

to alter radically the character and scope of H.R. 3651, H.R. 4221 and H.R. 3768 by extending their coverage far beyond the problem which prompted the introduction of those bills and the studies which support them. We refer to proposals to transform them from bills addressed to the problem of age discrimination in employment against "The Older American Worker"—basically those 45 to 65—into bills also covering the younger American worker—those below 45.

I. The Genesis of Older Worker Legislation

H.R. 3651 and the other bills under consideration are themselves the product of considerable study of the specific problem to which they are addressed, and of some significant legislative history. That history explains why their coverage was basically limited to persons 45 to 65.

Pursuant to Section 715 of the Civil Rights Act of 1964, the Secretary of Labor prepared and delivered to the Congress in 1965 a report entitled "The Older American Worker," defined by that report as persons 45 and over. The report recommended four types of action to increase employment opportunities for such older workers.

In the 89th Congress, the Senate included in its version of the 1966 amendments to the Fair Labor Standards Act (Public Law 89-601) a provision outlawing age discrimination against those persons covered by the Secretary's 1965 report—those 45 to 65. That provision was deleted in conference, but a substitute provision was enacted directing the Secretary of Labor to submit to the 90th Congress, not later than January 1967, "specific legislative recommendations for implementing the conclusions and recommendations" contained in his 1965 report (Public Law 89-601, Section 606).

On January 23, in a Special Message to the Congress on "Older Americans" the President proposed legislation prohibiting arbitrary and unjust discrimination in employment in respect of persons 45 to 65. H.R. 3651 and the identical bills are presented as carrying out the terms of the President's Special Message and presumably represents the Secretary of Labor's proposed implementation of his 1965 report on the "Older American Worker" as contemplated by the 1966 Act.

II. Union Proposals to Alter Theory of "Older Worker" Legislation

During the Subcommittee hearings, it was proposed by representatives of several labor organizations that the provisions of the new legislation be made applicable to all persons regardless of age, or at least to a very substantial category of persons under 45. According to the Department of Labor's statistics, there are always twice as many persons in the civilian labor market who are below 45 years of age (46 million) as there are in the 45-65 age category (26 million). Thus, the proposed extension of the legislation to cover persons of all ages would roughly triple the number of persons included within its provisions and increases the employees subject to its coverage by several tens of millions.

The proposals to effect this radical change in the scope and coverage of the legislation do not even pretend to be based upon any general examination or study comparable to "The Older American Worker" report of the very different questions raised by the new proposals in respect to younger workers. As far as we are aware, there is no significant age discrimination problem affecting younger workers requiring remedial legislation. Furthermore, nobody appears to have inquired whether the adoption of a statute outlawing age discrimination at ages below 45 would have undesired effects upon apprentice training or other programs designed to provide special employment opportunities to very youthful or deprived groups.

III. Unions' General Proposal to Serve Special Interest of Very Small Group

It is clear from the testimony before the Subcommittee that the sweeping proposals to revolutionize the theory and character of the "Older Worker" legislation are prompted, frankly and overtly, to answer the special demands of a relatively small handful of employees in a unique situation—those few airline stewardesses who are unwilling at age 32-35 to accept ground employment with the airlines which employ them. Because this is the source of the proposals the Air Transport Association feels a special interest in opposing them.

As it happens, this tiny group is already represented under the Railway Labor Act by powerful unions skilled in collective bargaining techniques, and are thus not in need of special legislation to meet their special problem. Moreover, the employees on whose behalf this sweeping legislation is sought are persons (1) who specifically agreed at the time they were hired as stewardesses that they would cease being flight stewardesses at some specified age; (2) who have al-