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FROM THE EDITOR . . .

Contents

The bulk of this issue is used to present the papers which were given at the DPR symposium, "Affirmative Action Revisited." The session was arranged by Barbara Abler, and took place on September 12, 1978, in Miami Beach.

You will note that these interesting and informative articles deal with professional women in general, rather than women chemists alone. If any of our female readers would like to share personal reminiscences about being a woman chemist in an overwhelmingly male field, please get in touch with me.

Report from Miami Beach

The Committee on Economic Status (of which I am Secretary) held a long meeting, covering several areas. Among other actions, it was decided to appoint a subcommittee (Dennis Chamot, chairman) to review past ACS attempts to draw up a general policy statement on employment and manpower policies; to decide if such a document would be useful; and to make appropriate recommendations in this area to the full committee. This subject, of course, is of interest to the members of this Division, and if any of you have thoughts or suggestions which might be helpful to the subcommittee, I would be happy to receive them.

CES also agreed to allow extra questions dealing with compensation practices for employed inventors to be added to the next annual ACS comprehensive member survey. This, too, is a subject of interest to us, and I am sure we will all look forward to seeing the results. Perhaps they will settle some of the points of contention that surround this issue. Or maybe I am being too optimistic.

At the meeting of the Committee on Professional Relations, one of the liveliest discussions centered around the Kepone incident in Hopewell, Virginia. As you recall, this involved a small business (almost garage type) run by former employees of Allied Chemical, to produce Kepone for Allied. In the process, lack of attention to proper practices resulted in the workers producing the Kepone being severely exposed, with serious medical problems resulting. The incident resulted in a large fine for Allied (related to water pollution, not safety practices), and other penalties for the people who owned the small business. Throughout this tragic episode, the ACS has remained silent, and the question before CCPR was whether or not to remain so.

Much time was spent worrying over the fact that the particular Guideline that applies (Sec. II, Employer 5: *The employer should strive to insure that products and processes are adequately tested, and that potential hazards are properly identified to the public.*) was not in existence at the time of the infraction. I suggested that they shouldn't be so legalistic. Instead of attempting something as formal as official citation, based on formal charges and specific guidelines, the ACS should take a public stand disavowing and protesting very objectionable actions by members of the Society and by companies within the chemical industry, actions for which they have been found guilty by the courts. It seems to me that the ACS must demonstrate a certain level of professional responsibility to the members of our profession, to expect proper behavior from the chemical industry and chemists. As chemists, we are all interested in a healthy chemical industry, and as citizens, we must also be concerned about the health of our communities.

The Kepone incident is one which drew a lot of publicity; it resulted in fines imposed by the courts; many people involved were harmed; there was a good deal of economic harm done to the community; no one is defending what happened. This appears to be about as clearcut a serious case as will ever occur (and we hope nothing like it will reoccur). The ACS is derelict if it does *not* comment, and deserves the inevitable loss of credibility in the eyes of the public.

The CCPR Subcommittee on Hazards and Toxins will come back with recommendations. The wheel turns exceedingly slow in the ACS.

The Miami meeting provided a spectacular look at the workings of the Society's new so-called Fair Election Procedures (FEP) bylaws. In a nutshell, the background goes like this: the California Section has for some time had a National Elections Committee whose task is to help obtain nominees for national ACS office (they may have other duties, but this is the pertinent one). In fulfilling its charge earlier this year, the committee solicited signatures for a *petition to nominate* Section member Alan Nixon as a candidate for Director, Region VI. In doing this, the committee used California Section stationery. Whether one agrees with this usage, disagrees, or considers it of no importance, the action was legal under the Section bylaws, since the committee was carrying out an official function. In any case, I don't consider it earthshaking. Apparently, some people did.

Another candidate for the same office, also a member of the California Section, Dick Lemmon (incumbent Director), complained that this action was a violation of ACS bylaws, in that "funds of the Local Section" (in the form of letterhead and the like) were used to benefit an individual candidate (Nixon). The complaint was considered initially by two committees, Constitution and Bylaws (C&B) and Nominations and Elections (N&E). Let me now let Dr. Nixon tell what happened (from "Nick Nacks", November, 1978):

"The C&B committee decided the action was illegal but said nothing about accepting or rejecting the nomination and appointed a subcommittee to look into the need for possible revisions of the bylaw. The N&E committee, on the other hand, voted unanimously that the action was a violation *and that the name of the petition candidate should be striken from the ballot*. The matter was then brought to the Council Policy Committee of which the complaining candidate is vice chairman. They voted unanimously (1 abstention) that they thought the action was improper but that because the petition candidate did not himself initiate the letter, that his candidacy should be sustained. The matter then went to the Council where, fortunately, greater wisdom prevailed. In the first place, they very properly sustained a motion to divide the question and, after it was pointed out that the Council had been supplied with no proper documentation on which to make a judgment, the matter of legality was tabled. A motion on the second part *sustained* the petition candidate's right to a position on the ballot handily but not unanimously.

"An interesting feature of this incident was the extraordinary aggressive actions of the ACS Counsel and the equally extraordinary ineptitude of the N&E committee. The Counsel sounded more like a prosecutor going for a hanging rather than an impartial counselor (after one committee meeting he was heard to observe, "I've got the SOB") and the committee miserably failed to act like an impartial examining body but more like a kangaroo court.

"• They did not hold a public hearing on the matter. Their decisions were reached in camera.

• They failed to invite the petition originator or the petition candidate to appear before them. They were mightily disturbed when the petition candidate brought along counsel.

• They ignored the fact that the FEP were never intended to apply to the *nomination* procedure (the word doesn't occur in the text) but relied on dictionary and legal definitions that a candidate is a candidate when he says he's a candidate (if this were so it wouldn't be necessary to get any signatures).

• They failed to go back and look at the minutes of discussion when the FEP was being considered. There they would have found that it was expressly stated that FEP was not to apply to the nomination process and that local sec-

tions or divisions had the right to solicit signatures for favorite sons (or daughters).

