

ment policy or system which is not a subterfuge to evade the purpose of the Act and would provide little or no protection for the ordinary private pension plan. It would appear from the Secretary's testimony that the bill intends, at least that private pension and insurance plans would be protected. If this is the case, there should be no objection to amending the legislation to avoid any harmful effect upon such pension plans.

S. 830, as ordered reported by the Senate Labor Subcommittee, has satisfactorily taken care of this problem by amending Section 4(f) (2) to read that it shall not be unlawful for an employer.

"(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual;"

Such an amendment is important in the railroad industry since a number of railroads provide employee pension plans which have maximum participation ages. Most such plans include maximum ages of 50 or 55. Among the reasons for establishing maximum participation ages are cost and actuarial considerations. If the railroads, and other industries, are required to eliminate these provisions the result could well be to make it more difficult for aged workers to obtain employment rather than to assist them.

5. There are 23 States which have laws which attempt to deal with the problem of discrimination in employment because of age. Section 14 of H.R. 3651 provides that nothing therein shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age. It seems clear to us that if there is to be Federal legislation, it should preempt the various and sundry State laws on the subject rather than superimpose another set of administrative regulations, notice-posting, record-keeping, report-making and enforcement requirements and standards upon industry. If the State laws have been ineffective, as most apparently have, and for this reason Federal legislation is deemed necessary, there is no justification for continuing the authority and jurisdiction of State bodies in this regard. This kind of double jeopardy has no beneficial effect and simply adds another layer of governmentally prescribed obstructions to the efficient operation of a business.

In conclusion, it is respectfully requested that the Committee recognize the unusual age and other circumstances which exist with respect to the work force in the railroad industry and that the industry be excepted from the provisions of H.R. 3651 and H.R. 5481.

STATEMENT BY NATIONAL ASSOCIATION OF MANUFACTURERS

INTRODUCTION

The National Association of Manufacturers is pleased to present its views on H.R. 3651, and related bills pertaining to age discrimination in employment.

For more than forty years, the Association has been encouraging manufacturers to make the best possible use of the experience, knowledge, and skills which older people possess. Over the years a wide range of meetings and conferences have been conducted with numerous groups and organizations, to stimulate the evaluation of management policies and practices dealing with older job applicants, and to educate management personnel as to the economic desirability of utilizing the reservoir of talent represented by the older worker.

NAM has had a long-standing policy of encouraging employment of older workers. Currently, our policy position reads as follows:

"Older workers offer seasoned experience, judgment and stability, and constitute a valuable asset in the nation's work force. Employers are urged to observe hiring practices which give consideration to skills and abilities rather than to any age factor."

In furtherance of this policy, NAM has done a great amount of work to promote the hiring of older workers.¹ Partly as a result of the wide distribution given NAM publications on this subject, most employers are aware today that hiring older people makes economic good sense.

¹ This effort is reflected in some degree by the publications *Employment of Mature Workers* (1960) and *The Productive Years—Ages 45-65* (1963), copies of which are submitted to the Subcommittee herewith.