suit and you win the suit, you prove that
22 "X" police department, say, refused to hire blacks or
23 women or whatever for so many years and they just
24 refused to do it, and everybody in the community knew

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2 that they wouldn't do it, no need to apply because
3 they wouldn't take you, and as in the Detroit case,
4 which is a good example, the police chief came in and
5 confessed on the record. He wasn't forced to confess;
6 he just came in and voluntarily said, "Hey, this is in
7 the record of the case." For years and years, we wouldn't
8 hire blacks because we didn't want them on the police
9 force, and then we decided, after the riot in '67, we'd
10 better hire some. Then, we hired some, and then they
11 became eligible for promotion and right before they
12 became eligible, we promoted all the white police
13 officers in the department to all the available slots.
14 Then, when the black police officers took the test and
15 passed, we told them, that's really terrific, but there
16 aren't any openings. The next time there's some open-
17 ings, maybe you guys can get promoted." And, when,
18 Coleman Young became mayor, and Coleman Young said,
19 "What happened here," and the chief said, "I told him,
20 just like I finished telling you, Your Honor, that
21 that's what I did." And, Coleman said, "That's not
22 fair and what you're going to do is come up with an
23 affirmative action plan that will permit some of these
24 people to get promoted, because it's just not fair."

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And, that's when the police chief said, "We came up with this affirmative action plan which said that from now on, when a slot opened up on a one-to-one basis, we will hire a black police officer and a white police officer." That was approved by the court, it was approved by the Court of Appeals and the Supreme Court did not grant social rarity, so it stands as law in Detroit.

Now, Coleman Young came under -- he had a lot of flack in Detroit, so some black folks said, "Now, wait a minute. After the chief came in and confessed to that, you should've told him to turn back those promotions he had made and let the black police officers have a share in the existing promotions." And, Coleman said, "Well, while that would be fair, it would create more problems in the police department than it would solve, but we're going to start from now." And, the court said, "For five years, we will on a one-to-one basis promote people, for five years only, a promotion quota, until we get some kind of redress in the balance."

Now, my colleagues in the Commission and the people in the Justice Department would argue that none of the black police officers in question should get

1 promotions and there shouldn't be any promotion quota
2 in this case; that the only remedy that should be per-
3 mitted in Detroit is to enjoin the police department
4 for ever more, from ever discriminating again, and that
5 that should be the only remedy. And, why? Because the
6 police officers who are there now, the black police
7 officers, cannot prove that they came to the police
8 department twenty years ago or so and applied for a
9 job and were turned down. And, since they can't prove
10 that they actually did that, even though a lot of other
11 black folks did, that there are no actual victims.
12 Since there are no actual victims, the police depart-
13 ment should stay the same way it is and then, in time,
14 the problem will be redressed. That's the actual victim
15 argument which is made in a lot of these cases, which
16 is why they say, what the result is that the existing
17 law, even as upheld by the Supreme Court, unless the
18 court drops the other shoe it didn't drop in the fire-
19 fighters case and any subsequent cases, and they don't
20 have one on their docket right now in which they can do
21 that, that the existing law permits a remedy of the kind
22 that happened in Detroit. The law permits that. But,
23 the Justice Department refuses to ask for such a remedy,
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2 and the Commission on Civil Rights, its majority, is
3 opposed to such a remedy. It would be much as if you
4 got in a car accident and somebody ran into you and it
5 was their fault and then, you got in the hospital. And,
6 you got a lawyer, and your lawyer came to see you and
7 said, "It's really tough that you got beat up and
8 bruised up like that, and the remedy under the law is
9 for you to have the person redress the wrong by buying
10 you a new car, paying for all your medical expenses and
11 whatever consequences were there, but we don't want to
12 make that person angry because it will just create
13 enmity, so why don't you settle for a hundred dollars."
14 In other words, you have a right to a remedy, but
15 they're saying you can't have the remedy because it would
16 undermine the bedrock of the Constitution or do some-
17 thing like that.

18 Now, the other position that the Commis-
19 sion has, there's some procedural matters. Take the
20 migrant workers thing here in Delaware, which has been
21 an issue. There's been a report and the Commission did
22 not want to issue it -- did not issue it, suppressed it,
23 along with some reports from other states, and your
24 State Chairman resigned over the issue, which I think

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2 was a noble and heroic thing to do and he was quite
3 right to do it. Anyway, the argument there is that the
4 Commission on Civil Rights and those of us who are
5 benighted folks who believe in civil rights, started
6 defining civil rights wrongs. We defined it too broadly.
7 We included under civil rights anything that would pro-
8 mote equal opportunity of people who have been left out,
9 who were these designated groups of people that we knew
10 historically had been left out, and we started finding
11 things that would promote equal opportunity for them as
12 civil rights, and that was wrong. We didn't know what
13 we were doing. We didn't understand, and we were trying
14 to distort the law and reason and all that, and we made
15 people mad. I'll give you an example of what I mean.
16 The Commission, before the takeover, did a study which
17 was called Civil Rights National Line of Special Interest,
18 which involved budget cuts in federal programs which we
19 said were designed to promote equal opportunity. When
20 the Commission was reconstituted at Hunt Valley, they
21 announced that the Commission would no longer analyze
22 budget cuts in programs in the federal budget. And, the
23 argument was that budgets don't have anything to do with
24 civil rights and that we were looking at all these

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2 programs, and my colleague, Mr. Abram, went on national
3 T.V. where I was there, exchanged with him, and has
4 subsequently gone around to some State Advisory Committee
5 meetings for which I have the transcript alleging that
6 the Commission before that said food stamps were civil
7 rights, that in fact, if the military budget was cut,
8 blacks would claim their civil rights were being vio-
9 lated because a lot of them like to go in the Army, and
10 that we had all these things that we call civil rights.
11 That is false. If anyone reads the Civil Rights Nation-
12 al Line of Special Interest, they will see the defini-
13 tion of civil rights that we use there.

14 Civil rights means enforcing the laws
15 which are designed to break down barriers, such as the
16 equal employment opportunity laws that the EEOC is
17 supposed to enforce, the Office for Civil Rights, Title
18 6, and all those laws. But, it also means that when the
19 Congress passes a law saying here is a budget for a
20 program which is designed to make sure that the people
21 who have been left out get equal opportunity, it's right
22 in the law. Say, for example, the Women's Education
23 Equity Act, which states right in the Preamble, "The
24 purpose of this Act is to see to it that women are

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2 better able to overcome sexual stereotyping and to gain
3 an equal opportunity in a society from which they have
4 been excluded on an equal basis." That's what it says in
5 the law. Congress passed that and some president signed
6 it. There are a whole bunch of laws like that, that
7 have that in the law and in its legislative history.
8 What we did was to pick out those laws only; not every
9 federal program, only those, and to look to see what was
10 happening to the budgets of those programs, and then to
11 say, "Here's the impact it will have if it's cut, in-
12 creased or whatever." My colleagues on the Commission
13 didn't like that, my new colleagues, because when the
14 budget was cut as it was in 1981, '82 in proposals and
15 the Congress had to turn it back, our studies showed
16 that something bad had happened to the people who were
17 supposed to be beneficiaries which helped the movement
18 to repel the budget cuts. Since they didn't want the
19 budget cuts to be repelled, they decided the Civil
20 Rights Commission wouldn't look at these things anymore,
21 but the reason why we wouldn't look at them was because
22 budgets didn't have anything to do with civil rights and
23 we had too broadly interpreted the issues.

24 The Delaware Advisory Committee then

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2 finds itself in the position that when it looks at
3 migrant workers, and I read the report, because at our
4 meeting in Tennessee, our State Advisory Chair meetings,
5 it came up as an issue, that and the report in Virginia,
6 and some of us asked to see the report and insisted that
7 the law requires that the Committee advise the Commis-
8 sioners, not the staff director, and if we never see
9 the reports, then how can they be advising us if she's
10 already turned it down, so that we asked to see the
11 report. I saw it; I read it; I wrote a memo to my
12 colleagues and sent a copy to the Committee here in
13 which I said that the report quite clearly says that it
14 is talking about migrant workers, most of whom are
15 Hispanics or blacks, who are covered under the civil
16 rights laws and what has happened to them and what
17 things are needed to remedy the conditions that they
18 face. My colleagues prefer to look at it, again, as a
19 distortion of the definition of civil rights. They say,
20 being a migrant worker has nothing to do with civil
21 rights, and the Committee has failed to define in it
22 how their subject matter has anything to do with civil
23 rights, therefore, we are going to reject it and say it
24 doesn't have anything to do with civil rights. And, they

1 use this artful word called jurisdiction, which to non-
2 lawyers sounds like something terribly crucial, evil
3 and important, that can really knock you on the head and
4 you'd be dead, whatever that is. Jurisdiction, wow, why
5 is it, you know, that the Committee failed to establish
6 jurisdiction. How could you guys do that? All jurisdic-
7 tion means is that you argue jurisdiction when you don't
8 want somebody to do something. You tell them, "You
9 don't have jurisdiction." And, then, when they say --
10 I have asked, and one of my other colleagues has asked
11 the Commission, since Hunt Valley, "Give us a report on
12 jurisdiction so we can see what they're talking about,"
13 because the House Appropriations Committee said, in
14 enacting out appropriations for this year, that our
15 jurisdiction is the same as it has always been, and they
16 don't understand why people keep talking about jurisdic-
17 tion. And, we used to do reports like that, so there's
18 no reason for us not to do them anymore. It also said
19 explicitly that we are to be able to analyze the budgets
20 of federal agencies when they relate to equal opportunity.
21 So, if they can define you, they can confine you. That's
22 what that's all about. So, you have to deal with that
23 problem.
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Now, the other thing that the Commission has done -- now, I've stated their position on these issues. I've told you, groups, intent, victims, and I think I've certainly told you what their position is and I've told you what my own position is. Some other procedural things have happened in connection with, and I'll get to the comparable work thing and I will tell you how you can do some things, and I'll finish.

Since the new majority took over the Commission, procedurally the Commission is, in my opinion, completely out of control. I've been saying this for a year, and as each day goes by, more things happen to make me believe that. It's one thing to be ideologically committed to a point of view; it's another thing to simply ignore procedures that are established for good reason, procedures like fact finding, procedures like recognizing that the Commission is a collegial body of members, each of whom has one vote, and that that is establishing the law. For example, we did a statement, Ramirez and I, on the Memphis firefighters case against Shotz, which was a descending statement. And, my colleagues had their statement printed and didn't have ours printed, and mailed their statement

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2 out to people. And, not only did they do that, a press
3 release was prepared to go out with the statement that
4 we did not see, which quoted us and selectively took
5 things out of our statement to make us appear to be
6 idiots. We never saw that. It went out to the public
7 and then, some people wrote to their senators and
8 congressmen, asking why we said such idiot things. And,
9 senators were trying to answer, so they came back to the
10 staff to say, "Well, what kind of an answer?" We weren't
11 even told that there had been an inquiry and would not
12 have known it except we got it from some other sources
13 and had to send people ourselves copies of our state-
14 ment on our own, because they refused to do it and
15 violated the cardinal rule of the Commission, which is,
16 you don't quote Commissioners and send out statements
17 that they are supposed to have made without letting them
18 read it. It seems to me, it would be just a matter of
19 common sense and courtesy, even if it's not a matter of
20 pride. But, that was done, I think, in order to rein-
21 force certain positions.

22 Press conferences: The Commission just
23 had a press conference or at least the Chairman and the
24 Staff Director did, on Friday, a press conference. It's

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2 the first time, to my knowledge, in the history of the
3 Commission where there was a Commission press conference
4 that Commissioners didn't know about. I found out about
5 the conference on Friday when the reporters called me
6 up and said, "Hey, why didn't you come to the press
7 conference? I understand you boycotted it." I said,
8 "What press conference?" "You know, the press conference
9 they just had." I said, "Well, what was it about?"
10 They said, "It was about comparable worth and pay equity,
11 and they made all kinds of announcements about it," and
12 so on. And, of course, I checked with a couple of my
13 colleagues, at least two of them, and they didn't know
14 anything about the press conference either. Just a
15 complete violation of process.

16 The second violation of process; the
17 Commission does, under fact finding, we do investigations
18 in the field. We do consultations. What that means is
19 some experts coming in and telling us about both sides
20 of the issue. And, then, we do hearings. Hearings are
21 important because any member of the public can come in
22 and make a statement and you can't keep them from coming.
23 Consultations are controlled things. You can ask cer-
24 tain people to come and nobody else can say anything.

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2 So, one of my colleagues and I got the Commission to
3 agree that we wouldn't make a statement about comparable
4 worth until we did a hearing, because I thought it was
5 important, on an issue like this, for everybody to have
6 a chance to come in and say anything they wanted to say
7 about it; not just pick a group of people. We had a
8 consultation. The people who came were picked as they
9 normally are by the staff. Those folks came and talked
10 to us. The consultation papers are printed. Usually,
11 what we do is always just release them without press
12 conference or anything; just send them out. They're
13 just papers that are background papers. The press
14 conference on Friday was ostensibly called to release
15 the consultation papers. That was the purpose of it.
16 We had a meeting the first week in November, the Com-
17 mission did, and no one said anything about there being
18 any press conference. There wasn't any suggestion there
19 would be one, any query or anything about a press con-
20 ference. There's no urgency about issuing consultation
21 papers. They can go out any time. So, this press con-
22 ference was obviously designed, and I base that on the
23 circumstantial evidence of what happened, it was de-
24 signed for one purpose we know, which is to have a press

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2 conference to which Commissioners like myself wouldn't
3 be able to come. I know that, because they didn't tell
4 me about it. I can draw that inference, I think, in all
5 honesty and all candor. It was also designed to make a
6 statement about comparable worth before the Congress
7 comes back to deal with the issue and before the Com-
8 mission has finally voted on the issue and in a context
9 where people like myself wouldn't be able to say any-
10 thing to the press about what was being said or to point
11 out the procedural violations involved in what was being
12 said, since it was premature to be saying anything. We
13 can at least assume that, and it may surprise you that
14 the position on comparable worth that Mr. Pendleton and
15 Ms. Chavez announced is exactly like the Administration's
16 position on comparable worth. Now, I'm sure that sur-
17 prises you. I don't know where we will come out on
18 comparable worth. I've been to a lot of conferences on
19 pay equity and I do think that if we can determine that
20 there are people who are being paid unequal pay for work
21 that the employer has determined is of the same value to
22 him or her, just because of their sex or their race or
23 something, it is a problem that something needs to be
24 done about. But, there are sticky issues related to it,

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2 like how much will it cost and where is the money coming
3 from. Does Congress need to pass another law to do
4 something or can we do it under Title 7? What would be
5 the effect on private persons? There are all kinds of
6 issues about transitional issues and things like that
7 which you would hope that a Commission on Civil Rights
8 would deliberately and judiciously consider before it
9 made some kind of a statement, and I would hope that
10 we would, and I'll be prepared to make a statement about
11 it, already understanding that my colleagues have
12 already said how they felt. Mr. Abrams said how he
13 felt about it, and Ms. Chavez says already, even though
14 she's not a Commissioner, she might as well be I guess.

15 Now, how do you do your jobs in this
16 context? How do you do what you have to do? Remember
17 that you are going to be faced with that word jurisdic-
18 tion all the time, in the short run, so you should be
19 very careful to explain in writing your jurisdiction in
20 terms that sound like something they would say was
21 jurisdictional. And, that doesn't mean they won't turn
22 it down; it just means that they'll have a harder time
23 turning it down. You have to be wary. Rather than
24 regarding the Commission members as people you're working

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2 with, regard them as adversaries because of what they're
3 trying to do to keep you from doing anything on anything
4 that you think is important. So, you have to define it
5 in terms that may get by them. Good lawyers can always
6 characterize a problem in some terms -- whatever terms.
7 And, when you identify issues, keep in mind that you're
8 doing that. But, you should not, you should not give
9 in and refuse to do work on the issues that are impor-
10 tant to the people in your state just because these
11 people don't want you to do it. You would be better off
12 to propose it and have it rejected than to simply say,
13 "Well, we won't do anything that they, in fact, don't
14 want done," because if you do that, it means you are
15 accepting a limitation on civil rights, which would be
16 a historic thing for you to do and it would be negli-
17 gence on my part -- on your part, I believe, and I think
18 it would be counterproductive for you to do that. In
19 other words, you have to keep on fighting while you're
20 doing that.

21 And, in the meanwhile, we have the Civil
22 Rights Act of 1985 coming up as a major substantive
23 issue. The Civil Rights Act of 1984 was defeated in
24 the Senate. The Staff Director, the general counsel and

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2 staff at the Commission who are their appointees, helped
3 to defeat the bill in the Senate. And, that might sound
4 strange to you, but it's true. They, in fact, prepared
5 all kinds of analyses for those who were opposed to the
6 bill and helped to defeat the Civil Rights Bill. It's
7 the first time in the history of the Commission that the
8 Commission helped to defeat a civil rights law. Folks
9 will be back to help defeat it again, so you're going to
10 have to work really hard in your state.

11 The peculiar thing about the defeat of
12 the Bill, and it tells us about the climate, the climate
13 in 1984 and 1985, is that serious arguments were made in
14 the Senate openly, and in the Commission and by the
15 Staff Director, that what was wrong with the Civil Rights
16 Act of 1984 is that it would violate states' rights,
17 states' rights, because it would prevent states from
18 doing whatever they wanted to do to women, blacks, handi-
19 capped people, and so on, while they were getting federal
20 money, and it would violate the rights of individuals to
21 discriminate while they were getting federal money and
22 that was too intrusive.

23 Now, if that had been in 1962 or '3, and
24 somebody said, "We don't want to pass the Civil Rights

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2 law because of the states' rights might be interferred
3 with." We will all remember that that's what the whole
4 struggle was all about, that states aren't supposed to
5 discriminate against people while they're getting federal
6 taxpayers' money. That was the heart of the matter, and
7 that individuals have no right to get federal taxpayers'
8 money that all the taxpayers pay for and then, to engage
9 in certain behavior and claim that they have a right to
10 do it, because it would be too intrusive for anybody to
11 tell them to stop. But, in 1984 and '85, we're con-
12 fronted with those arguments and they're taken seriously,
13 and those arguments can kill the issue, so we're going
14 to have to work very hard to keep the gains that have
15 been made and not continue this retrogression. And,
16 ultimately, I believe, if the Civil Rights Commission
17 continues on the path that it is on, I believe it will
18 be abolished and there won't be any Civil Rights Commis-
19 sion. I think that the Congress is in a very different
20 mood, many of the members who were elected, than some
21 of the folks who are in the Administration. And, while
22 people in the Administration might think it's cute for
23 the Commission to go around doing all this and trashing
24 civil rights, there are a lot of people who don't think

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2 it's cute and who don't believe that the taxpayers'
3 money ought to be spent to support an institution which
4 doesn't even behave in a judicious, deliberative way,
5 whatever the outcome of the thing is. So, I think, in
6 time, it will change or something else will happen.

7 Thank you, very much.

8 (Applause.)

9 THE CHAIRPERSON: Thank you. You're going
10 to get more of that. (Laughter.) Dr. Berry will take
11 questions, but before that happens, number one, I would
12 like to welcome Committee Member Emily Morris, who has
13 just come up from Dover, and note that she has joined us.

14 I also would like to note that among our
15 guests is Didi Connor, who is a former member of the
16 Committee and served as Chairman for several years dur-
17 ing the desegregation process, and we miss her very
18 badly. And, I would like to note our staff from Washing-
19 ton that's attending, and that's Pete Tachs, who is
20 Deputy Director for the Mid Atlantic Region office, and
21 we are a part of that region. Our region includes
22 Maryland, Pennsylvania, Virginia, West Virginia and the
23 District of Columbia, and our very, very, very excellent
24 staff person, the field rep, Tino Calabria, who carried

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the major burden of getting this event together, and Barbara Stafford, who is a secretary that has come up to help with the registration.

I hope that you have all left your name and address, and if you haven't, please do so, because we'll probably be able to get the infamous transcript from the consultation on pay equity and comparable worth to you. I attended that conference for two days and it was very educational. We heard many of the same arguments that go back to slavery about not being able to do anything now, because it would cost too much. But, I'll let you make your mind up after you've read the arguments pro and con.

At this point, our staff deputy director and our field rep are at the door. Please, put up your hands, Tino and Pete Tachs. Thank you, very much.

(Applause.)

THE CHAIRPERSON: At this point, we're going to go into the respondents' views, how Delaware is faring and what they see as problems that the Civil Rights Committee should be dealing with. And, then, of course, you'll get your chance to talk about issues that maybe they haven't brought up, besides asking Dr.

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2 Berry and the panel questions.

3 At this point, I'd like to start with
4 Sherrie Blatt and we'll go down the list, as I suggested
5 before, Tom Motter second, Msgr. Reese and then,
6 Vivian Houghton, and I won't go back to introduce them
7 individually.

8 Thank you.

9 MS. BLATT: I apologize ahead of time
10 for having prepared comments for you, but those of you
11 who know me might affirm to those of you who don't,
12 but if I do it that way, it's much better for you;
13 otherwise, I could talk all day.

14 At the recent summer olympics, among the
15 participants, there was a paraplegic archer, a deaf
16 swimmer, a quadraplegic announcer. There's a profession-
17 al ice hockey player who is deaf and a comedic actress
18 who has cerebral palsy. The handicapped are coming out
19 of the closet and it is due largely to the civil rights
20 legislation and decisions of the Sixties and Seventies.
21 Legislation for decisions and administrative policies and
22 advocacy for the rights of handicapped Americans has led
23 to better opportunities for education, employment and
24 independent living capabilities within the community.

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2 The Seventies particularly saw increasing
3 opportunities for the handicapped to reach their full
4 potential within the sphere of the nonhandicapped. Un-
5 fortunately, the Eighties have seen one attempt after
6 another to limit the opportunities for the handicapped.
7 Let me list just a few of the attempts.