- They failed to ask counsel to provide written documentation.
- In spite of their heavy reliance on legal counsel they failed to notify the accused that they would be permitted to bring counsel with them."

I share Dr. Nixon's annoyance. I find several things rather extraordinary about these events. In the first place, and most importantly, they cast doubt on the effectiveness of the elections bylaws, and certainly on the ability of N&E to act as an impartial arbiter. Is it conceivable that such a minor infraction (if it is indeed an infraction; this is debatable) would merit such a drastic remedy — *removal from the ballot* — if the candidate had not been Alan Nixon, but were instead, say, Herman Bloch or Mary Good? Remember, too, that the "infraction" was not initiated by the candidate, but by *supporters* of the candidate. If this silly action were to have been upheld, all that I would have to do in the future to remove candiates I didn't like would be to circulate a petition in that candidate's behalf, on DPR letterhead stationery! Clearly, a ludicrous, but logically consistent, conclusion. The only conclusion one can draw is that someone was out to get Alan Nixon, and they jumped at this opportunity. It failed to go as planned, only because cooler heads prevailed at the Council meeting.

By the way, I want to make it clear that I am not in any way implying that Dick Lemmon made his initial complaint for any devious or underhanded reason. There were plenty of others who had the desire to run with the ball, no matter how innocently it was put into play.

(At the time of this writing, the election outcome is unclear. Nixon was the leader in the three way race. After elimination of the third place candidate, and distribution of second choice votes, Lemmon came out on top by only *three* votes, out of about 4,000 cast. There will probably be a recount). A fitting conclusion, though not a desirable one, to the earlier bizarre events.

Most of the remainder of the Council meeting was fairly serene. The other bit of excitement involved the Equal Rights Amendment. The following resolution, offered by the Committee on Meetings and Expositions, in essence indicates that the Council feels that the ACS should not support the boycott of states which have not ratified the ERA:

"The Committee on Meetings and Expositions supports the achievement and protection of equal rights and opportunity for all persons and believes the ACS should encourage its members to personally support all efforts which will accomplish these goals as rapidly as possible. However, we do not believe that it is appropriate for the ACS to determine the location of national meetings on the basis of the status of ratification of the ERA by the states."

During the discussion of this resolution, I found myself in the position of rising to speak *for* it, and I did so precisely because I strongly *support* the ERA. It is a question of tactics. Boycotting a state is a negative action. The people in that state don't even know you took an action.

There is no effect except blackmail, surely not the most effective way to gain friends. Would it not be far more effective to take a *positive* action, to hold a meeting in a non-ERA state and use the opportunity to publicize the issues? I cannot help but believe that the ACS meeting in Florida had a positive impact. Can it be ignored that the Society had women in its two highest offices, President and Board Chairman? If anything, I would say that the women in ACS could have been even more active in Miami, in dealing with the press, say, to make full advantage of the situation. And, of course, the DPR had a session on affirmative action in Florida.

The issue should not be ignored by ACS, but symbols should not take the place of substance. It is up to you to make sure that the Society takes positive action in areas of interest to you. (If you disagree with my analysis of tactics, let me know).

Commercial

With a new year approaching (or having just past, depending on the vagaries of the postal service), you might consider helping to expand our membership. Our influence has been proportionately large for such a small organization (only 500-600 members out of 115,000 ACS members), but we could do a lot more if we could speak with a louder voice. Sign up some friends.

— Dennis Chamot

DO NOT PASS GO. DO NOT COLLECT $200!

Betty M. Vetter
Executive Director
Scientific Manpower Commission

Affirmative action is a term that is now widely recognized even though it still has no common definition accepted by all those who are involved in it. We might think of it as a game with two kinds of players — those already in the game who have, over the years, moved into positions of power; and those who are seeking to enter.

The rules of the game of affirmative action not only provide that every person who wishes to become a player and is competent to do so shall be allowed to compete without regard to race, creed, color or sex but also that in certain instances those persons previously excluded because of race or sex shall, if fully qualified, be given an occasional helping hand until they become a proportionate share of all the players. The rules of the game provide financial penalties for those who refuse opportunity for entry to new players, or who show by their results that such opportunity was not provided.

The enduring fascination of the game of Monopoly may be at least partly attributable to its one major correlation with real life. The more control achieved by any player — control of property in the case of the Monopoly game — the more likely it becomes that the player will become the winner. Since winning is more enjoyable to all of us than losing, a player who has achieved the balance of control is unlikely to relinquish it voluntarily either by giving away his property or by reducing his rental charge, and thus diluting his power.

In the real world or in our game of affirmative action, where accumulation of controlling power is less subject to random chance, the person who sould achieve that power generally recognizes that he or she must do a number of things to prepare for the opportunity to move ahead. This preparation includes two mandatory steps:

1. The acquisition of sufficient amounts of formal education in the area where achievement is sought; and

2. The cultivation of those persons already in the power structure as advisors and mentors so that the accumulated wisdom about not only what we sometimes call "subject matter" but also about what we might refer to as "the system" or "the ropes" may be absorbed. This step is also imperative to assure that recommendations from important persons may be obtained when an opportunity arises to move ahead in some way.

Since 1970, both minorities and women have moved rapidly and purposefully toward the first of these steps — obtaining the formal education required for participation at a professional level in science as well as in other fields. Women have moved faster than minorities in this step, and the number of minority persons who have completed educational preparation and sought to enter the game through employment is still relatively small. Indeed the numbers are small enough that they do not pose a significant threat to the original players. Thus, opportunities have opened up fairly rapidly for minority persons with good preparation for a career in science or engineering. But too few blacks, Hispanics and American Indians have completed the essential stages of preparation.

The problems for women are different. Women have obtained or are obtaining the necessary preparation in record numbers, although their proportion in science still is as much below their proportion in the population as is true for the non-Asian minorities.

