Loading the Economy

ORRIN HATCH

> It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.
>
> Paragraph 703(d) of Title VII of the 1964 Civil Rights Act.

The spread of affirmative action since the passage of the Civil Rights Act in 1964 has been an event without precedent in American history. With astonishing speed, federal and state agencies have asserted the right to impose racial quotas on virtually every area of American life. Even a tiny academic institution like Hillsdale College in Michigan, with a faultless tradition of social progressivism and an established policy of refusing federal monies, is menaced on the ingenious grounds that, since some of its students get veterans' benefits, it is in receipt of federal funds.[1] All of this is in flagrant breach of the letter and the spirit of the Civil Rights Act, as specifically established in congressional debate at the time of its passage. The legalistic casuistry indulged in by the liberal plurality on the Supreme Court in order to give at least limited endorsement of affirmative action in the *Weber* case has not unreasonably been described as "the most horrendous decision in U.S. Supreme Court history since the Dred Scott case"[2] (by Professor Sidney Hook), as a violation of the separation of powers (by Chief

1. "H.E.W.-ing at Hillsdale," *Regulation*, Jan./Feb. 1979. The case is currently under appeal.
2. *Measure*, Sept./Oct. 1979, p. 1.

Justice Burger) and as "Orwellian" (by Justice Rehnquist)[3]. More significant still, affirmative action is a reversion to a society of status from the ideal of a society of free contract, equal protection and individual freedom which inspired the framers of the Civil Rights Act and ultimately of the American Republic itself.

The legality, or otherwise, of affirmative action will keep lawyers employed for many years. Cultural historians (and possibly psychologists) will make reputations explaining the reluctance of press and politicians to oppose its development, or really to notice that it was going on at all. However, since affirmative action is indeed going on, without benefit of law or legislators, a more immediate concern ought to be what its practical effect is likely to be. Typically, this turns out to be the least studied aspect of all.

Some economists have done work on the effects of affirmative action upon the relevant "protected class."[4] This has generally been pessimistic. Such evidence as is available suggests that the programs fail, either because of absolute lack of candidates, or extensive changes and other factors in the economy, or high attrition rates. Intuitively, we might suppose the effect would be similar to tariffs, inducing a local and relative prosperity at the expense of overall welfare. This prosperity would probably be less in absolute terms than might have been the case if the economic system had been permitted to work freely. But a recent survey by the Library of Congress was unable to discover anything substantial from academe on its overall or macroeconomic impact. In fact, the major empirical study was done as part of a survey of all government regulation by public accountants Arthur Andersen & Co. for the Business Roundtable;[5] and the most helpful theoretical discussion of regu-

3. Justices Burger and Rehnquist's dissents to *Weber*, both of unusual ferocity.

4. Andrea H. Beller, "The Economics of Enforcement of an Antidiscrimination Law: Title VII of the Civil Rights Act of 1964," *Journal of Law and Economics*, Vol. 21, Oct. 1978; and the work of Thomas Sowell of UCLA.

5. *Cost of Government Regulation*, "Study for the Business Roundtable: A Study of the Direct Incremental Costs Incurred by 48 Companies in Complying with the Regulation of 6 Federal Agencies in 1977," Arthur Andersen & Co., March 1979.

lation was published by an arm of the American Management Association.[6] As far as I can tell, all recent Ph.D. theses on the subject have concentrated on its sociological or educational aspects, or on the effect on the "protected class." Considering how large affirmative action looms on the campus (see below), this is a distinct case of the dog that didn't bark in the night. It can only darken the suspicions of those already depressed by such news items as the plans of Ohio State University officials to buy their own airliner, because enough of them make lobbying trips to Washington to fill three flights a week.[7] However, given this absence of academic interest, perhaps a U.S. Senator might at least growl in the direction of affirmative action's economic impact, and the questions such a study would raise.

