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COMMENTS

THE 1981 AFDC AMENDMENTS: RHETORIC AND REALITY

I. INTRODUCTION

Undoubtedly, the year 1981 will come to be known as this nation's year of coping. The year's political dialogue revolved around our problems of unemployment, high interest rates, and inflation; the budget cuts and tax benefits enacted were seen as solutions. That much will be remembered of 1981. But what of the millions of slum-dwelling Americans who will receive no tax benefits because they do not earn enough to file a return? What of the millions who are little troubled by high interest rates because they could not obtain a loan under any circumstances? What of the millions so wracked by illness, old-age, or handicaps that work is impossible and for whom unemployment rates mean nothing? These millions have received little popular attention. And yet, 1981 was also a year of drastic changes in the federal support programs which aid these very persons.¹ In fact, of the eleven billion dollars of 1981 "Reaganomics" cuts in entitlement programs, fully sixty per cent represented cuts in programs that aid the poor.² For those with so little, changes so sweeping mean much; the statutes come to determine the poor's very ability to survive.

This comment will examine the most controversial of the 1981 welfare law amendments:³ the changes in the Aid to Families with Dependent Children program (AFDC).⁴ Explored will be a number of the employment-related AFDC amendments.⁵ In large part, this comment will evaluate these amendments from the perspective of what they assume about the recipients they so vitally affect. In poverty law, this is a singularly necessary perspective because welfare recipients rarely

1. Changes to the social welfare system were enacted in the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (1981).

2. *Reagan's Polarized America*, NEWSWEEK, Apr. 5, 1982, at 17.

3. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, §§ 2301-21, 95 Stat. 357, 843-60 (1981) (to be codified at 42 U.S.C. §§ 602-03, 606-07, 609, 612).

For final regulations implementing these changes, see 47 Fed. Reg. 5648-86 (1982) (to be codified at 45 C.F.R. §§ 205-06, 232-35, 238-39).

4. Social Security Act of 1935, Pub. L. No. 74-271, §§ 401-06, 49 Stat. 620, 627-29 (1935) (current version at 42 U.S.C. §§ 601-76 (1976 & Supp. IV 1980)).

5. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, §§ 2301, 2307, 95 Stat. 357, 843-44, 846-48 (1981) (to be codified at 42 U.S.C. §§ 602(a)(8)(A), 609).

lobby Congress or publicize their needs. Even more rarely do they lobby to have their benefits cut. As one author explained it, the poor "do not, by far and large, belong to unions, to fraternal organizations, or to political parties. They are without lobbies of their own; they put forward no legislative program. As a group, they are atomized. They have no face; they have no voice."⁶ As a result, America's welfare law has for some time been dictated by non-poor persons' notions of what it is like to be poor. In this political context, welfare programs can be judged effective only to the extent that the policy-makers who author them act upon realistic assumptions of who is actually "on the dole." As will be noted later, unrealistic and biased assumptions often intrude into the making of welfare policy—to the obvious detriment of the recipients.

II. AFDC: THE PROGRAM

Today, persons using the epithet "welfare" are most likely referring to the Aid to Families with Dependent Children program. AFDC has become this nation's most important and conspicuous income support program.⁷ The scheme that was to become known as "AFDC" was enacted during the Great Depression in response to especially persistent Congressional lobbying.⁸ Programs of support for needy youth and their families, however, had been urged upon Congress long before the thirties. About the turn of the century, social welfare organizations began to express concern about the disastrous effects of poverty upon American family life.⁹ The years just before the turn of the century saw the migration of millions of rural-dwelling Americans into the newly industrialized cities.¹⁰ Unfortunately, this urban growth occurred at a frantic and unhealthy pace; many metropolitan areas were nothing more than "human pigsties."¹¹ The urban America of that day fur-

6. M. HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* 6 (1963).

7. The program has become conspicuous because of its size; 6.9 billion federal dollars will be spent on it in fiscal year 1983. See 1983 Budget, S. Con. Res. 92, 97th Cong., 2d Sess., 128 CONG. REC. H3722-33 (daily ed. June 22, 1982); Northeast-Midwest Congressional Coalition, First Concurrent Resolution on the Budget for Fiscal 1983 5 (1982).

8. Social Security Act of 1935, Pub. L. No. 74-271, §§ 401-06, 49 Stat. 620, 627-29 (1935) (current version at 42 U.S.C. §§ 601-76 (1976 & Supp. IV 1980)).

Were it not for the persuasive lobbying of two women—Katherine Lenroot and Martha Eliot—the New Deal would have been without any aid for needy children. These two welfare professionals convinced a very reluctant House committee of the need for such a program. See Goodman, *Welfare Policy and its Consequences for the Recipient Population: A Study of the AFDC Program*, United States Department of Health, Education, and Welfare 2-3 (1969); E. WITTE, *THE DEVELOPMENT OF THE SOCIAL SECURITY ACT* 162-63 (1962).

9. W. BELL, *AID TO DEPENDENT CHILDREN* 3-5 (1965).

10. T. BAILEY, *THE AMERICAN PAGEANT: A HISTORY OF THE REPUBLIC* 547 (1956).

11. *Id.*

nished families who had fallen upon hard luck with practically no government aid and only occasional niggardly charitable donations.¹² If a breadwinner became disabled and could no longer support his or her family, a common solution was to institutionalize or indenture the children so that the other parent could find a job.¹³ If the father deserted the family, the same procedure was used: the wife effectively lost her children. Some lamented this decline in American family life, most notably at the First White House Conference on Children in 1909. The Conference concluded that "[h]ome life is the highest and finest product of civilization. It is the great molding force of mind and character. . . . Except in unusual circumstances, the home should not be broken up for reasons of poverty."¹⁴

Decades later, the Great Depression only aggravated the problem of fragmenting family life. It had become painfully clear by this time that neither local governments nor private charities were able to furnish any real aid to the quickly increasing numbers of impoverished children.¹⁵ In response, a federal program of aid, later to become known as "AFDC," was enacted "[f]or the purpose of encouraging the care of dependent children in their own homes"¹⁶ Later, aid payments under the program were extended to the parents of needy children as well.¹⁷ Today, aid comes to dependent children and those caring for them in the form of federally subsidized grants-in-aid.¹⁸ The

During the Civil War, no American city had a population of one million. In 1890, New York, Chicago, and Philadelphia each had over one million inhabitants. Ten years later, in 1900, New York's population had tripled. With 3.5 million residents, New York had become the world's second largest city. *Id.*

12. BELL, *supra* note 9, at 3-4.

13. *Id.*

14. S. DOC. NO. 721, 60th Cong., 2d Sess. 9-10 (1909).

15. L. KOMISAR, DOWN AND OUT IN THE USA 43-44 (1973); Goodman, *supra* note 8, at 2.

Moreover, child labor—a "solution" to the problem of child poverty for centuries past—had by this time been virtually eliminated. See W. TRATTNER, FROM POOR LAW TO WELFARE STATE 98-99 (1974). Children acting as wage earners for their destitute families became far less common after the passage of such child labor statutes as the Owen-Keating Act, Pub. L. No. 64-249, 39 Stat. 675, 675-76 (1916).

16. See 42 U.S.C. § 601 (1976). For definitions of who is a "dependent child" for purposes of the act, see 42 U.S.C. §§ 606(a), 607(a), 608(a) (1976 & Supp. IV 1980); Annot., 23 A.L.R. FED. 232 (1975).

17. Social Security Amendments of 1956, Pub. L. No. 880, § 312, 70 Stat. 807, 848-49 (1956) (codified at 42 U.S.C. § 601 (1976)).

18. The federal government provides amounts proportionately matching the amounts expended by state and local governments on AFDC. In 1982, the federal government contributed 54% of the amounts expended on AFDC, the states 40%, and localities six percent. See Library of Congress, Congressional Research Service, Welfare Reform 4 (1982) [hereinafter cited as Library of Congress].

The complex arithmetic which determines the federal contribution to state AFDC programs is set out at 42 U.S.C. § 603 (1976 & Supp. IV 1980).
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federal government provides matching funds to those states choosing to participate in AFDC so long as these states meet certain minimum federal standards.¹⁹ Program implementation and setting of grant levels are left to the states.²⁰ Since its inception, the program has seen great growth both in the number of recipients²¹ and in the level of federal participation.²² In 1981, over 11.1 million individuals received AFDC payments which totalled approximately 1.1 billion dollars per month in federal and state spending.²³

19. See, e.g., 42 U.S.C. § 602 (1976 & Supp. IV-1980); 45 C.F.R. § 233.90 (1980).

20. In the AFDC program, no federally-imposed regulations dictate how much or how little the states may choose to spend on dependent children. The program is, as a result, characterized by gross disparities among the states in benefits offered. For instance, Mississippi allocates maximum monthly benefits of \$96 to a family of three persons with no other income. Alaska grants \$571 in monthly benefits to this same-sized family. See Library of Congress, *supra* note 18, at 4; Chief, *Need Determination in AFDC Program*, SOC. SECURITY BULL., Sept. 1979, at 11-21.

Moreover, benefit levels have suffered over the years in many states. According to government statistics, AFDC recipients today receive 24% less in benefits, adjusted for inflation, than they did in 1969. Cited in Kotz, *The War on the Poor*, THE NEW REPUBLIC, Mar. 24, 1982, at 18, 19. Cf. Emsellem, *Assessing AFDC Standards of Need*, 16 CLEARINGHOUSE REV. 122, 127-28 (1982).