In some fields where women's participation was particularly low, such as engineering, the proportionate increase has been spectacular. Women were only three of every 200 students in the entering engineering class in the Fall of 1969. They were 23 of every 200 in the Fall of 1977 — a 763% increase in just eight years. Among baccalaureate graduates in engineering — the professional entry level in that field — they have moved from 8 of every 1,000 graduates in 1969 to 48 of every 1,000 in 1977 — a 600% increase. Among non-Asian minorities, there has also been a striking increase in engineering. The number of black baccalaureate graduates rose 165% from 1969 to 1977, with blacks being only 0.8% of

bachelor's graduates in 1969 and 2.1% in 1977. However, their proportion of the total has leveled off since the mid-'70's.

In most areas of science, where the Ph.D. is the required level for most professionals who seek entry to the power structure, at least in research, the gains by women are substantial over the decade of the '70's. In just six years, women's share of the science and engineering doctorates has risen from 9.7% to 18%. Every science field shows a substantial gain.

In all science fields combined, minorities earned 9.1% of the doctorates during the period 1973–76. However, when the Asian minority is removed, the proportion drops to 3%. The actual numbers involved are very small. Blacks earned 1,056 of the science and engineering degrees over this four-year period while American Indians earned 237, Chicanos 376, Puerto Ricans 115 and Asian Americans 3,540.

The trend toward higher proportions of women among college graduates at all levels and in all fields shows no sign of abating. Indeed, the nation's freshman class this year is more than half female. At the graduate level, which is of greater concern to us in the sciences, women are 27% of all full-time students in science and engineering in 1976, up from 16.9% only four years ago. We do not have recent information for minority enrollments at the graduate level but minorities were 6.5% of graduate science and engineering students in the Fall of 1973. Minorities earned 9.4% of science and engineering bachelor's degrees in 1976.

By this measure, then — the proportion of women and minorities who are getting the necessary academic preparation for entry into the scientific enterprise — we can see real progress and a trend toward further progress. But getting prepared for a profession is only a first step. Are these new graduates and their older cohorts finding jobs with commensurate salaries to white men who are similarly prepared? Are their opportunities for advancement SO different than for white men?

This question is somewhat harder to answer, since we need several years of observation of a significant number of similar men and women to see whether they are moving around our game board at similar rates, acquiring similar amounts of power or other perquisites that indicate power. But the information available indicates that, for the most part, the forward movement evident in the increasing proportions of women and minorities who are earning the necessary educational credentials is not being matched in the world of employment — particularly among women.

We can look at a number of fringe indicators that point in this direction. One of these is unemployment rates. At every degree level, in every field of science, within every age group where data exist, women have higher unemployment rates than men.

Table 1 shows unemployment rates for Ph.D.'s by sex and field at two-year intervals from 1973. Note that nothing much has changed in those five years. In some fields — notably chemistry and the agricultural sciences — the difference between the unemployment rate for men and women has decreased over the six years indicating some improvement for women. But the unemployment rate for women doctorates in chemistry even in 1977 is five times higher than for men. In the mathematical sciences, the difference in unemployment rates between men and women has actually increased over the six years.

We also see differences by field. Additionally, we can see that in general a higher than average unemployment rate for men also shows a higher than average difference in the unemployment rates of men and women in the same field. This is true for both chemistry and physics. At the opposite end note that a less than average rate for men as in computer sciences, earth sciences and medical sciences is accompanied by a smaller difference in unemployment rates between men and women. This shows most clearly when we examine the situation among all doctorates in 1977. In fields like history, where unemployment is highest for women, the gap between men and women in unemployment rate is also highest — 1.7% for men and 10.4% for women. Note that both men and women doctorates in science show less unemployment than do those in the humanities.

TABLE 1. UNEMPLOYMENT RATES OF DOCTORAL SCIENTISTS AND ENGINEERS, 1973–1977, BY FIELD AND SEX

	1973		1975		1977	
	Men	Women	Men	Women	Men	Women
Total All Fields	0.9	3.9	0.7	3.0	0.9	3.6
Math Sciences	1.2	1.7	0.6	2.0	1.0	3.2
Computer Sciences	0.0	0.0	0.0	0.0	0.0	0.0
Physics/Astron	1.7	7.4	1.7	7.8	1.0	5.7
Chemistry	1.8	8.9	1.0	3.8	0.9	5.0
Earth Sciences	0.5	1.9	0.6	3.1	0.9	4.8
Engineering	0.8	5.9	0.7	1.6	0.6	3.0
Agric. Sciences	0.6	14.1	0.3	6.1	0.5	2.7
Medical Sciences	0.1	1.8	0.3	0.3	1.0	1.6
Biological Sci.	0.8	4.7	0.9	4.3	1.3	3.9
Psychology	0.6	2.6	0.5	1.6	0.9	2.6
Social Sciences	0.7	3.2	0.6	4.3	1.0	4.0

Source: National Research Council

We can see this phenomenon of a higher unemployment rate being accompanied by a larger discrepancy in unemployment rates between men and women by examining the unemployment rates for men and women in the American Chemical Society over the period from 1971 to 1978. Table 2 shows that when the rate is above 2% for men, the unemployment rate for women is above 6%. However, this table does show us some improvement for women in unemployment rates relative to men.

As in the ACS data for chemists, we also have information on the unemployment rate among all chemists in the experienced labor force in 1976 — that is, persons who were already in the labor force before 1970. These data provide an unemployment rate in 1976 of 1.6% for men and 3.7% for women. Note that again the gap is less when considering scientists at all degree levels than it is among the Ph.D.'s. One of the things this shows us is that for men, the more education beyond the bachelor's degree, the lower the unemployment rate as well the higher the salary. On the other hand, women with degrees beyond the bachelor's tend to show higher differences with comparable men in both of these characteristics than do women with only a bachelor's degree. For women, the higher the degree level, the higher the unemployment rate and the larger the salary gap when compared with men in the same field with similar amounts of education.

