

MINUTES OF MEETING
STATE AFFAIRS COMMITTEE
March 1, 1961
7:00 P. M.

State Affairs Committee was called to order for the purpose of hearing opponents of H.B. 243.

Mr. Keith Bossler of Cambell-Bossler Personnel Service, Topeka, spoke first in opposition to this measure. He stated that he appeared on behalf of his firm and the employers he serves. He feels that this bill would hurt his business, the employer and even the employee. He states there are so many facets of discrimination; that the very act of selecting from more than one applicant is discriminatory.

Mr. George Trombold, Director of Industrial Relations, Boeing Plant, Wichita, states that for 15 years Boeing has been working toward anti-discrimination; that it is their desire to work on a merit system rather than as to personal attributes, race, religion, etc.; There are at the present time approximately 500 employees of minority groups.

Mr. Lawrence Keller, Attorney for Frontier Chemical Company, Wichita, states that he protests this measure strongly, giving specific examples of what such a law might do. He says that his firm is perfectly willing to hire anyone in their particular field of qualification; that they have few applications from minority groups, and as a matter of fact have been denied the right of advertising for such individuals in college newspapers and other publications. He states that a few years ago in Kansas, and other places, certain religious groups could not secure employment except in menial tasks; that this has ironed itself out and the so-called minority group problem will take care of itself too.

Bill Wooford of Cessna, Wichita, working in Industrial Relations, pointed out that on Page 13, Line 125, the 1-year limitation seems excessive; that the employer would be building up liability and that such matters should be resolved more quickly for the benefit of both employer and employee; that there are numerous other "errors" in this bill.

The Committee asked questions of the participants, and discussed facets of the measure. Meeting was adjourned.

Frank J. Brown	Lawrence, Kansas
George Caldwell, Treasurer, Lawrence League for Practice of Democracy	} Lawrence, Kansas
Jackson Gaur, Lawrence League for the Practice of Democracy, 1631 Alabama, Lawrence	
Raymond Cerf	Lawrence, Ks
John Brown	Lawrence, Kansas.
Agnes Turner	Lawrence, Kans.
and Winnie	Lawrence, Kans.
Miss. Claude Wynn	Lawrence, Kansas
Charles H. Jones	Oskaloosa, Kans.
Charles H. Jones	Oskaloosa, Kansas
Jay B. Jones	Oskaloosa Kans.
Gene Miller	Lawrence, Kans.
Miss A. Lewis Parker	Lawrence, Kansas
Myzelma Wallace	Lawrence, Kansas
Miss S. Mack	Fort Scott, Kansas
Rodford Walker	" " "
Miss Marie Gatewood	Fort Scott, Kansas
Miss Carole Cooper	Fort Scott, Kansas
Genevieve Mack	Ft. Scott, Kansas
Handwritten signature	Topelka, Kansas
Ferry Sowell	Topelka, Kansas
Joyce Thompson	Topelka, Kansas

NAME & ORGANIZATION

- M. MACK Rte. 3, Ft. Scott, Kan.
- C.R. Roquemore ^{W.A.C.P.} Wellington, Kans.
- Elmer W. Newton Kansas City, Kansas
- JAMIN E. FRANKLIN KANSAS CITY, KANSAS
- L. PARKS KANSAS CITY, KANSAS
- B Howard Kansas City, Kan
- Harry [unclear] Topeka
- Kenneth [unclear] K.C.K.
- Wm. [unclear] Topeka
- Paul W. Burres - 425 W. Fourth, Holton, Kansas
- Lord of [unclear] 2324 MOUNDVIEW DRIVE TOPEKA, KANSAS
- Gene Horvath 2800 Burnett Rd Topeka
- Robert C. Harder 707 Lake, Topeka
- Mr & Mrs Howard & Henny 1317 W 16th Enterprise, Kansas
- Reed Hoffman Enterprise, Kansas
- W. Miller Huggins 2306 W Wisconsin - Topeka
- Miller Huggins 2306 Wisconsin Falls
- Leo D Bell Court Home K.C.K.
- W. Carson #109 N 10th K C Kans.
- Wm. Russell - Kansas Anti-Disc Comm.
- Wm. [unclear] K A R C
- Deane H. Quinn Citizen
- Jack Mills Wichita, Kan
- Tim Yount Topeka, KANS


PUBLIC SCHOOLS
LIBRARY BUILDING
KANSAS CITY, KANSAS

F. L. SCHLAGLE
SUPERINTENDENT

May 5, 1960

To Teacher Placement Bureaus:

We have vacancies in the Kansas City, Kansas Public Schools for the school year, 1960-61 as listed below. The salary schedule ranges from \$4300 to \$7400. I would appreciate receiving credentials for any qualified teachers you can recommend for these positions.

JUNIOR COLLEGE (WHITE TEACHERS)

English
English and German
French and English
Commerce

HIGH SCHOOLS (WHITE TEACHERS)

Dramatics and Speech
English
Librarian
Social Science and Athletic Coaching
General Science
Mathematics
Commerce
Industrial Arts - Welding
Vocal Music
Home Economics - Foods
Physical Education (Woman)
Boys Vocations and Athletic Coaching

HIGH SCHOOLS (NEGRO TEACHERS)

Social Science
English
Home Economics
Biology
Commerce
Physical Education (Man)

ELEMENTARY SCHOOLS (WHITE & NEGRO WOMEN)

Teachers must have Bachelor's Degree.