This lack of federally-established minimum benefit levels makes AFDC somewhat unique; federal programs of aid to the elderly, the blind, and the disabled all have federally-imposed minimum grants applicable to the states. Over the years, Congress has been criticized for failing to impose similar minimum standards for AFDC recipients. See, e.g., N.Y. Times, Oct. 3, 1972, at 44, col. 1.

21. Except for brief periods, growth in the number of AFDC recipients has been continually upward since the program began. At times, this rise has been dramatic. The number of recipients being aided by the program nearly tripled in the period 1965-1972, from 4.4 million recipients in 1965 to over 11 million recipients in 1972. See A. KADUSHIN, *CHILD WELFARE SERVICES* 164 (2d ed. 1974).

These increases are probably related to the growing liberalization of eligibility requirements and the availability of higher benefits. Moreover, the War on Poverty—if it did nothing else—certainly succeeded in making the poor aware of the availability of welfare benefits. *Id.* at 164-67.

22. The federal government's role in AFDC was greatly expanded during the 1960's War on Poverty. During this period, policy-makers' notions of the goals welfare payments were to serve changed markedly. As President Kennedy put it, AFDC was to become a means of "stress[ing] services in addition to support, rehabilitation instead of relief, and training for useful work instead of prolonged dependency. . . ." See *id.* at 160. AFDC monies for the first time came to be used for the rehabilitation of parents as well as in various work incentive projects. The result was an enhanced federal role in AFDC, overseeing and developing these new projects. *Id.*

23. Duvall, Goudreau, & Marsh, *Aid to Families with Dependent Children: Characteristics of Recipients in 1979*, SOC. SECURITY BULL., Apr. 1982, at 3. [hereinafter cited as *Characteristics*].

See also *supra* note 21.

III. AFDC: THE 1981 AMENDMENTS

A. The Earned Income Disregard

1. The Provisions

Since 1935, calculation of an AFDC recipient's level of benefits has involved several distinct steps. First, each participating state must establish its own "need standard."²⁴ The need standard is that amount which a state believes necessary to provide for the essential needs of a family of a certain size.²⁵ Assuming that a family's income falls below this amount, the members may be eligible for AFDC benefits. Determining how much these benefits will be (for a recipient with resources of less than the need standard) involves a second step: calculating the difference between the recipient's resources and the need standard. This difference is known as the "budget deficit." The recipient receives a benefit check representing some percentage of his budget deficit. In other words, an AFDC check is some percentage of the amount by which the recipient's resources fail to reach the standard of need.²⁶

This method of calculating benefits came under growing criticism in the 1960's. The difficulty was that the above procedure caused significant reductions in AFDC benefits for recipients once they became employed. When an AFDC recipient went to work, his salary had to be counted as an additional resource.²⁷ Therefore, the recipient's budget deficit—the balance between his resources and the need standard—was reduced by an amount equal to wages earned. Put simply, an AFDC recipient taking a job saw his benefit check from the government reduced dollar-for-dollar by the amount of his wages. In the mid 1960's, Congress became convinced that such methods of calculation were discouraging recipients from seeking employment; changes were therefore thought necessary.²⁸

24. 45 C.F.R. § 233.20(a)(2) (1980).

25. *Shea v. Vialpando*, 416 U.S. 251, 253 (1974). The different state legislatures have adopted widely varying need standards. See *supra* note 20.

26. States are not required to provide benefits to recipients that equal these recipients' budget deficits. They may impose limits on the amounts that recipients can receive—whether the recipient is brought up to the need standard thereby or not. See *Dandridge v. Williams*, 397 U.S. 471, 483 (1970).

In fact, a majority of states provide AFDC recipients with benefits that equal amounts less than these recipients' budget deficits. See Chief, *supra* note 20, at 17.

27. By statute, states were required to, "in determining need, take into consideration any other income and resources of any child or relative claiming aid" 42 U.S.C. § 602(a)(7) (1976) (emphasis added).

28. S. REP. NO. 744, 90th Cong., 2d Sess., reprinted in 1967 U.S. CODE CONG. & AD. NEWS 2834, 2994-95.

See also *X v. McCorkle*, 333 F. Supp. 1109, 1115 (D.N.J. 1970), modified *sub nom. Engelman v. Amos*, 404 U.S. 23 (1971).
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The solution to this dilemma was known as the "earned income disregard," which was added to the program with a number of other progressive changes in 1968.²⁹ With this new feature, the recipient who decided to take a job would now be permitted to keep the first thirty dollars of his earned income—an amount which would have previously been deducted out of his AFDC benefit check.³⁰ In addition, the recipient was allowed to retain one-third of any additional sums of income earned.³¹

2. The Amendment

The 1981 amendments largely do away with the earned income disregard.³² Under current law, recipients will gain the benefit of these disregards for only a four-month period—after which their AFDC checks will be reduced dollar-for-dollar by the amount of their wages.³³ Congress took this action under the assumption that the disregard pro-

29. Social Security Amendments of 1967, Pub. L. No. 90-248, § 202(b), 81 Stat. 881-82 (codified at 42 U.S.C. § 602(a)(8) (1976)).

30. 42 U.S.C. § 602(a)(8) (1976) (states must disregard from a recipient's earned income, in benefit calculations, "the first \$30 of the total of such earned income for such month plus one-third of the remainder of such income . . ."). See *infra* note 33 for an example of the operation of the disregard.

31. 42 U.S.C. § 602(a)(8) (1976).

32. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2301, 95 Stat. 843, 843-44 (1981) (to be codified at 42 U.S.C. § 602(a)(8)).

33. *Id.* ("in the case of the earned income of a person with respect to whom [the earned income disregard] has been applied for four consecutive months, [the state] shall not apply the provisions of [the earned income disregard] for so long as he continues to receive aid under the plan . . .").

An example of the operation of the earned income disregard: Recipient lives in a state with a need standard of \$300 per month. For a period of time, she has no resources or income at all and a resulting budget deficit (that is, need standard minus resources) of \$300. The state pays her this \$300 amount every month.

Finally, she finds employment which pays a monthly salary of \$200. Under the pre-1968 AFDC statutes, the state must count these new wages as "resources" and thereby reduce her budget deficit by her wage amount. Her new budget deficit will be only \$100 (that is, \$300 minus \$200), and this would represent the amount of her monthly AFDC check.

After 1968, the earned income disregard would permit her to keep a portion of her wages as an incentive to continued employment. Specifically, she would not have to declare the first \$30 of her income as well as one-third of the remainder of this income as a resource. That is, she is credited with the first \$30 of her monthly \$200 salary, plus one-third of the remaining \$170. She is therefore credited with a total of \$87 per month (\$30 plus \$57). This \$87 amount is "disregarded" when her resources are calculated: she has resources therefore of only \$113 instead of her \$200 wage amount. This adjusted figure of \$113 is subtracted from the state's standard of need (\$300) to give her a budget deficit of \$187—the amount of her AFDC check.

Under the 1981 amendments, this recipient will be benefited by the earned income disregard for only four months, after which the *full* amount of her wages will be deemed a resource. In other words, for four months she will receive a benefit check of \$187 which will drop to \$100 in the fifth and succeeding months. If she remains employed, her AFDC check will be reduced from the fifth month on dollar-for-dollar by the amount of any wages she is able to earn.

visions were not succeeding in encouraging employment to any great degree.³⁴

3. *The Amendment's Consequences*

a. Background

Congress, in virtually eliminating the earned income disregard, acted contrary to welfare law's conventional wisdom.³⁵ For some time, it has been assumed that one of the few effective ways of inducing welfare recipients to find employment was to permit them to retain some portion of their earned income. The alternative, reducing a recipient's benefits dollar-for-dollar by the amount of his wages—in effect a one hundred per cent tax on earnings—has been thought an unwise and counterproductive strategy. The earned income disregard has been

34. See *Administration's Proposed Savings in Unemployment Compensation, Public Assistance, and Social Services Programs: Hearings Before the Subcomm. on Public Assistance and Unemployment Compensation of the House Comm. on Ways and Means*, 97th Cong., 1st Sess. 11 ((1981) (statement of Richard Schweiker, Secretary, United States Department of Health and Human Services) [hereinafter cited as *Hearings*] ("One of the most significant problems in AFDC is the fact that individuals, once on the rolls, tend to stay on the rolls indefinitely even though working at high income levels. This is because the \$30 and one-third work incentive applies indefinitely")).

See also S. REP. NO. 139, 97th Cong., 1st Sess. 502, reprinted in 1981 U.S. CODE CONG. & AD. NEWS 767, 769.

The Congress thought it significant that "[o]nly about 8 percent of AFDC case closings are due to the earnings of the mother." *Id.* This is a somewhat superficial analysis. A statistic such as this seems to reinforce the myth that the average AFDC recipient languishes on the rolls for long periods of time. In fact, this is not at all true. Viewed honestly, welfare is no haven for the lazy today. "Welfare at present seems to serve primarily as a way society copes with two of its problems, family disruption and labor market inadequacy." See Rein & Rainwater, *Patterns of Welfare Use*, 52 SOC. SERV. REV. 511, 532 (1978). That is, the typical AFDC mother is eligible for aid because her family has lost her husband's earning power. See KADUSHIN, *supra* note 21, at 168, 183. Moreover, the average AFDC mother will not linger on the dole indefinitely. Only a fraction of AFDC mothers remain dependent on the aid for long; most leave the rolls quickly after their moment of need has passed. See *id.* at 183. Of the minority who must remain on AFDC for long periods, most able to work will work at wages too low to support their families were it not for the AFDC supplement. See AuClaire, *The Mix of Work and Welfare among Long-Term AFDC Recipients*, 53 SOC. SERV. REV. 586, 594, 603 (1979); Rein & Rainwater, *supra* at 520-33. See also *infra* notes 61, 146-53.