One explanation for this phenomenon may be that past the bachelor's degree, men view women as a personal threat to their own job security. By this reasoning, the number of minorities who have reached the required plateau of educational preparation is still so small that the numbers do not pose a threat to the established players. Thus, minority men who are qualified to enter the professional game enter at comparable salaries and move up commensurately with white men.

Minority women, unfortunately, seem to be treated as women first and as minorities second, since their rise to places of influence is statistically comparable to that of white women — namely well below that of men who are either minority or majority members.

Another fringe indicator of progress for women in the workplace would be to see a lessening of salary differences between clearly comparable men and women. After all, we have had a law on the books for 15 years that says men and women should be paid equally for the same work.

Salary differences by sex among trained scientists and engineers can result from a number of factors. Women are more likly than men to be employed in academic institutions where salaries are generally below those in industry or in government. Further, women employed in academic institutions are much more likely than men to be employed in those institutions that pay the least — namely two and four-year colleges. They are also more likely than men to be in the science fields that pay the least — biology and the social sciences.

But even when all of these things are taken into account, together with age, years of experience, degree level and other salary determinants, there is still a large and significant difference in salaries between fully comparable men and women scientists. This has always been true, and comes as no surprise. What most of us do find surprising is that after a decade of affirmative action, women are farther behind their male peers than they were several years ago.

For example, we can examine median annual salaries of doctoral scientists and engineers by sex and age over a six year period. We find no lessening of the salary gap between men and women in any age group from 1973 to 1977. Indeed, the difference between the median salary for men and that for women increased from 16.7% in 1973 to 20.5% in 1977.

How can this be so and why is it so? The only answer that seems plausible is that salary raises over the past decade have generally been awarded on a percentage basis in an effort to match the percentage increase in such things as the cost of living, thus increasing the dollar gap.

The additional disadvantage to women in salary over this time period may seem to be based on the larger number of young women

TABLE 2. UNEMPLOYMENT RATES FOR ACS MEMBERS

Year	Men	Women	Total
1971	2.4	6.3	2.8
1972	2.3	7.3	3.1
1973	1.5	4.2	1.7
1974	1.2	3.5	1.4
1975	1.5	2.7	1.6
1976	1.6	4.4	1.9
1977	1.3	3.4	1.5
1978	1.2	2.8	1.4

Source: American Chemical Society

But among doctorate chemists for example, who are aged 35 to 39, the average salary for men was $24,600 in 1977 and for women $20,100. She earns just 78% of his earnings — the same differential as for the entire group.

There are some indicators in the salary figures that do show progress, and that again emphasize that at the higher degree levels women are farther behind men than they are at lower degree levels. Among new baccalaureate graduates in engineering, women average slightly higher beginning salary offers than men both this year and last. Among chemists at the baccalaureate level, average offers to women were only $24 per year less than to men in 1977, but by 1978, the women's average is $276 below men's. Women chemists and engineers are lucky compared to graduates in other fields. For the great bulk of baccalaureate graduates, the women's starting salary continues to be well below the men's.

The salary figures show us something else. The fields with the highest proportion of job offers have the smallest proportion of women. Demand exceeds supply here. But in the humanities, where salaries are lowest and women predominate, the number of offers also is lowest. Thus, 56% of all offers made by business and industry to new baccalaureate graduates were to new engineers, who were only 5% of the graduates. But they were 9% of the men and less than 1% of the women graduates!

In 1978, the annual survey of salaries of chemical professionals conducted by the American Chemical Society continued to show significantly lower salaries for women than for men at each degree level, each experience level, within each employer type and for each chemical specialty.

Salary is important not only for what it will buy, but also because it is a symbol of worth and of power. If you wonder why I seem to stress the importance of women getting some of that power in order to move ahead, let us look for a moment at an example of what happens when all power continues to vest in men. Let us look at employment in academic chemistry departments.

Over the past ten years, women have earned 9.8% of all Ph.D.'s in chemistry awarded by U.S. universities. Over the past 20 years, the women's proportion is 8.1%.

The studies of Sister Agnes Green on Women Chemistry Faculty Members in U.S. Doctorate-Granting Departments show that, in 1970–71, women were only 1.5% of the full-time chemical faculties at the level of assistant professor and above. By 1976–77, six years later, that proportion has risen to a magnificent 2.4%. Even in 1976–77, an astonishing 114 doctoral chemistry departments — 62% of the total — still have no women faculty members, and only 9.2% of these 184 departments have two or more women on their full-time faculty. Still heading the group of departments without women is the University of California at Berkeley with a chemical faculty of 51 men. UCB shares this dubious honor with 18 large departments of 30 or more full-time chemists. There are only 98 women out of a total U.S. chemical faculty of 4,129.

How can this happen? Our affirmative action game has rules that prohibit this, and provide a penalty for institutions which make no great effort to change their sexist character — namely the withdrawal of federal funds. Such withdrawal would really hurt any university with a large research program. But the penalty has never been applied to any university.

Academic women in all the science areas should have made significant gains over the past decade. The proportion of science doctorates earned by women rose from 9% in 1970 to 18% in 1977 so the proportion of women among all doctorate scientists and engineers at universities and colleges also should show a striking increase. There is an increase, but it is not very striking. the proportion of women among all doctorate scientists and engineers at universities and colleges was 8.4% in 1973 and had moved up to 11.5% in 1977. But many of these women are not faculty members. They may be research assistants, or others on temporary appointments.

So where do we stand now, fifteen years after affirmative action was mandated? More women have been allowed to enter the game at the graduate school level and they have responded with rapid increases in the proportions of the student body at both undergraduate and graduate levels. Additionally, somewhat larger proportions of all women college students are choosing fields that have traditionally been dominated by men including chemistry, engineering, medicine, business and law.