Quotas or Bust

Because most people would rather not think about affirmative action, there is considerable confusion about what it means, not unrelated to the frantic logic-chopping indulged in by its proponents when under pressure. For my present purposes, I want to emphasize that *affirmative action means quotas* or it means nothing. It means discrimination on the basis of race and sex. It does not mean remedial education, special programs for the disadvantaged, or any of the other methods by which we could, and to some extent do, help minorities. It has nothing to do with equal opportunity, although its chief enforcement agency is misleadingly called the Equal Employment Opportunity Commission (EEOC). Affirmative action is about equality of results, statistically measured. Its proponents have made great efforts of casuistry to distinguish between quotas and "goals," "targets," "timetables," and so on. All such distinctions dissolve in practice, particularly when the enforcers are feeling confident about the balance of power

6. Murry L. Weidenbaum, *The Future of Business Regulation: Private Action and Public Demand* (New York: American Management Assoc., 1979). Professor Weidenbaum, admittedly, is Director of the Center for the Study of American Business of Washington University in St. Louis.

7. *Toledo Blade*, Feb. 16, 1980. Ohio State University receives some $63 million in federal aid each year.

on the Supreme Court.[8]

One example makes this point irrefutable. In 1973, American Telephone & Telegraph signed a consent decree including substantial affirmative action programs. This pioneer in the employment of women had been backed up against a wall by the EEOC solely because the paucity of women in its higher reaches was regarded as *prima facie* evidence of discrimination. A.T. & T. didn't agree, but it didn't want to take on the federal government in a long court battle either, so it tried to compromise. The targets it tried to meet were of a volume and complexity to delight a bureaucrat's heart. In 1975, the federal government announced A. T. & T. wasn't doing well enough, and made it sign a "supplemental order."

> The sternness of the government's approach to the supplemental order convinced A.T. & T. that it was dealing not with goals, as it had previously assumed, but with quotas (a proposition some government people involved do not concede). Says Don Liebers [the A.T. & T. executive concerned]: "The order made it rather clear that the name of the game was achieving targets."

After that, A.T. & T. became a superachiever. . .[9] Anyone temporarily confused by the affirmative action lobby's shell game should ask himself: Am I supposed to take notice of race, sex, etc.? Or not? He will find the answer (yes, on our terms) nowhere appears in the Civil Rights Act. It is the economic impact of this answer that is the subject of this article.

How the Market Erodes Discrimination

The concept of a free market is valuable not simply as a description of reality, but as an analytical tool. It helps us put discrimination in context. In a system where all actors are free to pursue their own interests, there is an inexorable tendency

8. Which is pretty confident. Joseph L. Rauh, Jr., in "The Supreme Court: A Body Politic," *The Washington Post*, March 5, 1980, comments on the term " 'Equal protection of the laws.' . . . The issues of . . . preference of blacks in jobs . . . are hardly resolved by reference to those five little words, and the Justices quite naturally apply their own ideologies."

9. Carol J. Loomis, "A.T.& T. in the Throes of 'Equal Employment,' " *Fortune*, Jan. 15, 1979.

for everyone to receive the marginal value of his labor. In other words, you will ultimately be paid approximately what your work is worth. The free market undermines all distinctions that are not based on this economic reality. If you belong to some unpopular group, employers may begin paying you less than average, as a matter of tradition. But precisely because they will make more money off you than off more popular but expensive groups, you will come into demand, and your wages will be bid up. Ultimately, you will be paid the average, or even more than that if you happen to be more efficient. The only way this can be prevented is if the state legislates unequal wages or bans you from certain occupations, as has happened in South Africa. Private employers cannot effectively do it, because their attempts at collusion are undermined by market forces just as their attempts to form cartels collapse, unless supported by public policy, tariffs or some other constraint on freedom. *Discrimination is costly*. That is why the South African business community is generally critical of *apartheid*.

Two qualifications must be made, however. First, there is no reason why your marginal value should be the same as that of anyone else. Even apart from any question of innate aptitude, different cultures have different attitudes to work and leisure. If you regularly spend the summer living on a beach in Yucatan, your earning capacity will be outpaced by your brother who works and goes to night school all year round, although you might be happier. Secondly, even when your marginal value is the same, it may take time to get paid it. Traditions do not dissolve overnight, although experience in America indicates that where money is concerned, they erode remarkably quickly.