The AFDC rolls, then, are properly characterized by a quick turnover of recipients as well as a high amount of work effort by many who remain on the rolls. Therefore, a statistic like "[o]nly about 8 percent of AFDC case closings are due to the earnings of the mother" means little. Such a statistic ignores those mothers—and there are many—who work at low-paying jobs and still require the monthly AFDC check for survival. As one commentator noted, "static, one-shot measurement of employment rates among welfare recipients tends significantly to understate the extent of actual labor force attachment." See Bell & Bushe, *Neglecting the Many, Helping the Few: The Impact of the 1967 AFDC Work Incentives*, Center for Studies in Income Maintenance Policy (1975), cited in AuClaire, *supra* at 603.

35. See *infra* notes 36-43 and accompanying text.
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termed an effective policy for spurring employment by economists³⁶ and welfare professionals alike.³⁷ Moreover, positive results in the form of increased numbers of employed AFDC recipients have been documented to follow from the practice of lowering the "tax" on recipients' earnings.³⁸

In fact, the last decade has seen a great many proposals to permit AFDC recipients to retain even *more* of their earnings.³⁹ Many commentators feel that allowing recipients to retain from their salary thirty dollars and one-third of the balance—in effect a 66⅔% tax on earnings—is simply too meager an incentive to be truly effective.⁴⁰ Consequently, conservative thinkers like Richard Nixon⁴¹ and liberal economists like James Tobin⁴² have expressed agreement as to the need to *raise* and not lower the earned income disregard. Ironically enough, Budget Director David Stockman advocated just such a course some years ago.⁴³

36. Milton Friedman has urged that welfare recipients should be permitted to retain *even more* of their earnings than was permitted under past law as an incentive to employment. Cited in M. ANDERSON, WELFARE 139 (1978). See also Garfinkel & Orr, *Welfare Policy and the Employment Rate of AFDC Mothers*, 27 NAT'L TAX J. 275, 282 (1974) (analysis which indicates that permitting AFDC recipients to retain ten percent more of their earnings will translate into a seven percent increase in the employment rate of these recipients).

37. See Library of Congress, Congressional Research Service, *The Impact on Welfare Families of the Reagan Administration's Proposed Treatment of Earnings (Selected Cities)* 19 (1981); *Work Expense Proposals and Income Disregards in Aid to Families with Dependent Children Program: Hearing Before the Subcomm. on Public Assistance of the House Comm. on Ways and Means*, 94th Cong., 2d Sess. 57-58 (1976) (statement of G. Thomas Riti, Director, Division of Public Welfare, New Jersey Department of Institutions and Agencies) [hereinafter cited as *Hearings*]; Joe, *Profiles of Families in Poverty: Effects of the FY 1983 Budget Proposals on the Poor*, Center for the Study of Social Policy 17 (1982).

38. S. LEVITAN, M. REIN & D. MARWICK, *WORK AND WELFARE GO TOGETHER* 66 (1972) [hereinafter cited as *WORK AND WELFARE*]; M. SANGER, *WELFARE OF THE POOR* 45 (1979); Garfinkel & Orr, *supra* note 36, at 282; Appel, *Effects of a Financial Incentive on AFDC Employment: Michigan's Experience Between July 1969 and July 1970* 79 (1972); Garfinkel & Masters, *Estimating the Labor Supply Effects of Income Maintenance Alternatives* 169 (1977); Hausman, *The Impact of Welfare on the Work Effort of AFDC Mothers* 94 (1970); Smith, *Welfare Work Incentives: The Earnings Exemption and Its Impact Upon AFDC Employment, Earnings and Program Cost*, Michigan Department of Social Services 219 (1974); Williams, *Public Assistance and Work Effort: The Labor Supply of Low-Income Female Heads of Household* 111 (1975).

39. See, e.g., S. 2777, 95th Cong., 2d Sess. § 103, 124 CONG. REC. S4307, S4317 (daily ed. Mar. 22, 1978).

40. See F. WEYMAR, *SOCIAL POLICIES FOR AMERICA IN THE SEVENTIES: NINE DIVERGENT VIEWS* 55 (R. Theobald ed. 1969); Graham, *Public Assistance: Congress and The Employable Mother*, 3 U. RICH. L. REV. 223, 255 (1969); Zall & Bethel, *The WIN Program: Implications for Welfare Reform and Jobs Organizing*, 13 CLEARINGHOUSE REV. 272, 279 (1979); Joe, *supra* note 37, at 17.

41. *THE RIGHTS OF AMERICANS: WHAT THEY ARE—WHAT THEY SHOULD BE* 89 (N. Dorson ed. 1971).

42. See *WORK AND WELFARE*, *supra* note 38, at 115.

43. Center for Social Welfare Policy and Law, press release (1982). His views have

There have, however, been critics of the entire notion of welfare program disregards. Many criticize the potential for abuse by recipients who intentionally earn only enough to stay on the rolls and remain eligible for AFDC and the disregards.⁴⁴ Still others point to the small numbers of AFDC recipients who have been able to "work themselves off" the welfare rolls as evidence of the failure of the earned income disregard.⁴⁵ Some, taking a behavioralist view, assert the difficulty of bribing recipients off AFDC and into paying jobs.⁴⁶ During the 1981 rounds of budget cutting, however, it was the economic argument against disregards that most swayed Congress to make the changes it did.⁴⁷ That is, by reducing recipients' benefit levels dollar-for-dollar by the amount of their wages, Congress expected to save \$374 million in fiscal year 1982.⁴⁸

b. Fiscal Consequences

By most reliable estimates, Congress' hopes of saving money with

changed since joining the Administration.

I just don't accept the assumption that the federal government has a responsibility to supplement the income of the working poor through a whole series of transfer payments. We believe that the guy who takes two jobs and makes \$26,000 a year shouldn't be obligated to transfer part of his income and taxes to the guy who's making \$10,000.

See The Heritage Foundation, *Workfare: Breaking the Poverty Cycle* 1 (1982).

44. See *supra* note 34. See also *Hearings, supra* note 37, at 28 (statement of Keith Comrie, Director, Los Angeles County Department of Social Services).

45. Of those AFDC mothers able to leave the welfare rolls, only 8% are able to do so because of earnings from voluntary employment. See S. REP. NO. 139, 97th Cong., 1st Sess. 502, reprinted in 1981 U.S. CODE CONG. & AD. NEWS 767, 769. But see *supra* note 34.

Not at all surprisingly, one of the flaws of the past system of disregards that may have prevented them from having enough incentive effect might have been lack of knowledge on the part of welfare recipients as to how the complex disregard was being calculated, or that it was being calculated at all. See *Hearings, supra* note 37, at 37 (statement of Hyman Frankel, General Counsel, New York City Human Resources Administration); Opton, *Factors Associated with Employment Among Welfare Mothers*, Wright Inst. 1 (1971); Solarz, *Effects of the Earnings Exemption Provision on AFDC Recipients*, WELFARE IN REV., Jan.-Feb. 1971, at 18-20.

46. It has, for instance, been suggested that the increasing availability of welfare benefits in addition to AFDC—Medicaid and food stamps, for example—decrease the effectiveness of any system of disregards. That is, recipients may be less likely to attempt to become independent of AFDC if this independence means they lose medical care and food stamps as well as AFDC benefits. See Rein, *Work in Welfare: Past Failures and Future Strategies*, 56 SOC. SERV. REV. 211, 215 (1982). See also WORK AND WELFARE, *supra* note 38, at 45.

Other commentators stress that people are motivated to take jobs for many other reasons besides economic inducement. Richard Nathan of Princeton asserts that people often take employment simply because they enjoy it. See Schorr, *Will Reagan's Welfare Plan Work?*, Wall St. J., June 24, 1981, at 30, col. 5.

47. For an economic argument against spending great sums on disregards, see generally Dorsen, *supra* note 41, at 89.

48. S. REP. NO. 139, 97th Cong., 1st Sess. 503, reprinted in 1981 U.S. CODE CONG. & AD. NEWS 767, 769.

this amendment were a pipe dream.⁴⁹ The changes may indeed have quite the opposite effect and cost the government dearly.⁵⁰ Only months after the Congressional Budget Office predicted that the limiting of the earned income disregards would result in federal savings of \$374 million, it issued revised estimates of the amendments' effects. Further analysis had led the Congressional Budget Office to downgrade the savings predicted by nearly \$240 million.⁵¹ New computer models had confirmed the worst fears of the amendments' opponents.⁵² Tens of thousands of AFDC recipients would quit their jobs in reaction to the limiting of the disregard.⁵³ And for every mother who quits her job to become totally dependent on welfare, the federal government need spend an additional one hundred dollars each month to support her family.⁵⁴ Assuming that the Congressional Budget Office's estimates are correct, this phenomenon will happen several thousand-fold, as sixty to seventy thousand AFDC recipients cease employment across the nation.⁵⁵ One state's welfare administration predicts that fully 13,000 of the total 17,000 employed AFDC recipients in that state will quit their jobs.⁵⁶ The state, already reeling from the blows of federal budget cuts in other sectors,⁵⁷ expects to be dealt a shocking thirty-eight million dollar increase in costs to support all of these recipients

49. See *infra* notes 51, 56-58.

50. *Id.*

51. The Congressional Budget Office now predicts savings of \$137 million from the changes made to the system of disregards. See Library of Congress, Congressional Research Service, AFDC: FY 82 Budget Cuts 2-4 (1982). Even this figure may be optimistic, however. Some state welfare officials predict that the amendment will cost rather than save money. See American Public Welfare Association, Preliminary Report: APWA Survey of the States' Own Estimates of the Cost and Caseload Effects of the AFDC Changes Made by the Omnibus Budget Reconciliation Act of 1981 4 (1982).