Some improvement in women's salaries relative to men's can be seen at the entry levels, but it is too soon to tell whether these women will move forward at the same rate of speed as the men in their graduation cohorts. And most entry salary averages for women are still well below those of men, whatever their field of college specialization.

Should we be encouraged by the progress of women that has resulted from the game of affirmative action? Yes, we should. But we should be equally disheartened that the game has continued to be played by the persons in power as if the rules were optional rather than mandatory. All too many women and minorities have found themselves caught again and again in this game by what appears to be the random chance card saying "Do Not Pass Go. Do Not Collect $200." But it isn't quite random chance. The dice in the game are still rigged in favor of the original players.

As late comers to the game, women and minorities have caught the brunt of layoffs, of a too highly tenured faculty of white men, of an oversupply of applicants occasioned by the post-war baby boom and the dropping birth rate after 1961. Most important, the penalties of the game as instituted by affirmative action have not been invoked against those who break the rules. The stick approach has not worked very well because the stick has not been used. It is time either to use that stick or perhaps to substitute a carrot — and reward those players who are really making an effort to include in appropriate porportion that 63% of the population who are not white males.

There is one other way to measure whether or not affirmative action has done its job and is no longer needed. We will know that time has come when both women and minorities have earned the same right to be mediocre and still advance that white men already have.

AN EMPLOYER'S AND A FEMINIST PERSPECTIVE ON AFFIRMATIVE ACTION PROGRAMS

Anne M. Saunier
Director of Human Resources
Advanced Systems Group
Mead Corporation

I wish I could begin by saying today that I'm delight to be here, but I find it appalling that the American Chemical Society is meeting in an unratified state (Florida has not ratified ERA — ed.) when many, many of your sister organizations and brother organizations have joined the boycott which now numbers between 85 and 100 organizations. I would encourage you to try to do something about that.

Once there was a chief executive officer who wanted to have an assistant to him, someone who would keep the lions away from his door. And so he wrote out a requisition for the personnel man (and I use that advisedly), and on the requisition he said, "What I want is an aggressive young man who can really keep things rolling in my office and keep the wolves away from my door." The personnel man, when he got it, went up to the chief executive officer and said, "Well, this requisition is a problem for me because we do have affirmative

action and you can't write a requisition like this and furthermore, I really do think we could find some very well-qualified women, and since our management ranks are so thinly populated with well-qualified women, we're never going to get a woman in the suite of the chief executive officer unless we allow this administrative assistant-type person to be a woman. Besides, maybe she'll bring your coffee."

The chief executive officer was pursuaded that this was the right thing to do. Three candidates were presented, all very well qualified, and the chief executive officer interviewed them all. He used a story-type interview. He called the first woman in, who was very well qualified, and said to her, "You're on an airline which crashes and there are eighteen survivors, seventeen men and you, and you're on a desert island. How do you handle this situation?" The first woman looked around and said, "Oh, my golly, I couldn't handle that situation at all. I'd find the highest cliff and throw myself off." He thought, "Well, that obviously is not the candidate."

So he brought in the second one and he told her the same story. She thought for a while and said, "Well, I think I would find the one man among the seventeen who is the strongest and ally myself to him and depend upon him for my protection and support." Since the chief executive officer thought he was the strongest person in the corporation, he thought that was an excellent answer. "This is the woman I want to hire, but I have a third one in my waiting room so I'll interview her also."

He brought in the third woman, also well qualified, and told her the same story. "You're on an airline, it goes down, there are eighteen survivors, you and seventeen men on a desert island. What do you do?" She thought and thought and thought and made no response and he said, "What's the matter, don't you understand the situation?" And she said, "Yes, I understand the situation, but what's the problem?"

I like that story because I think it says a lot about where women are. We're all in different places and all of us are not feminists. Some of us are anti-feminists, some of us just don't care at all. We have varying points of view. I have found, with my experience in the personnel field, that my point of view as a feminist has been modified somewhat. There are obviously two sides to every story, and what I'm going to try to describe are my frustrations as a personnel executive who also happens to be a feminist who really wants to see affirmative action work, and what kind of blocks you run into that may be within the corporation, or not.

The feminist view of the private sector is very jaundiced, very stereotyped. We accuse others of stereotyping us, but feminists, whether an organized feminist or whether a personal feminist, have stereotypical views of the private sector. The view is that all employers are bad, that all employers don't want to promote women, that nobody is acting in good faith. I don't really believe that's true. Employers have variations and varying degrees of commitment to affirmative action for women and minorities. There are some that are deadset against it and are resisting at every turn. There are others that are very, very sympathetic and trying to do the best job they possibly can. I think the employers that I've been associated with, at least with the parts of corporations I've been associated with, are making good-faith attempts. Not that I would agree with them all the time, but I think there is a substantial commitment and interest in seeing women and minorities advance. But there are also some problems, of course.

The other generally introductory comment I would make is that I am a real advocate of the private sector. I have worked on the faculty of The Ohio State University, I've also been in state government, I've been in a private non-profit research institute, and I've been in a major corporation. Of all of those experiences, I'd have to advocate the private sector. It is more of a meritocracy with fewer roadblocks in the way of action than any of the other institutions that I've been involved with, although I'd have to say that the private non-profit group was very similar to a corporation in that it, in my view, also was more of a meritocracy. It's my belief that when you have more of a meritocracy, you also have more flexibility and more opportunity to succeed as a woman or minority. You don't have to go through those personnel manuals. You can just do it as long as you're not violating the law. So I'm a real advocate of the private sector. I think it's a good place to be and have found my experiences very good and have even found my feminist political activities very well supported. And I have not found that I have been penalized for my activities in the activist realm at all.

But, on to some of the problems. One of the things that is very frustrating to me as a feminist personnel officer is the technical requirements for affirmative action regulations. The requirements for affirmative action, at least in the private sector, stem from a presidential executive order, not from any law. The executive order is then implemented by a whole series of regulations that are written to which employers, if they are going to pass an audit, must comply.