8 Until the education for all handicapped
9 children, which is known as PL94142, was passed by
10 Congress, it was legal to refuse some handicapped child-
11 ren admittance to public schools. PL94142 now entitled
12 all handicapped children a free education appropriate to
13 their individual needs no matter how disabled they are.
14 The direct result of this education is that more handi-
15 capped children are growing into capable, employable
16 adults instead of being warehoused in state institutions
17 at public expense. Even though so handicapped that they
18 require full-time care as adults, require less intensive
19 care because of the education they have received. This
20 education is expensive for the state and local school
21 agencies, but it is cost-effective when the final pro-
22 duct, a well-educated, independent adult, does not re-
23 quire institutional care or becomes gainfully employed
24 and paying taxrs. Yet, President Reagan has targeted

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2 PL94142 for significant cuts in the protective regula-
3 tions, which are the heart and soul of the legislation.

4 First, he tried to abolish the regulations,
5 but Congress rejected the President's proposal. Then,
6 he tried and is now trying to do it one piece at a time.
7 The President has drastically cut funding for this Act
8 during his first term in office. What does he plan over
9 the next four years? We must remain on guard lest the
10 President and his administration attempt to further
11 erode educational opportunities for handicapped children.

12 In March of 1981, disabled persons on
13 Social Security disability were subjected to accelerated
14 reviews on eligibility. New eligibility criteria were
15 used and the handicapped were asked to prove that they
16 were so disabled as to be unable to hold any job, even
17 a telephone clerk's job, even if no such job were avail-
18 able. The result was five hundred thousand people had
19 their benefits terminated. The cuts and the criteria
20 for such cuts were so blatantly wrong that virtually
21 every Federal Appeals Court that has heard the question
22 has ruled that the Reagan administration terminations
23 were illegal, and the governors of twenty-nine states
24 refused to allow their state agencies to terminate

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2 beneficiaries from the disability roles. Under Con-
3 gressional pressure, the Department of Health and Human
4 Services declared moratoriums on further terminations,
5 but five hundred thousand people had their benefits
6 terminated and each one must appeal his or her termina-
7 tion individually. Many of those whose benefits were
8 terminated were mentally ill or retarded and are the
9 least able to appeal their case. What will the future
10 bring? We must be on guard against similar actions by
11 the current administration against the handicapped.

12 Section 504 of the Vocational Rehabilita-
13 tion Act says, in simple English, that recipients of
14 federal funds must make reasonable accommodations to
15 hire the handicapped and be accessible to the handi-
16 capped. Vice President Bush's task force on regulatory
17 reforms recommended new guidelines which would narrow
18 the scope and effectiveness of Section 504, condition-
19 ing the extent of accommodation that must be made on the
20 potential contribution a disabled person would make to
21 society. Who is to judge such a thing? Am I less
22 worthy of a job because I am deaf and need an interpreter
23 than someone who is an amputee and needs little other
24 accommodations? While the administration has backed

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away from this guideline, they are not actively enforcing existing 504 regulations. We must be on guard against this and other activities to lessen opportunities for the handicapped.

In short, the long struggle for the civil rights for the handicapped is not over as long as federal policy assumes such hostile attitudes to the disabled. The handicapped don't want a free ride; we just want to be able to get on the bus. What we must do over the next few years, over the next few months, and even the next few weeks is immediately address those issues that are important to you. Write, contact your legislatures, contact the Civil Rights Commission, contact the President's office, for whatever good it will do. At least, you're on record. But, work actively and visibly for those things that are important to you or they're going to be eroded away.

Thank you.

(Applause.)

MR. MOTTER: Good morning. My name is Thomas Motter. I'm an attorney with the Senior Citizens Legal Assistance Program, which is a state-wide program here in Delaware, operating out of the Community Legal

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2 Aid Society offices.

3 To give you a little background about
4 myself, I know you have the biographical information,
5 but so that you will know exactly where I'm coming from
6 on this stuff. I have worked with the Legal Services
7 office here for the last four years, the first two years
8 in housing and the last two years, I've been doing the
9 senior citizens work. So, in the areas that are being
10 discussed today, I do have some experience locally.

11 It's nice to be able to come on a panel
12 in which you're asked to respond to comments from the
13 federal programs and not have to make a rebuttal type
14 of a response. I think we're all pretty much in agree-
15 ment with Dr. Berry as to what the problems appear to be
16 at present, and I think we're probably pretty much in
17 agreement as to where we need to go with them. That
18 doesn't mean they're not problems and it doesn't mean
19 they're not severe problems.

20 I would like to talk first a little bit
21 about some of the age issues that have been alluded to
22 here and even discussed a little bit, but to go into
23 them with a little more particular respect to the
24 local problems in Delaware.

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2 First off, I would like to talk about the
3 Age Discrimination in Employment Act in that I think
4 there are some recent changes in that area since about
5 1980, 1981, which severely limit one's ability to pursue
6 and prosecute a discrimination complaint in this area.
7 To give you just a very brief understanding of what's
8 required in the Act and the way it's been interpreted
9 by the courts, a plaintiff must first make out what we
10 lawyers call a prima facie case. You have to establish
11 the basic elements of a discrimination case, prove that
12 you are a member of a minority group, that you are
13 qualified for a job, that you were rejected from that
14 job or possibly terminated from that job, and that a non
15 -- either a nonminority group person was hired or some
16 other minority person was hired, but at a later date.
17 In other words, you were rejected improperly at the out-
18 set.

19 Once a plaintiff makes that kind of
20 showing to a court, the burden shifts then to the
21 defendant, usually a company, to rebut the presumption
22 of discrimination which is shown by those facts. What's
23 required, there is that the defendant produce evidence
24 that the decision to either reject the applicant or

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2 terminate the employee was based upon a legitimate,
3 nondiscriminatory reason. But, and this is the big
4 "but", the defendant no longer needs to persuade a
5 court that it was actually motivated by the reasons
6 which it gives to that court. In other words, if an
7 employer can walk into a court and say, "These are the
8 reasons why I may have decided the way I did," if any
9 one of them is an agreeable, acceptable reason, there's
10 a finding of no discrimination, even if that was not
11 the reason for the action by the employer. This goes
12 to what Dr. Berry was referring to as the intent problem
13 in the discrimination laws. If you cannot prove that
14 the employer intended to discriminate against you as an
15 individual, you will not get relief.

16 As you can see from that, it's pretty
17 easy, I think, for employers to come up with some
18 supposed reasons why they couldn't or didn't hire this
19 particular individual and not really have to worry about
20 being called on the carpet, so to speak, before a court
21 and found liable for that kind of conduct. What that
22 means, really, is that the burden shifts back to the
23 plaintiff to prove that there was discrimination. In
24 fact, and not -- it does not require the employer to

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2 show that he or she or it did not discriminate. Cer-
3 tainly, a plaintiff can try to prove that the reason
4 given by the employer was simply a pretext, that it was
5 not, in fact, the actual reason, but think about it for
6 a minute. Who has that evidence? Who has the facts
7 to either prove or disprove discrimination? It's going
8 to be all with the employer.

9 So, it's basically a very, very uphill
10 battle at this point for anyone to prove discrimination
11 in the Age Act.

12 I recently attended a conference in
13 Philadelphia on this issue and I was, frankly, astounded
14 to learn from private attorneys who have historically
15 built practices around these kinds of cases, to find
16 that now it costs upwards of a hundred thousand dollars
17 to litigate one of these cases. That pretty much begins
18 to preclude lawyers taking these cases. They're not
19 going to spend their attorney time and the resources of
20 their firms in cases which will drag on for years;
21 first through the administrative process and then,
22 through the court process, to maybe at the end finally
23 get some relief. They simply can't afford to carry
24 cases that cost that much to litigate. So, what you're

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2 finding is a lot of the private firms that traditionally
3 have done these kinds of cases, are beginning to pull'
4 back. They're beginning to stop doing them. They'll
5 only take the ones that they're absolutely positive are
6 solid as a rock and that they're absolutely going to
7 prevail on, because they just can't afford to take the
8 chance that they might lose.

9 The costs, supposedly have risen primarily
10 as a result of the administrative hurdles that one has
11 to overcome in the Equal Employment Opportunity Commis-
12 sion, which, as you probably know, is similar to the
13 Civil Rights Commission that deals specifically with
14 employment discrimination issues.

15 I would like, from a Legal Services
16 standpoint, to also point out there have been some
17 Legal Services programs that have done cases like this
18 in the past. In fact, there were attorneys' fees that
19 could be obtained; however, there recently have been
20 changes within the regulations which govern Legal Ser-
21 vices offices nation-wide such that it makes things
22 more difficult to, number one, get attorneys' fees, which
23 makes it difficult, again, to these cases because of
24 the time and effort involved, and secondly, because

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2 there are really severely, now limiting class action
3 lawsuits. These cases are often tried as class actions
4 when you're dealing with very large corporations or
5 companies. That is the most efficient way to litigate
6 a case of that nature. So, you're finding that, perhaps,
7 the few cases that Legal Services could get into pre-
8 viously, again, they're cutting back and unable to do
9 those because of limitations in the regulations and
10 because of strictly financial limitations.

11 With respect to affirmative action in
12 this area, again, Dr. Berry discussed the -- what she
13 called the actual victim argument where you have to prove
14 that you were personally discriminated against if you
15 want to get some kind of relief in the courts these
16 days. That view of the United States Government is
17 kind of a derivation of a Supreme Court decision that
18 came down this summer. It was a June, 1984 decision,
19 Firefighters Local Union Number 1784 versus Stotz,
20 referred to as the Stotz decision. That was an Age
21 Discrimination in Employment Act case. What was held
22 in that case was that the court would not award relief
23 to an individual member of the disadvantaged class
24 without a showing that the discriminatory practice had

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2 an impact on that individual. In that case, what was
3 involved was layoffs. There was a fire company which
4 was having to lay people off because of some financial
5 difficulties. There had previously been negotiated a
6 consent decree based upon a lawsuit under which white
7 employees who had seniority would have to be laid off
8 prior to more recently hired blacks. As I say, this
9 was based upon a discrimination lawsuit which was
10 settled out of court. There was a consent decree,
11 everybody agreed, this is how layoffs will happen if
12 and when they have to happen in the future. The future
13 came along, it was time for the layoffs, the firefighters
14 started laying off according to the consent decree.
15 There were some disgruntled white employees of the
16 union who filed lawsuits, and the United States Govern-
17 ment supported their position that they could not be
18 discriminated against in favor of the more recently
19 hired blacks, because those particular blacks could not
20 show that they individually had previously been dis-
21 criminated against.

22 What the Government has done with that
23 decision is take it, I think, a quantum leap forward
24 from there to say that not only -- this was a very

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2 limited decision by the court in an age discrimination
3 case. The Government took that and just broadened it
4 across the board to come to the position that now they
5 are saying, there cannot be promotion quotas whatsoever
6 for individuals who have not personally been identified
7 as victims of discrimination in the past. Well, you
8 can imagine what that means. It's very, very difficult
9 for any one individual to prove that he or she was or
10 was not discriminated against. The historical patterns
11 are such that whole classes of people are discriminated
12 against and you try to get relief for the group, and
13 individuals may benefit within that in the future who
14 were not part of the past or down -- being discriminated
15 against in the past. It just really, really cuts back
16 and limits any possibility for someone to go either
17 into court or to even try to set up or negotiate some
18 kind of system with a company that's going to benefit
19 minority groups at the expense of the senior persons
20 who have been there for years and years.

21 These are major changes from past civil
22 rights decisions and laws, and they're all coming down,
23 unfortunately, within the last few years, it appears.

24 Moving off of this subject into something

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2 which is a little more local, something that I feel very
3 strongly about and one of the reasons I wanted to speak
4 here today; there is a problem right now in Delaware
5 with nursing home admissions. I have represented clients
6 who find it virtually impossible to get into a nursing
7 home in Delaware under Medicaid. If they are a Medicaid
8 recipient and they do not have what now amounts to two
9 years of private pay money; in other words, if they
10 can't put up two years worth of funds to a nursing home,
11 which runs somewhere in the range of about twenty
12 thousand dollars a year, by the way, if they can't put
13 up that kind of money up front, the nursing homes won't
14 take them, even though they are eligible and qualified
15 and receiving Medicaid assistance.

16 This is blatant discrimination. This is
17 illegal. What can you do? The remedy is a possible
18 lawsuit, which, obviously, for a person that's possibly
19 lying in a hospital bed, very, very ill, unable to do
20 much for him or herself and oftentimes, even unable to
21 understand what is involved in all of this, the possi-
22 bility of remedying these kinds of problems with law-
23 suits just is not realistic. This is my experience as
24 an attorney in this area.

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2 I talk to clients all the time who know
3 that they are being discriminated against. They know
4 it's illegal and it's too much for them to consider
5 taking on the bureaucracy of the state or the government.
6 They view this government as an all-powerful type entity,
7 and they're saying, "Well, if this is the way it is,
8 there's nothing I can do about it." What's happened is
9 some creative individuals try to get these people in
10 elsewhere, perhaps, and they will either possibly go
11 down state very far, where things are a little more
12 reasonable or to Maryland or Pennsylvania, where they've
13 got better Medicaid systems functioning under which
14 people can get into a decent nursing home under that
15 kind of pay. I know, it's probably a result of a lack
16 of bed space. There aren't enough nursing home beds
17 available, but it is a problem with the reimbursement
18 rate, and I think that's where the primary problem lies.
19 The nursing homes know they're only going to be reim-
20 bursed a portion of their cost for taking care of the
21 individual out of the Medicaid funds, and that's under
22 a system that is set up by the State of Delaware. The
23 State of Delaware has had the opportunity to look at
24 what other states are doing, such as Pennsylvania and

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2 Maryland, which gives a more realistic reimbursement
3 rate. There have been studies and proposals for the
4 last three, four years. There's some huge studies
5 citing the problems, recommending remedies, and they
6 just get plopped into a file drawer somewhere and
7 ignored. Nothing has been done.

8 Something is going to have to be done
9 very soon, I can assure you. This will not last long
10 without people getting very, very upset and eventually,
11 you may find someone, possibly, even bringing a lawsuit
12 against the State of Delaware and possibly, half the
13 nursing homes and half the other people are powers that
14 be around. It shouldn't be necessary. All it takes is
15 a little foresight. You sit down and you look at the
16 resources that are available. The State of Delaware
17 is in a pretty good financial position. There is money
18 that could be used for this kind of purpose, and where
19 better to spend it than in caring for our elderly in
20 that area.

21 The health care cost is, of course,
22 something that ties in with this. It's a national
23 problem and is going to have to probably be addressed at
24 a national level. But, it is something that may not be

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2 what some persons view as a definite civil rights type
3 issue, but I think it's going to be seen as one in the
4 near future.

5 Another kind of related subject in this
6 area is Social Security. Again, here, I would like to
7 speak a little bit from a local perspective, although
8 this, obviously, is also a national problem. The
9 denials and terminations of Social Security, particularly
10 in the disabilities area, has just gotten totally out of
11 control within the last few years. In fact, there re-
12 cently have been Federal Court injunctions preventing
13 continued terminations of Social Security disability
14 recipients by the Government. What's been happening,
15 I was involved in a case recently. We did get a favor-
16 able decision out of Federal Court a few months back in
17 which we represented an elderly gentleman who was re-
18 ceiving Social Security disability, and had been for a
19 number of years, who was just terminated. He received
20 a notice in the mail, "You are not a disabled individual.
21 You are no longer entitled to Social Security benefits."
22 That's it, cut it off. Well, there's an administrative
23 appeal process, there's many steps that you go through,
24 and normally -- and our experience has been, you've got

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2 to get to the level of having an independent judge sit
3 down and look at the facts of that case before you're
4 likely to get sufficient relief.

5 In the case that I'm referring to, they
6 were saying that the gentleman had improved since he had
7 been found to be disabled five years earlier. There was
8 absolutely no medical evidence to support that conclusion
9 whatsoever. All the medical reports were saying, he
10 was the same in almost every area and worse in a few.
11 And, yet, what happens, they say, "You've improved.
12 You're terminated." He's got to go through the effort
13 of finding an attorney, appealing that decision several
14 times, by the way. It was appealed first from the ini-
15 tial decision to the administrative, the next adminis-
16 trative step, turned down again, appealed to an adminis-
17 trative law judge, turned down again, appealed to the
18 Appeals Board, turned down again, and finally, into
19 Federal Court and in Federal Court, the judge says,
20 "This is outrageous. There's no improvement, remand,
21 and you get your relief." But, you've got to go through
22 all those steps. You've got to go to all that effort to
23 get something which should be a basic right. I mean,
24 the person paid into Social Security for years and years.

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2 He became too disabled to work. He was given his bene-
3 fits, and all of a sudden, the Government comes along
4 and says, "Well, we're trying to slash the fraud and the
5 fat out of these programs and you're one of those people
6 that is a fraud and you're being terminated." It's
7 gotten -- it's really gone far along the way in that
8 direction. I've seen some statistics showing that as
9 high as eighty per cent of terminations are being
10 reversed by judges. These may not be civil rights in
11 the strict definition of the sense, but what affects
12 a senior or an elderly person more than starting to
13 cut programs like that that they've paid into for
14 years and years and thought that when they got to that
15 point in life where they would no longer be able to
16 work, that there would still be some income coming in
17 to them.

18 I'm going to branch out a little bit at
19 this point and talk about some of the broader issues that
20 I see from both the national perspective and locally,
21 in the area of civil rights. In the area of housing,
22 which is another area I am fairly familiar with, I,
23 frankly, am very unhappy about the development of the
24 voucher system for public assistance. The administration

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2 has gone from a position of trying to provide decent,
3 affordable housing to low income persons, to one of
4 saying, "We'll give you 'X' dollars per month and you
5 take that and do with it as best you can in the private
6 housing market." In Delaware, the vacancy rate in rentals
7 for the last several years has been something less than
8 three percent. Three to five percent is considered semi-
9 tight to somewhat available housing in that area. We've
10 been as low as below two percent for a number of years.
11 It's virtually impossible for someone of limited means
12 to walk out and find a decent place to rent in Wilming-
13 ton or New Castle County, where the State of Delaware
14 is generally. The voucher system is a method of the
15 Government removing itself from providing assistance in
16 this area, from providing housing and being responsible
17 to ensure that people can live in decent conditions even
18 if they don't have a lot of money. It's removing that
19 commitment to people and saying, "Well, you're just like
20 anybody else. Sure, you have some financial difficul-
21 ties, we'll give you a little bit of money and you do
22 what you can with that." Well, they're just going to
23 be subject to the abuses of unscrupulous landlords, and
24 having done landlord-tenant work for a couple of years

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2 in a Legal Services office, I can tell you, those abuses
3 are rampant, and they're rampant right here in Wilming-
4 ton and right here in New Castle County.

5 Moving from that, a couple other areas
6 that I just want to briefly mention as areas I see
7 problems in are, one, being the position of the Govern-
8 ment recently that it would like to support funding
9 for colleges and institutions which have clearly, in
10 the past, been found to discriminate in both their
11 admissions policies and in other areas. I think this
12 doesn't even hardly need to be commented on. It's just
13 so blatant a reversal of prior Government positions
14 and I think what should be the decent standard that one
15 would apply in a case like this. The funds have been
16 slashed to student financial aid programs. This is
17 something that I think a lot of people kind of look at
18 and say, "Well, yeah, but those programs, they go to a
19 lot of real middle income kind of individuals." Well,
20 they really don't. They had, years ago, cut back the
21 wide availability of those programs when almost anyone
22 could get student aid, and they made it a low-income
23 program. It functioned very well. There have been
24 studies to show the abuses in that area were minimal,

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2 and it's just something, if you cannot educate and pro-
3 vide for the education of your disenfranchised and your
4 downtrodden youth, what is the future? The only way to
5 improvement is education, and slashing this area is
6 going to have an effect for years and years in the
7 future. And, frankly, I speak from personal experience
8 in this regard. I was from a fairly low-income back-
9 ground, very large family. I would not have made it
10 through college, let alone to law school and through,
11 without the benefit of those kinds of financial aid
12 programs. I'll be paying them back for years to come.
13 I do pay them back, but the programs were there for a
14 reason and are there for a reason, and to slash those
15 kinds of programs, I think, is simply outrageous.

16 The final specific program area I would
17 like to talk about is, of course, one very close to my
18 heart, that being Legal Services. There have been
19 slashes in both funding and as I mentioned previously,
20 in restrictions upon what kind of work Legal Services
21 attorneys can do.

22 Legal Services attorneys historically
23 have taken the lead in the kinds of cases that affect
24 the issues we're talking about here today. Fair housing

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2 laws, discrimination in education laws are all ones
3 which Legal Services have fought for and have fought to
4 have implemented throughout the country over the years.
5 It's an effective approach, I think, and it's one that
6 I think people should recognize, that if you eliminate
7 the funding or severely reduce the ability and the options
8 that attorneys have in representing their clients, you
9 then can very easily move from that to beginning to
10 eliminate those clients programs that benefit them with-
11 out having their lawyers constantly hitting you over the
12 head, saying, "This is illegal. You can't do this,"
13 bringing lawsuits and stopping those kinds of cuts. I
14 think it's a smart move, frankly, to look to the elimi-
15 nation of Legal Services from the perspective of the
16 very conservative. If you take away their lawyers, you
17 can start to take away everything else and there ain't
18 anybody that's going to stand up and scream for them,
19 or those that are standing up and screaming aren't able
20 to do it with the kinds of clubs and bats that you need
21 to achieve some effective results, that usually being
22 litigation and lawsuits.

23 I would just like to wrap up by being a
24 little general and asking, what is the purpose of

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2 Government? It seems to me that things are going in a
3 direction, in allowing obscene levels of profit-making
4 without any kind of societal obligation whatsoever,
5 playing to the greed in people and this whole self-
6 actualization concept of what's best for me, you know,
7 are you going to take and tax me? You know, can I do
8 what I need to do? We're living in the greatest country
9 on earth. We have the most resources. We're the most
10 technologically advanced country. If we cannot provide
11 for our poor, what good are we? We must be able to
12 provide certain minimal standards of living, certain
13 basic necessities to our poor, our needy and our
14 oppressed, or we've simply become bankrupt as a society.

15 Thank you.

16 (Applause.)