52. For criticism of the work disincentive aspects of the 1981 amendments, see generally Joe, *supra* note 37, at 15-24; Rein, *supra* note 46, at 227; Schwartz, *The AFDC Changes*, N.Y.L.J., Oct. 20, 1981, at 26, col. 1; 127 CONG. REC. S11991-92 (daily ed. Oct. 22, 1981) (statement of Sen. Moynihan).

53. See Joe, *supra* note 37, at 22; Congressional Budget Office, Effects of Tax and Benefit Reductions Enacted in 1981 for Households in Different Income Categories 22 (1982).

54. See Joe, *supra* note 37, at 22.

55. See *supra* note 53. The impacts will not be merely fiscal. Welfare dependency once created is not easily undone; dependency behavior spanning generations can be set into motion. As one commentator cautioned, "[t]he damage done to the incentive structures of the public assistance program under the proposals can take time to undo. Although enacted as minor changes, the historical development of income maintenance programs provides ample evidence that such changes can remain in force for years." See Joe, *supra* note 37, at 28.

56. See Schorr, *supra* note 46, at 30.

57. Also cut in recent years has been federal aid to day-care centers. Without federal subsidies, the child care that would permit a mother to become employed is often too expensive for an AFDC mother. See Schorr, *Canceled Checks*, Wall St. J., Oct. 21, 1981, at 1, col. 1, 14, col. 2.

See also *infra* notes 65-66 and accompanying text.

now entirely dependent on AFDC.⁵⁸

c. Employment Consequences

The obvious explanation for this employment exodus lies in the work disincentives written into the 1981 amendments.⁵⁹ As the law exists since the amendments, working AFDC recipients will as likely as not end up with *the same or less* income than unemployed AFDC recipients.⁶⁰ In other words, it will simply not pay an AFDC recipient earning average wages⁶¹ to work if he is not able to keep some portion of them under the earned income disregard.⁶² With a one hundred per cent tax on earnings, parents in at least a dozen states taking home average wages will earn more by *quitting* their jobs and becoming entirely dependent on AFDC benefits.⁶³ In some states, this anomaly is especially pronounced. Vermont AFDC recipients earning average wages become fifty-three dollars per month richer by ceasing employment and going on the dole.⁶⁴ In states where day-care and babysitting

58. See Schorr, *supra* note 46, at 30.

59. See *supra* notes 32-34 and accompanying text.

60. See Joe, *supra* note 37, at 15-20. Most of the statistics that follow in this section come from one of the more exhaustive studies to date of the impact of the AFDC amendments, *Profiles of Families in Poverty: Effects of the FY 1983 Budget Proposals on the Poor*. Issued by the University of Chicago's Center for the Study of Social Policy, it was authored by Thomas Joe, a leading expert in the field. Mr. Joe's work in welfare policy spans many years in and out of government, including service as Special Assistant to the Undersecretary of the Department of Health, Education and Welfare in the Nixon administration.

61. One complicating factor with AFDC recipients is that, because of their handicaps, poor work experience, etc., they earn at levels considerably below the population in general. See Cox, *The Employment of Mothers as a Means of Family Support*, WELFARE IN REV., Nov.-Dec. 1970, at 9, 14-16. See also AuClaire, *supra* note 34, at 599; Solarz, *supra* note 45, at 19.

62. See Joe, *supra* note 37, at 15-20. For the results of a recent study indicating that welfare law work disincentives may indeed be discouraging many from taking jobs, see N.Y. Times, May 16, 1982, at 31, col. 1.

63. *Id.* at 15-16.

64. *Id.* Many of those who continue to work will be pushed off of the rolls entirely by the new rules. Unable to deduct a portion of their earned income after the four-month limit, many families will find their income levels pushed above state eligibility limits. The change in the earned income disregard as well as other of the 1981 amendments have had this effect on many families as of this writing. Nationwide, 400,000 cases are conservatively estimated by the Department of Health and Human Services to lose all benefits as a result of the 1981 changes, with many others to face large reductions in benefit levels. Letter from Michael deMaar, Acting Director, Office of Family Assistance, United States Department of Health and Human Services to Michael Neuhardt (July 23, 1982) (on file at University of Dayton Law Review). That such an estimate is conservative is suggested by the amendments' effect in Ohio alone. In Ohio, well over 20,000 cases have been cut from the program since 1981; over 10,000 have faced reductions. Ohio Department of Public Welfare, Press Release 1-2 (Feb. 18, 1982) (on file at University of Dayton Law Review).

But there are implications for public welfare other than lowered recipient levels. As the truly destitute are cut from AFDC—a program jointly sponsored by the states and the federal government—many of these same individuals will seek aid from “general assistance” programs. These

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costs are especially high, the new treatment of child care expenses⁶⁵ as well as the change in the earned income disregard will effectively prohibit single parents from being *able* to work.⁶⁶

B. The Work Expense Disregard

1. The Provisions

In 1962, AFDC law⁶⁷ began to permit recipients to "disregard" from earned income all work-related⁶⁸ expenses. These expenses were not to be counted against the recipient's benefit level.⁶⁹ The underlying policy of the disregard for work expenses was the same as that for the earned income disregard. It was thought that "if these work expenses are not considered in determining need, they have the effect of providing a disincentive to working" ⁷⁰

2. The Amendment

In 1974, the United States Supreme Court interpreted the AFDC work expense provision as forbidding states from adopting "[s]tandardized treatment of employment-related expenses without provision for demonstrating actual and reasonable expenses in excess of that standard amount" ⁷¹ That is, states which limited the amount of work-related expenses a recipient could disregard violated congressional intent and the intent of the Social Security Act in provid-

general assistance programs are funded entirely by state and local governments and often provide recipients with an even more niggardly level of aid than does AFDC. The net effect of reductions such as those enacted in 1981, then, may largely be a mere shifting of responsibility for the poor from the federal government to the states—at a time when many states are fiscally unable to properly aid current levels of general assistance recipients. *See generally* Lewis, *Local General Assistance Costs and Restrictive Categorical Aid Policies*, SOC. WORK, Oct. 1961, at 65, 68; Letter from David Reines, Cuyahoga County, Ohio Welfare Department to Michael Neuhardt (June 18, 1982) (on file at University of Dayton Law Review).

65. *See infra* note 73 and accompanying text.

66. *See* Library of Congress, *supra* note 37, at 12-13, 17.

67. Public Welfare Amendments of 1962, Pub. L. No. 87-543, § 106(b), 76 Stat. 172, 188 (1962) (codified at 42 U.S.C. § 602(a)(7) (1976)) (states must, "in determining need, take into consideration . . . any expenses reasonably attributable to the earning of such income.").

68. Federal law and regulations are silent as to what constitutes a "work-related" expense. One state has permitted deductions for "tools, equipment, special uniforms, work shoes, union dues, medical insurance" *See* 127 CONG. REC. S1901 (daily ed. Mar. 6, 1981).

69. The method for calculating the work expense disregard is much the same as that for the earned income disregard. *See supra* note 33 for an explanation.

70. S. REP. NO. 1589, 87th Cong., 2d Sess. 17-18, *reprinted in* 1962 U.S. CODE CONG. & AD. NEWS 1943, 1959-60.

71. *Shea v. Vialpando*, 416 U.S. 251, 264-65 (1974). *See also* Connecticut State Dep't of Pub. Welfare v. Department of Health, Educ. & Welfare, 448 F.2d 209, 217 (2d Cir. 1971); *Williford v. Laupheimer*, 311 F. Supp. 720, 722 (E.D. Pa. 1969); *Green v. Obledo*, 29 Cal. 3d 126, 131-40, 624 P.2d 256, 258-64, 172 Cal. Rptr. 206, 208-14 (1981).

ing an incentive to employment.⁷² The 1981 amendments adopt just such a treatment of work expenses as was invalidated by the Supreme Court. Now, AFDC recipients employed full-time will not be able to deduct work expenses in monthly amounts greater than seventy-five dollars, nor child-care expenses in monthly amounts greater than one-hundred sixty dollars.⁷³

3. *The Amendment's Consequences*

a. *Employment Hardships*

The major criticism of the AFDC work expense disregard has been in its alleged abuse by recipients reporting excessive amounts of expenses.⁷⁴ However, permitting AFDC recipients to disregard only the small amounts currently allowed is likely to result in only new problems. First, many AFDC recipients are presently incurring work and child-care expenses in excess of the amounts they are permitted to claim under the 1981 amendments.⁷⁵ One consequence of this treatment of earnings will doubtless be that "people will have to draw upon food or rent money to pay for the expense of getting to work."⁷⁶ To the extent that AFDC recipients do not profit sufficiently by their labor, they are bound to put an end to work expenses by ceasing employment altogether.⁷⁷ For mothers who continue working, the disparities inherent in the new law will be patent:

An AFDC mother in New York City who has found a job working across town in a municipal hospital as a nurse's aide on the evening shift will have to buy uniforms and would wisely take a taxi home in the middle of the night. She may also have to pay to have her children cared for while she is working. To grant her the same work-related expenses as the mother who is employed as a babysitter down the block and brings her own children with her would be an absurdity.⁷⁸

72. 416 U.S. at 264-65.

73. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2301, 95 Stat. 357, 843-44 (to be codified at 42 U.S.C. § 602(a)(8)).

74. See 127 CONG. REC. S1901-02 (daily ed. Mar. 6, 1981) (statement of Sen. Inouye); *Hearings*, *supra* note 37, at 9 (statement of Sylvia Havelin, Assistant Supervisor, Income Maintenance Division, Monroe County, New York Department of Social Services).

75. See Library of Congress, *supra* note 37, at 6-7,17; *Characteristics*, *supra* note 23, at 9; Zeitlin & Campbell, *Availability of Child Care for Low-Income Families*, 16 CLEARINGHOUSE REV. 285, 303 n.257, 304 n.258 (1982). See also *Turner v. Woods*, No. C 81-4457 TEH, slip op. at 19 (N.D. Cal. July 29, 1982).

76. See *Hearings*, *supra* note 37, at 46 (statement of Henry Freedman, spokesman, The Center on Social Welfare Policy and Law).

77. See Schwartz, *supra* note 52, at 26.

78. See *Hearings*, *supra* note 37, at 4 (statement of Bert Seidman, spokesman for the AFL-CIO).

b. Some Controversy in the Interpretation of the Amendment

One aspect of the new standardized seventy-five dollar work expense disregard has been successfully challenged in the courts as recently as July, 1982.⁷⁹ These recent court challenges have focused on whether mandatory payroll deductions (as, for instance, for federal income tax withholding) constitute "work expenses." Since the 1981 amendments, this has become an important issue because recipients may now be credited for only seventy-five dollars worth of work expenses.⁸⁰

Whether mandatory payroll deductions are to be considered work expenses is unclear from the regulations on point.⁸¹ In fact, the applicable regulations are seemingly in conflict.⁸² The Secretary of the Department of Health and Human Services has argued that mandatory payroll deductions are "work expenses" and hence included in the seventy-five dollar amount disregarded from recipients' income.⁸³ Plaintiffs, on the other hand, have urged that mandatory payroll deductions *are not* "work expenses" and that recipients should be permitted to disregard both the seventy-five dollar amount *as well as* mandatory payroll deductions.⁸⁴ Put another way, plaintiffs have argued that, in calculating benefit levels, one begins with a recipient's net take-home pay and proceeds from this amount to subtract out the standardized seventy-five dollar figure allowed under the 1981 amendments.⁸⁵ The jurisdictions which have considered the issue are split as of this writing: two holding

79. See *Turner v. Woods*, No. C 81-4457 TEH (N.D. Cal. July 29, 1982) (available on LEXIS). See also *infra* notes 86-87 and accompanying text.

80. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2301, 95 Stat. 357, 843-44 (to be codified at 42 U.S.C. § 602(a)(8)).

81. See *infra* notes 83-84 and accompanying text.

82. *Id.*

83. See, e.g., *RAM v. Blum*, 533 F. Supp. 933, 937, 942-43 (S.D.N.Y. 1982).

This argument is premised, *inter alia*, upon administrative regulations at 45 C.F.R. § 233.20(a)(6)(iv) (1980) which define "earned income" as "the total amount, irrespective of personal expenses, such as income tax deductions" According to the Secretary, this regulation gives meaning to the 1981 amendments' command that work expenses be disregarded from "earned income." Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2301, 95 Stat. 357, 843 (1981) (to be codified at 42 U.S.C. § 602(a)(8)(A)(ii)). That is, earned income *includes* payroll deductions—which are properly classed as "work expenses"—and it is from this gross earned income figure that the new \$75 deduction is taken. When a recipient's work expenses are deducted out of his *gross* income, he faces an obvious disadvantage when the balance thus calculated is subtracted from the need standard to determine the amount of his AFDC check.

84. See, e.g., 533 F. Supp. at 937.

This argument is premised, *inter alia*, upon administrative regulations at 47 Fed. Reg. 5675 (1982) (to be codified at 45 C.F.R. § 233.20 (a)(3)(ii)(D)) which mandate that, in determining need, "[n]et income . . . and resources available for current use shall be considered" Specifically, plaintiffs therefore urge that when "need is determined" with the work expense disregard, the \$75 deduction must be out of *net* income.

85. *Id.*

that work expenses are deducted from net income,⁸⁶ and two holding that such deductions come out of gross income.⁸⁷

C. *Workfare*

1. *The Provisions*

"Workfare" is a term popularly used to describe welfare programs in which the recipient "works off" his wages in a job of the welfare agency's choice. The idea is not new; it has for some years been a little-used part of the AFDC program known by the title "Community Work and Training Programs."⁸⁸ Under this past law, however, states could not force AFDC recipients to work off their benefit checks. No federal statute permitted state sanctions against those who chose to refuse workfare jobs.⁸⁹

2. *The Amendment*

The 1981 amendments give states the authority to *force* their AFDC recipients to work off their AFDC benefits.⁹⁰ For the first time, states may deny or reduce benefit checks to those who refuse to accept employment under workfare.⁹¹ The Reagan administration advocated making this workfare plan mandatory with all of the states but was unsuccessful.⁹² The 1981 amendments which passed Congress made workfare optional with the states.⁹³ Again in 1982, the administration tried and failed to impose mandatory workfare on the states.⁹⁴

Those states choosing to participate in workfare must implement the program in accordance with federal guidelines. States must, for ex-

86. See 533 F. Supp. at 944; *Turner v. Woods*, No. C 81-4457 TEH, slip op. at 20 (N.D. Cal. July 29, 1982).

87. See *Dickenson v. Petit*, 536 F. Supp. 1100, 1111 (D. Me. 1982); *James v. O'Bannon*, No. C82-1588 (E.D. Pa. June 18, 1982).

88. See 42 U.S.C. § 609 (1976). For an analysis of this statute's history, see *WORK AND WELFARE*, *supra* note 38, at 70-72.

89. But see *infra* notes 90-91.

Moreover, the position of the Social Security Administration in the past has been that forcing AFDC recipients to "work off" their benefits (with no other salary provided) was forbidden. See United States Department of Health, Education and Welfare, Social Security Administration, Action Transmittal No. SSA-AT-79-5 (OFA) (Feb. 15, 1979).

90. See Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2307, 95 Stat. 357, 846-48 (1981) (to be codified at 42 U.S.C. § 609).

91. *Id.* at 848. ("[t]he provisions of section 402(a)(19)(F) [which permit reductions in AFDC benefits] shall apply to any individual referred to [workfare] who fails to participate in such program . . ."). *Id.*

92. See Executive Office of the President, Office of Management and Budget, Additional Details on Budget Savings 141 (1981).

93. 47 Fed. Reg. 5683 (1982) (to be codified at 45 C.F.R. § 238.01).

94. See Executive Office of the President, Office of Management and Budget, Major Themes and Additional Budget Details 50 (1982).

ample, place recipients only in public service jobs⁹⁵ that will not result in the displacement of salaried employees.⁹⁶ After recipients are placed in workfare jobs, they may not be paid any compensation in addition to their AFDC check.⁹⁷ States may not accord workfare workers employee status⁹⁸ nor are they required to provide worker's compensation.⁹⁹ States may require recipients to work a maximum monthly number of hours calculated by dividing the worker's family monthly AFDC grant amount by the minimum wage.¹⁰⁰

3. *The Amendment's Consequences*

a. Background

As noted before, workfare is not a new idea in America's welfare experience.¹⁰¹ Nor is the variant of workfare written into the 1981

95. 47 Fed. Reg. 5684 (1982) (to be codified at 45 C.F.R. § 238.52(a)).

96. *Id.* (to be codified at 45 C.F.R. § 238.52(b)).

97. *Id.* (to be codified at 45 C.F.R. § 238.20(d)).

98. 47 Fed. Reg. 5659, response 3, 5684 (1982) (to be codified at 45 C.F.R. § 238.20(d)).

99. 47 Fed. Reg. 5684 (1982) (to be codified at 45 C.F.R. § 238.18). Compare these provisions with the former provisions at 42 U.S.C. § 609(a)(1)(F) (1976).

100. 47 Fed. Reg. 5684 (1982) (to be codified at 45 C.F.R. § 238.20(b)).

101. In fact, the idea dates back at least as far as the seventeenth century. See Comment, *CWEP: The Community Work Experience Program—California's Latest Effort "To Set the Poor on Work,"* 9 U.S.F.L. REV. 139, 141 n.11 (1974) [hereinafter cited as Comment, *CWEP*]. The concept was most elaborately developed, however, in early nineteenth-century England. The England of Charles Dickens' day saw the "workhouse" as the prime solution to penury. Interestingly, the intellectual foundations for the workhouse were laid in the writings of the philosopher Jeremy Bentham. Using his famous utilitarian calculus, he warned of the dangers of making welfare too attractive.