In the last personnel department that I was in, I had a budget that was a little over a half million dollars. Of this budget, well over 20% of it was allocated to affirmative action situations. We were spending $120,000 a year or so on our affirmative action programs. Of that $120,000 a year, I would say nearly $90,000 of it was spent on the technical requirements of fulfilling affirmative action. By that, I mean staff, computer time, analyses, to make sure we were meeting the technical requirements of the regulations. My view is that if I had the $120,000 myself to spend however I wanted to spend it, we could have had some magnificent recruiting programs, some excellent upward mobility programs, much more than we were able to do because we had to spend so much time on the technical requirements.

Now, I don't know as a feminist or a personnel manager exactly how to solve that problem. It's a problem that comes with federal regulation. Federal regulation regulates both "good employers" and "bad employers." By making a good faith effort, you don't really get out from under any of the technical requirements of the regulations. It's the same with OSHA or anything else. All employers face the same regulations which may be very necessary for some employers and really debilitating for other employers. When I had direct charge of this program at my last employer, I found that to be a real frustration because when the government auditors came, what they wanted to see was our technical compliance.

I would say in the private sector that we are making some progress, especially women are making some progress. But it's interesting to see where that progress is. Women in the private sector are advancing in staff positions, not in line positions. We're seeing more and more women, for instance, as personnel executives or public relations executives. We're even seeing more and more in the very top jobs in corporations. What you're not seeing are division presidents, group vice president, chief executive officers and so on. I think there are some obvious reasons for that.

It's easier to promote women in staff positions because you can easily promote women who maybe have a humanities background, or whatever, who can learn the technical requirements of what they're going to be working on. For instance, in personnel, my background is a BA and MA in education and I learned what I needed to know on the job and through training programs and so on. That's an easier nut to crack and so it's been cracked first. What is harder is to get women into line management positions and moving up the line. One problem is the small number of women who have been graduated from scientific and engineering disciplines in the past. But in my view, probably the bigger barrier is attitudinal in that women who move up the line generally start, for instance, in heavy manufacturing situations. When you move up into line management, you can start as a laborer, maybe a person covered by union contracts, then move into supervision. Most chief executive officers don't come through that route and I'm aware of that. But that is an entry into low-level line management positions, and that's where the resistance to women is the hardest and the crustiest. The other way to divistonal presidencies and divisional executive positions is generally through marketing and financial planning and that sort of thing. Up until fairly recently, we haven't seen a lot of women coming out of MBA programs, so it's a very frustrating situation, believe me, to be a feminist in personnel wearing a personnel hat because you have all the good intentions in the world, but you still have the real world realities of supply and demand and attitudes and so on within a corporation to crack.

I think, however, we're going to see an enormous change in that fairly quickly. Of a number of new MBA's who were hired in my corporation last year, a very healthy percentage were women who are very well prepared for entry into line management positions.

At my last employer, we looked at all the associate section chiefs, section chiefs and departmental managers to determine if women researchers were falling into that same pattern. What we found was rather discouraging in that the associate section chiefs, section chiefs, and department heads had very long tenure — average seven or eight year tenure. We just didn't have that many women who had even that tenure to compare to, to see if they were having the same kinds of experiences. We did find some useful information, however, that is true in every corperation no matter what its mission is or what product it is producing, and that is that there's the *formal* management structure and then there is also an *informal* management structure. By that I mean that there are a certain number of positions (at my last employer, for instance, they were researcher positions), that carried no management title at all and did not carry management pay either. But they were project leaders. They got a piece of a project that they had to lead themselves and had to have others informally reporting to them. We found that women were getting blocked out of what I call the informal management network, and so we've tried to make inroads through mentoring and other things to make sure that women were not overlooked in those kinds of experiences.

We have an enormous problem I believe in overcoming the necessity of requirements for affirmative action as they are laid on us through the federal regulation process. In addition to that, one other thing that I would mention is the whole issue of charges, EEO charges. They also consume enormous amounts, usually, of any organization's personnel budget. The personnel department is the first line of defense in fighting them. The problem with the whole charge process is, (and you've got to remember that I have a feminist heart) and this is being very gracious, that only one in three is worthwhile. One in three that has merit. Maybe it's not a discriminatory situation, it may be damned unfair, but it's not discriminatory, everybody's being treated unfairly or you've got a rotten manager who's taking everybody through the mill, not just women and minorities. Or it may be that the complainant has some other kind of problem. There are all kinds of things. My friends in both the Ohio Civil Rights Commission, the EEOC tell me the same thing. Only they say something more like one in ten has merit.

You spend time refuting charges that are not indeed valid, because my strategy was always to determine if the charge is valid. If it was, cave in, conciliate immediately, fix it, get it straightened out, get it off the books. And if it wasn't valid, fight it 'til your dying day. I suspect we fought about two out of three. But what happens is that because those are the ones you're fighting, those are the ones that get the corporate attention. Those are the ones you have to have attorneys for, those are the ones that you have these continuous meetings with the regulatory agents, those are the ones that ultimately get to court. We didn't have any like that, but looking at other corporations, that is very true. I think the corporation that has any inkling that it's wrong won't fight because the stakes are too high. At least that is the position of the two that I have worked with that we've been able to adopt.

Those charges that have merit get settled by me or a personnel person going to that individual manager and saying, "Look, you really blew it. We're not going to fight on this one. You've got to cave in and these are the appropriate things for you to do," and get it solved. That doesn't make you go to a higher level. Maybe it gets one review, but unless a lot of money is involved, it doesn't even get to the top of the corporation. What does get to the top of the corporation are the ones that are invalid. What that does to the top management and the whole management of the organization is very bad because the view is that, "Here's another wild-eyed radical minority or woman who doesn't know X from Y and is trying to make trouble for us." That's a very difficult process to have stopped because I don't think you should cave in on a charge that isn't appropriate.