17 MSGR. REESE: In listening to Dr. Berry,
18 I was reminded of Alice in Wonderland, and in looking
19 at what's happening in our country, one can hardly
20 escape, the way we've turned things all upside down.
21 You can imagine a situation in which consistently the
22 present administration has appointed people to head
23 programs that they oppose. The most dramatic is the
24 environmental situation with James Watt. He was out to

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2 scuttle that program, to dispose of millions of acres
3 of park land, to prevent the groups that were interested
4 in environmental improvement from being effective,
5 and we put up with it for three years.

6 The scariest part of Dr. Berry's presen-
7 tation is her reference to the process that's being used
8 and the difficulty of doing anything about it; also, the
9 way some of the issues are framed. Now, we know that
10 as far as racism is concerned, it's not an individual
11 thing, basically. It's engrained in the society, the
12 institutions. It's very much a social thing. And, if
13 the matter of determining discrimination becomes purely
14 an individual process, it misses the whole point. I
15 don't know what the answer to this thing is. I had
16 hoped that the American people would be sufficiently
17 outraged earlier this month to do something about it,
18 but apparently, their toleration level is beyond belief.

19 There is, however, if you look at it
20 from a long-range point of view, a kind of a pendulum
21 effect, and I think, at this point, we're at the end of
22 an extreme swing into selfishness. My God, when you
23 have the slogan for a presidential election, "Are you
24 better off now than you were four years ago," a blatant

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2 appeal to selfishness. Forget the common good, forget
3 any of the things that have been so much part of our
4 history and our tradition. Granted, our country is not
5 perfect and initially, when we declared our independence,
6 you know, we declared, all people are created equal, and
7 then it took years and years, generations to get black
8 people even free. It took many more years to get women
9 to the point where they could vote. But at least we
10 had some principles that we were committed to and
11 given the time, eventually, we could achieve them.
12 But what we're experiencing now, it seems to me, is a
13 repudiation of some of the basic values on which our
14 country is founded. And, it seems to me that in the
15 last several years, we've had a giant step backward,
16 away from the progress that we've made in some instances
17 through great pain and great effort over a period of
18 many years. And, my only hope is that the American
19 people will have enough commitment to the values that
20 our country stands for to force the politicians to
21 embody those values in the decisions that they're making.
22 I think -- I've seen many instances in which when people
23 have been outraged by an injustice and make their feel-
24 ings known, changes are made. And, I think one of the

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2 problems today is that we as a people, our sensitivity
3 to justice has been so deadened that we don't raise hell.
4 And, as long as we don't, these kinds of things are going
5 to continue. And, I just hope that as a consequence of
6 people knowing what's happening and people like Dr.
7 Berry sharing with us what's happening, the consciousness
8 of our people will be raised and we'll get indignant
9 about some of these things and get back on the track
10 again, trying to make this country a place of justice
11 and peace, and a place where all people's rights are
12 respected and where you don't have to go through all
13 this hairsplitting and so forth, as Tom was talking
14 about, in order to secure rights.

15 I think that without a commitment on the
16 part of people generally, without a participation in
17 the political process, we're going to have a terrible
18 time, much worse than we have now, and I just hope that
19 our people will wise up and make a new commitment to
20 what we stand for as a people and be vigilant in ful-
21 filling our responsibility to one another so that we'll
22 have a land where justice will prevail.

23 Thank you.

24 (Applause.)

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2 MS. HOUGHTON: The wage gap between men
3 and women is the most persistent system of sexual
4 inequality in the United States today. And, what is
5 the result of that? In large part, this wage gap has
6 contributed to the term which we know today as the
7 feminization of poverty. And, what is the feminization
8 of poverty? It is that the majority of poor people in
9 this nation are women and an even crueller fact is that
10 that percentage is getting larger and larger.

11 Women who work outside the home earn
12 sixty-one point seven percent for every dollar earned
13 by male counterparts. State and local governments earn
14 seventy-one percent, women there earn seventy-one percent
15 there for every dollar a man makes. In Federal govern-
16 ment, sixty-three cents to every dollar a man makes.
17 In the private sector, women earn fifty-six cents for
18 every dollar a man makes. Now, the difference between
19 the private sector and the public sector is usually the
20 public sector is unionized and women traditionally make
21 higher salaries where there is a union.

22 Now, the status of employed women, this
23 is not anything new, the status of employed women has
24 remained essentially the same since 1930. This is with

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2 Title 7, the Civil Rights Act of 1964, the Equal Pay
3 Act of 1963, Title 9 of the Education Act, all federal
4 acts to eliminate sex discrimination. So, what's the
5 problem? Does the gap exist because women have less
6 education than men? No. Statistics prove that on the
7 whole, women have the same amount of education. Is it
8 because women interrupt their careers to have babies
9 and raise families? In small part, yes, but not large
10 enough to be responsible for the large wage gap. Is it
11 because women choose to work in low-paying jobs? Well,
12 that's pretty ideological and we're going to discount
13 that one. Is it because women are not as committed to
14 the labor force as men are? Wrong. Women are as com-
15 mitted and are entering the labor force in huge numbers.
16 So, what is the problem? What is the cause of the wage
17 gap, and more and more counties and states are beginning
18 to study this. The National Academy of Sciences, in
19 1981, had come up with the following hypothesis: Women's
20 work is undervalued and underpaid deliberately, and
21 women have been segregated in the work force. The more,
22 they said, an occupation is dominated by women, the less
23 it pays. And, ladies and gentlemen in this audience,
24 I'd like to tell you that whatever words that you hear,

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2 comparable worth, pay equity, whatever the fashionable
3 words are, intentionally job segregated and wage fixing
4 is illegal sex discrimination under Title 7 of the Civil
5 Rights Act of 1964.

6 What has happened over the years which
7 even predates the Equal Pay Act, Title 7, is that there
8 have always been practices here in the United States
9 that told women where they were to work. You had the
10 help wanted ads; help female, help male. You were told
11 where you were going to work and it's only been in the
12 Seventies here in the State of Delaware in newspaper ads
13 where that has just been eliminated, but remember, this
14 practice has been a long-lived one.

15 We've had protective labor legislation
16 that although it's outlawed by Title 7, the point is
17 those practices have been carried on from employer to
18 employer and we're told where we can work. And, the
19 result of that is, is that women have been job segregated
20 in a very few percent of all the available job positions
21 that exist in the United States.

22 It's become a Catch 22. Women's work,
23 historically, has been paid poorly, because women were
24 doing it, and women work for less because they cannot

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get more. But, again, whatever term you want to give it, it's illegal sex discrimination.

Look at the job positions. Ninety-nine percent of secretaries are female. Eighty-four percent of nurses are female. Eighty-four percent of elementary school teachers are female. Eighty-two percent of librarians are female. Household service workers, eighty-three percent female; clerks, eighty-eight percent female. What do they all have in common? They are the lowest paying positions that one finds in the work force.

Now, here in New Castle County, Msgr. Reese, you'll be glad to know, we are raising hell. Through the efforts of the president of County Council, Karen Peterson, a pay equity study has been initiated to look into the job evaluations in county government. Now, later on this afternoon, you'll see her name on the program that she is giving a workshop of pay equity comparable worth. I call it illegal sex discrimination, but she's giving that workshop, and if you can, I urge you to attend it. There's no one in the State of Delaware who knows more about or is as well informed as Karen Peterson.

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2 In the County of New Castle, a pay
3 equity study has been initiated. You've seen a lot of
4 furor over it in the newspapers, and let me give you a
5 little background on why it's important to have this
6 pay equity study. In 1982, in a court case, the County
7 of Washington versus Gunther, the Supreme Court said in
8 that case that the concept of pay equity or comparable
9 worth was encompassed by Title 7. A year later, the
10 Governor of the State of Washington had decided that it
11 was going to look into this wage gap and find out exactly
12 why, in public employment, there was such a wage gap.
13 If none of these other factors of having babies and
14 interrupting your career made that wage gap, he was
15 going to look into it. An independent study was made
16 and jobs were evaluated; not looking at color, not
17 looking at sex of the person who held those positions,
18 but just evaluated the jobs, and what did they come up
19 with? They did come up with illegal sex discrimination
20 in that there was job segregation and because of the
21 job segregation, women were paid lower simply because
22 the jobs were held by women.

23 The State of Washington then appropriated
24 some money to level up the salaries. That governor goes

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2 out; a new governor comes in and that governor decides
3 not to use those monies to eliminate or to level up the
4 salaries. AFSME, the union there, the public union,
5 representative took it to court, and the judge said
6 there, you were aware through this independent study
7 that sex discrimination existed and you did nothing
8 about it. Well, what I'm telling you right now is, it's
9 illegal under Title 7. Not only will you level up the
10 pays, but you will have -- you will come forward with
11 back pay for those people who have been discriminated
12 for some past five years. That is why pay equity study,
13 an independent study, to take a look at all the jobs and
14 to begin to evaluate them, their responsibilities that
15 are entailed, the working conditions, the kinds of edu-
16 cation that's required, and stop looking at that worker,
17 whether that worker is black or whether that worker is
18 male or whether that worker is female.

19 Now, what did we come up with in New
20 Castle County on just a cursory view? I think that it's
21 very poignant, it's very startling to see these are the
22 kinds of things that exist throughout the United States.
23 In New Castle County, Delaware, animal keeper supervi-
24 sors, who are one hundred percent male, make fifteen

1 thousand, one hundred and twenty-two dollars a year.
2 Senior citizen directors, which are a hundred percent
3 female, make thirteen thousand, eight hundred and thirty
4 dollars a year. The work force in the County is seventy
5 percent male and thirty percent female. Now, looking
6 at our State of Delaware and looking at the State
7 employees, the majority is different. In the State of
8 Delaware, we have fifty-six percent female workers;
9 forty-four percent male workers. And, if you take a
10 look at the salary discrepancy, which is very interest-
11 ing, New Castle County pays one-third more than the
12 State does. Again, the more an occupation is dominated
13 by females, the less it pays.

15 Some other preliminary reports have shown
16 that race, too, is being looked at in the New Castle
17 County study. They've come up with assistant cooks
18 and cooks are a hundred percent female. They are also
19 eighty -- assistant cooks are eighty percent minorities
20 and eighty-six percent minorities in both of the cate-
21 gories. And, so, where is the job category, where is
22 the pay? At the very bottom.

23 Now, if we take a look at the job descrip-
24 tions which the County likes to, the way we see it,

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2 likes to compensate the reason it pays certain jobs,
3 certain entry level jobs more than others, let's take a
4 look at the job descriptions. Okay, a cook cooks.
5 That's it. A tree trimmer is an example of a detailed
6 job description. "Entry level, nonskilled. A tree
7 trimmer must use a truck. A tree trimmer must use tools,
8 climb a tree, chop off the branch, take the branch,
9 place it in the truck, drive the truck, dispose of the
10 wood," and the job description is lengthy. But, a cook
11 cooks. Now, let's be fair, folks. What does that
12 senior citizen cook do? That senior citizen cook not
13 only is supervising personnel in that kitchen, not only
14 is working under very unpleasant circumstances when
15 you consider in the summertime, in the heat, next to
16 that stove all the time, a cook in a senior citizens
17 center has got to know something about nutrition. Some
18 of those seniors have problems with the intake of
19 sodium, all kinds of responsibilities involved. You
20 may call her soup ladle and you may call her meat fork
21 a utensil, but it's no less important than those quote
22 "tools" used by the tree trimmer.

23 What I'm suggesting to you is that these
24 are the kinds of subtle ways that we evaluate certain

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2 certain hours. They're kind of their own boss. They
3 all have very agreeable qualities. What is all common
4 and what they all hate is the rotten pay. That's
5 really essentially the problem with blaming the victim.

6 Cost, I think, was very talked about,
7 cost. This country has never subscribed to that we're
8 not going to eliminate or we are not going to tolerate
9 an illegal act, because it costs too much. Let me
10 suggest to you that New Castle County has a good oppor-
11 tunity to cut down on cost. We have an opportunity to
12 level up voluntarily those wages and not be subjected
13 to what the State of Washington cost its taxpayers in
14 being recalcitrant and stubborn about eliminating sex
15 discrimination. We have an opportunity to level up
16 their salaries and not be liable for any back pay. And,
17 if we implement the pay equity study and the job evalua-
18 tions, we will save ourselves some money here in New
19 Castle County.

20 And, then, the last is the free market.
21 It's the going rate. Everybody does it in the past;
22 everybody's paid secretaries a rotten salary, and so it's
23 okay. These practices of paying -- of job segregating
24 women have predated, as I said before, all of these

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2 federal acts. Just because they're wrong means that
3 we should not be committed to the elimination of those
4 wrongs. What it essentially is, folks, is wage fixing
5 and we know it. Following the market is designed to
6 perpetuate discrimination and the Civil Rights Act was,
7 it was to eliminate discrimination.

8 Again, let me leave you with this
9 thought. Opponents will keep talking about this inno-
10 vative, different, wild idea of comparable worth.
11 Comparable worth is illegal sex discrimination under
12 Title 7, so let's get on with it. Let's get this study
13 here in New Castle County finished, implemented, and
14 let New Castle County lead the way for our State of
15 Delaware and other county governments to eliminate sex
16 discrimination. It was Judge Tanner in the AFSME
17 versus Washington case who said, "It's time now, right
18 now, for a remedy," and so, I say the same for New
19 Castle County.

20 Thank you.

21 (Applause.)

22 THE CHAIRPERSON: I spent two days in
23 June, in Washington, for the Commission's consultation
24 on comparable worth, and I've done a lot of reading.

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And, two of the things that stick in my mind is that of the four hundred and seventy job classifications in the Department of Labor's records about occupations, women are clumped in just twenty occupations, and those twenty are all at the bottom.

The other thing that I thought was very telling was the fact that they said that if women's wages stayed the same as they were between '67 and '78, that by the year 2000, the poverty class would be made up of women and children. And, don't tell me we couldn't save a lot of money if we got people off of welfare. So, that's sort of an extra. I'm not supposed to be making comments, though.

If you would like to get a cup of coffee, and I'm going to call you back in five minutes. Our poor court stenographer has been taking this absolutely without a break for a couple of hours and we'll have our microphone on the floor set up so that you can ask your questions and make your statements. Please don't leave.

(Brief recess from 11:41 to 11:50.)

THE CHAIRPERSON: I'd like the responders

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2 to reclaim their seats, if they haven't all disappeared.
3 The only one that I've excused is Msgr. Reese, because
4 he's on his way back to St. Mary's Seminary to teach a
5 class.

6 You have been a very, very good audience.
7 You've listened attentively and I think you've learned
8 a few things. And, I think, by your applause, you also
9 indicated that you support the issues that we're dealing
10 with.

11 At this point, we're going to let you do
12 some work. As I told you when we started out, the Dela-
13 ware Advisory Committee is interested in knowing what
14 members of the community see as problems and what
15 things they think need to be addressed in our own commu-
16 nity. I made a promise to you and that is that our court
17 stenographer, who has appreciated having a few minutes
18 free for his fingers, is in fact, making an official
19 transcript of this meeting which we will deal with com-
20 ing in the next year. So, I make a promise to you that
21 maybe we won't solve your problem and maybe there's no
22 way to deal with it, but it will, at least, be considered
23 in our own forum.

24 So, with that, I open the mike to you.

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2 It's on the floor. There is only thing that it will
3 cost you to use it and that is that you identify your-
4 self. We need that for the transcript and so, I hope
5 that you will give your name clearly. If you're repre-
6 senting an organization and you're speaking as an
7 individual, that's fine. We don't need your organization.
8 If you're speaking as a member of an organization, we
9 would appreciate having that information also.

10 Now, I'm not limiting you to making
11 statements. You may ask questions. I know several of
12 you are burning with a desire to get to Dr. Berry, and
13 she has very graciously agreed to remain with us for the
14 morning session. So, with that, I'll play policeman,
15 if someone cares to come to the front and use the
16 microphone.

17 Yes ma'am?

18 MS...WITHERS: My name is Clinora Hudson
19 Withers. I'm coming as an individual, although I am
20 the Director of Black Studies at Delaware State College.

21 Now, I came here today with the assump-
22 tion that I would hear an emphasis on a particular thing,
23 and I would address that now. The situation seems to
24 be that all of the respondents exude, basically, a

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2 commitment to and subsequently and consequently, an
3 expounded statement on a specific area or a specific
4 group. And, this specific area or this specific group
5 would represent victims of the specific Civil Rights
6 violations, i.e., women's rights, the rights of the
7 elderly, etcetera. Now, it is my conjecture, though it
8 may be fallacious, that the priority concerns of this
9 State of Delaware in reference to Civil Rights are in
10 various areas and specific areas here. I have the
11 handicapped, the feminization of poverty, senior citi-
12 zens housing, and also, racism as a social thing, as
13 stated by Mr. Reese.

14 Now, the next thing is my concern. I
15 am specifically concerned with who is the champion on
16 the Committee for Civil Rights for blacks, since it
17 seems to me that historically, when you go back to Civil
18 Rights, which was a bill that was passed in 1963, that
19 the emphasis, of course, was that concerning the group
20 of blacks, Civil Rights in reference to blacks. And,
21 of course, that brings in all the other areas. It brings
22 in women's rights, the rights of people regardless of
23 creed, etcetera. But, certainly, the thing that seems
24 to be evoked first and foremost when you talk about

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2 civil rights from a historical perspective is that of
3 blacks. They have been the victims in all of the rami-
4 fications in that area. Now, I'm concerned with speci-
5 fically who on this particular committee that I can come
6 to if I have questions and concerns related to Civil
7 Rights of black people, so that I can take that informa-
8 tion back to my colleagues, my constituents, my friends,
9 my associates, etcetera. That's basically what I'd like
10 to know.

11 THE CHAIRPERSON: Well, I guess that's
12 for me to answer and if there are other members of the
13 Commission or the panel, I'd be delighted to share the
14 microphone with them. When you are invited to serve on
15 the State Advisory Committee to the Civil Rights Commis-
16 sion, you aren't appointed to be concerned with, Mr.
17 Coefield, labor; Mrs. Morris, black people; Shirley
18 Horowitz, Jews or other people. You're appointed to
19 the Commission to further the charge of that Commission
20 and that is discrimination in any form against protected
21 classes.

22 As far as I'm concerned, you can send
23 your students to me or to any other member of the Com-
24 mission. I'd be terribly embarrassed if some of us

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2 would say, "Well, gee, that's not my bag. It's not
3 sexy language. Why don't you go talk to someone else."
4 The Commission meets four times a year. We meet in
5 public sessions always. We generally meet in the
6 Federal Building on the third floor. It is not our
7 fault that the press does not publicize our meetings as
8 much as we would like to. Because we're a Federal
9 Commission, our meetings are always listed in the Federal
10 Registrar. They have been listed one month before we
11 meet, but the members are all public people. We all
12 live in the State. We live from Georgetown up to the
13 Wilmington suburbs, and I think that you can feel free
14 to address any or all of them. In Dover, you have two
15 especially articulate and astute Commission members.
16 That's Dr. Ruth Laws, who has been a Civil Rights acti-
17 vist for more years than I'm sure she would like us to
18 state publicly, and Emily Morris, who is very involved
19 in the Dover community, and besides her other duties,
20 is the Prothonotary for Kent County. So, I think that
21 you have no problems at all in addressing them, because
22 they're close to you, or any of the other eight of us
23 across the State that it's convenient for you to reach.

24 I don't know if that's the answer that

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you wanted, but it's the only answer I've got.

MS. WITHERS: I understand what you're saying. I'm simply saying, it seems to me, from looking at the panel, everybody is interested in a particular thing. I'm interested in the black study. I know everybody is interested in all Civil Rights.

THE CHAIRPERSON: Okay. We made a determined effort to try to address as many concerns as we could, and the afternoon, we will deal with three particular concerns; education. women's rights and housing. The panel this morning was selected in a little different way, and that was to deal with handicapped and aged, because we weren't having workshops for them and because they are charges of the Commission and the other community views that both Msgr. Reese and the panelists dealt with slightly in their exchange. So, it was no attempt not to address any particular problem; the problem was trying to be as inclusive as possible, and I thank you for your question.

Yes?

MS. LANE: My name is Gloria Lane. I would like to just follow up on your question. In view of what Ms. Berry was telling us about, the changes that

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2 have been taking place on the Federal level with the
3 Civil Rights Commission, and since we have a Republican
4 administration in the State of Delaware, is there any-
5 thing we can do to keep the Federal level from influenc-
6 ing our own Commissions, in terms of some of the reverses
7 of the 1960's in Civil Rights?

8 THE CHAIRPERSON: Well, I'm going to let
9 Dr. Berry have that in a minute, but I think one of the
10 things is, you have something that isn't used very much,
11 and that's the Delaware Advisory Committee. We don't
12 want to be invisible and we try very hard not to be
13 invisible, but in fact, a lot of people who could come
14 to us have not found their way.

15 We speak as advocates for the people
16 in this State, and if we have something to say, we're
17 quite willing to take it to the movers and the shakers,
18 but we don't have the ability to do a lot of fact find-
19 ing on our own, and that is one of the reasons we've
20 had a meeting like this. I hope we'll have many more.
21 But, I think that you people who have information are
22 working, lots of times, without allies and we would like
23 to be involved.

24 Dr. Berry?

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2 DR. BERRY: A number of quite disturbing
3 things I've heard as I've been sitting here. There were
4 a number of supportive and interesting things. They
5 were all interesting, but there were a number of dis-
6 turbing ones.

7 We've got -- your Advisory Committee,
8 your State Advisory Committee, can do one of two things.
9 It can either be very aggressive about getting informa-
10 tion from you or accepting whatever information you
11 bring about things that you think need to be done and
12 submitting those to the Commission in Washington and
13 publicizing them, and hear whether or not the Commission
14 in Washington accepts them, or it can be very nonaggres-
15 sive and simply sort of go along with whatever the tides
16 are. I don't know which one it will do. It has done
17 some things recently. I don't know what will continue
18 to happen. But, I would hope that it will be very
19 aggressive about doing whatever needs to be done. The
20 Advisory Committee members serve without getting paid.
21 They're not getting paid to be members of the Advisory
22 Committee. So that it would seem to me that it's the
23 kind of thing where they can, if they're willing to,
24 take certain risks, to be aggressive about the issues.