If the condition of persons *maintained* without property by the labour of others were rendered more [pleasant] than that of persons maintained by their own labour then, in proportion as the existence of this state of things were ascertained, individuals destitute of property would be continually withdrawing themselves from the class of persons maintained by their own labour, to the class of persons maintained by the labour of others

Quoted in J. POYNTER, *SOCIETY AND PAUPERISM* 125 (1969). Simply put, the lot of those on the dole had to be made so miserable that few would forsake honest work for a life of public subsidy. Bentham had a wealth of ideas as to how this might be accomplished. The poor might, for instance, be forced to dress in distinctive and embarrassing ways so that their condition would be obvious to all. *Id.* at 126. Or, the authorities could search all of the parishes of England to ferret out the "idle" among the citizenry; the idle could then be "put under a kind of half-military command, distributed into companies of fives-tens under Corporals, those under Sergeants, and so on. . . ." M. MACK, *JEREMY BENTHAM: AN ODYSSEY OF IDEAS* 297 (1963). England took such notions seriously and the workhouses established during that age were the inevitable result. In the words of the government authorities charged with the implementation of such policies, the workhouse would be a place where "none will enter voluntarily; work, confinement, and discipline, will deter the indolent and vicious; and nothing but extreme necessity will induce any to accept the comfort which must be obtained" *Quoted in* F. PIVEN & R. CLOWARD, *REGULATING THE POOR* 33-34 (1971).

To this extent, the workhouses must certainly be judged successful. One contemporary wrote that they were "[a]t their best . . . places where existence for the inmates was barely tolerable" *Cited in* G. SLATER, *POVERTY AND THE STATE* 64 (1930). At their worst, such places

AFDC amendments a new version of this old theme. In fact, the federal workfare provisions enacted in 1981¹⁰² are the same provisions—in sections, word for word—as those advocated by Governor Reagan of California in 1971.¹⁰³ Reagan's workfare plan served the state of California until it was abandoned by the California legislature as a failure a few short years after its enactment.¹⁰⁴ When elected President, Reagan brought his workfare plans and their architect¹⁰⁵ to Washington with him; these were the plans that Congress enacted in nearly wholesale fashion in 1981.¹⁰⁶ It will be useful, then, to evaluate workfare from the perspective of how it has worked in California and elsewhere in the past. Such an analysis might foretell much about federal workfare's future prospects. What follows is a résumé of the arguments that have been made in favor of workfare recently, evaluated in the light of the record of past workfare programs.

b. Workfare will "provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment."¹⁰⁷

Under California's workfare, 689 persons participated during the period June, 1972 to February, 1973.¹⁰⁸ The United States Department

were frightful. The destitute were forced to live and work in conditions of bestial squalor. Families were torn apart; only petty, useless tasks were accomplished at a cost to the government which vastly exceeded supporting the poor with simple grants in their own homes. *Id.* at 64-67, 93-99; POYNTER, *supra* at 14-17; A. YOUNG & E. ASHTON, *BRITISH SOCIAL WORK IN THE NINETEENTH CENTURY* 43-55 (1967). Perhaps most shocking was the fact that, in the final analysis, such cruelty did nothing to deter citizens' dependence "on the dole." POYNTER, *supra* at 16.

102. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 2307, 95 Stat. 357, 846-48 (1981) (to be codified at 42 U.S.C. § 609).

103. See Welfare Reform Act, ch. 578, § 25.3, 1971 Cal. Stat. 1155, 1155-58 (codified at CAL. WELF. & INST. CODE §§ 11325-27), *repealed by* Act of June 11, 1976, ch. 215, § 1, 1976 Cal. Stat. 400.

104. *Id.*

Several years after the statute was enacted in California, state officials began to report flaws in the workfare system to the state legislature; it was on the basis of these reports and others that the legislature finally decided to discontinue the program. See *Hearings, supra* note 34, at 215 (submission of Barbara Joe, National Association of Social Workers, Inc.). At the time the program was being dismantled in California, a report on its effectiveness concluded that workfare "did not achieve any of its objectives." *Quoted in* N.Y. Times, Mar. 18, 1981, at A22, col. 6. An analyst employed by the California legislature recounted that "the program never really did anything. It ended up like a leaf-raking operation." *Id.* at col. 4.

105. Robert Carleson is one of the chief architects of the workfare provisions discussed herein. See Schorr, *Paring the Rolls*, Wall St. J., June 4, 1981, at 1, col. 6.

106. President Reagan was unsuccessful only to the extent that he urged that all of the states be required to participate in workfare. See *supra* notes 92-94.

107. Language of the report which accompanied the 1981 amendments through Congress. See S. REP. NO. 139, 97th Cong., 1st Sess. 508-09, *reprinted in* 1981 U.S. CODE CONG. & AD. NEWS 767, 775.

108. See Comment, *CWEP, supra* note 101, at 153 n.85.

of Health, Education and Welfare, in studying this group of workfare participants, found that only *eighteen* had moved into private sector employment as a result of the "training" received through workfare.¹⁰⁹ Perhaps the most embarrassing statistic to emerge from the California experience with workfare was the revelation that the AFDC recipients in the counties *without workfare* had higher success rates in finding employment on their own than did the recipients in those counties where workfare was mandated.¹¹⁰ Also, a study of Massachusetts workfare participants could trace little positive effect from the workfare participation on these workers' future employability.¹¹¹ This is hardly startling because useful training is virtually forbidden by the workfare plans implemented at the federal level in 1981 and in California in 1971. Specifically, states may only offer employment in the form of public, non-profit jobs.¹¹² Moreover, these workfare jobs may not replace normal positions that would be filled by salaried employees.¹¹³ Statutory language aside, workfare in practice often translates into pushing recipients into jobs where they quilt,¹¹⁴ sweep streets,¹¹⁵ and act as janitors¹¹⁶ and meter-maids.¹¹⁷

Moreover, workfare's effects on training and employment may not be merely neutral. Providing cities and counties with legions of unpaid workfare employees has also been observed to displace salaried employees. Two commentators have noted that past state experience with workfare had shown that "there is a significant incentive for fiscally strapped cities to replace higher paid public employees [with workfare employees]."¹¹⁸ Such fears have been expressed about current workfare plans as well.¹¹⁹ In conclusion, the consensus of welfare professionals, after years of experience with workfare, is that the program either has

109. *Id.* at 153 n.85, 165.

110. *See Hearings, supra* note 34, at 215 (submitted by Barbara Joe, National Association of Social Workers, Inc.).

111. *See Schorr, supra* note 105, at 22. In fact, it appears that Massachusetts workfare participants remained on the rolls *longer than non-workfare participants*. *See* 127 CONG. REC. S3298 (daily ed. Apr. 2, 1981) (statement of Sen. Kennedy).

112. 47 Fed. Reg. 5684 (1982) (to be codified at 45 C.F.R. § 238.52(a)).

113. *Id.* (to be codified at 45 C.F.R. § 238.52(b)).

114. *See Hearings, supra* note 34, at 92 (statement of Angela Sosnowski, spokesman, National Anti-Hunger Coalition).

115. *See* 127 CONG. REC. S2231 (daily ed. Mar. 13, 1981).

116. *See* The Heritage Foundation, *Workfare: Breaking the Poverty Cycle* 5 (1982).

117. *Id.* at 9.

118. *See* Zall & Bethel, *supra* note 40, at 277.

119. *See Hearings, supra* note 34, at 259, 266 (statements by Jordan Rossen, spokesman for the UAW union, and Albert Russo, spokesman for the AFSCME union); 47 Fed. Reg. 5659-60 (1982); Bland, *Workfare Won't Work, Foes Claim*, Dayton Journal Herald, Sept. 17, 1982, at 24, col. 1.

no effect upon a recipient's future employment prospects,¹²⁰ or a negative effect.¹²¹

c. I advocate a system that will encourage people to take work, and that means whatever work is available. . . .

If a job puts bread on the table, if it gives you the satisfaction of providing for your children and lets you look everyone else in the eye, I don't think that it is menial. But it is just this attitude that makes others, particularly low-income workers, feel somehow that certain kinds of work are demeaning. Scrubbing floors, emptying bedpans . . . is not enjoyable work, but a lot of people do it. And there is as much dignity in that as there is in any other work to be done in this country, including my own.¹²²

Some workfare advocates claim that workfare, even if a failure at providing valuable job experience, still imparts to recipients a sense of dignity at an honest job well done.¹²³ One cannot be certain how many of these same advocates speak from the experience of work as a quilter, a meter-maid, a janitor, or a street-sweeper.¹²⁴ On the other hand, one can be certain that the sociological research on point does not support their position. Research indicates that coercing welfare recipients into demeaning employment induces frustration¹²⁵ which might lessen a recipient's incentive to work.

A number of commentators have criticized the 1981 workfare provisions as especially exploitative in their lack of dignity and adequate protection for workers.¹²⁶ The amendments, for example, forbid states from according workfare participants status as employees.¹²⁷ This regulation would deny workers benefits such as Social Security; other regulations permit the states at their discretion to deny worker's compen-

120. See THE BROOKINGS INSTITUTION, SETTING NATIONAL PRIORITIES: THE 1982 BUDGET 57 (J. Pechman ed. 1981).

121. See Joe, *supra* note 37, at 23; *supra* notes 110-11 and accompanying text.

122. President's Remarks at the Republican Governors Conference, PUB. PAPERS 551, 554-55 (Apr. 19, 1971).

A popular notion is that the poverty-stricken, or those who have long been on welfare, have developed a dislike for employment. This myth has been repeatedly disproven by the relevant research. See Goodwin, Do the Poor Want to Work: A Social-Psychological Study of Work Orientation, THE BROOKINGS INSTITUTION 32, 45-46 (1972). Cf. N.Y. Times, Jan. 20, 1981, at A22, col. 4.