In fact, the American experience is that relying on the market system has been enormously successful in integrating diverse groups, often historically hostile to each other. Groups frequently subjected to majority disapproval, such as Jews and Asians, have nevertheless emerged with incomes significantly above the average. The cash nexus is a noble thing. You don't have to like the man who mends your shoes, but you and he can exchange goods and services to your mutual advantage. The pursuit of material gain has so remorselessly worn down all social distinctions that, for example, the position of women in American life had already been revolutionized, seen in a longer perspective, before the EEOC sprang forth.

The point of the 1964 Civil Rights Act was merely to hurry this process along, particularly in the area of race, by forbidding certain types of public discrimination. The philosophy behind it was that, once entry to the market was freed of artificial constraints like institutionalized discrimination, it would solve this problem as it had all others.

If you leave people alone, they will tend to employ those who do the best job, and the overall production of wealth will be maximized. But if you don't leave people alone, they cannot do this, and inefficiencies will develop. Wealth will not be maximized. This is exactly the effect of affirmative action.

The Independent Immigrant

Even Massachusetts Institute of Technology Nobel laureate Paul Samuelson, father of the famous textbook, missed this point in commenting on the Bakke decision. Professor Samuelson compared the arrival of blacks on the labor market with the arrival of immigrants in the nineteenth century. Immigration was opposed by "charter-member Yankees," he said, because they were afraid of losing their jobs. But in fact

> . . . the economic system . . . is *not* a zero-sum game. . . When a country gains new manpower from the excess of births over deaths or from immigration and increased female participation, its same land and complement of capita assets can produce a larger pie . . . Neither the "poor whites" nor other groups in the community have to fear particularly that out of *their* economic hides will have to come any advance achieved by black Americans, native Indian Americans, Americans of Mexican descent or other minority groups.[10]

This is wrong, even on its own terms, as a defense of affirmative action. "Poor whites" had excellent reasons to fear that they would be undercut in the short run. In the long run, as Professor Samuelson might normally argue, echoing Lord Keynes, we are all dead – although overall welfare will indeed expand. But more important, the U.S. absorbed the great wave of immigration at the end of the last century because the immi-

10. Paul A. Samuelson, "Economics of Discrimination," *Newsweek*, July 10, 1978.

grants were employed in the sectors of the economy that needed them – often concentrated at first in the least desirable areas. Under affirmative action, however, the newcomers would be inserted into each area of activity in proportion to their overall numbers, and not because of their skills or because they represent a more efficient use of resources. (This is literally what is happening with the Spanish-surnamed protected class, whose numbers are currently increasing through substantial legal and illegal immigration.) In these circumstances, we cannot be sure that "new manpower" would produce a "larger pie." It might, as we shall see, produce a smaller pie as well as denying some people jobs they might otherwise have occupied. It would be more accurate to look at affirmative action as a tax, whereby resources are transferred directly to the protected classes. But it is a peculiarly debilitating tax, because it interferes with the productive enterprise's ability to take decisions by reducing its internal efficiency. Most taxes are a burden to be shouldered. This one is also an enfeebling drug.

Inefficiency in Triplicate

The true nature of affirmative action can be seen in one of the rare reports from the front line, which appeared in the *Washington Star*, albeit in the Business & Finance section:

> Dante DiGaetano's business is so small that he has no office and no secretary – just one carpenter and two laborers.
>
> But the Labor Department has ordered him to take a series of 43 continuing administrative actions which could occupy a sizable office force because, under a recent government contract, 5% of the four laborers working for him and his subcontractors were not women.

As usual, Mr. DiGaetano had signed a conciliation agreement rather than abandon his contract or fight the government in court.

> As a result of signing the order, DiGaetano has been ordered to maintain a written equal opportunity policy, appoint an EEO officer with a written job description, include EEO policy in company manuals, maintain records of encouragement of minority and female employees to seek promotion and keep a record of annual reviews by those employees for promotional opportunities.