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2 So, we'll have to see what happens on that. But, they
3 can be a voice for bringing certain issues and publiciz-
4 ing them.

5 As to what you do about generally not
6 having whatever happens in Washington affect anything
7 good that's going on around here, I don't know. There
8 are some things that people can do locally. And, I was
9 listening to the panelists talk about such matters as
10 pay equity and local initiatives and what the State
11 might do and other states are doing things and everybody
12 ought to be doing these things. But, we got to do
13 something in the longer term or the mid term about the
14 national government, whether we do it through Congress
15 or higher, because the Justice Department will take an
16 adversarial position toward any positive changes that
17 you get here. For example, I can very well see a situa-
18 tion, and it's already happened, where state and local
19 government have passed laws to expand civil rights in
20 certain areas, and the Justice Department has inter-
21 vened to try to keep them from doing it. You know,
22 instead of using the resources of the Justice Department
23 to support state and local people who want certain kind
24 of laws, they've been using those resources to go in and

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2 oppose it. So, you're not home free, even if you get a
3 state and local law passed, which you should try to do.
4 The Justice Department, for example, in the AFSME case
5 that was discussed, had said that they were not going
6 to interfere -- intervene at the Court of Appeals level.
7 That doesn't mean that they won't intervene at all. And,
8 if they do intervene, I'm sure it's not going to be on
9 the side of people who are on the side that I assume
10 would have the law.

11 But, in any case, you got to always keep
12 an eye on what's going on federally, because they will
13 interfere with what you want to do, but you got to do
14 things locally, too. So, that would be one answer.

15 Then, to switch to the other question,
16 I know what Miss Withers -- I can understand the point
17 that you were making, but it would be counterproductive
18 for anyone who is interested in Civil Rights nowadays
19 to let any kind of issues divide the people who ought
20 to be concerned about Civil Rights. I mean, the prob-
21 lems are too serious; they're too difficult; the
22 barriers are too great.

23 Before the election, a lot of people
24 thought, and before the Civil Rights Act of '84 was

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2 killed, a lot of people thought that the problem was
3 just that blacks were not in vogue, that women's issues
4 were in vogue, disability issues were in vogue, age
5 discrimination; it's just blacks weren't in vogue, and
6 that if you had a deracialized approach to some kind
7 of Civil Rights issue, that issue would be okay, or if
8 you emphasized that you were talking about women, and
9 we know that not all the women are white, which is why
10 I would say, women of all races. But, we found out in
11 the election and we found out in the death of the Civil
12 Rights Act of '84, and we found out in the responses of
13 the candidates in the election, that Civil Rights is not
14 in vogue, period, whoever it is you're talking about.
15 So, that is even more reason to have solidarity and not
16 say among ourselves that we ought to discuss this parti-
17 cular group's issues. And, you're right, we shouldn't
18 do that, and we should be careful not to do it, and we
19 should talk about the things that bring us together,
20 rather than things that separate us.

21 It was like when I was out in Indiana
22 someplace, speaking at a Negro congregation of thousands
23 of people about Civil Rights issues, and some guy got
24 up and wanted to press me on why, what did I think about

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2 Jesse Jackson and Ferrican during the campaign, and how
3 we should get into a big discussion of that. And, I said
4 to him that at the Commission meeting, Mr. Abram had
5 thrust upon me a question as to what I thought about Mr.
6 Ferrican and Jesse Jackson, and I had said then that
7 Jesse Jackson ought to repudiate Mr. Ferrican and his
8 views, because I didn't think he could be a candidate
9 and be supporting something like that, because politi-
10 cally, you cannot be a candidate and exercise moral
11 authority, if you were going to do that. Later on, of
12 course, Mr. Jackson, himself, he had already repudiated
13 his views, repudiated Mr. Ferrican and apologized for it.
14 Anyway, I said that during the discussion to the ques-
15 tion of my colleague, Mr. Abram. And, I said to this
16 man who asked me the question, you know, I did that
17 right in the heat of the campaign. Now, the campaign
18 is over now and we have seen what has happened to Civil
19 Rights issues during this campaign. So, we're going to
20 continue to fight about what somebody said about some-
21 body during the campaign so that we can't work together,
22 or are we going to deal with these issues now. And, I
23 said, also, don't ever ask me a question again about
24 Jesse Jackson and Ferrican until some members of your

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2 community get up and criticize Morris Abram for all the
3 statements he keeps making distorting the views of other
4 members of the Commission, his running over to the White
5 House and giving them the information that I was going
6 to attack the president on the clan issue and then,
7 coming back and trying to characterize it as the presi-
8 dent repudiated Mr. Bill Wilkinson, when the letter
9 shows that he never did repudiate Mr. Bill Wilkinson.
10 So, I said, until you repudiate Mr. Abrams, don't ask me
11 to do any more than I've already done to repudiate some-
12 body who is a friend of mine, who appreciated the repu-
13 diation, by the way, but in any case, let us deal with
14 the issues and let us try to work together, because,
15 you know, it's divided and none of us are in vogue right
16 now. We're all out of vogue.

17 (Applause.)

18 The other part, and I know it wasn't a
19 question, but the other thing I wanted to say, because
20 I was taking some notes while people were talking,
21 Msgr. Reese was right when he talked about people need-
22 ing to do something in an activist way, because if you
23 remember, in the 1960's, it wasn't that people were less
24 conservative in the Fifties and Sixties. You know, if

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2 you're taking a poll in, say, 1850, before slavery was
3 abolished, and you would ask slave holders whether they
4 thought slavery ought to be abolished, they would've
5 said no, but they abolished slavery, didn't they? If
6 you would've taken a poll in the 1950's and asked people
7 in the south and where I come from, Nashville, Tennessee,
8 should we abolish segregation, they would've said no,
9 but they did it, didn't they? That's because it became
10 necessary to do it. It became an issue that could not
11 be ignored because there were enough people who were
12 raising the issue and saying, "This must be done. Let
13 us take some action."

14 So, people have always been against signi-
15 ficant social reform. If you look throughout history,
16 you'll see that. Until the people who are the ones who
17 are suffering the injustices do something, you know,
18 they make up their minds to do something, until they do
19 something, you have people ignoring the issue because
20 they know they can get away with it. And so, we've got
21 to figure out some way, and the Monsignor was right, and
22 I agree with him, to make sure that people understand
23 that they can't ignore these issues; otherwise, they're
24 going to continue to ignore them. And, it's going to

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2 take some activity on our part. And, I know it's hard,
3 because some of us have gotten old and some of us got you
4 know, bureaucratic hardening of the arteries, you know,
5 like, we used to do this and that, but now, we've got no
6 job or this, and we got this, and the young people, for
7 some of us, we didn't educate them properly on who they
8 are, so they don't understand what they should be doing.
9 And so, we've got all of this business of trying to
10 generate some enthusiasm and some activism in a time when
11 the new right has stolen our real strategy and they
12 use it. You can turn the T.V. on and see them doing
13 things we used to do in the Sixties, but we're not doing
14 those things now. We've got, you know, bureaucratic
15 hardening of the arteries. But, we've got to figure out
16 how to do that and it's going to take time to do it,
17 because you can't escape history and you can't hurry
18 history. That's the way change is made.

19 The other thing I wanted to point out is
20 when Mr. Motter was talking, he was talking about the
21 Stotz case. And, he was saying that the court had come
22 up with this idea and supported the idea of victims,
23 individual victims in an age discrimination case. And,
24 then, he went on to talk and I first said I didn't agree

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2 with him, because I didn't think that the court had made
3 that broad pronouncement, but then, he came back and
4 said, no, the court hasn't broadly done that, so then,
5 I agreed with him. But, I want to point out that since
6 Stotz, the Administration and the Civil Rights Commission
7 majority wanted to interpret that case as a documented
8 view that individual victims have to prove something.
9 And, it's not so much that an individual victim has a
10 hard time proving that something happened to them; it's
11 hard, but yes, it can be done. It's that a lot of things
12 happened to people a long time ago and to so many people
13 that it's a pattern and practice, and it's silly in
14 terms of litigation and resources, judicial resources,
15 to go around, trying to find so many individual people
16 and prove that every individual had to say -- all that
17 does is keep you from proving anything, because you
18 could never get in the case. And, when you add that to
19 the efforts to cut the fees to lawyers who handle Civil
20 Rights cases, which is going on in the Congress, too, so
21 that you won't have a lawyer unless you can afford it,
22 the Justice Department won't take the case. The EEOC
23 won't do anything and you're not supposed to get a
24 lawyer, and what's happening in Legal Services, then, you

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2 know, you can see the problem. But, since Stotz, the
3 Supreme Court has denied social rarity in a case in
4 Buffalo in which the Affirmative Action Plan remedy did
5 not use any individual victim of rationale, and it also
6 involved layoffs, too. And so, that's why it's unclear
7 what they will do, and the Court of Appeals, just the
8 other day, in a case in Michigan, in Jackson, Michigan
9 involving the school system, upheld an Affirmative
10 Action theory that has a broad remedy. So, while the
11 Supreme Court may cut that off, it hasn't cut it off
12 yet.

13 But, I guess the main thing I wanted to
14 say is that we need to be together and we need to not
15 let people divide us and we need to not worry either
16 that our problem really is definition, that we quite
17 don't understand definition, and if we only understood,
18 then everything would be fine. We shouldn't let them
19 try to tie us up in those knots. It's like when Mr.
20 Motter was talking and he got off on poverty programs and
21 what happens to people's houses and vouchers. Do you
22 remember he was talking about that? My colleagues on
23 the Commission would say, "Now, see that? He's not
24 talking about Civil Rights; he's talking about economic

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2 things." And, that's a clear example of you don't let
3 people talk about things that are not Civil Rights.
4 Well, if Mr. Motter had framed his issues differently,
5 he could have framed them in such a way to make clear
6 that he was talking about programs and activities re-
7 lated to that, and the connection between economic dis-
8 crimination and race and sex discrimination, but he was
9 assuming we all understood that, and we all do, sitting
10 in here, but that's because we're sympathetic and we
11 want to do something. You're preaching to the converted.
12 But, they would say that he can't do that. But, on the
13 other hand, if we got really concerned and said, "Oh,
14 boy, we got this problem with definition. Let us spend
15 a lot of time figuring it out," then we could look to
16 see that my colleagues, when they start talking about
17 pay equity and how they don't like it, all they talk
18 about is the economy, how the economy will be upset,
19 and how this and this and this, which tells you what?
20 That the issue is not theory and definition. And, if we
21 did what we needed to do, to put the issues on the front
22 burner so people won't ignore them, nobody would be
23 discussing theories and definitions. They would be
24 talking about what they needed to do, to do something

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2 about these issues, and that's where we have to go. I
3 made another speech. Sorry.

4 (Applause.)

5 MS. BLATT: If I can take just a minute
6 more, the question that this lady raised was, what can
7 we do in Delaware to minimize the effects of the changes
8 in Washington on the citizens of Delaware. And, like
9 many of you, I'm not a native Delawarian. I lived in
10 Pennsylvania, New Jersey, New York, before I came to
11 Delaware, and I must tell you that Delaware has the
12 greatest degree of citizen participation in its political
13 system of any state I've observed. You are so lucky to
14 live in this State where each of your sixty-two legisla-
15 tors is reachable by phone, individually, personally.
16 The governor is reachable. The lieutenant governor is
17 reachable and your federal legislators are reachable,
18 and if you have an issue that is important to you, some-
19 thing you want to make a comment on or, "Hey, that's
20 really important; somebody ought to know about that,"
21 then for Pete's sake, pick up the phone or pick up a
22 pencil and piece of paper and make your views known to
23 those individuals. If you wait for somebody else to do
24 it, you'll know that they're waiting for you to do it

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2 first. So, pick up the pencil and phone and do it.
3 It's marvelous living here, and I've actually known
4 individuals in Delaware, plain, ordinary people, who
5 have gotten an idea for a bill, have taken it to a
6 legislator and walked it through the sponsorship and
7 through the House and Senate and up to the governor and
8 had their idea formulated into law, and had no more
9 innate knowledge of how to do it than anyone else in
10 the State of Delaware. But, they had the guts to take
11 their idea to the legislature and get something done
12 about it. It can be done in Delaware. I don't think
13 it can be done easily elsewhere.

14 Senator Holloway was here earlier. He
15 can tell you all you need is to approach your legisla-
16 tors with reasonable, rational ideas that they can
17 understand and deal with, so please do so.

18 THE CHAIRPERSON: I'd be remiss if I
19 didn't identify Mr. Dewey Dodds. Would you please
20 stand? Mr. Dodds is with the office of Civil Rights
21 in Philadelphia, and he complained bitterly to me that
22 he didn't hear from Delawarrians, so Mr. Dodds is here.
23 If you have something you want to say, please feel free,
24 and I'd like to turn the microphone over to Mr. Conner.

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MR. CONNER: I just wanted to say to Dr. Berry that you raised the question of where our Committee here locally is going, I, of course, can't speak for the individual members of the Committee, but I know them well enough that I think they will agree with this observation. Our minister at the Methodist church down the street used to say, "My job is to comfort the afflicted and to afflict the comfortable." And, I think that we're going to be doing both of those things here in Delaware and also, on the national scene to the extent that little Delaware can register.

(Applause.)

THE CHAIRPERSON: Could I have someone else step up? We're running out of time, so run. Come quickly. The two of you get in line. Oh, three. Excuse me.

MS. CARR: My name is Mary Carr, and I work for the Department of Corrections. The Department of Corrections is Senate Bill 492, a bill that went through in 1980, that blatantly, I personally feel and I know for a fact that it discriminates against women in the Department of Corrections. It's a Senate bill that states that no one of the opposite sex can work in

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2 a housing unit of the opposite sex of an inmate, which
3 has a great impact on females, because the majority of
4 the correctional system within the State of Delaware
5 is male adults. I know this personally because I have
6 been discriminated against. I waged a three-year fight
7 and my lawyer who is sitting right up there, helped me
8 wage that fight. I won through the system as an individ-
9 ual. However, the fight is not over, because I see, day
10 in and day out, and it just hurts my heart to see females
11 being denied a job with the Department of Corrections
12 merely because this Bill, Senate Bill 492, blatantly
13 discriminates. And, the State of Delaware has put this
14 through legislation, and that's what hurts me even more
15 is the fact that we have legislators that actually break
16 the law, Civil Rights, '64, Title 7, breaks it. Why I
17 say this is because I personally know that in the last
18 couple of years, the Department of Corrections has been
19 hiring like crazy and they have hired about two hundred
20 to three hundred, almost four hundred. And, I know that
21 personally, because I was an instructor down at the
22 Department of Corrections, hired males, and we've had
23 about twenty females hired in that period of time
24 merely because of this bill. And, I think that's

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2 terrible when you have this much hiring going on, and
3 the way the job situation, the economy is in the State
4 of Delaware and all over the country, and you have a
5 department, a state agency that's hiring people who need
6 jobs and the women cannot be hired because we have a
7 bill that discriminates. And, I want this to go on
8 record, and this will not be the last time that you
9 will hear of this, because we're going to have a group
10 now. I know we can do it by numbers and I ask for your
11 support.

12 (Applause.)

13 MR. ZEBLEY: My question to the panel
14 is, comparative work with what? I'm John P. Zebley,
15 president of Wilmington Retired Firemen. I would like
16 the panel to explain the comparative work of the Depart-
17 ment of Public Safety, I'm talking about the Bureau of
18 Fire and also, the Bureau of Police, how they can com-
19 pare the jobs of those departments with any other type
20 of a job.

21 Now, as far as comparative worth is
22 concerned, you can skip this. As far as I'm concerned,
23 I was in from 1940 to '60. My comparative worth at
24 that time was far less than the comparative worth of

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2 the people in there from '60 to '80, I mean, as far as
3 salary and pension is concerned. But, I'm not worried
4 about that. I just would like someone to explain how
5 you can compare a job in the Department of Public Safety
6 of Police and Fire, with any other type of job compari-
7 son. Thank you.

8 THE CHAIRPERSON: Well, I'm not going to
9 give you the long answer. The short answer is, you
10 compare the amount of education needed, the amount of
11 stress the job gives you, the amount of danger that the
12 job presents to you, the hours that you work, all sorts
13 of things that are used to evaluate jobs even now. But,
14 it gets it down to a more defined prescription, and all
15 of these characteristics are assigned points and you
16 add the points up. Vivian Houghton wants to give you
17 the long answer.

18 MS. HOUGHTON: No, I won't give you the
19 long one, but I do want to make a point, Mr. Zebley,
20 in talking about fire companies. When we do this pay
21 equity study, we investigate a lot of practices. One
22 thing that came up was all of the paramedics in New
23 Castle County are all white males, and looked into some
24 of the prerequisites, and what was found was that in

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2 order to be a paramedic, you had had to belong to a
3 volunteer fire company, which virtually leaves out people
4 of color and women. What I'm saying is that this pay
5 equity study is going to come to the forefront a lot
6 of practices that have subtly or blatantly discrimi-
7 nated.

8 DR. BERRY: I want to say something
9 about that, because I think we should treat questions
10 that are asked as judiciously and fairly as we can.
11 And, as I go around the country, people -- in almost
12 every audience, somebody asks a question framed sort of
13 like that. And, what puzzles me about it is that ques-
14 tions like that seem to assume that the outcome of a
15 pay equity study will be that certain jobs have to be
16 paid more. My understanding was that the whole purpose
17 of a pay equity study was to evaluate whether jobs were
18 being valued equally based on what the employer thought
19 about the job and whether people were getting paid
20 equally. In other words, that the study was to deter-
21 mine whether that was the case or not. And, when people
22 ask questions like that, it's like they assume that
23 people have already decided that if they do a study,
24 they're going to end up paying "X" more or "Y" more.

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2 I also wonder, when people ask questions
3 about it, why there's so much resistance to doing pay
4 equity studies. It seems to me that if everybody is
5 so sure that, in fact, everybody is getting paid the
6 same, what they should be paid, depending on the skill,
7 effort and responsibility and all the rest of the job,
8 they would welcome a pay equity study which would show
9 that isn't that wonderful that that's all happening and
10 we can all feel good about it and we can all go home.
11 But, when people just keep resisting the idea of doing
12 the study, that really, really does bother me and it
13 really does puzzle me, and also, when they assume that
14 the outcome is going to be a certain thing. And, finally,
15 whenever we talk about pay equity, and I meant to say
16 this earlier, what we have to realize is that on that
17 issue, like all the other issues we talk about in Civil
18 Rights, they're really related to what roles people
19 think certain people ought to play. We don't talk about
20 that very much; we just talk about the issue like it's
21 in a vacuum. But, the reason why people worry about
22 changing the salaries of women and certain roles they
23 ought to play is that they have some ideas about what
24 women ought to be doing, and what women have been doing

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2 is consistent with, most of them, with what those certain
3 ideas are, and people worry about what will happen if
4 you change the way women are and what they're supposed
5 to do.

6 So, it really is a fundamental question
7 about the roles women will play, whether traditional
8 or not, and what kind of opportunities women are going
9 to have in society and the fears that are related to
10 that. Sometimes it's not even so much the cost thing,
11 although that bothers people. It's like getting people
12 out of their proper relationship or out of their place.
13 And, I don't know how we deal with that, but we have to
14 be aware that that's part of what's underneath it.

15 THE CHAIRPERSON: Yes, sir?

16 MR. BANNOWSKY: My name is Phil Bannowsky.
17 That's B-A-N-N-O-W-S-K-Y, and I'm co-chairman of the
18 Civil Rights Committee of the United Auto Workers,
19 Local Union 1183, which represents hourly employees at
20 the Chrysler Corporation Assembly Plant in Newark,
21 Delaware. And, the issue I'd like to highlight is one
22 of the effects of affirmative action in the utilization
23 of women, minorities that is caused by structural
24 changes in the economy; specifically, introduction of

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2 automation.

3 What the main result is that you don't
4 create a few more jobs in the more skilled categories,
5 and you reduce the number of jobs in the less skilled
6 categories with the introduction of automation. Chrysler
7 Corporation is an excellent example, because over the
8 last seven or eight years, we've introduced a tremendous
9 amount of the most modern sort of automation, to para-
10 phrase Lee Iacocca, the chairman of the corporation,
11 you know, change the smoke-stack industry into a high
12 tech industry. The question that has to be looked at
13 is, what effect does this have on minority people,
14 black people, Hispanics and others, and women. My wife
15 can speak from experience, because I've been a union
16 official at times and held various positions with the
17 union, served on the Bargaining Committee and represented
18 a department where that sort of led the way in the es-
19 tablishment of automation. We have approximately six-
20 teen some odd robots that have been introduced in the
21 last several years. Much of this automation, by the
22 way, has been financed with the concessions that were
23 demanded by the Loan Guarantee Act in '79 and '80, as
24 well as through loans that were guaranteed by the Federal

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2 Government, and as Jesse Jackson would say, you know,
3 where's the obligation with all this assistance Chrysler
4 Corporation has had, to improve.

5 So what's happened in our body shop is
6 that, and these figures I introduced in collective
7 bargaining and management felt they were accurate, is
8 that in my department, since 1976, between '76 and '83,
9 we lost about a hundred and ten employees, production
10 workers. The gain was thirty-seven in skilled trades.
11 Two of those in skilled trades were black. Assuming an
12 even ratio among the production workers was thirty-three
13 percent black, then we had a -- we lost thirty-five
14 black employees. Basically, what we're seeing is a
15 reduction in the utilization of black employees in this
16 -- in my department, when you collect the regular hourly
17 and production employees with the skilled trades.

18 Now, one of the main reasons for this is
19 that since 1975, we have not had an apprenticeship
20 program. Now, without an apprenticeship program, any
21 affirmative action program is a fraud, unless you're
22 going to train the people to take these jobs. We've had
23 the need for these positions, for these skilled trades,
24 but they've only added two or three blacks. We have about

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2 eight or nine -- ten blacks in the whole skilled trades
3 from three hundred and fifty some odd people, and vir-
4 tually no women, except for, maybe, one or two that get
5 into the nonapprenticeable and nonmarketable trades.