123. See, e.g., 127 CONG. REC. S2231 (daily ed. Mar. 13, 1981) (statement of Sen. Proxmire).

124. See *supra* notes 114-17 and accompanying text.

125. Carter, *The Employment Potential of AFDC Mothers: Some Questions and Some Answers*, WELFARE IN REV., July-Aug. 1968, at 340.

126. See 47 Fed. Reg. 5659-60 (1982).

127. 47 Fed. Reg. 5659, response 3, 5684 (1982) (to be codified at 45 C.F.R. § 238.20(d)).

sation to workfare participants as well.¹²⁸ Former regulations forbid states from compelling the employment of mothers of children aged six and under;¹²⁹ the 1981 regulations permit states to impose workfare upon mothers with children as young as three years of age.¹³⁰ When the 1981 AFDC proposals were first discussed, some social scientists cautioned that states, given substantial authority in implementing workfare, might adopt punitive measures.¹³¹ Such fears were not unjustified, judging from the states' past implementation of workfare plans. As one AFDC recipient recounted:

Recently a 60 year old woman who receives General Assistance was called by the welfare department to do some filing for them. She was ordered to come in there or lose her assistance payment, but she had to absorb the cost of her transportation and other expenses. Since all she gets as a result is the same G.A. benefit, reduced by her work-related expenses, workfare has cost her money she can't afford, and she still has [no] paid work experience to show some other employer. Place yourself in her position, and you see what we mean by slave labor.¹³²

Some of the workfare rules recently adopted by the state of Arizona appear to be of the type most feared by welfare professionals. Arizona's regulations assume "transportation is the responsibility of the recipient."¹³³ It should be emphasized in this connection that an Arizona mother (with two children) who participates in workfare will be earning a grand total of ninety-three dollars disposable income per week—her AFDC check.¹³⁴ This income represents sixty-three percent of the United States poverty level.¹³⁵

Dignity, then, is more the rhetoric than the reality of workfare. Or, as one critic put it, "[t]hey plan to make life on welfare so miserable that even if it is financially beneficial for a [working] mother to go on welfare, she'll hesitate . . . it's based on an adverse moral judgment on the poor—'You're poor because you deserve to be poor'."¹³⁶

d. Under workfare, "[t]he community receives something in exchange for its assistance [Moreover, a] workfare program may reduce

128. 47 Fed. Reg. 5684 (1982) (to be codified at 45 C.F.R. § 238.18).

129. 45 C.F.R. § 224.20(b)(8) (1980).

130. 47 Fed. Reg. 5683 (1982) (to be codified at 45 C.F.R. § 238.14(b)(2)).

131. See Rein, *supra* note 46, at 225. See also *Hearings*, *supra* note 34, at 266.

132. See *Hearings*, *supra* note 34, at 92 (statement of Angela Sosnowski, spokesman, National Anti-Hunger Coalition).

133. See Martin-Leff, *Survey of State WIN Demonstration Applications*, 16 CLEARINGHOUSE REV. 42 (1982).

134. See Joe, *supra* note 37, at app. A.

135. *Id.*

136. See *Reagan's Polarized America*, *supra* note 2, at 19.

welfare costs by deterring some persons who should be self-supporting from remaining on the dole."¹³⁷

As this last argument goes, even conceding that workfare may offer a recipient nothing at all in the way of either job training or basic dignity, society still benefits. The society, that is, finally gets a return on its AFDC investment because lazy AFDC malingerers are cut from the public trough and put to work where they should be.¹³⁸

This view of welfare is probably the most pervasive and heartfelt opinion of Americans today. A 1969 poll showed a full eighty-four percent of the American public in agreement with the statement "[t]here are too many people receiving welfare money who should be working."¹³⁹ Many of us have come to regard welfare recipients as

able-bodied males who could earn a living if they would only accept available jobs, spend their money wisely, and abstain from drink and loose living. Those who live off welfare, of course, never work, but manage still to live in style. They drive Cadillacs, eat steaks while luxuriating in front of their color tv's, and winter in Florida. If the welfare check becomes too skimpy to cover all their vices, they slink down to the local welfare office and invent another needy aunt or procreate another illegitimate child, who, like themselves, will spend his or her life on welfare.¹⁴⁰

Putting all of these "chiselers" to work has therefore become a popularly-held goal. This section will not address the more theoretical question of whether coercive work requirements should be a part of AFDC, a program begun "[f]or the purpose of encouraging the care of dependent children in their own homes"¹⁴¹ Instead, the public's expectations of the role workfare can play in helping society and cutting the welfare rolls will be evaluated in the light of recipient census data and past workfare experiences.

It will be useful to begin this analysis with some little-known and oft-ignored government statistics¹⁴² that reveal who is supported by AFDC. These figures will give some rough indication of how many recipients can be forced to "work off" their benefits. The starting point will be the number 10,358,000. It represents the total number of

137. See The Heritage Foundation, *supra* note 116, at 5.

138. See Executive Office of the President, *supra* note 92, at 141.

139. See Feagin, *We Still Believe That God Helps Those Who Help Themselves*, PSYCHOLOGY TODAY, Nov. 1972, at 101, 107.

140. H. RODGERS, JR., POVERTY AMID PLENTY 209 (1979).

141. See 42 U.S.C. § 601 (1976).

142. Almost all of the statistics that follow are derived from 1979 Department of Health and Human Services data: the most recent data available. Even this 1979 data is not yet available in raw form; citations here will therefore come from *Characteristics*, *supra* note 23, a preview of these 1979 statistics written by government analysts.

AFDC recipients in 1979.¹⁴³ Of this grand total, how many could "earn a living if they would only accept available jobs, spend their money wisely, and abstain from drink and loose living"?¹⁴⁴ To find what portion of these 10.4 million AFDC recipients are freeloaders, one will have to subtract out all of the children on AFDC—fully seventy percent of this total.¹⁴⁵ The remaining thirty percent are adult family members living with needy children. Out of this remaining thirty percent, strikingly few fit the common image of the able-bodied male malingering on welfare. Only *two percent* of all AFDC recipients are adult males.¹⁴⁶ Of this concededly small number, very nearly one-half are males presently working, awaiting recall, or actively seeking jobs.¹⁴⁷ So this leaves the other one-half of the two percent of adult males on AFDC not interested in working. Many in this half uninterested in work could not work if they wished to. An entire forty percent of this half are so handicapped by illness and other incapacities that work is impossible.¹⁴⁸ When all of this subtracting is complete, one is left with a group of less than thirty thousand theoretically employable adult males—who comprise one-half of one percent of all AFDC recipients in the nation.

Considering only this small assortment of able-bodied males, how employable is this group in reality? Statistics reveal the average male in the group to be a noncaucasian¹⁴⁹ who did not graduate from high school¹⁵⁰ and whose only past work experience has been in a blue-collar job.¹⁵¹ He lives downtown in a large city¹⁵² where jobless rates would be the highest in the region where he lives. In other words, this is an assortment of men who would not find it especially easy to attain financial self-support, let alone support of a family. And, of course all of these AFDC men have families. Other studies have implied that the employability of adult females is similarly low.¹⁵³

143. *Characteristics*, *supra* note 23, at 3.

144. *See supra* note 140 and accompanying text.

145. *Characteristics*, *supra* note 23, at 3, 7. Of those children on AFDC, 89% are eligible for aid because they do not have the support of a father. *See id.* at 7.

146. *Id.* at 6.

147. *Id.*

148. *Id.*

149. *Id.* at 5.

150. *Id.* at 6.

151. UNITED STATES DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL AND REHABILITATION SERVICE, FINDINGS OF THE 1973 AFDC STUDY, PT. I 10 (1974).

152. *Characteristics*, *supra* note 23, at 5.

153. *See generally* WORK AND WELFARE, *supra* note 38, at 56-68; Carter, *supra* note 125, at 340; Cox, *The Employment of Mothers as a Means of Family Support*, WELFARE IN REV., Nov.-Dec. 1970, at 9; Levinson, *How Employable Are AFDC Women?*, WELFARE IN REV., July-Aug. 1970, at 12.

From these numbers, one arrives at the first truth of welfare, American-style. Welfare is generally a program for children today. There are some adults, but they are generally unable to work. Many of these adults have several disabilities, any one of which would prevent employment.¹⁵⁴ Common sense alone would suggest that "[i]n reality, if the recipient's situation and capacity had permitted independence he would not be on assistance" ¹⁵⁵

The second truth of American welfare is a corollary of the first. Namely, one cannot expect workfare to effect any significant reform in the welfare system. There are simply too few recipients who can be forced to "work off" their benefits. Past workfare programs highlight this problem. Then-Governor Reagan proposed in 1971 to enlist 58,000 recipients into his California workfare program:¹⁵⁶ in practice, the program never served as many as 10,000.¹⁵⁷ West Virginia, one of the first states to implement workfare under the 1981 amendments, has to date been able to place 1200 recipients in jobs; this represents less than two percent of the state's total AFDC population.¹⁵⁸ Past experiences in Minnesota, New York, California, and Massachusetts have been similarly bleak;¹⁵⁹ far fewer recipients than expected actually participate.

A number of economic circumstances also weigh against the program's success. Workfare is not cheap. Because recipients must work in public-service positions that will not displace salaried employees,¹⁶⁰

Specifically, in 1979, three in five AFDC mothers who were not working were either incapacitated or caring for a child under the age of six. See *Characteristics*, *supra* note 23, at 6.