He must also keep a current listing of recruitment sources for minority and female craft workers, copies of letters to employment groups specifying employment opportunities, files of all responses to these letters and records of contacts with minority and women's community organizations, recruitment sources, schools and training organizations.

Further, DiGaetano must have copies of newsletters and annual reports that include EEO policy, copies of letters to unions and training programs requesting assistance in meeting EEO duties, copies of letters sent at least every six months to all recruiting sources stating EEO policy and copies of advertising with EEO statements.

In addition, the conciliation agreement stipulates that he must maintain records that parties and picnics have been posted and are open to all employees, have separate toilets and changing facilities for male and female employees and provide documentation that all foremen maintain a working environment free of harassment.

On top of this, DiGaetano must submit a monthly "employment utilization report," a quarterly report on minority and female applicants, job offers, new hires, terminations and layoffs and a report stating the date upon which each of the other 42 requirements was met.[11]

My colleague, Senator Richard S. Schweiker of Pennsylvania, complained to Labor Secretary F. Ray Marshall about this situation. Mr. Marshall replied that Mr. DiGaetano had only himself to blame. He hadn't submitted his "monthly Employment Utilization Reports, Form CC257." Mr. Marshall added that although this case was unusual, it was too difficult on administrative grounds for his agents to take note of the size of their victims.

A society which allows this sort of harassment is, in an important sense, no longer free. Beyond that, it is not even efficient. Obviously, the heightened threshold of fixed costs is going to exclude smaller contractors from such fields. But the impact on the major contractors is perhaps worse. They survive, but waste much of their assets on bookkeeping, and other com-

11. *Washington Star*, Feb. 21, 1980.

pliance activities. Additionally, they are no longer dedicated to the pursuit of profit, with its continuous, systematic pressure against waste and error. This is partly because they are now staffed by people who, by definition, are not the ones who would have been selected had the principle of merit been applied. Also, the whole ethos of the organization has been altered, from commerce to politics. We are witnessing a cultural conquest of the corporate sector by the bureaucracy. And for future developments, we need look no further than the bail-out last fall by Congress of the Chrysler Corporation. Congress here chose to support a failing corporation, and thus perpetuate a concomitant misallocation of resources throughout the economic system, in large part because the bureaucracy felt that the corporation had complied with its regulations and was a "good corporate citizen." One frequently-used argument was that Chrysler was a major employer of minorities. Thus we are intervening to foster inefficiency, and intervening yet further when its consequences become unavoidable. It looks ominously like what the Victorians called the Primrose Path.

An Economic Impact Statement

Measuring the economic impact of affirmative action regulations is easier than that of (say) the Environmental Protection Agency's activities because they are clearly a form of consumption. The EPA is often justified on the grounds that its regulations merely bring home to the economic decision-maker the "social costs," or "externalities," that the price system fails to detect. These include the cost to the community of washing the soot from factories out of its hair and so on. The concept is debateable, but it does not concern us here. The EEOC has sometimes been credited with opening up new pools of labor that corporations somehow contrived to ignore, and occasionally with hastening the breakdown of traditional barriers to labor mobility. But in the context of the market's endless search for efficiency, these anomalies would have been eliminated anyway, leaving only the question of whether they were worth the expenditure compelled by law. Affirmative action is a net cost to the economy. On the whole, its advocates have defended their policies in terms of social justice. And this is a more reasonable position. No one, after all, expects the state to profit from the money it expends on looking after the aged.