6 But, when we're talking about millwrights, spot welder
7 repairmen and electricians, you know, and pipefitters,
8 and people who have skills that are important, that up
9 until recently, were completely restricted, not allowed
10 to come in the unions that would train these people,
11 there will be no redress; there will be no affirmative
12 action.

13 And, I know a member of the Advisory
14 Committee here, Don Coefield, is responsible for monitor-
15 ing the Affirmative Action Program at Chrysler, but
16 basically, I don't feel it exists, unless Chrysler
17 Corporation really makes a commitment to train these
18 people. We had a consent agreement over at General
19 Motors, and on paper, it looks pretty good. We don't
20 have anything like that at Chrysler, and I think it's
21 about time that Chrysler Corporation recognize their
22 obligation to do something about this issue.

23 (Applause.)

24 THE CHAIRPERSON: All right, it is twelve-

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2 thirty, though, and -- I'm going to let him. I see two
3 hands. I just want to make some comments. I'm not
4 the kind that turns off the mike because it's getting
5 hot. I just want to tell you that it's approaching
6 twelve-thirty and I'd like to give you your marching
7 orders for the afternoon.

8 We really and truly would like all of
9 you to come back after lunch. There is a lunch break
10 from the end of this session until one, forty-five. At
11 that point, there will be two workshops in this room,
12 both the housing -- rather, the education and the women's
13 rights workshop are going to be in this room. One will
14 be at one end of the room and the other at the other end
15 of the room. I think the room is big enough that we're
16 going to be able to deal with that. The housing workshop
17 is going to be in the Willingtown Room, which is an
18 individual room at the front of the building. It's
19 marked by name, and I would not like to adjourn without
20 noting that we have two elected officials who have sat
21 with us. I don't know; maybe we have more. I recognize
22 Dick Cecil from New Castle County and Jim Baker, Presi-
23 dent of City Council. If there's anyone else that I
24 don't recognize, please forgive me and identify yourself.

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2 Now, we have two gentlemen who have sig-
3 nified by their hands that they have either questions
4 or statements. I will tell you that there will be time
5 for public comments at each of the three workshops,
6 that there will be time for public comment after Mr.
7 Gilliam's remarks at the end of the day, and that fin-
8 ally, it's going to be a long day for the members of the
9 Commission, we will sit as a Delaware State Advisory
10 Committee in open meeting, starting at four, forty-five
11 and going until six. So, I'm not closing out any of
12 your opportunities and you can work over lunch at what
13 you want to say or ask us.

14 Now, sir?

15 MR. CARR: I'm Ellis Carr. I'm the
16 third vice president of the Wilmington branch of the
17 NAACP. And, the comment about the fact that a black
18 issue is not basically brought out here today is very
19 appropriate. And, I understand Mrs. Berry's position,
20 but I think there are some battle lines that have already
21 been drawn. For instance, number one, over the past
22 ten years, white females have gained seven point six
23 percent of the jobs that were available. Black males
24 have lost seven point five percent, as this man just

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2 talked about from Chrysler. So, there's a problem right
3 there in itself. Black females have only gained one
4 point two percent of the jobs. I want you to understand
5 that what we talk about now and those other organiza-
6 tions.

7 And, the other situation is about the
8 firemen that you mentioned, Vivian. I brought that to
9 the attention of a County councilperson four years ago
10 almost, that blacks could not get into the ambulatory
11 service of the County, because they did not -- there's
12 only one black volunteer fire company in the State of
13 Delaware, so we cannot get into those particular jobs.

14 Now, all of a sudden, we get talking about
15 that in relation to pay equity for white women. I mean,
16 I have to put it where it really is. We're not really
17 talking about pay equity for everybody in New Castle
18 County, and I think these are the kinds of things that
19 we have to start looking at when we start dealing with
20 the issues of discrimination. Black males really, right
21 now, are fighting for survival. And, I'm only talking
22 about, really, ten percent of us who went to school in
23 1982, did not go to school in 1984, and I'm talking
24 about college. So, what I'm talking about, black males

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2 are fighting for survival, and what it does to black
3 females is that we have to leave the homes so that we
4 can get welfare and, therefore, our children suffer.
5 It's been a total turn-around. And, so, you know, while
6 I would not ever jump on trying to protect the rights
7 of women, I don't want now to use the Civil Rights
8 struggle that blacks have basically dealt with, and
9 further their own particular situation. And, I think
10 that needs to be understood, especially in Delaware
11 where it's called the plantation state, and especially
12 in a situation where black males are the ones who are
13 being harmed the most.

14 Thank you.

15 (Applause.)

16 THE CHAIRPERSON: I just want to say, Mr.
17 Carr, that one of the things that came out in the con-
18 sultation on comparable worth was that it was equally
19 damaging and dangerous to both minorities and women,
20 what was happening in the work force. And, there was a
21 great deal of discussion that if, in fact, you solve
22 the problem, you would solve the problem.

23 MR. CARR: But, that is not the case.
24 We can take the Department of Housing in New Castle

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2 County and we show where white females are at the top
3 echelon and probably don't have nothing but two black
4 males in there at all. So, what I'm saying is that what
5 has already happened is that the powers that are have
6 looked and said, "How can we separate them? We can take
7 the white female and nobody can complain about that,
8 because we have a minority and we have a female." And,
9 this is what's happening to black males in the work
10 force today.

11 THE CHAIRPERSON: I don't disagree that
12 it's been harmful, sir.

13 DR. BERRY: Mr. Carr, I want to say some-
14 thing about what you said. I think it's true, and I
15 don't know the whole situation here and you know it
16 better than I do, so I won't comment on that, but I
17 think it's true that often, in the women's movement,
18 and I said that in something I was discussing, women are
19 talking about white women. My friends who are involved
20 in the women's movement and the organizations have had
21 to work very hard at the national level at least on
22 their consciousness, to make sure that they don't always
23 think about white women when they say "women". That
24 has been less successful at the local level, as I travel

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2 around the country, in their organizations and when I
3 speak at their meetings, and they still have to keep
4 hitting people over the head to make them realize that
5 not all the women are white. For example, on pay equity,
6 they keep saying things, like, more and more women are
7 entering the work force, so the argument that we're not
8 interested in work is not true. That is offensive to
9 me, personally, and I've said it several times, because
10 most black women have always worked. So, when somebody
11 says we just started entering the work force, I know
12 that they're not thinking about us. I know that before
13 I know anything else. So, I have to say to my sisters,
14 "Look, please, don't say things like that, because all
15 that does is to further exacerbate the feelings." So,
16 there is a problem.

17 Also, it is true that white women have
18 been generally able to become better educated and to
19 have access to certain kinds of positions, mainly because
20 most white women do know some white men. They have
21 fathers or brothers or somebody, so that's just a reali-
22 ty that we all have to deal with. But, the thing that
23 has -- what we should not do, even recognizing that and
24 knowing that black men have this tremendous employment

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2 problem, and you're quite right. I mean, I've tried to
3 say it for five years that the female-headed household
4 problem in the black community has been related more to
5 what's been happening to black men in terms of jobs and
6 the welfare rules and all that, when in twenty-six
7 states today, as I stand here, I don't know about
8 Delaware, they still have a man in the house rule in
9 place, where the man has to leave, and that we need to
10 do something about the job situation for black men.
11 That is absolutely true. But, for us to focus all of
12 our attention on how white women have displaced or have
13 gotten jobs that we think black men should have gotten,
14 is to really focus all of our attention on the wrong
15 enemy. White women are not in most of the professional
16 and managerial jobs in this country. Do you know who's
17 in them? It ain't white women; I can tell you that.
18 And, in fact, if you went to a law school or medical
19 school, let's look at that, and talked about how, through
20 Affirmative Action, there's been an increase in women
21 in the classes, which is true, and not a commensurate
22 increase of blacks, for example, in the classes, which
23 is true everywhere else, it's probably true in Delaware,
24 too, you might say, "Now, look at that. Those are white

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2 women. They're getting to do whatever." But, do you
3 know who most of the people are who are in the class,
4 most of them, and who are sitting in the room? They're
5 not white women. So that if you focus your attention
6 and your effort on helping to make it appear that that's
7 where the real fight is, all I'm suggesting is that
8 you will be paying more attention to something that is
9 less of an issue than who's really got the power. Do
10 you see what I mean? And, I know that all of these
11 things occur, but to the extent that we let people --
12 to the extent that we don't keep holding ourselves
13 accountable, white women ought to do that and black
14 folks ought to do that generally, in trying to work
15 together, all we do is make the situation worse. That
16 was the only point I was making. I hope you will carry
17 that away with you.

18 (Applause.)

19 THE CHAIRPERSON: I would like to say
20 something about black males. Seated among our guests
21 is Mr. Louis Reading, who is, I think, an establishment
22 of himself in Delaware and the local community, and
23 we're very grateful that he came.

24 MR. DAVIS: My name is Dwight L. Davis

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2 and I'm with the Motivational Center, Incorporated, here,
3 in Wilmington, Delaware, and we basically provide a
4 service for those who are considered hardcore unemployed.

5 Today, I haven't heard any real plan for
6 those individuals. I think that what concerns me is
7 that we're talking about civil rights and jobs, but we're
8 not talking about the moral degeneration that exists
9 within America. And, with this moral degeneration, you
10 see that there is a decline in business, commerce and
11 industry.

12 I think, instead of fighting over the
13 existing situation, we need to be cognizant of the need
14 to develop and establish the black and the minority
15 communities. This is what the problem is in Delaware.
16 The reason you have discrimination in the employment
17 sector is simply because there does not exist the type
18 of industry within our community. I'm really concerned
19 and I would like for it to go back to Washington that
20 in keeping of the spirit of the Constitution of the
21 United States, it talks about the protection of the
22 individual; not the protection of groups and classes.
23 And, I'm really concerned that individuals who represent
24 groups and classes are attempting to gain special

1 advantages for themselves on the backs of individuals.
2 So, if the ultimate result of the United States Civil
3 Rights Commission should be to absolve itself, because
4 there should be no need, because we should be individuals;
5 not black, not white, not labor. We have to move in
6 that spirit, and once we begin to move into that spirit,
7 we'll find that American will be great as it once was.
8

9 Thank you, very much.

10 (Applause.)

11 THE CHAIRPERSON: If I had planned it,
12 we couldn't have ended on a more upbeat note.

13 DR. BERRY: I want to have a colloquy
14 with my friends, because I want to know if he said
15 America could be as great as it used to be. When was it
16 used to be? Was it used to be during slavery; was that
17 when it was great?

18 MR. DAVIS: There used to be a time that
19 America established employment on basic moral principles.

20 DR. BERRY: When was that?

21 MR. DAVIS: When I was growing up, we
22 were raised upon strict moral principles.

23 DR. BERRY: When was that?

24 MR. DAVIS: About twenty, twenty-five

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years ago.

DR. BERRY: Was there segregation?

MR. DAVIS: Segregation? De facto segregation that existed within this state and it wasn't as a result, in my opinion, of a conscious effort to deprive someone. It's very simple that if you develop business and commerce within your community, that you're going to hire from that community. But, no one seems to be concerned with the low representation or the lack of establishment of the black community as it pertains to the family structure.

DR. BERRY: Sir, my only point is, no one can be opposed to any community establishing whatever it can establish, whether it's jobs or businesses or whatever. My only point is, when you say that America used to be great and America used to be all these things and that something has happened now, that America used to have individuals, that is a distortion of history.

MR. DAVIS: That is your opinion.

DR. BERRY: That is not my opinion, unless you believe that slavery was great and unless you believe that Jim Crow was great and segregation was great.

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That is what used to be in America, as a matter of fact.

MR. DAVIS: No, you're missing the point. That slavery mentality still exists within America. But, you're not talking about lifting the downtrodden up out of the gutters; you're talking about pay equity for those who are employed. See, you're not talking about lifting the man that's in the gutter, the drunkard, that we have to contend with. That's the problem that I have with this whole setup.

DR. BERRY: I was only pleading, because you make the same kind of statements that some of our dearly beloved political leaders make about how America used to be great, and when it used to be, they mean that they think used to be was when slavery existed and women were subordinated, and I was pointing that out for the record.

THE CHAIRPERSON: I'd like to invite you all to return promptly at one, forty-five. If you're going to the housing workshop, report to the Willingtown Suite. If you're here for women's rights or for education, come back here. Thank you.

(Recess at 12:45 p.m.)

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2 (Workshop, Women's Rights.)

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4 THE CHAIRPERSON: If you were here at
5 all this morning, you realize that the panel on women's
6 rights is one that I have a deep personal concern with.
7 I spent several days in June at the consultation given
8 by the U.S. Commission on Civil Rights. It was quite
9 apparent by their selection of speakers that both Miss
10 Chavez and Mr. Pendleton, some of the other members,
11 were determined to give both sides of the story, which
12 they did.

13 It was also quite clear, from some of
14 the questions, what some of the Commissioners thought
15 about the concept of comparable worth. I have taken
16 the liberty of assembling a panel which I think will
17 be very factual and very accurate, and I'm extremely
18 pleased that the three women who are going to address
19 you today will, in fact, give you a well-rounded and
20 substantial review of the questions and the various
21 interests at work.

22 Currently, in Congress, there are at
23 least twenty-six or twenty-seven pieces of legislation
24 which have to do with the concept of pay equity or

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2 comparable worth. The Delaware State Advisory Committee
3 felt very seriously that we would like to develop a
4 record and send that information on to the Civil Rights
5 Commission so in fact it could deal with this subject.
6 The panel is one that I'm sure, if you're a Delawarian,
7 you're aware of, as far as personalities are concerned.
8 Karen Peterson, who is the president of New Castle
9 County, I think has been a leader, at least in our
10 state, in an attempt to bring the facts to the public
11 and she is going to do a major presentation on the con-
12 cept of comparable worth. Aida Waserstein, who I met
13 many years ago as a representative of the Hispanic
14 community during the desegregation court battle, has
15 been an advocate for many years on the rights of women,
16 as well as others, and she's going to talk about dis-
17 crimination in the job market, especially as it per-
18 tains to women. And, our third panelist today is Betty
19 Grant, who I have never had the opportunity of meeting
20 before, but whom I've spoken to over the telephone.
21 Betty is a staff person with AFSME, which is the union
22 of people who are employed by various levels of govern-
23 ment. We particularly wanted to have someone from
24 AFSME because of the work that they have done in the past

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on several cases, and especially because of their involvement with the case in the State of Washington.

I'm glad you're all here. It indicates that the interest in women's rights is not just a national one, but in fact, one in Delaware, too.

The panelists will make their presentations and then, there will be an opportunity for questions and statements. I hope this isn't going to be an impossible situation, but our budget did not allow us to rent three extra rooms, so I hope that you'll bear with me.. And, I'm going to go over there and tell them to please settle down so that you can hear the presentations as we're making them. We're not going to use microphones, because we knew that that would cause a conflict, so if you're having problems hearing, please bring your chairs to the front of the auditorium, and with that, I'm going to turn the program over to our panel and I'm going to express my gratitude for their taking the time and for the quality of the presentation that I'm sure they're going to present this afternoon.

MS. PETERSON: Thank you, very much, Shirley. I've been asked to talk about the looniest idea since the looney tunes, at least according to the

1 Chairman of the United States Civil Rights Commission.

2 I don't intend to take issue or argue with a person of
3 that mentality, but let me just say that it disturbs me
4 to think that the Chairman of the United States Civil
5 Rights Commission does not believe that discrimination
6 exists. That scares me. I believe that God, in her
7 infinite wisdom, will send Mr. Pendleton back as a woman
8 in his next life. That would be justice.

9
10 Margaret Meade, the anthropologist, once
11 said, there are villages in which men fish and women
12 weave and ones in which women fish and men weave, but
13 in either village, the work done by men is valued higher
14 than the work done by women. The wage gap between men
15 and women persists. Women who work outside the home
16 full-time, year-round, earn sixty-one point seven cents
17 for every dollar earned by their male counterparts.

18 Although many people believe that the
19 status of employed women has improved over the years,
20 the ratio between women's wages and men's wages has
21 remained essentially the same since the year 1930.

22 Many people believe that the wage gap exists, because
23 women choose to work in low-paying jobs or because women
24 interrupt their careers to have babies and raise families,

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2 or because women are less educated than men or women are
3 not as committed to the labor force as men are. However,
4 the landmark 1981 study by the National Academy of
5 Sciences, entitled "Women Work and Wages, Equal Pay for
6 Jobs of Equal Value" concluded that only a small part
7 of the earnings differences between men and women can
8 be accounted for by differences in education, labor
9 force experience or other human capital factors. The
10 study found that a significant portion, more than one
11 half of the wage gap, cannot be explained by those
12 differences. The lack of evidence for alternative
13 explanations strongly suggests that wage discrimination
14 is wide-spread, according to the Academy.

15 There are two major causes of the wage
16 gap, one, women's work is undervalued and underpaid,
17 and two, women have been segregated in the work force.
18 Let me begin with women's work, undervalued, underpaid.
19 Women's work, historically, had been paid poorly because
20 women were doing it and women work for less because they
21 cannot get more. The National Academy of Sciences found
22 that the more an occupation is dominated by women, the
23 less it pays. The question is, would the low-paying
24 jobs be low-paying regardless of who held them, or are

1 they low-paying because of the sex of their incumbents.
2 Obviously, some jobs will inevitably pay less than
3 others. The fact that these jobs are disproportionately
4 filled by women and minorities may reflect differences
5 in qualifications, interests or traditional roles.
6 However, the Academy found that in many instances, in
7 most instances, the jobs held mainly by women and minor-
8 ities pay less simply because they're held by women and
9 minorities. This phenomenon is not new. An 1833 wage
10 survey conducted in Philadelphia showed that a majority
11 of women workers at the textile mills received less for
12 their seventy-eight hour work week than male workers
13 were getting for one ten-hour day. Not much has
14 changed in the last one hundred fifty years.

15
16 In Montgomery County, Maryland, male
17 liquor store clerks with high school diplomas earn more
18 than female school teachers with college degrees. In
19 Denver, Colorado, male tree trimmers and sign painters
20 earn more than registered nurses. In testimony before
21 the Equal Employment Opportunity Commission, a Wisconsin
22 woman who had been a secretary for eighteen years,
23 working for the chancellor of a university, testified
24 that her salary was lower, after eighteen years, than

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2 that of an entry-level parking lot attendant who was
3 an eighteen year old unskilled male. The University
4 of Washington in Seattle pays its female skilled service
5 workers two hundred dollars a month less than male
6 traffic guides who sit in booths and issue automobile
7 passes. New Castle County, Delaware pays its male
8 animal keeper supervisors almost two thousand dollars a
9 year less than its senior center directors -- I'm sorry,
10 more. Thank you. You're paying attention. Nurses
11 make eight thousand dollars a year less than pharmacists.
12 Most child care workers make less than dog pound atten-
13 dants. Teachers make less than painters. A woman with
14 four years of college makes less than a man with an
15 eighth grade education.

16 Prior to the enactment of the Equal Pay
17 Act and the Civil Rights Act, it was lawful to pay
18 women and minorities lower wages than those paid to
19 other employees, even where the jobs were identical.
20 That practice was built into wage structures and con-
21 tinues to influence these wage structures even today.

22 Occupational segregation is responsible
23 for part of the wage gap. In fact, the single most
24 important cause of the wage gap between men and women

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2 is the concentration of women in a narrow range of low-
3 paying, sex-segregated occupations. The degree of job
4 segregation has remained essentially the same since the
5 beginning of this century, despite the entry of women
6 into male-dominated occupations.

7 In 1982, according to the United States
8 Department of Labor, eighty percent of all women work-
9 ing in this country worked in less than six percent of
10 all occupations. Eighty percent of us were found
11 working in only six percent of all occupations. We all
12 know what those occupations are; secretaries, waitresses,
13 nurses, etcetera.

14 Occupational segregation is practiced by
15 nearly all employers and is considered evidence of dis-
16 crimination. In the case of AFSME versus the State of
17 Washington, the court relied heavily on the evidence
18 showing that the State had deliberately segregated its
19 work force, such as placing classified ads in the help
20 wanted male and help wanted female columns, job descrip-
21 tions that limited jobs to one sex, and protective laws
22 which prohibited women from doing certain kinds of work.
23 Most employers, including New Castle County and the
24 State of Delaware, have done the same. The Supreme

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2 Court told us three decades ago that segregation and
3 equality cannot coexist. In Brown versus the Board of
4 Education, the court held that racially separated educa-
5 tional facilities result in inferior education, because
6 separating the races is usually interpreted as denoting
7 the inferiority of the Negro group. The Supreme Court's
8 holding that segregation is inherently unequal applies
9 both equal force to wage and sex segregation in the
10 workplace; that is, a racially or sexually segregated
11 job structure inherently results in inferior wages,
12 because such structure denotes the inferiority of the
13 minority or female group. When the employer has segre-
14 gated its work force, wage discrimination invariably
15 follows.

16 The issue is discrimination. Comparable
17 worth is not the issue but it has become the red herring
18 to obscure the real issue of discrimination. The
19 strategy of the opponents is simple; call everything
20 comparable worth and then, claim that the Supreme Court
21 did not approve a comparable worth theory in their 1981
22 Gunther decision. Comparable worth and pay equity are
23 popular terms. The real issue, the legal issue, is sex-
24 based wage discrimination.

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Sex discrimination in compensation is prohibited by Title 7 of the Civil Rights Act of 1964, which states, and I quote, "It shall be an unlawful employment practice for an employer to discriminate against any individual with respect to compensation because of such individual's sex or to limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities because of such individual's sex."

Prior to the Supreme Court's 1981 ruling in County of Washington versus Gunther, the application of Title 7 was restricted solely to equal work situations, where the work performed by both sexes was substantially equal. But, because of occupational segregation, men and women do not generally perform the same kinds of work. As the Supreme Court held in Gunther, limiting Title 7 to equal pay cases alone means that a woman who is discriminatorily underpaid could obtain no relief, no matter how egregious a discrimination might be, unless her employer also employed a man in an equal job, in the same establishment at a higher rate of pay. That's what the Supreme Court said in Gunther.