Now, I would have to say that, although I see some progress being made, in my view, the progress is much too slow. I certainly agree wholeheartedly with Betty Vetter who said that we'll know we have equal opportunity when a mediocre woman can go as far as a mediocre man. Believe me the mediocrity I see among men in high positions is appalling. I also believe firmly that there are many employers who are not acting in good faith, who do resist at every turn, who allow their entire budget to be chewed up by the technical requirements and don't feel badly about that at all because then they don't have to do anything. Unfortunately, the way the federal machinery works, it plays right into the hands of those employers who do not choose to act in good faith at all. Those employers then spend all their time and resources complying with the letter of the law as opposed to the spirit of the law. There's a lot of that in the private arena. It also is discouraging to me that the old boy network is alive and well and thriving. I disagree with feminists whose view it is that in order to counteract the old boy network we develop an old girl network. It's going to take a long time for that to work very effectively and it's my view that we should try to eliminate the network altogether. That also is going to take an awfully long time — a huge project.

I also see as a feminist, and I think this has abated somewhat in the last couple of years, minorities being pitted against women. Unfortunately both women and minorities play into that as opposed to allying with each other. They will fight each other for the scrap that is being thrown to us when the white men are sitting next to the table eating the full meal. I think there have been some advances on that problem in that I see more alliances of minorities and women being formed in the last couple of years than I had seen before.

So as a feminist who is also a personnel manager, I see the problems for employers that they don't know how to address and that I really don't know how to address. I also agree with the feminist point of view that progress is too slow, hasn't been made quickly enough, and that employers are really dragging their heels. As in every story, there are two sides, and I'm trying to look at both of them to see if I can't find a solution that appropriately navigates between employers and between feminists and gets the best possible for both worlds.

CONSTRAINTS AND INTERACTIONS: MERIT PROMOTION, EQUAL OPPORTUNITY AND UPWARD MOBILITY IN FEDERAL SERVICE

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Women and minorities in the federal sector have not had the protection of law so long as have similar groups in the private sector. As many of you know, federal employees are covered under Title VII of the Civil Rights Act of 1964 as amended in 1972. Most of the law affecting Civil Service is contained in Title V of the U.S. Code which is further clarified and interpreted in the Federal Personnel Manual and in FPM Supplement 990-1, Chapter 33, which outlines the legal authority and is, in effect, a recap and a reproduction of U.S. Code. Although recent interest in equal rights for women goes back to the late 1950's, it was not until the federal workers were included under Title VII that enforcement was effective. Under this law several cases have been litigated and won by plaintiffs. These cases establish the right to litigate and to do so *before* all administrative remedies have been exhausted.

For example, an early case was Brown v. the General Service Administration. Brown lost his case (he was a little late in filing) but a point of law was affirmed — the Supreme Court concluded that Section 717 of the Civil Rights Act of 1964 as amended provides the exclusive remedy for claims of discrimination in Federal Employment. Thus, Federal Employees cannot bring suit for discrimination under the Civil Rights Act of 1886.

The Supreme Court believed that "Congress was persuaded that" (prior to 1972) "federal employees who were treated discriminatorily had no judicial remedy. . . . Congress intended it (the 1972 amendment) to be exclusive and preemptive."

The second law which provides equal opportunity to men and women is the Equal Pay Act of 1963 as amended in May 1974, which provides that equal pay shall be given for substantially equal work, regardless of sex.

The case which established this point of law was that of Cayce v. Adams. Cayce had been doing substantially the same work for the FAA as had a man who was graded at GS-11, while she was graded at GS-8. Cayce naturally was disturbed about this and, after a year and a half, her job was audited and the classifier determined that the job was correctly classified. (An audit is a review by a specialist trained in evaluating the levels of difficulty of a job as compared to standards developed for such jobs.) The man next to her was not downgraded and Cayce continued to work as a GS-8. Finally she brought suit and she was awarded back pay under the Equal Pay Act.

Upward Mobility is provided for by federal regulation and, although these regulations are somewhat byzantine, they attempt to provide opportunities for competent individuals in dead-end jobs. The legal basis for this program is derived from two major sources — although there are others as well. These are the Government Employees Training Act, PL 85-507, July 7, 1958, (5-US Code Chapter 41), sometimes abbreviated GETA, and the Civil Rights Act as

amended, which has already been discussed. The specific government regulation is part of the FPM Chapter 713 — Equal Employment Opportunity.

Upward Mobility refers to specific programs designed for deserving and capable, but at the moment, unqualified individuals to be selected, using merit principles, for career ladders for which they will be trained for the life of the program. The program also provides for selection out if employees fail. Thus, Upward Mobility is really part of the implementation of affirmative action plans and it provides another mechanism for "catch-up" for minorities and women. Programs can include such things as obtaining a high school diploma, a college degree, or further training which should qualify the individual for a higher grade.

In theory, upward mobility is a fine concept. Merit principles are to apply to selections of worthy individuals who will participate in formal and on-the-job training which will make it possible for them to advance above what was previously possible. Each agency, of course, has had some informal Upward Mobility practices for years, although the selection of participants may not previously have been so strictly monitored and regulated.

Problems may arise when qualifications are assessed for entry into Upward Mobility Programs, since negative selection criteria can be utilized in choosing participants for the program. If used, the potential problem is the selection — out of an overqualified individual who in turn may complain, particularly in a time of scarce jobs. To my knowledge, at this writing there has not been litigation brought by a plaintiff disappointed because of non-selection for participation in an Upward Mobility Program.

EEO and Upward Mobility must be compatible with the Merit System. That is, fairness in hiring and fairness in promotions for employees on board.