Of course the employability of AFDC mothers depends in large degree upon the availability of adequate child-care. And yet, social services like day-care centers have been some of the first programs cut in the recent rounds of federal budget-cutting. See *supra* note 57. Even in past years, lack of child-care facilities for AFDC mothers has been the "largest single barrier to their seeking employment." See Solarz, *supra* note 45, at 19. See also *WORK AND WELFARE*, *supra* note 38, at 56-58, 90. Future prospects may be only more bleak. Today, day-care facilities can provide spaces for only one in six preschool-aged children of working mothers; in the next decade, over 11 million women will be joining the work force. See *Dayton Journal Herald*, July 31, 1982, at 16, col. 2.

154. See *supra* notes 148-53 and accompanying text.

155. See KADUSHIN, *supra* note 21, at 197.

156. See Beilenson & Agran, *The Welfare Reform Act of 1971*, 3 PAC. L.J. 475, 492 (1972).

157. *Did Reagan's "Workfare" Work in California?*, U.S. NEWS & WORLD REP., Mar. 30, 1981, at 23; N.Y. Times, Mar. 18, 1981, at A22, col. 5.

158. West Virginia has 79,971 AFDC recipients. See *AFDC: Recipients of Cash Payments and Total Amount, by State, December, 1980*, SOC. SECURITY BULL., Dec. 1981, at 52. As of July 1982, 1200 of these had been assigned to workfare positions. See The Heritage Foundation, *supra* note 116, at 9.

159. See Schiller, *Welfare: Reforming Our Expectations*, PUB. INTEREST, Winter 1981, at 55, 63; *Welfare 'Reform'—1971 Style*, 45 SOC. SERV. REV. 482, 485-87 (1971); N.Y. Times, May 6, 1981, at A20, col. 2; N.Y. Times, Mar. 15, 1981, at E1, col. 4.

160. See *supra* notes 95-96 and accompanying text.

workfare employees make no tangible economic contribution to the states where they work. At the same time, states must often expend outrageous sums to provide these jobs. Supervisors must be hired to watch these workers; offices need to be established over the far reaches of the state to administer the program. Ohio's new workfare plans serve as an example. In Ohio, it will cost *thirty to fifty million dollars* to force welfare recipients to work for their benefits.¹⁶¹ In the process, 875 new administrators will have to be added to Ohio's state and county welfare offices.¹⁶² New York City welfare officials have already made it clear that workfare will be too expensive to use in that city.¹⁶³

Congress predicted federal budget savings from workfare to be negligible.¹⁶⁴ Some critics claim that the government will actually lose money in the endeavor.¹⁶⁵ If experience is a guide, Reagan's California workfare experiment demonstrated no cost savings for the California state government.¹⁶⁶

e. Workfare: an Epilogue

A particularly kind assessment of workfare's past record would admit that the program has shown no great success in helping to increase workers' employability or dignity, nor in helping to decrease state costs. A pessimist might sum up the states' past experiences with workfare as "abysmal failures."¹⁶⁷ In any event, the states have given the new federal workfare provisions a cold reception. State welfare officials at the 1982 quarterly meeting of the American Public Welfare Association went on record against mandatory workfare.¹⁶⁸ As of this writing, less than ten states are considering adopting the new federal workfare plans.¹⁶⁹

161. See Diemer, *Bold Workfare Program Tests Reagan Philosophy*, Clev. Plain Dealer, June 20, 1982, at 26A, col. 1. See also Bland, *supra* note 119.

162. *Id.*

163. See Schorr, *supra* note 105, at 22.

164. No savings were estimated from workfare in fiscal year 1982; savings of \$20 million were expected in 1983. See S. REP. NO. 139, 97th Cong., 1st Sess. 509, reprinted in 1981 U.S. CODE CONG. & AD. NEWS 767, 776.

165. See *Hearings*, *supra* note 34, at 266.

166. See Comment, *CWEP*, *supra* note 101, at 152 n.84; *Hearings*, *supra* note 34, at 215, 222-23.

167. See *Hearings*, *supra* note 34, at 263.

168. Telephone interview with Richard Jensen, Senior Policy Analyst with the American Public Welfare Association (Aug. 26, 1982).

169. Michigan, New York, North Carolina, Ohio, Arkansas, Oklahoma, and South Dakota. See National Employment and Law Project, Update on Workfare Proposals in Federal Budget and in States Implementing CWEP and WIN Demo Programs 6 (1982).

IV. CONCLUSION

As has been noted, a number of distressing policy implications were written into the 1981 AFDC amendments. Workfare, the stuff of which American campaign speeches have long been made, was finally enacted at the federal level. Instead of putting lazy multitudes of recipients to honest work, however, workfare is just as likely to cost multitudes to exploit only a few recipients in only a few demeaning make-work positions. Worse yet may be the long-term effects of Congress' treatment of the earnings of the voluntarily employed AFDC recipient. Because of the severe limits placed on the disregards of recipients' earned income and work expenses, many recipients may choose to quit work entirely. To the extent that the law awards a deserted mother more money to support her children if she quits her job than if she works, the law affords her but one real option.

Shifting the focus away from the "what" and toward the "how," these issues become at once more interesting and complex. How could statutes with so little to recommend them wind through Congress? How could such policy implications have been tolerated by the statutes' draftsmen? Answers to these questions might reveal much about America's treatment of the poor generally.

Quite simply, the presence of the poor in a society breeds bias and unease even in the best of economic times. And in "hard times," the poor are the most convenient of scapegoats. As a result, America today lacks any rational or studied strategy to combat poverty. In place of logic, Americans resort to rhetoric in dealing with the problems of the poor. In a political context in which politicians find it useful to begrudge welfare recipients of their aid money, our poverty law comes to reflect untrue and unfair assumptions about the poor. President Reagan was recently questioned about the rising federal budget deficit for fiscal 1983. Being pressed for answers, the President responded with a story he had heard about how a young man had used food stamps to purchase a single orange—only to buy a bottle of vodka with the change.¹⁷⁰ With policy dialogue on this level, the nation obviously gets what it deserves in the way of ill-conceived statutes.

This problem of welfare law bias was perhaps best discussed in an article some years ago by Professor tenBroek.¹⁷¹ Professor tenBroek traced America's thoughts about the poor back to their roots in medieval England. His article analyzed England's earliest welfare statutes, medieval laws which assumed

170. See *Reagan's Polarized America*, *supra* note 2, at 17.

171. tenBroek, *California's Dual System of Family Law: Its Origin, Development and Present Status*, 16 *STAN. L. REV.* 257 (1964).
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[i]dleness . . . to be a result of personal choice rather than economic conditions. Based on personal fault it was personally correctable if only the will were instilled. Accordingly the Tudors, like their predecessors, unleashed the furies of the criminal law against combined idleness and poverty. 'Rufflers, sturdy vagabonds, and valiant beggars' were to be seized, tied naked to the end of a cart and whipped through the nearest market town until bloody, and then returned to the place where they were born or last dwelt, each there to 'put hymselfe to laboure lyke as a trewe man oweth to do.' That no work was to be found in that place did not matter. If 'loitering, wandering, and idleness or vagabondage' continued, the punishment was repeated, successively augmented by having the upper gristle of the right ear 'clean cut away' and eventually by death.¹⁷²

Upon such assumptions about the poor, English welfare law was being enacted as early as the fourteenth century. Even today, these ancient statutes have a strangely familiar tone.

Under severe penal sanctions, men and women 'able in body and within the age of three score years' were required to work for anybody who wanted them. They had to work, not at wages determined by individual or collective bargaining . . . but at wages frozen at those 'accustomed' in [even more ancient times]. . . .¹⁷³

The author points to American welfare laws like AFDC as the direct descendants of such English precedents. His major thesis is that English and American poverty law has always served two functions: first, to stigmatize and exploit the poor, and only secondly to maintain the poor at a bare subsistence.¹⁷⁴ Assuming that these functions are an accurate reflection of medieval law, it is our responsibility to ensure that they do not continue to be reflected in our own law.

The nation's poor can ill afford much more in the way of ill-conceived policy.¹⁷⁵

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172. *Id.* at 277.

173. *Id.* at 271.

174. *Id.* at 286, 297-98.

175. One year after the 1981 amendments' enactment, impacts upon the nation's poor are being clearly felt. See *supra* note 64. One can get another clue of this by comparing AFDC recipients' incomes to the poverty level, a government-set figure which theoretically represents a subsistence existence for a family; in reality the poverty level is well below subsistence. In any event, the amount of income the states furnish to the needy in the form of AFDC and food stamps does not enable the average welfare family to receive the poverty level in any state but Alaska. In fact, over half of the states do not even furnish aid per family that equals even seventy-five percent of the poverty level. See Joe, *supra* note 37, at 4; *Hearings, supra* note 34, at 45.

In the wave of 1981 budget cuts, there were few dissenting voices in Congress. One Congressman did make his opinion clear, however.

I want to help the President cut spending and balance the budget. I want to help the

President achieve tax equity in this country. But I have no stomach for achieving this by . . . cutting assistance to 700,000 AFDC families and by cutting assistance to over 1.3 million children in the poorest families in this country. The first part of the President's program which we will consider today, raising revenues by cutting services to our poor, our aged, and our disabled, is a bad way, I believe, to put our country on the road to economic recovery. Later this year the full committee is going to be asked to distribute these hard-earned revenues to America's wealthy. I can't really help but wonder this morning if that is what the President and the American people really intend." *See Hearings, supra* note 34, at 3 (statement of Cong. Stark).