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2 The court declared that sex-based wage
3 discrimination is illegal, even if the jobs being com-
4 pared are entirely different and that sex-based wage
5 discrimination is no less illegal than wage discrimina-
6 tion based on race, national origin or religion.

7 Although the Supreme Court in Gunther
8 ruled that wage bias is illegal, it was not clear what
9 evidence would have to be presented to prove discrimina-
10 tion. The ruling in AFSME versus the State of Washing-
11 ton finally put meat on the Gunther's skeleton. The
12 evidence relied upon by the AFSME court, which resulted
13 in a finding that the evidence of discrimination was
14 overwhelming, is typical of the practices of virtually
15 every employer, both private and public. The evidence
16 included deliberate occupational segregation on the basis
17 of sex. The employer placed classified ads in the male
18 only and female only columns until the newspapers stopped
19 accepting them. Such ads appeared in the News Journal
20 until January of 1971. Both New Castle County govern-
21 ment used them and the State of Delaware used them.

22 The second kind of evidence accepted by
23 the courts, statistical evidence showing a significant
24 inverse correlation between sex and salary. For every

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2 one percent increase in the female population of a clas-
3 sification, the monthly salary decreased by four dollars
4 and fifty-one cents for equivalent jobs. A one hundred
5 percent female job was paid on the average five thousand,
6 four hundred dollars a year less than a one hundred
7 percent male job of equivalent value. The possibility
8 of such a relationship occurring by chance was less than
9 one in ten thousand.

10 The third kind of evidence the court
11 accepted, the disparities in salaries between male and
12 female entry-level jobs. Male entry-level jobs in
13 Washington State, requiring no high school, were paid
14 ten percent more than female jobs requiring no high
15 school. Male jobs requiring a high school diploma paid
16 twenty-two percent more. Men received nineteen percent
17 more than women for one year of business school and
18 thirteen percent more for two years of college.

19 The AFSME court found that the State of
20 Washington had violated Title 7 by engaging in both
21 disparate treatment, intentional discrimination, and
22 disparate impact.

23 In Taylor versus Charlie Brothers, and
24 the reason I'm listing some of these cases is because

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2 opponents would have you believe that there's only been
3 one case and that wasn't real clear. In the case of
4 Taylor versus Charlie Brothers, the court found that the
5 employer had segregated its employees on the basis of
6 sex and paid women less for jobs requiring similar work.
7 In Melanie versus the Board of Education, the court
8 found intentional discrimination in compensation, based
9 solely on a statistical analysis of the salaries of
10 male and female jobs. In IUE versus Westinghouse, the
11 electrical workers versus Westinghouse, the court found
12 that Westinghouse depressed the wages of its female
13 employees eighteen to twenty percent merely because
14 certain jobs were performed by women. Even though such
15 practice was not prohibited by law in 1939, the court
16 found that their current wage structure was built on
17 that discriminatory foundation and so are they all.

18 Opponents of pay equity say that Congress
19 will have to decide whether net worth should be covered
20 under the Act of 1974. They cite conflicting case law
21 to support their contention that the intent of Congress
22 is unclear. One technique is to cite cases decided
23 prior to Gunther. Citing pre Gunther cases is like
24 citing Plessy versus Ferguson after Brown versus the

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2 Board of Education. Congress has already taken its
3 position in enacting the 1972 amendments to Title 7,
4 and I quote, "Discrimination against women is no less
5 serious than other forms of prohibited employment prac-
6 tices and is to be accorded the same degree of social
7 concern given to any type of unlawful discrimination."

8 The issue of pay equity is not without
9 its criticisms. Wynne Newman, AFSME's attorney in the
10 Washington State case, calls them the four basic
11 excuses. They are the arguments most often offered
12 against pay equity. They are, and Vivian Houghton made
13 brief reference to them this morning, the apples and
14 oranges argument, blame the victim, cost, and the free
15 market, or everybody does it argument.

16 The apples and oranges argument goes
17 like this: How can you compare a secretary to the guy
18 who crawls in the sewers? This argument is based on
19 the assumption that it's impossible to compare dissimilar
20 jobs, but virtually every large employer already uses
21 some method to evaluate the internal relationship of
22 different jobs, based on an objective evaluation of the
23 composite of skills, effort, responsibility and working
24 conditions required by the jobs. For example, New Castle

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2 County has already compared the sewer worker's job with
3 other dissimilar jobs, such as deputy sheriff, planners,
4 tax assessors, etcetera, none of which have anything in
5 common. Why all of a sudden, then, can we not compare
6 a secretary's job as well? Evaluating dissimilar jobs
7 was the reason for developing job evaluation plans in
8 the first place, and those plans have been used in this
9 country for over fifty years. In fact, almost two-thirds
10 of the adult population in this country are pay-graded
11 by job evaluation plans.

12 One would expect that with job evaluation
13 systems in place already, no discrimination would exist.
14 However, the findings in the Washington case point to
15 the problem. There were two separate salary lines; one
16 for the men, one for the women. As a result, women were
17 paid, on the average, twenty percent less than men doing
18 equivalent work. One of the purposes of a pay equity
19 study is to eliminate that two-track system, which uses
20 a different yardstick to measure the worth of women's
21 work, and instead, establish a unirail wage system for
22 all employees. Put all employees on the same track and
23 stop using two different tracks for measuring employees.
24 The blame the victim argument suggests

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2 that the cure for sex-based wage discrimination is for
3 women to change jobs. Although Affirmative Action is
4 certainly desirable if, in fact, a secretary would pre-
5 fer to be a plumber, this argument ignores the issue
6 of wage discrimination. Women and minorities have a
7 right to be paid nondiscriminatory wages for the work
8 they now perform. Even if New Castle County were to
9 train every secretary to be a plumber, that would still
10 fail to address the issue of sex discrimination for those
11 who took their places as secretaries. Furthermore,
12 the wages of plumbers would eventually be reduced
13 because, according to the National Academy of Sciences,
14 the more an occupation is dominated by females, the less
15 it pays, and the wages would come down just as they came
16 down for clerical workers at the turn of the century,
17 when it shifted from male-dominated to female-dominated.
18 The work stayed the same, but the wages came down be-
19 cause women entered that occupation in large numbers.
20 Cost has been used as an argument against
21 pay equity. The same argument has, of course, been used
22 against minimum wage laws, child labor laws, the Civil
23 Rights Act, the Equal Pay Act, the Pregnancy Disability
24 Act, Davis Bacon and every other socialist labor law

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2 ever enacted in this country. The cost argument asserts
3 that wage discrimination will have to be tolerated,
4 because the cost of correcting it will destroy the
5 economy. In fact, in one case, I love this quote, in
6 one case, the judge said that this issue was "pregnant
7 with the possibility of destroying the economy in this
8 country." I thought that was a beaut. Congress did
9 not place a price limitation on the cost of ending
10 discrimination. In the case of Los Angeles Department
11 of Water and Power versus Manhart, the Supreme Court
12 ruled that the cost of correcting discrimination prac-
13 tices is no justification for violating Title 7. The
14 court said that the employer's argument, quote "might
15 prevail if Title 7 contained a cost justification
16 defense," but neither Congress nor the courts have
17 recognized such a defense under Title 7.

18 In AFSME versus the State of Washington,
19 the court said that the defendant's preoccupation with
20 its budget constraints pales when compared with the
21 invidiousness of the ongoing discrimination.

22 The last argument is the free market or
23 everybody does it argument. Employers say, "We don't
24 discriminate; we just pay the going rate." Unfortunately,

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2 some, if not most of these pay practices antedate the
3 passage of the Equal Pay Act and the Civil Rights Act
4 of 1964. They were not illegal then, but they continued
5 to govern pay practices between jobs. These pre 1964
6 discriminatory pay plans are the ones we transfer from
7 employer to employer when we rely on the going rate for
8 women's work. The Supreme Court and the lower courts
9 have rejected the market defense. It's no longer
10 debatable. The courts have already said you can't use
11 the market as a defense, except that opponents to pay
12 equity continue to try to use it, yet the courts have
13 already talked about it.

14 In Corning Glass Works versus Brennan,
15 the Supreme Court addressed the issue in an equal pay
16 case. The court said, and I quote, "The differential
17 reflected a job market in which Corning could pay women
18 less than men for the same work. That the company took
19 advantage of such a situation may be understandable as a
20 matter of economics, but its differential nevertheless
21 became illegal once Congress enacted into law the
22 principle of equal pay. The whole purpose of the Act
23 was to require that these depressed wages be raised in
24 part as a matter of simple justice to the employees

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2 themselves, but also as a matter of market economics,
3 since Congress recognized that discrimination in wages
4 on the basis of sex constitutes an unfair method of
5 competition." End of quote.

6 In Norris versus Arizona Governing Com-
7 mittee, the court stated, quote, "Title 7 has never been
8 construed to allow an employer to maintain a discrimina-
9 tory practice merely because it reflects the market-
10 place," end of quote. The Civil Rights Act was designed
11 to eliminate discrimination. Following the market is
12 designed to perpetuate discrimination.

13 In conclusion, let me say that in addi-
14 tion to being labeled as a looney idea, pay equity has
15 also been described as a Communist plot, a socialist
16 scheme, a radical feminist power grab, and I won't even
17 tell you some of the names I've been called. They were
18 the nice things that have been said about it. I've been
19 called a lot of names during the last eight months,
20 since I first introduced this legislation in New Castle
21 County government, but I would do it all again, because
22 it's the right thing to do. It's more than a women's
23 issue; it's more than a labor issue; it's more than an
24 economic issue. To me, it's a matter of justice.

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2 Thank you all very much.

3 (Applause.)

4 MS. GRANT: I'm Betty Grant. I'm a
5 staff representative for Council 81, Delaware Public
6 Employees, AFSME. When I first walked into the room
7 today, I was asked what I thought of Mr. Pendleton's
8 comments. The first thing I could think of was that he
9 was a chauvanistic pig and then, recalling that in the
10 not too far distant past, I read or heard a comment
11 that pigs were extremely intelligent animals, I had to
12 change that thought. I have just ended up with, he's
13 just plain chauvanistic.

14 I want to thank Karen for eliminating
15 about a page and a half of my comments, especially in
16 reference to the AFSME State of Washington case. I do
17 have something to add that I just received this morning
18 from the International in reference to the Washington
19 State case. On Friday, this past Friday, the Ninth
20 Circuit Court of Appeals in San Francisco received legal
21 briefs from six national organizations supporting the
22 position of AFSME, in the State of Washington case.
23 And, of course, that was -- the State of Washington is
24 guilty of sex-based wage discrimination against fifteen

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2 thousand women working. Filing briefs in support of
3 AFSME are the AFL-CIO, the NAACP Legal Defense Fund,
4 the National Education Association, the National Organi-
5 zation for Women, the National Center for Economic
6 Alternatives, and a coalition of groups working with the
7 National Committee for Pay Equity. We're very proud to
8 have these different organizations join us in this fight.

9 AFSME women have never been shy about
10 voicing their concerns. We're a very loud-mouthed
11 bunch. In fact, if you can't hear me in the back, I'll
12 raise it a little bit. Child care, pay equity, career
13 ladders, sexual harassment, maternity leave, working
14 through the union, AFSME women have called for action
15 not only at the bargaining table, but also in state
16 legislatures and in Congress. We were the first union
17 in the AFL-CIO to call for ratification of equal rights
18 amendments. AFSME members lobbied, participated in
19 demonstrations and gave generously to the ratification
20 campaign. Pay equity, the elimination of sex discrimina-
21 tion in wages, is the centerpiece of true equality for
22 women and minorities in the workplace. AFSME has been
23 the pioneer on the pay equity frontier, beginning in
24 the early 1970's, with AFSME Council 28, in the State

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of Washington. Over the past recent years, AFSME members have staged job actions and filed lawsuits against cities and states that violate the concept of pay equity, and we've made progress in pay equity at the bargaining table.

In researching pay systems, we are even finding more and more that men's jobs are structured to promote interest and advancement. Work that women do is work men don't want to do and that's why we're doing it. Too often educational opportunities for women and minorities are nonexistent in the workplace. Some few employers reimburse for furthering an individual's education, but the education must be acquired in unpaid leave of absences or after regular working hours. And, how many working women with families have time available? After they get through work at the job, housekeeping, shopping and children take up the bulk of afterwork hours.

I attended, last week, a world-wide conference on women in public service and learned that in Sweden, the educational opportunities are a bit greater for working women. They receive full pay during the regular work week while they are furthering an

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2 education. In Luxembourg, the courts ruled that if any
3 woman employed in public service files for employment
4 discrimination and wins, the employer has to pay heavy
5 penalties in addition to high back pay, in order to
6 discourage employers' discrimination against women.

7 In addition to the normal inequalities in
8 a pay equity study, other problems having an effect in
9 the pay and advancement opportunities for women are time-
10 sharing. We're starting to look very closely at time-
11 sharing, because it's a way to get more people employed,
12 yes, but whose time are they sharing? Women's; not the
13 men's; just the women's. So, we, as a union, are going
14 to be watching that very, very closely. Sexual harass-
15 ment; now, it's true that occasionally there is a case
16 of sexual harassment, of a woman sexually harassing a
17 man in the workplace, but the majority of the incidents
18 are against women and you might say, "Well, how does
19 this affect pay equity?" Cases have been cited where
20 women have lost their jobs, have been demoted, have
21 been denied educational opportunities, have been denied
22 any opportunity for advancement because they refused to
23 accept the sexual advances of an employer. In cases,
24 termination has taken place. And, because of the

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2 embarrassment of being subjected to something like that,
3 a lot of the cases go undisclosed.

4 In Maryland, AFSME Council 92 and Local
5 1072 have filed pay equity charges with the EEOC against
6 the University of Maryland, charging that the University
7 pays its seven thousand female employees an average of
8 twenty percent less than men. The complaint was filed
9 after four years of attempts by AFSME clerical workers
10 to win just compensation. In Rhode Island, Governor
11 Garrity, after meeting with AFSME officials, has agreed
12 to name a commission to study comparable worth or pay
13 equity. The meeting came after AFSME Council 94 released
14 a report showing widespread sex discrimination in the
15 State work force. About seventy-nine percent of AFSME's
16 eight thousand, one hundred and twenty-five members in
17 the State of Rhode Island work force work in sex segre-
18 gated job classifications, those jobs dominated by
19 seventy percent of one sex. Half of all the women
20 represented in the study earn less than twelve thousand,
21 nine hundred and fifty-eight dollars a year, but just one
22 quarter of all the men earn less than that.

23 We talked about the Washington State
24 case. Although AFSME's brief was filed, and the briefs

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2 have been filed by friends of AFSME, that I started out
3 with, it would still be well into 1985 before the case
4 is heard and a decision can be expected. The Nassau
5 County case in New York is proceeding, but very slowly.
6 Preliminary motions are still being filed and heard.
7 The case will probably continue slowly because the
8 County is spending an exorbitant amount of taxpayer
9 money to pay two private law firms to fight the case.
10 They have already filed a number of frivolous objections
11 and motions, which have the effect of drawing out the
12 proceedings. We can expect even the most procedural
13 matters to be fought tooth and nail.

14 Based on preliminary evidence AFSME
15 gathered to prepare EEOC charges, once AFSME attorneys
16 have a right to thoroughly examine the County's records,
17 they will find plenty of additional evidence of inten-
18 tional discrimination.

19 In Michigan, after four years of griev-
20 ances, lawsuits and negotiations, a hundred and five
21 AFSME women who care for patients at the Oakdale Center
22 in Lapeer, Michigan, have won a settlement of one point
23 six million dollars in back pay. The one hundred and
24 five women were layed off out of seniority, while men

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2 were retained in 1980. The State Department of Mental
3 Health said that patients should be cared for by staff
4 people of the same sex and that no male staff members
5 could be spared. Just think about hospitals for a moment
6 and who takes care of who. It was pointed out that in
7 hospitals and nursing homes everywhere, female nurses
8 are assigned to male and female patients alike. Even-
9 tually, an arbitrator ruled that the State had indeed
10 violated antidiscrimination rules, but it took years of
11 negotiating for AFSME and the State to arrive at a
12 settlement. According to its terms, the one hundred
13 and five women will get one point six million dollars
14 in back pay; twenty-five hundred dollars to sixty thou-
15 sand dollars apiece, and forty women will be recalled to
16 their jobs.

17 Still to be resolved in Federal court is
18 the larger issue of whether patient care employees should
19 be allowed to care for members of both sexes. AFSME has
20 pay equity suits pending in Florida, Philadelphia,
21 Chicago, Los Angeles, Wisconsin, Hawaii, Connecticut,
22 Nassau County, New York, and the Reading School Dis-
23 trict, in Pennsylvania. In Delaware, everyone is aware
24 of the pay equity study originated by Karen Peterson.

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2 For the State, a House joint resolution Number 23 has
3 been introduced to create a pay equity study commission
4 providing for membership, organization and purpose of the
5 commission, and requiring a report to the legislature
6 and the governor. It might be a point of interest to
7 everyone here that the Director of the State Personnel
8 has been most reluctant to release figures necessary for
9 us to make a preliminary study of discrimination
10 against women and minorities in the Delaware State
11 work force.

12 Pay equity is the issue of the Eighties.
13 Women and minorities are moving up on the job site;
14 slowly, yes, but surely. Only through united efforts
15 can we be recognized for the type of work we do, both
16 through the prestige of the jobs we hold and through the
17 increased pay because of the skills, responsibilities
18 and knowledge required of our jobs. We've come a long
19 way; we've still got a long way to go. We're not going
20 to stop. We're through being undervalued in any work we
21 do, whether it's in the home or on the job.

22 Thank you.

23 (Applause.)

24 MS. WASERSTEIN: My name is Aida Wasserstein

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2 and I'm an attorney in the City of Wilmington, Delaware.
3 If any of you do not hear me, I request that you raise
4 your hands at whatever point you're having a problem.

5 I'm going to touch very briefly on some
6 other sex discrimination issues besides comparable worth
7 and pay equity. I would basically focus on the pay
8 equity question, because there isn't really that much
9 time, and what I'd like to do with that question is
10 give you a sense of how to put the puzzle together. In
11 other words, any of this material that one would present
12 to a court is not necessarily complicated, but it's a
13 question of putting the puzzle together, whether you
14 get one piece and how does it fit with the next piece.
15 And, what I'd like to do is just give you a feeling
16 about what some of the pieces are so that when you come
17 out of here, you'll be better able to answer questions
18 that people may present to you about this matter.

19 As Karen pointed out, the history of un-
20 equal wages between men and women goes a long way back
21 in this country, and it goes also a long way back in
22 terms of a difference in pay between blacks and whites.
23 And, in response to Mr. Pendleton, I would just like to
24 remind him that prior to the Civil War, the market allowed

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a very low level of wages for persons of black skin, and if market were a legitimate answer to why there is a differential in pay between minorities and mostly white males, or between men and women today, then that experience should give us some insight as to how society changes and how our values change and our understanding of what is right and what is wrong has changed in the last couple of hundred years.

In the area of sex discrimination in wages, there have been attempts in Congress since 1945. Every year, there has been an attempt to pass a bill that would mandate equality in wages between men and women. In 1963, the Equal Pay Act was passed, and as Karen pointed out earlier, it is limited in that it requires a comparison of jobs. The job has to require equal skill, equal effort, equal responsibility and under similar working conditions. There is case law, for example, that suggests that if you have a school district that has sixty schools, but has one central office assess wages and employment policy, that school district, for the purposes of Equal Pay Act, is still one set of working conditions, so therefore, you can litigate that kind of case. You're not limited to just

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2 comparing jobs within one school.

3 In the context of Title 7, and that's
4 what's so exciting about the AFSME case, is that it
5 applies a Title 7 construct to the problem of wage
6 disparity between men and women. In the context of
7 Title 7, you can go under two theories. One theory is
8 the disparate impact theory. In that kind of situation,
9 you have the burden of showing that there was intent to
10 discriminate, intent as isn't fair from the circumstan-
11 ces. The court would look at a variety of criteria,
12 and you also have to show that although there is a
13 facially neutral policy, there is a disparate impact
14 between men and women, or whites and blacks and so forth.
15 And, let me give you a couple of examples to bring out
16 that concept. For example, let's say that there is an
17 employer who has a rule that in a certain part of his
18 company, fertile women cannot work because there's a
19 certain chemical that is being used that has been found
20 to be harmful to the fetus. Now, I happen to be preg-
21 nant now and I'm very careful about what I do and what
22 I expose myself to, because I'm concerned about the baby
23 I'm carrying, and anyone who would hear about that kind
24 of rule would say, you know, that is a sophisticated,

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2 sensitive, careful employer. That employer is paying
3 attention to women's needs, because if they're fertile
4 during the first few weeks of the pregnancy, you really
5 don't know if you're pregnant and you could expose the
6 fetus to harmful chemicals and, therefore, really hurt
7 this unborn child absent this rule. And, you know, we
8 all sit around feeling very good about the rule, but
9 that is a facially neutral rule that could have a dis-
10 parate impact on the women. For example, scientific
11 research is not that advanced and it is very possible
12 that the chemical is also transmitted through the sperm.
13 So, you have a situation whereby allowing men, who
14 could be the fathers of children, to also be exposed to
15 that chemical, you are also going to accomplish the same
16 harm to the fetus as if you had allowed the fertile
17 women to participate. If it also happens, as is often
18 the case, that work in that particular division of the
19 company pays better, you will have a situation where
20 you could make a case that this is a facially neutral
21 rule that is discriminating against women in terms of
22 pay and in terms of opportunity.

23 In the case of New Castle County, I
24 understand that Vivian Houghton pointed out this morning

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2 that one of the requirements to be a firefighter -- or
3 to be a paramedic is to have been a member of a volun-
4 teer fire company. This is another example of another
5 facially neutral rule that looks okay when you first
6 look at it, but when you look behind it, you realize
7 that maybe it does have a disparate impact on women.

8 Another way to show a Title 7 violation
9 is to show disparate treatment, which is a more obvious
10 thing. The employer treats men one way and treats
11 women differently.