Measuring the costs of regulation is not an easy task. In the case of Dante DiGaetano, for example, it is possible to quantify the incremental expenditures he is now forced to make – hiring an EEO officer, secretaries, posting letters, and so on. It is more difficult to assess the changes in his way of working – including the time he himself must divert from other activities. And the true dynamic effects – the opportunity cost of all this expense and effort, the diminution of competition, inefficiencies due to the employment and promotion of marginal labor and the consequent demoralization of good workers – can only be a matter of conjecture, although they are clearly the most important of all. No measurement can be made, for example, of the cost to the entire economy of a decision not to terminate a bad worker because he or she belongs to some category required to satisfy government inspectors, a near-universal phenomenon in contemporary America. It is safe to say, however, that the dynamic effects of affirmative action are some considerable multiple of the static costs.[1 2]

Unearned Increments

The Arthur Andersen study resolved this problem by counting only such incremental costs as could be exhaustively documented. Under this minimal definition, the 48 companies which were examined proved to have spent some $217 million to comply with EEO regulations in 1977. The greater proportion of these, some 96%, were operating and administrative costs which recur annually. The companies noted that the full impact of treating the handicapped as a "protected class" had not yet

12. This three-fold division follows Weidenbaum, *op. cit.*, pp. 11-33. Arthur Andersen combined the second and third category as follows:

INCREMENTAL COSTS	(Measured in Study)
COSTS OF SECONDARY EFFECTS NOT MEASURED IN STUDY	Loss of Productivity Investment Disincentive International Competitiveness Lost Opportunity Construction Delays Inflation Resource Misallocation Shortage of Supplies

been felt in 1977.[13]

Since these 48 companies represent only 5% of the U.S. workforce, excluding military, government and agricultural employees, it would be logical to conclude that costs across the entire sector are $217 million x 20 = $4.34 billion. Any shortfall resulting from the crudeness of this measure is amply compensated by the fact that it does not include the effect of state and local government demands, or specialized federal activities such as the fair housing laws.

The figure is also not inconsistent with the estimate made by Robert DeFina of the Center for the Study of American Business at Washington University in St. Louis that compliance costs are approximately 20 times the cost of the regulatory agency concerned.[14] In 1979, the federal government estimated it spent $135.5 million overseeing "private sector equal opportunities" and a further $15.2 million in partial administration of the fair housing laws, suggesting a total compliance cost of at least $3 billion. Estimated expenditures for 1981 are some $210 million, for which compliance costs could be $4.2 billion.

The federal government's estimate of its 1979 expenditures on overseeing and complying with its own equal opportunity regulations was $170.4 million, with an additional $39.7 million for military equal opportunity. The figures for 1981 are expected to be $194.9 million and $42.9 million.[15]

This is substantially less than the estimate of affirmative action costs that the Congressional Research Service arrived at in 1976 by polling selected government agencies – $367 million.[16] These, of course, by now would be substantially higher. The reason for the discrepancy probably lies in accounting definitions, with the government now taking a far

13. *Cost of Government Regulation*, Arthur Andersen & Co., March 1979.

14. Robert DeFina, *Public and Private Expenditures for Federal Regulation of Business*, Working Paper No. 22 (St. Louis: Washington University Center for the Study of American Business, 1977). Also, Weidenbaum, *op. cit.*, pp. 21-22.

15. *Special Analysis: Budget of the United States Government, Fiscal Year 1981* (Washington, D.C.: Office of Management and the Budget).

16. "Costs of Affirmative Action In Employment," Congressional Research Service, Library of Congress, April 1976.

more restrictive view than did the individual agencies. An arithmetical exercise performed on the military budget, for example, appears to imply that the 5,000 persons, who have graduated from something called the Defense Equal Opportunity Management Institute in the last eight years, are serving their country at a cost, in salaries and support expenditures, averaging something less than $8,000 a year. Patriotism, clearly, is not dead. In fact, given the military's remarkably low estimate of its 1980-1981 increase in expenditure on Equal Opportunity — a mere $1,200,000 — we can assume that civilian control at least over military statistics is pretty healthy, too.

The costs of affirmative action to state and local governments remain an unexplored continent. In 1976, the Congressional Research Service's intrepid analyst attempted to estimate the costs of federally-mandated programs in this area by asking selected states directly. Unsurprisingly, the results were rudimentary, but they suggested nationwide 1976 costs of approximately $185 million. This is a tribute to the impact of the Bureau of Intergovernmental Personnel programs, which produced this formidable effect for an outlay of only $325,000. No information is available on the cost to the states of their own regulations.