We have all heard a good deal about the merit system and about merit promotion. A large proportion of what we regard as "regular" government jobs are under the merit system. This system was mandated by law and the basic provision is found in 5 US Code 3301 in which a merit system was established to assure that merit was and is the key to entry into federal employment. The law flows back to the Civil Service Act of 1883 (the Pendleton Act) in which a merit system based on principles of the system used by the British was established.

The Commission made a cautious statement in 1883, in which it stated:

"It is now generally recognized that women can successfully perform the duties of many of the subordinate places under the government. . . . There is simple justice in allowing them to compete for the public service and to receive appointments when, in fair competition, they have shown superior merit."

The laws, however, permitted limiting examinations; that is, jobs could be advertised for just one sex, and although there were some modifications favorable to women throughout the years, especially in the early 1960's, legal prohibition of discrimination did not really come until 1974, although merit principles were supposed to apply, and in limited fashion, did. In the case of race, there was some *de facto* discrimination which again was not fully remediable using only administrative procedures until Title VII was passed in 1972.

Merit Promotion was mandated under the law in 1955 and the Federal Personnel Manual is continually being updated. FPM Chapter 330 states, "In general, in hiring and placement, the appointing officer may choose the method to be used for filling a position except when that choice is limited by statute or the Civil Service Regulations."

"An appointing officer's discretion in all personnel actions is to be exercised solely on the basis of merit and fitness and without discrimination."

As outlined in FPM Chapter 330, when an agency hires or fills a position in the General Schedule from outside the government, the selecting official requests a list of eligible candidates from the Civil Service Commission. The Commission has previously obtained applications for a particular type of job (examination) and either has scored these applicants according to carefully defined procedures or scores them in relation to the requirements stated in the request from the agency. Applicants are usually scored against a set of quality standards already developed by CSC. The register is sometimes closed at particular times for various reasons and the Civil Service Commission then works with the applications received and in the file up to the closing date. In response to the specific request, the Commission sends a list of top ranked candidates to the selecting official.

It is just prior to this step that EEO coordinators and Federal Women's Program coordinators try to insure that qualified women and minorities apply. They hope that these categories, i.e., women and minorities, appear on the best qualified list for the selecting official. This is important because if a complaint of discrimination is filed against this selecting official and it can be demonstrated that adequate women and minorities appeared on the certified list, and that over a series of selections, the selecting official continually selected all of one racial or sex group, a legal decision can be rendered against him as was done in several cases. In the first of these cases a relatively small governmental unit was ordered as follows: (In Copeland v. Usery) "positions in higher grades are to be filled so that women would be proportionately represented by a specified target date."

". . . .Annual reports analyzing treatment of women in promotions, work assignments and training must be prepared and made available to all employees at the EEO office." Thus the merit system was apparently "bent" a bit so that a more appropriate distribution in regard to sex and age practices would be obtained.

In addition, in the operation of the merit system in hiring and placement, the Civil Service Commission, the agency and the selecting official must obey the laws which mandate Veteran's Preference. Provisions of this act do not apply to promotion actions within the government but do when selections are made from the Civil Service Register. When the law applies, the fact of being a veteran is used as an additional selection criterion. An additional 5 points is added to the Civil Service rating if a veteran and 10 is added if a disabled veteran. If the veteran appears on the best qualified list, she or he must be hired. There are instances in which applicants who have passed the PACE examination for entry level government employees (non-veterans, primarily women and minorities, as well as some Viet Nam veterans) have received the highest scores of anyone taking the examination, but have been quite low on any register because of the additional points added to test scores as mandated by the Veteran's Preference laws. Veteran's Preference does not apply if the Civil Service Registers are not used to fill a job and the hiring and placement are done within an agency or within the government.

Merit Promotion is dealt with in FPM Chapter 335. Merit Promotion is the application or merit principles to promotions and to appointments within the system which could lead to promotions. It applies to the competitive service and covers positions not specifically excepted by law, Presidential Action, or the Civil Service Commission. (This exception provides one out for bringing women and minorities on board.) The plan does not apply to promotions in a career ladder that was previously defined nor does it apply to an individual who has experienced an unplanned accretion of duties over a period of time. However, most other actions which can ultimately result in a promotion — even including those which result initially in a reassignment, a demotion or a transfer to a position with promotion potential, or a reinstatement at a higher grade or a potentially higher grade, as well as certain other assignments also are covered by Merit Promotion regulations.

Under this system, generally an evaluator or a panel of evaluators determines whether candidates meet basic eligibility criteria for a job category such as secretary or laboratory technician. The details of application of merit principles to different jobs under the General Schedule can differ in regard to setting up registers and evaluation of candidates. However, candidates all are evaluated as nearly equally as possible — whether by an examination, by comparison against standards for their jobs, or by a combination of these two.

Employees who are considered for promotion under this plan are evaluated based on a number of factors. These are spelled out as follows:

1. Recent work experience
2. Education and training
3. Factors from the appraisal of skills, knowledge and ability
4. Evaluation of the potential to perform the full range of duties
5. Formal measures such as tests.

A highly qualified individual meets all requirements of these tests. Experience is generally considered the most valuable and is usually given more weight than are education and training. Some individuals meet basic qualifications, but are not considered highly qualified and so are not usually placed on a Merit Promotion certificate.

Usually names of 3 to 5 candidates are sent to the selecting official. If less than 3 names are supplied, the selector may request another list. However, officials are *not obliged* to select from the promotion certificate and some other type of placement can be used; someone can be selected from outside. (In practice, then, if there are women and minority candidates found through the process of identifying and selecting best qualified and qualified candidates, but the selecting official does not like what she or he sees, she/he can use another method.) As previously discussed, this could lead to problems which eventually would result in legal action which can dictate that the agency change its hiring patterns in order to obtain a more balanced work force. In my opinion, unless questions are raised, and probably *only* if they are raised by an employee filing a complaint (rather than in a survey or examination by the Civil Service Commission or by EEO officials at various levels in an agency) will the courts apply the law in such a way that a portion of an