12 Another source of law in this area
13 is an executive order which applies to those who contract
14 with the Federal government, and that order also prohi-
15 bits differentials in wages, based on sex. And, since
16 there are so many contractors with the Federal govern-
17 ment, that is an important source of rights that we
18 should be considering.

19 I have a handout here that people can
20 take afterwards and unfortunately, I don't think I have
21 enough copies for everybody, but what I have done in
22 that handout is, I have pointed out some other statutes
23 and some other sources of rights besides the ones I
24 have mentioned so far. To give you an idea of other

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2 kinds of problems that are involved in the question of
3 women's rights, for example, you could have a Title 9
4 problem, the question in education. Is there a school
5 district who is discriminating in girls' athletics.
6 And, there is also now developing in the law the ques-
7 tion of does Title 9 apply to employees of the school
8 district. You can have a Section 504 problem, which
9 deals with handicapped discrimination. You can have an
10 age discrimination problem. And, the reason that I
11 bring those kinds of issues to your attention for a
12 couple of minutes and also mention them in the handout
13 is that very often an individual may have more than one
14 cause of action. If you are a forty-five year old black
15 woman, it's possible that you have an age discrimination
16 claim, a sex discrimination claim, a race discrimination
17 claim, and therefore, it's important that in analyzing
18 these problems, you talk to somebody who is trained,
19 who can look at it from more than one perspective.
20 There could be a claim based on religion. It's also
21 important that you talk to someone quickly, because
22 there is a requirement, under Title 7, that you go
23 through an administrative mechanism, and in order to do
24 that, you have to file an administrative complaint

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2 within ninety days of your learning of the discrimina-
3 tory activity. So, if your employer tells you today
4 that effective three months, you're going to be layed
5 off and you think that the motivation is discrimination,
6 don't wait until you're layed off to go talk to an
7 attorney or go talk to somebody in the Department of
8 Labor, because your ninety day deadline will have been
9 blown by that time.

10 In the handout I mentioned to you how
11 to put together a case, for instance, a hiring case,
12 if you went to a court, what you would have to show, to
13 show to the court, that you've been discriminated
14 against. The first thing you have to do, you have to
15 show you have a prima facie case; you have enough indi-
16 cation that there was discrimination and that is the
17 reason that what has happened to you has happened. At
18 that point, the burden shifts to the employer and the
19 employer comes in and says, "Oh, no, I was not discri-
20 minating. There's a legitimate reason why this happened."
21 And, then, the burden shifts back to the plaintiff to
22 show that the employer's reason is only a pretext, that
23 what is really happening is that there was discrimina-
24 tion going on, but the reason that was given is only an

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2 excuse. For example, in a hiring place, if you are a
3 black person and you're claiming you were not hired,
4 you have to show that you are a member of a protected
5 group; in that case, race, black person, you are quali-
6 fied for the job, you applied for the job, the employer
7 did not hire you and then, the employer continued to
8 look for someone with the same qualifications and
9 hired a white person who, maybe, didn't have the same
10 qualifications and, therefore, that is your prima facie
11 case. The employer can then come in and say, "No, this
12 white person did not have the qualifications we adver-
13 tised for, but she had this other qualifications that
14 were important to us and they were important to the job,
15 and that's the reason we hired her, rather than the
16 black applicant."

17 What happened in the AFSME case is that
18 a disparate treatment theory was used to prove a case of
19 wage disparity between men and women. And, what I want
20 to do very quickly is try to put that puzzle together
21 so you have an idea of how that court reached its deci-
22 sion.

23 The first thing that the court had to
24 see was that there were jobs that were segregated by

1 sex. The court looked at jobs that were or had been
2 seventy percent or more female, so here the court had
3 two groups. They had jobs that were primarily male and
4 they had jobs that were primarily female. Then, the
5 court had to show that there was a pay differential
6 between the jobs. In the AFSME case, there was -- it
7 turned out, there was a twenty percent difference between
8 the two groups of jobs. And, then, the final aspect
9 that the court had to analyze was that there was a
10 causal connection between the jobs that were primarily
11 female and the jobs that were primarily male. In other
12 words, there was the inverse relationship that Karen
13 spoke about earlier. The jobs that were primarily female
14 were paid less. The jobs that were primarily male were
15 paid more. And, that was basically how the prima facie
16 case and the disparate impact context was put together.

17
18 I'm not going to bore you with all the
19 excuses that the State gave for why this was legitimate
20 or why this was not discrimination. I will point out
21 to you that one of the defenses the State raised was
22 that there is a constitutional provision in Washington
23 State that requires a balanced budget, and if the court
24 were to order remedy, it would obviously make it

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2 impossible to make that provision. They also took the
3 position that they had passed a law that would in the
4 next ten years, would correct the disparity and that
5 also was not found to be sufficient to the court.

6 To the extent that people advocate a
7 marked difference as a legitimate reason for disparity
8 in wages, I think a good plaintiff's attorney will have
9 to show that that difference is based on sex; in other
10 words, we come back to what seems like a facially neutral
11 criteria, the fact, for example, that in Wilmington,
12 Delaware, maybe secretaries get paid thirty percent less
13 than administrative assistants, and if it happens the
14 administrative assistants tend to be male and the
15 secretaries tend to be female, one has to then be able
16 to show that some of that, or one would want the court
17 to understand is that some of that is based on the
18 classifications of the jobs, the titles that the jobs
19 have, that the jobs really entail the same kind of work,
20 and that if there is a marked differential, it's because
21 the market is operating on the basis of segregating
22 people by sex. I think that's difficult to do, but I
23 don't think it's impossible.

24 I believe this was mentioned this

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2 morning, but I also think it's important to emphasize
3 it, and that is that it was very expensive for the State
4 of Washington to fight the litigation and to go to the
5 point it did, and at the end, the court appointed a
6 master who obviously was going to be paid by the State.
7 This master has to give reports every two months and
8 there's a very tight schedule for the State paying the
9 bills of this master. Within thirty days of the master
10 getting approval of a particular bill by the court, the
11 State has to pay it. In New Castle County, there --
12 obviously, we're at the beginning of the road, but if
13 New Castle County were to choose to correct whatever
14 deficiency it finds, it will find that it will save
15 itself in the end a tremendous amount of time. It would
16 save itself attorneys' fees, and it would also be doing
17 what it will probably be asked to do by a court anyway;
18 namely, to provide back pay and correct the difference
19 for the prior years, not just for the time of which a
20 court order would be given.

21 The other thing that is interesting is
22 that I believe the market is going to be changing tre-
23 mendously in the next few years. What is beginning to
24 happen is that we are beginning to experience the

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2 computer technology. The middle management, which has
3 traditionally been male but into which women have been
4 beginning to make inroads, is getting squeezed out, and
5 what you're beginning to find and what I think will con-
6 tinue to be true for the next twenty or thirty years,
7 even more so, is that there are more jobs now for people
8 who gather information, for the information gatherers
9 who then put the information into the computers. There
10 are fewer jobs available for the people who have to
11 then analyze that information, because the computers are
12 doing that job and will increasingly do it. And, then,
13 there are obviously a few jobs at the top for the people
14 who are the policy-makers and the decision-makers. What
15 that means to me is that there is going to be a tremendous
16 competition for those jobs of information gatherers and
17 for the jobs at the top of decision-maker, and it is
18 going to be very interesting to see what happens. In
19 the past, the information gatherers, the data processors,
20 the typists and so forth have tended to be women, but
21 now there is going to be a level of future candidates
22 for employment, men, who would have been more likely to
23 have the middle level jobs, the jobs which maybe had
24 more prestige, better paid, that are being reduced in

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2 number and what I will expect to happen is that there is
3 going to be more competition in the top jobs, because
4 women are increasingly aware of those jobs and are going
5 after them and they're getting the training that they
6 need to get the policy-making jobs, but also, the men
7 who would have been in the middle management kinds of
8 positions in the past will probably find that they're
9 going to be competing with women for the information
10 gathering kinds of jobs. And, I think that change in
11 the market is going to prove to be very interesting,
12 and it's going to be interesting to see whether the jobs
13 get classified as male or female and what kind of trend
14 develops in the next twenty or thirty years.

15 I finally want to comment on the two
16 people who spoke before me, because I think they really
17 deserve recognition. I think Karen has really put her-
18 self on the line day after day. She obviously has put
19 her political career on the line and has done it success-
20 fully, but it was nevertheless a risk, and I think she
21 deserves recognition for having brought this issue to
22 the floor and for, on a daily basis, having to fight it
23 and continuing to do so. And, although I have not met
24 Betty Grant before today, I do think that the union

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2 movement, to the extent that it's beginning to address
3 this issue, deserves recognition. In terms of its his-
4 tory, it is now beginning to be true to its history.
5 Women were in the forefront of the picket lines when
6 the unions were being formed. The Triangle fire case
7 is an example of how literally women gave their lives in
8 a fire and that further galvanized the union movement
9 and led to better working conditions. And, I think it's
10 about time, but I'm also very pleased to see that the
11 unions themselves are now taking the forefront on look-
12 ing at the question of pay equity between men and women.
13 I think that's an exciting prospect and I really want to
14 commend them for it. And, I hope you heard me. Thank
15 you.

16 (Applause.)

17 MS. PETERSON: Are there any questions?

18 THE AUDIENCE: I have a question about a
19 case that I'm aware of that -- I always get mixed up
20 on whether it's Princeton or Yale, but there's a group
21 of secretaries right now who are striking, basing their
22 strike on comparable worth. It's secretaries at either
23 Princeton or Yale have been on strike for six or seven
24 weeks now because their wages are so far below the

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2 primarily male custodians, etcetera. They're still in
3 negotiations, and my question is, you've pretty much
4 addressed comparable worth through all the legal avenues.
5 I'm just curious about -- I don't know what's going to
6 happen to this case. I think they're going to win, but
7 I'm just wondering if you have a response as to whether
8 it would have been better for them to do a lawsuit, just
9 sort of about that whole notion of striking.

10 MS. WASERSTEIN: I assume the question
11 is addressed to me, and I'm not -- I didn't give you
12 the legal background because I thought that everybody
13 should go into court tomorrow. The reason I gave it is
14 because I thought that maybe some of the jargon that is
15 used is something that is harder to get a handle on. I
16 don't think -- my personal opinion is that the legal
17 system was not created to bring about any justice or
18 any equity. I believe the legal system is basically
19 created to help the society run smoothly. What helps
20 the society run smoothly is what appears to be what
21 causes the least disruption. There have been instances,
22 and that's one of the beauties about the United States,
23 I believe, where the legal system has been used to
24 achieve justice and equity. You see that in the case

1 of Brown versus Board of Education as an example. You
2 see it in a lot of other situations, but it's really not
3 a system that's geared to that. It's a question of when
4 attorneys have been able to fashion remedies for injus-
5 tices out of using the legal system as a tool. I think
6 what you have to do is consider using a whole range of
7 available tools and while I don't know the specific
8 case that you're talking about, I think that organizing
9 among themselves, uniting among themselves, having a
10 united front, making people aware, talking to the media
11 and all those kinds of tools are part of the conglomerate
12 of things that one needs to consider. The legal approach
13 takes a very long time and I think people may have to go
14 that route, but it's definitely not the quickest or the
15 most efficient way, and it's definitely not the way
16 that was originally intended. I mean, the legal system
17 was not intended to remedy this kind of problem. It just
18 may be that if they tried everything else, they might
19 have to use this tool also. I did not mean to indicate
20 that that would be the best route to go.

22 THE AUDIENCE: I'm seeking specific
23 information and my problem is complicated, so if I can
24 have a word with you after this, I'd appreciate it.

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2 MR. BANNOWSKY: There are a couple of
3 things I'd just like to expand on briefly, one, regard-
4 ing the introduction of technology, you see something
5 in the labor movement called job erosion. And, basic-
6 ally, what we're concerned about is the change in classi-
7 fication, the change in the work that's going on because
8 of the new electronic hardware at the workplace, and
9 management will usually guide these things in such a way
10 -- one of the things they like to do, of course, is
11 turn a lot more of the jobs to management function in
12 order to make sure that the represented employees, for
13 example, aren't in a position to make decisions. But
14 also, in the same process, what you see is, they'll
15 also try to change the structure so you'll be creating
16 more of the jobs in the lower paying classifications,
17 and at the same time, if they have classifications that
18 tend to be done by women, and these are lower paid, well,
19 in that case, the women will be getting those jobs.

20 The reason I'm making this point is in
21 reference to the idea about the market forces and the
22 wages established by the market. What a lot of white
23 males fail to understand or what is not presented very
24 clearly is that when you have a class of people,

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2 minorities, black people or women, they're paid less.
3 Basically, what that does is drag the market down and
4 suppress the market for their own wages. There's
5 always some way that management can find to replace you
6 with somebody who is paid less, and there's a number of
7 ways to do it. There's a number of ways that they have
8 done it traditionally, import women to take your job,
9 import blacks. That was done in the Twenties and
10 Thirties. They were imported in from the south. They
11 were going to strike and of course, today we see the
12 thing, the runaway shop. One of the things that tech-
13 nology has given management is the ability to transport
14 capital very easily, and so they can shut down a plant
15 here and ship down to El Salvador or Grenada, where they
16 can pay people fifteen dollars a week. So, I think
17 it's very important for the market issue to be brought
18 out. It's something that's very much a part of the
19 philosophy of the current administration. Every indi-
20 vidual is just an individual. You're going to negotiate
21 with your employer for the best wage you can get and
22 even to say that maybe you can get rich, maybe you can
23 win the lottery, but don't worry about the other guy.
24 I think it's very important for working people to

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recognize, all working people to recognize their stake in each other's equality.

MS. WASERSTEIN: Any other comments or questions from anyone else?

THE AUDIENCE: I believe this gentleman here is from the private sector. I think most of us have heard of the publicity surrounding Washington State and other jurisdictions. I just wondered what's going on in the private sector to address this problem of comparable worth, and why haven't we heard more about, you know, private industry and their side of it?

MS. GRANT: Well, naturally, any knowledge that I have is primarily based on union work; however, any publications we receive indicate that the private sector is very alarmed over this whole situation, because the private sector now sees its power, its authority being somewhat uprooted by the upstart unions in feeling that women and minorities have rights, have been undervalued and underpaid for years.

What they're doing specifically? There is a great deal of trying to run unions down, break up unions. Unions sort of set the pace in benefits and so forth for employees, and private employers try to keep

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2 up or ahead in order not to have a union come into their
3 workplace. What they're doing specifically, I can't
4 answer, but I do know that the publications we get indi-
5 cate that they are very upset and are trying to hold it
6 back just as much as, as an example, the State of Wash-
7 ington.

8 MS. WASERSTEIN: Title 7 does apply
9 to private employers, so it's not a lack of legislation
10 in the area that would present an obstacle. There are
11 limitations, based on the size of the employer, but
12 most of the situations we're talking about, the employers
13 would meet those criteria.

14 MS. GRANT: Let me point out, in the
15 private sector, the individual employee doesn't have
16 somebody helping him. We're proud with the unions that
17 somebody can say, "Hey, I think I've been discriminated
18 against," and then, everybody gets together and they're
19 not afraid to speak up because they're really not alone.
20 In the private sector, the employees are very, very
21 much alone. I remember years ago, I worked for the
22 DuPont Company, and I felt that we were all women in
23 my particular job and there were some things going on
24 that I thought were bad, and I said the word "union"

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2 about four times, and my supervisor told me, "If you say
3 'union' or even talk about union anymore, you're going
4 to be out the door." I think it's that fear that the
5 private employee, private sector employee has. They
6 need their job and the same thing with sexual harassment.
7 A lot of women know that it's going on, they've been
8 subjected to it, but they're afraid to speak up, because
9 they need their jobs.

10 Again, the whole word "union", "united",
11 there is somebody to help the union employee in a case
12 like that. I think that the private sector employee
13 has places to go, too. Well, I suppose, the Department
14 of Labor, and under the Civil Rights laws, you're still
15 protected. It's just that individual fear of being
16 fired when you really need your job.

17 MR. BANNOWSKY: The private sector can
18 also mean -- well, I've been a member of the Civil
19 Rights Committee in my union. The private sector
20 represents an employee.

21 MS. WASERSTEIN: Any other comments or
22 questions?

23 (No response.)

24 MS. WASERSTEIN: Thank you.

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2 (Women's Rights Meeting concluded.)

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4 (Brief recess at 3:15 p.m.)

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6 THE CHAIRPERSON: I guess it's still
7 good afternoon. It's been a very exciting day and the
8 reason it's been so exciting is because of the group
9 participation by the people who have attended the
10 meeting. I'm pleased that so many of you have seen us
11 through the entire process and I think we all feel
12 cheated because we could only go to one of the con-
13 current work shops. There will be a record, and I hope
14 that you have left your names and addresses, and if you
15 have not, before you leave, would you please leave your
16 complete name and address, and if God is willing and
17 the Commission cooperates, you'll be getting a full
18 transcript and you'll be able to find out what happened
19 in the two workshops you were unable to attend, or if
20 you were unfortunate enough to have missed Dr. Berry in
21 the morning, you will discover some of the gems that
22 she layed on us.

23 At this point, I told you I was going to
24 say something nice about Bill Conner. I would like to

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2 introduce to you the new Chairman of the State Advisory
3 Committee. We are very eager to work with Bill and
4 hopefully, after we will be chartered in February, he
5 will still be on the Committee to do so. Our recharter-
6 ing has been moved up from the scheduled November date
7 to February, which means that the Committee who meets at
8 our next meeting is of an indeterminate nature, so we
9 might be sitting in the audience at the next forum.

10 Without much further ado, Bill Conner is
11 a good friend of ours and of mine. He's a former New
12 Castle County executive. He started out at that post.
13 He's a very active member of our community, President of
14 the Delaware Council on Crime and Justice, and a pro-
15 fessor at the Delaware Law School, and I think an
16 eminently qualified individual to succeed me, and it's
17 with great pleasure I introduce him with a charge to
18 introduce our speaker.

19 MR. CONNER: I'm sure I speak for all of
20 you, and I know I speak for all of the Committee in
21 saying that we are most grateful to Shirley Horowitz
22 for the magnificent job that she's done in putting this
23 meeting together today. I say, thank you.

24

(Applause.)

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2 MR. CONNER: The speaker for this after-
3 noon is James H. Gilliam, Sr. I emphasize the Senior,
4 because James H. Gilliam, Jr. is also a prominent
5 figure in our community of whom he has formerly heard.
6 Jim Gilliam is currently the Director of the New Castle
7 County Delaware Department of Community Housing and has
8 been in that job for ten years now. Before that, he
9 also had a distinguished career in other respects. He
10 was Vice President of Leon Weiner and Associates, the
11 firm, as you know, that built much of the public housing
12 and low-cost housing in New Castle County and elsewhere.
13 He was Director of Treatment Services for the Family
14 Court of the State of Delaware at one time. He was
15 Executive Director of the Greater Wilmington Housing
16 Corporation, Director of the Neighborhood and Housing
17 Service of the Greater Wilmington Development Council,
18 and on and on. And, he had a distinguished career in
19 Baltimore before he ever came here to New Castle County.
20 Many of us are deeply indebted to Jim for the insight
21 into public housing that he has provided over the years
22 in the community.

23 One of his more distinguished director-
24 ships of which he has a great long list, is that he was

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2 a member of this Advisory Committee of the Civil Rights
3 Commission a number of years ago and he was regaling us
4 at lunch with some of the experiences he had at that
5 time. He is a graduate of the Frederick Douglas High
6 School in Baltimore, Morgan State College, with an A.B.
7 in Sociology. He has a Masters in social work from
8 Howard University, and the last academic qualification,
9 Yale University.

10 Jim Gilliam.

11 MR. GILLIAM: You know, when Bill came
12 along with the whole business of a person with long
13 experience, I recall the newspaper article that was
14 given by this meeting. The guy made a big point of
15 saying that I came here when I was forty-five years of
16 age, and that was eighteen years ago. So, what Bill is
17 doing is kind of rubbing it in a bit.

18 I think we all agree that today, we have
19 been afforded an excellent and a long overdue opportu-
20 nity by the Delaware Advisory Committee of the United
21 States Civil Rights Commission to look at the civil
22 rights issues facing minorities, women, the aged, dis-
23 abled and alienated in Delaware, in the Eighties. Speci-
24 fically, attention has been directed to equal opportunity

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2 and access to the important areas of compensation,
3 housing, pay equity, a significant women's rights issue.
4 The important issues of unemployment and Affirmative
5 Action in the criminal justice system has not been
6 addressed and it is my hope that in the very near future
7 that an opportunity will be presented to examine these
8 subjects in detail. I think they're very important.

9 The conference, in my opinion, started
10 off in grand fashion with a keynote address by Commis-
11 sioner Mary Frances Berry. I feel that we, the citizens
12 of Delaware, and I would explain this to say that the
13 citizens of the United States owe Commissioner Berry
14 a great deal of gratitude for her dedication and contri-
15 butions to Civil Rights efforts in the United States,
16 and just as importantly, her willingness to persevere
17 and to hold to her beliefs under difficult and trying
18 circumstances. I think that those of you who are
19 familiar with Commissioner Berry know and feel that it
20 would be fair to say that her efforts to improve the
21 performance of the Civil Rights Commission, and her
22 determination to this, in spite of strong opposition,
23 contributed mightily to the continuation of the Commis-
24 sion. In very simple terms, I don't believe that the

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2 Commissioner Berry relative to the lack of concern by
3 the majority of the American public to social rights
4 issues, I concur fully with this. I think that some of
5 the recent surveys that have been made would indicate
6 that this seems to be the mood. Like it or not, that's
7 the way it is. I feel further that even though we must
8 direct our attention and our concerns to the actions
9 taken by our current political leadership in Washington,
10 I want to say to you that in my opinion, the issue is
11 really not a partisan political type issue; that it is
12 an issue, one that permeates and pervades the thinking
13 of any political party that we have today.