There seems to have been no estimate of the costs to colleges and universities since the American Council on Education published one in October 1975 for six selected institutions.[17] It said the cost was $1,800,000. Extrapolating across the 250 colleges and universities that, according to HEW, had affirmative action programs in April of 1975, the Congressional Research Service concluded that the total 1974-5 cost had been $75 million. In 1979, the federal government estimated that it had spent $14.8 million on "equal educational opportunity," which includes oversight of employment policies. Interestingly, this sum will rise to an estimated $40.7 million in 1981.

This still leaves areas of the economy unassessed. Perhaps the most notable is that of primary and secondary education, where random inquiries suggest affirmative action is at least as much a priority as in the federal bureaucracy. Still, what we have is

17. "The Cost of Implementing the Federally Mandated Social Programs at Colleges and Universities," *American Council on Education*, June 1976.

enough for a consciously-low estimate:

Private sector — Arthur Andersen/Hatch, 1977	$4.3 billion
Federal govt. — Actual 1979	.35 billion
State and Local govt. — CRS estimate, 1976	.18 billion
Universities, Colleges — CRS/ACE estimate 1974	.08 billion

Considering the partial and dated nature of these figures, the fact that inflation in the four years of President Carter's Administration seems likely to average nine percent a year and the dramatic proliferation of programs of affirmative action in recent years, its incremental cost must be clearly in excess of $5 billion — perhaps as much as $7.5 billion.

It is essential to remember at this point that *$5 - $7.5 billion is only the tip of the iceberg*. It is just the incremental cost of compliance — what Dante DiGaetano pays to satisfy his official tormentors. The full economic cost is the better use Mr. DiGaetano could have put his time and money to, the demoralizing effects on his workers and himself, the chances that workers hired under the new regime may not be as productive, the loss of wealth represented by the exclusion of skilled workers, the possibility that he may give up in disgust and apply for a job in the Department of Labor, and so on. This will be many times higher, if inherently less quantifiable.

Affirmative action is yet another wedge driven between the American worker and the fruits of his labor. The most obvious wedge is that proportion of the fruits comandeered in the shape of direct and indirect taxes. Affirmative action certainly contributes to this because of the expensive oversight apparatus that accompanies it. But a less obvious wedge is the inefficiency it induces in the productive base. This means that an hour of work yields less fruit. Instead it is spent getting wrong numbers on the telephone system, and hunting for lost mail. Where the worker faces a high marginal tax rate, quite small changes in return can make him decide to go fishing instead. This is exactly what is happening to the American economy.

Since 1973 particularly, there has been a drop in American productivity growth that cannot be explained in terms of the changing combination of capital and labor input.[18] In real

18. Denison, "Explanation of Declining Productivity Growth," *Survey of Current Business*, August 1979.

terms, national income per person employed in the first half of 1979 was below that of 1973. The most obvious culprit is the distortion and misallocation effect caused by complying with federal regulations. Affirmative action is only a small part of this – Murray Weidenbaum estimates that total incremental cost of oversight and compliance in 1979 was some $102.7 billion.[19] But since it has such a personal impact on the labor force, its dynamic economic impact is probably out of proportion. One can work happily designing a pollution filter, but not if passed over for a promotion on the grounds of race. In any event, affirmative action is a symbol and a symptom of the regulatory socialism which, sprouting with the New Deal, has grown like a kudu vine until our institutions and their classical liberal inspiration are on the point of vanishing from sight.[20]

Perhaps the best way to look at affirmative action is to regard it as a "rent-seeking" activity, of the sort described by Gordon Tullock.[21] Rent-seeking is the process by which individuals and groups attempt to get society at large to pay them a subvention. Professor Tullock has demonstrated that most societies in history have been organized in this way. Government officials and their clients exact income in the form of salaries, bribes and the proceeds of government-sponsored concessions and monopolies. Everyone else invests time and money in evading them – "rent avoidance." Professor Tullock gives an example of an entrepreneur in a developing country who knew nothing of the production process in his factory because his time was best spent negotiating with, and paying off, various functionaries. Without (as yet) the venality, the same process is, according to him, under way here. It is significant that Du Pont Corporation has recently found it desirable to appoint as chief executive a lawyer specializing in government negotiations and public relations instead of a chemical engineer. Some of

19. Weidenbaum, p. 22.

20. Theodore Lowi, *The End of Liberalism* (New York: W.W. Norton, 1969).

21. Gordon Tullock, "Rent Seeking," Working Paper No. CE 78-2-8; and "The Backward Society: Static Efficiency, Rent Seeking and the Rule of Law," Working Paper No. CE 78-7-1, Center for the Study of Public Choice, Virginia Polytechnic Institute.

his time will probably be spent negotiating with EEOC officials about the amount of income to be redirected from Du Pont workers and stockholders to whatever groups are politically important enough to be designated "protected classes." The actual making and selling of chemicals somehow gets shuffled lower and lower in his In tray. From an economic standpoint, it would be better to pay the $5 billion out in undisguised grants.

ERRATUM

In E.G. West's article "The Unsinkable Minimum Wage" (*Policy Review* #11, Winter 1979; pp. 83-95), a graphic table was unintentionally omitted. With our apologies to Professor West and to our readers, Table One (see pp. 88-89) is reproduced below.

TABLE 1

CHARACTERISTICS OF LOW WAGE WORKERS 1975

Characteristics by Year	All Hourly Wage Employees	Hourly Wage		
		Less than $2.00	$2.00-$2.49	$2.50 or more
Teenagers (16-19) 1975				
Percent of total	100.0	15.4	51.4	33.2
Percent in each wage interval				
Working part-time	63.8	84.0	72.5	41.1
Students	43.4	65.0	49.5	23.9
Female	46.2	61.4	50.3	32.7
Black	6.4	6.3	7.1	5.5
Family income exceeds $15,000	41.8	32.7	52.2	30.0
Persons Aged 65 or Over 1975				
Percent of total	100.0	18.8	44.6	36.6
Percent in each wage interval				
Working part-time	73.4	89.9	84.5	51.4
Female	41.2	47.7	45.7	32.5
Black	6.5	4.5	8.5	5.2

Source: May Current Population Survey, individual records.

Twisting the Law

NICHOLAS CAPALDI

The moral that many would have us draw from the incident at Watergate is that government power can be abused, especially by unprincipled individuals. But there is another kind of abuse of government power: an abuse practiced by a group, not an individual, and based upon high principles.[2] Nowhere is such abuse more in evidence than in the development and application of the policy of affirmative action. We begin with two titles of the Civil Rights Act of 1964, known as Title VI and Title VII. Title VI prohibits discrimination in public accommodations and in federally assisted programs. This includes federally assisted education programs. Title VII prohibits discrimination by employers or unions, whether private or public.

In the most unequivocal fashion, the sponsors of the measure in the Senate made clear that this act was designed to foster equal opportunity, not preference and not racial balance. Listen to the words of Senator Hubert H. Humphrey: "Title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group."[3] Senator Harrison A. Williams reaffirmed this when he said: [Title VII] "specifically prohibit(s) the Attorney General or any agency of the government, from requiring employment to be on the basis of racial or religious quotas. Under (this provision) an employer with only white employees could continue to have only the best qualified persons even if they were all white."[4]

In the ensuing debate, the floor managers in the Senate, Senators Joseph Clark and Clifford Case, both stated that:

1. This paper was written during my tenure as a national fellow of the Hoover Institution at Stanford Univeristy. I owe special thanks to Sidney Hook, Jack Bunzel, Paul Seabury, and Miro Todorovich.

2. Namely, the belief that oppressed peoples are victims of circumstances beyond their control, and this dictates that government must intervene to liberate them.

3. Humphrey (110 *Cong. Rec.* 12723).

4. Williams (*ibid.*, 1433).