14 I was reminded, and this point was brought
15 home to me very forcefully when I heard it -- had heard
16 Bert Lance on television on Sunday, which Bert Lance
17 was saying that one of the reasons why the Democrats
18 did not do very well, in fact, they lost the whole south,
19 and the reason that this was done was that the Democra-
20 tic party did not pay attention to the mood of this
21 nation. It simply did not. The party did not. What
22 he's saying is that if, in fact, you're going to have
23 an effective second party, it means that we're going to
24 have to pay attention to the mood of the country, even

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2 if it means that the Democratic party is going to have to
3 move further to the right. He indicated also in his
4 comments that the degree to which the party moves is
5 going to be contingent upon what happens in 1986, when
6 you have your Congressional elections.

7 So, the point is, we really have to watch
8 where we're going and we have to watch what we're doing.
9 I would have to say to you that the task is not going to
10 be an easy one and when I say these shifts, I'm talking
11 about a shift in the direction of not caring at all
12 about social issues. That is the way the mood is and
13 it seems to be reflective of the kind of attitude that
14 exists in our country, not with the oldsters, but also
15 with your young people. I'll cite to you two instances.
16 One was a survey that was made in terms of who voted
17 for whom in the last election. Absolutely no question
18 at all but that a large part of our young population,
19 and this really indicates how they're thinking and what
20 they've been taught, and I'm talking about the Holy Bible,
21 these things. And, this swing to the right in their
22 thinking occurred irrespective of age, sex and I must
23 say, tragically, race. The shift was there. The shift
24 seems to be in the direction of materialism, and if I

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2 can coin a word, to a general mood of meism, where
3 people are concerned about self. This says to me that
4 we're going to have an extremely, extremely difficult
5 time changing this circumstance. It's going to be tough.
6 Some way, some how, we're going to have to do this.

7 Now, with reference to my initial respon-
8 sibility, which I have set forth, which is that of kind
9 of recounting for you some of the experiences that I've
10 had in all of the areas that we've talked about since
11 my arrival here in Delaware eighteen years ago at age
12 forty-five, the thing that brought me here was a job
13 responsibility with the Greater Wilmington Neighborhood
14 Council, and I was brought here as Chairman of the
15 Neighborhood Housing Services, charged with the respon-
16 sibility of operating the Neighborhood Improvement
17 Program. Back in those days, it was a pretty well
18 funded program. I think, when I arrived here, I had
19 seven hundred and fifty dollars to do a job with. For
20 many of you who are only familiar with GWNC at this time
21 in terms of its work in the educational field, I want you
22 to know that the GWNC that I knew upon arrival was in
23 a great deal of activities, including housing, education
24 and employment. The concern about women's rights was

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2 peripheral, but those were the three major areas of
3 concern. In fact, there was some thought given at that
4 time about our Community Action Program. The business
5 community was very much concerned about how that program
6 would be matched with local money, and the thought was
7 that this was something that the business community
8 could help, and they wanted to do something about it.

9 I can recall all kinds of meetings occur-
10 ring with private funding readily available. I think
11 most of you know and you may have mixed feelings about
12 what occurred, we had these kind of band-aid programs,
13 which I would certainly say the Community Action Program
14 was one of them. I would also say that the programs we
15 were into with the Neighborhood Improvement Program
16 were band-aid programs, not specifically designed to
17 really achieve a lot. As I look back at it, it was more
18 to placate people, to keep the lid on things. But, in
19 spite of these efforts, the bubble burst anyway and we
20 had all of the upheaval that occurred in the Sixties.
21 Those were, indeed, difficult times.

22 I recall when my wife and my son and I
23 came down from Maine and we came down 95, I guess it was
24 95 at that time, over the Delaware Memorial Bridge, and

1 we came up DuPont Highway and we hit the station area,
2 and my wife said, "Jim, can you make a 'U' turn and let's
3 go back home." It was a desolate place and one that was
4 reflective of a lot of things, a lack of housing oppor-
5 tunity, lack of jobs, you name it. At any rate, we
6 arrived here and the first order of business was for me
7 to find a place to live. The well-intentioned guy on
8 the staff who was really trying to make life better for
9 me, made an initial call to several of the apartment
10 complexes and he came up, as he told me later, with a
11 list of about eighteen. He said, he thought about this
12 and he said, "Now, wait a minute, maybe I'd better check
13 back to keep Jim from being embarrassed," and he checked
14 back. Those eighteen dried to three. Rough times. I
15 believe people ran a game on me. The game that they
16 ran on me was when I went to the first two, they must've
17 selected the worst looking apartments that they could
18 find in the universe, holes in the wall in subterranean
19 type areas, and what have you. So, my initial reaction
20 was, you can take this job and you can ram it. But, the
21 point was, I didn't do it and I found other housing
22 accommodations and that was it.
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24 In the general area of housing, there was

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2 a real push to do something about housing opportunities
3 for people. The only opportunity that we had at that
4 point for poor folks was the Wilmington Housing Authority.
5 There was a push then to try to get housing into New
6 Castle County. The struggle was a tough one and it was
7 a tight one. The level court system then changed over
8 to the executive type government. The O'Connor's came
9 in and it was at that point that we first wanted to
10 disburse orders for men, and the Bok Report was prepared.
11 The Bok Report prevailed and the New Castle County Hous-
12 ing Authority came into existence. To the best of my
13 knowledge, the largest number of communities that the
14 New Castle County Housing Authority was able to produce
15 and make available for low-income families was about a
16 hundred and forty comprised of some units down in places,
17 Rosegate, but principally, the houses that existed at
18 the Airport.

19 Well, there were efforts also to try to
20 accomplish things in fair housing, and I wanted to know
21 that the business community, under the leadership of
22 Henry DuPont, and most people don't know this, went down
23 to Dover and talked to Charles Terry, who was then the
24 governor, and I told him we needed fair housing legisla-

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2 tion passed, and he rejected our request, so nothing
3 was done for several years. The point is, since that
4 time, through the creation of organizations such as --
5 which was known as Greater Wilmington Housing Corpora-
6 tion, now known as CHHI, some advancement has been made
7 in the field of housing for low and moderate income
8 families. I have not publicized this too much. Since
9 the Department of Housing and Community Development was
10 created, we now have thirty-five hundred families, low-
11 income families now living in New Castle County outside
12 of the County of Wilmington. This has occurred as a
13 result of home ownership programs that we brought about
14 or even more importantly, as a result of the Section 8
15 Program, and I think many of you know a great deal about
16 that. There is one advantage to this program. It dealt
17 with that much sought after goal with big concentration,
18 and that is to try to spread people out and to try to
19 give people an opportunity to live wherever it is they
20 choose to live. I could say more about that at this
21 point, but I won't, except to say that in the whole
22 general field of housing, we're faced with an awful
23 dilemma. This kind of concern also transfers itself
24 over into the field of community development. There is

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2 a move afoot to kill both programs, and like it or not,
3 that's the way it is.

4 In the field of community development,
5 which contributes greatly to the whole housing effort
6 and the maintenance of our existing housing supply,
7 don't believe it when people tell you that the same
8 amount of dollars is being given for the effort. The
9 hard core reality is that it is not occurring. A speci-
10 fic and precise example of this is that four years ago,
11 the community development block ran three point four
12 million. Today, the community development block grant
13 allocation is two point eight. Now, people can say
14 anything you want to say about the same amount of money
15 being in the program, but I think I can add, and three
16 point four ain't like two point eight, so somewhere along
17 the line, we've lost six hundred thousand.

18 Let me tell you where it went. I think
19 it was in the housing meeting and I think about the
20 State Community Block Grant Program. What the people
21 in Washington did, they did a job on us. They did a job
22 on the county and they did a job on the city. The reason
23 they did it and how they did it was to shift the funding
24 formula. When the program first came into existence

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2 in 1974, there was an 80-20 split, eighty percent of
3 the money going to the community; twenty percent of the
4 money going to the secretary's discretionary fund,
5 which funded small city programs. Well, unbeknownst
6 to anybody, what happened, they switched the formula
7 from 80-20 to 70-30, so what it means in effect is that
8 the City of Wilmington and New Castle County are in
9 effect funding a part of the program in the state, but
10 people don't know that.

11 The other inroad on the money has to do
12 with the whole big question of add-on programs. A good
13 example of this would be the relocation monies paid to
14 people when they are displaced as a result of govern-
15 mental action. What occurred there was that they started
16 talking about raising the amount of dollars from fifteen
17 thousand to twenty-two thousand dollars, but where was
18 the money coming from? It was coming out of the C.D.
19 allocation that you had; not new money.

20 Another thing that happened, there were
21 new communities entered in the program. Those bucks
22 were taken out of the pot; no new money. And finally,
23 the other thing that happened, can't miss this, you
24 talk about the voucher program and the rental rehabili-

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2 tation program, you made mention of that. No adminis-
3 trative money to administer those programs out of the
4 C.D. block grant. That's where that money is.

5 I didn't mention the important thing of
6 inflation. Inflation is killing us there, which means
7 that even with two point eight, it's not the same two
8 point eight that we got five years ago. So, very,
9 very carefully, these programs are being eroded. They're
10 being wiped out, specifically in the field of housing,
11 no new construction in public housing. The only money
12 that's being allocated will be the housing for the
13 elderly and in Delaware, we're in pretty good shape as
14 far as elderly housing is concerned. You're having these
15 kinds of things happen, no money to do much of anything
16 with. It seems as if one of the things that they're
17 going to do us into is to exercise an old corporate
18 procedure whenever anybody wants to save money, and
19 that is to reorganize or to develop new programs. It
20 also provides people with a good logical reason for
21 doing nothing and I contend that that is one of the
22 things that's happening.

23 Now, with the voucher program, I think
24 your concerns are very legitimate. What is really going

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2 to happen is that under the Section 8 Program, you have
3 specific fair market rent criteria. You also have the
4 base rents. You've got some administrative money to run
5 it. We got some still under the voucher program, but
6 you still got housing quality control.

7 I contend that that thirty percent
8 limitaion which has existed under the Section 8 Program,
9 that that concept will be violated. It would not sur-
10 prise me, because there are no rent controls in existence
11 and you will find, once again, that some of the people
12 who are already deprived will be paying a higher portion
13 of their income. These are just some of the things in
14 housing.

15 Education, great concern about education,
16 but interestingly enough, if I can click the clock back,
17 some of the same people or some of the same -- or the
18 children of some of the same people that used to hang
19 out at the corner of 8th and Church are still hanging
20 out there. That is a matter of real concern. It would
21 suggest to me, and I'm not going to get into this be-
22 cause this is not my field, but it would suggest to me
23 that even though the concern was there about better
24 education, and there is no question about it, I think

1 we're trying hard to work with the problem of desegregation
2 tion and I think a lot of the pain associated with
3 that has kind of dissipated, I won't say fully, but to
4 some degree, and it looks like the opportunity to get
5 on with the job is there, except that I don't believe
6 that we've been innovative enough in terms of developing
7 new programs which will reach that hard core group of
8 people. And, understand, we're talking about the role
9 model thing, and I'll bet you some of the kids are
10 still there at the corner of 8th and Church. That is
11 a concern we've got. The other whole business, too, I
12 watched under the public service type programs, the
13 CETA programs and others like that, and I watched some
14 real good people in those programs doing just fine, but
15 then, when the bottom fell out, these people were not
16 prepared to do anything. And, I would like very much,
17 in the field of education, to see a real retraining
18 effort made right now to help people to be able to
19 adjust to the changing employment environment.

21 I know there's great concern about this
22 question, about the employment situation. It seems as
23 if many people are expressing real concern about what
24 seems to be an imbalance in terms of the kinds of jobs

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2 that are being brought to Delaware; the high tech versus
3 the medium tech or blue collar jobs, and it seems to me
4 that this is an area that should be handled.

5 Now, I've covered the educational thing
6 and as far as equipment is concerned, I think, to a
7 degree, I've addressed those concerns by talking about
8 the whole educational process. What often happens when
9 you come to a conference like this, you usually leave
10 with people who dealt with a lot of cliches, that people
11 ought to do things because it is right to do, but nobody
12 gets down to the whole big question about how do you
13 do it, except somebody will come up with a statement
14 which will be akin to, "The Lord will provide." And, if
15 you get into that kind of syndrome, you're in damn deep
16 trouble. The Lord ain't going to provide and you have
17 to do something about it.

18 Even though I'm just going to touch on
19 this, I feel your whole meeting should be, where do we
20 go from here with a concern about how do we make the
21 resolution of social issues important, and I think that's
22 one of the major questions we're going to have to deal
23 with. It seems to me, if we're going to direct these
24 concerns, we have to develop an action plan and this

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2 action plan should start off and should be the creation
3 of an involved group of people representative of the
4 broad community, one that has gotten to the other,
5 irrespective of specific interests. And, this kind of
6 addresses itself to what the Commission said, that there
7 has to be this kind of consortium if, in fact, we are
8 to make progress. If people continue to take an indi-
9 vidual road to whatever they call freedom, they're
10 going to stay in the minor leagues. If they join to-
11 gether and move ahead and move down the road, then
12 I think we can make the major leagues. People have to
13 decide this. I thought of the whole Civil Rights
14 movement, and it kind of dissipated when the whole
15 other thing came. When the environmentalists came,
16 that put the frosting on the cake. But, we should be
17 interested to win the ball game.

18 Now, it's not going to be easy. I think
19 that once this group gets together, an agenda needs to
20 be developed and I think this agenda ought to have
21 some of the following components: I think there has
22 to be clarity. Things have to be spelled out in terms
23 of intent and goal, and I think what it is you want to
24 do is that it needs to be based on fact and not any kind

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2 of emotional reaction. I contend that if you get into
3 the whole business of emotionalism, you're going to
4 lose the ball game. It's not that kind of thing.

5 The other thing that needs to be looked
6 at, is it legally possible, and I think these things
7 have to be very carefully examined. I'm not giving
8 you these things in any kind of order. The other thing,
9 whether you like it or not, it's going to have the P.R.
10 appeal. It's going to have to be the kind of thing
11 where the issues move away from and you can move people
12 away from the whole concept, but when you're talking
13 about equal opportunity in anything that you're talking
14 exclusively about black folks, it's got to be understood
15 that what we're talking about are the rights and privi-
16 leges of a lot of people, would you believe it, like
17 somebody's mother. That's always a good point, some-
18 body's aged mother. But, the point is, it's got to have
19 public relations appeal, one that will appeal to our
20 religious leaders, and I don't think they've been as
21 active as they should have been. The whole history and
22 the whole success of the Civil Rights movement, as I've
23 known it during my long lifetime, seems to have been
24 the rockbed, not just in the black church, but also in

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2 all the churches, and I think it has to have appeal to
3 the religious leaders. It has to have appeal to the
4 community leaders and the other thing too, we have got
5 to turn around some of this kind of thinking that the
6 media has that characterizes some of the things that we
7 do, and it has to be done through a whole process of
8 media education, to help people to understand the
9 importance of these things.

10 The other component is, whatever it is,
11 it has to be practical, realistic and it has to be
12 selective in terms of issues. You're not going to be
13 able to deal with everything at one time, but it seems
14 to me, it can be done. It has to be politically attrac-
15 tive and that means a great deal.

16 Now, finally, who can convene such a
17 group? Who can organize the effort? I thought about
18 this a long time and I didn't do too well in terms of
19 who could do this, because I find that many of the
20 organizations that used to exist and who were active
21 in this thing for whatever reasons I can't quite under-
22 stand or comprehend, seem to be involved in every damn
23 thing under the sun, except the whole business of taking
24 care of business. I mean, sometimes even doing the

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2 basic thing of looking at who is hiring who, what is
3 the story on these kinds of things. It looks like
4 we've forgotten that the old techniques did work and we
5 need to take a hard core look at that.

6 The way I've come out of this thing
7 right now, based on the excellent things I've heard
8 today, my recommendation is that the Delaware Advisory
9 Committee should do this, the Delaware Advisory Committee
10 to the Civil Rights Commission, and I think that it's
11 a good organization to do this. I'm not saying, do it
12 in perpetuity; I'm talking about the initial effort of
13 getting this thing off the ground, and I like it, be-
14 cause the group is nonpartisan. I think it's familiar
15 with the issues and I think it's a representative body,
16 and I think that it should do this.

17 Now, I recognize that in the process of
18 saying this that you may be operating outside of the
19 confines of your charter, but I also believe, like
20 Commissioner Berry said, you've got to make a choice.
21 My opinion is, with all due respect to the Civil Rights
22 Commission, and I may not be on it right now, because
23 I did raise these issues some years ago and I found out
24 that at reappointment time, I wasn't there, and somebody

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2 else was in the same box, was Father Reese, we kind of
3 spoke our mind. I found myself where I became so angry
4 at a meeting in Washington that I had to tell all those
5 people down there to go to hell, because they were
6 sitting up there and they were going to say to me that
7 my responsibility was not one of implementation, but
8 mine was strictly advisory in nature. And, I just
9 scratched my head and I said, "That's a kind of hard one
10 to live with, but great, they did their job on me and
11 I'm not there." This Advisory Committee has to make
12 this heavy choice. They got to do it. It's got to be
13 done in your best wisdom, but it's my thought that it's
14 something that's long overdue and needs to be done.

15 I think we should all be most appreciative
16 of the fine job that has been done today, and I hope
17 that the Advisory Committee will accept the responsibi-
18 lity to do the things that I've asked them to do without
19 national office support. I hope that when this thing
20 is over, that the conference will produce some meaningful
21 results. I hope also that those who have attended will
22 cooperate and I hope too that this will not be the last
23 meeting of this body.

24 Thank you.

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(Applause.)

THE CHAIRPERSON: I want to give Bill Conner the opportunity to introduce his friend, but I don't know if Jim Gilliam remembers his reception committee eighteen years ago.

MR. GILLIAM: You were twenty-three.

(Laughter.)

THE CHAIRPERSON: I would like to say that when this body adjourns, the Delaware State Advisory Committee will meet in public session starting at 4:45, and maybe at that time we can deal with your request. . . It would be something.

At this point, we don't have too much time left for the actual forum, but our microphone is open again for the next little while and I'd like to recognize Pauline Young, who is among our guests. I can't imagine that Pauline doesn't have something she would like to say on this subject.

MR. WALKER: I won't make your public session, but I'm glad Mr. Gilliam will be there. I know he spoke from his hard experience as a person working in this situation. I've been involved in Civil Rights since 1960, not by choice, but by necessity, and

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2 the compulsion is about where it was then, that we do
3 feel that we are in a helpless state. My involvement
4 most recently has been to pursue the office of county
5 executive, and in that pursuit, I discovered that the
6 way the government of the county is run, the city and
7 the state, is through the coordination of policies. I
8 understand that the candidate for the majority of the
9 city was a policy coordinator for the county. I also
10 understand that the Affirmative Action plan for the
11 county never took place as it should have, that policies
12 were alternated to just put them in the background.

13 I clearly understand that discrimination
14 is against the law and whether the Commission speaks out
15 against it or whether the person that has been elected
16 to office will speak out against it, I don't know. We
17 have the power to do the right thing and to be human and
18 law-abiding citizens and not just elected officials
19 or appointed bureaucrats. And, I will do everything
20 in my power, as a minister of the gospel and a citizen
21 of this community, to see that it's done, that we will
22 not become persons that will coordinate the policies
23 and the laws of this State, this City, this nation, to
24 discriminate against people.

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(Applause.)

THE CHAIRPERSON: Thank you. Yes, sir?

MR. COOPER: My name is Carl Cooper. I guess, I represent the great, unwashed citizens that aren't here today, but I agree with Mr. Gilliam's points and certain points that Miss Berry made, and I believe that the Commission's charge today to State government and to Federal government is to tell the people that even though the tide is changing, the tide can change again, you see. And, what I mean by that is, even though for the most part people are law-abiding, I mean, it could happen again where you may be forced to bring your State militia or your Federal troops again, because people aren't going to take unfair housing. And, you'd better report to President Reagan that just because they're in there now, they're successful, but people have rage, too.

That's all I have to say.

THE CHAIRPERSON: Thank you.

(Applause.)

MR. CONNER: I would like to make one comment. I was so pleased when Jim Gilliam said he would come and make this wrap-up talk, and the way he

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2 did it was the way I expected he would do it. And, it
3 reminded me about the two fellows who were talking about
4 their preacher, and he said, "He really lays it on us."
5 And, the other fellow said, "That's all right, there's
6 some benefit in knowing you're going to hell and knowing
7 why you're going."

8 THE CHAIRPERSON: If there aren't any
9 more comments -- yes, sir?

10 MR. RIDGEWAY: My name is Roland Ridgeway.
11 I have a request. The Delaware Housing Commission
12 located in Dover, and some of the people in this room,
13 in a realistic role, is working again to get the legis-
14 lature to adopt a state-wide minimum housing program in
15 January, and I would like to solicit support from
16 everybody in this room, groups, individuals and whomever
17 to contact Mark Kleinsmith, President of the Commission
18 in Dover, at 678-9400, and talk to him about what role
19 you might play in getting the General Assembly to adopt
20 one. In Kent and Sussex Counties, they're not governed
21 by any kind of housing code. It's against Civil Rights
22 to live in substandard housing that they're forced into
23 living in now.

24 THE CHAIRPERSON: Do you have model

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legislation or a bill prepared? Is it introduced?

MR. RIDGEWAY: Yes. It went before the General Assembly last year. It passed the House and got bottled up in the Senate, and there was some opposition to it from down state legislators, and I'd like to get as much support for us as we can. It's badly needed for the community development activities that Jim Gilliam spoke of.

THE CHAIRPERSON: As a lobbyist, I have to apologize, but bills that have died in this session, do they carry over for the next year? Does it have to be reintroduced?

MR. RIDGEWAY: It's going to be reintroduced in January.

THE CHAIRPERSON: I think that's something that Mr. Conner will be glad to consider. It's something that we can deal with. Thank you.

If there are no other comments, I want to thank you very much for being such a great participatory group. I'd like to thank all of our panelists and the press for covering us so well. We stand adjourned until 4:45. Thank you.

(Conference adjourned at 4:13 p.m.)

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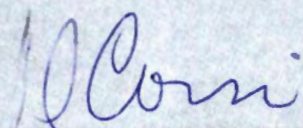
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I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on November 19th, 1984, and that this is a correct transcript of same.


Dennis Corsi
Registered Professional
Reporter

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