(Teachers who have prepared for high school work and are interested in elementary teaching should apply. We have a helping-teacher program for these teachers.)

Yours very truly,

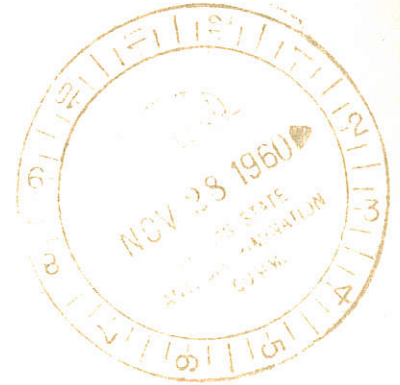

F. L. Schlagle
Superintendent of Schools



JOHN ANDERSON, JR.
ATTORNEY GENERAL

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
TOPEKA, KANSAS

November 23, 1960



Mr. Carl W. Glatt
Executive Secretary
Anti-Discrimination Commission
STATE OFFICE BUILDING

Re: State of Kansas, Acts and Laws - Anti-Discrimination
Commission - G. S. 1959 Supp., 44-1001, et seq. -
Your letter of October 18, 1960

Dear Mr. Glatt:

You have requested the opinion of this office concerning the authority and jurisdiction of the Kansas Anti-Discrimination Commission.

Your first inquiry concerns the jurisdiction of the Kansas Anti-Discrimination Commission to process complaints made against the Kansas State Employment Service for alleged discriminatory practices in job placements.

G. S. 1959 Supp., 44-1004 provides in pertinent part:

"It shall be the duty of the commission by and with the aid of the executive secretary, and it shall have full power, jurisdiction and authority: . . . (4) to make specific and detailed recommendations to the interested parties as to the methods of eliminating discrimination. (5) to provide mediation assistance to employers, labor organizations and employees relating to the policy declared in this act. . ."

G. S. 1959 Supp., 44-1005 provides:

"In carrying out the provisions of this act the majority of the members of the commission and the executive secretary are empowered to receive and investigate complaints alleging discrimination in employment, and to investigate and study the existence, character, causes and extent of such discrimination, and if it finds this discrimination to exist, then the commission shall immediately endeavor to eliminate the unfair employment practices complained of by informal methods of conference and conciliation. . ."

It would be our view that the foregoing statutes would confer authority upon the Kansas Anti-Discrimination Commission to process complaints against the Kansas State Employment Service to the extent of making investigation, study, conference and conciliation.

You next inquire as to the legal effect of the provisions of G. S. 1959 Supp., 44-1001 in this matter. Said statute provides:

"The practice or policy of discrimination against individuals in relation to employment by reason of their race, religion, color, national origin or ancestry is a matter of concern of the state. It is hereby declared to be the policy of the state of Kansas to eliminate discrimination in all employment relations. It is also declared to be the policy of this state to assure equal opportunities and encouragement to every citizen regardless of race, religion, color, national origin or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which he is properly qualified. It is further declared that the opportunity to secure and to hold employment without discrimination is a civil right of every citizen. To protect that right, it is hereby declared to be the purpose of this act to establish and to provide a state commission having power particularly to discourage discrimination in employment because of race, religion, color, national origin or ancestry, either by employers, labor organizations, employment agencies or other persons as hereinafter provided."

It will be noted that the above quoted section is a preamble to the anti-discrimination act and contains a statement of legislative policy. Under certain circumstances, a preamble may be helpful in ascertaining the legislative intent of the remainder of the act, but where the enacting part of a statute is unambiguous, its meaning will not be controlled or affected by anything in the preamble. In State ex rel v. Consumers Cooperative Association, 163 Kan. 324, at page 345, the court quoted from 50 Am. Jur. 297, #309 as follows:

"The preamble is especially helpful when the ambiguity is not simply that arising from the meaning of particular words, but such as may arise in respect to the general scope and meaning of a statute. The preamble is not, however, conclusive. Where the language of a statute is plain and unambiguous, the courts may not resort to the preamble of the act. It has also been held that the necessity of resorting to the preamble in order to ascertain the true intent and meaning of the legislature is

fatal to any claim which by ordinary rules of interpretation can be sustained only by clear and unambiguous language. The preamble is not an essential part of the act, and cannot confer or enlarge powers. Express provisions in the body of the act cannot be controlled or restrained by the preamble. Hence, it has been stated by some courts as the general rule that if there is a broader proposition expressed in the act than is suggested in the preamble, the body or enacting part of the law will prevail over the preamble."

It would therefore be our opinion that the provisions of G. S. 1959 Supp., 44-1001, while stating a legislative policy with regard to discrimination, does not constitute a statutory prohibition against such practices. Section 1005(3) of the employment security manual provides that it is the policy of the United States Employment Service:

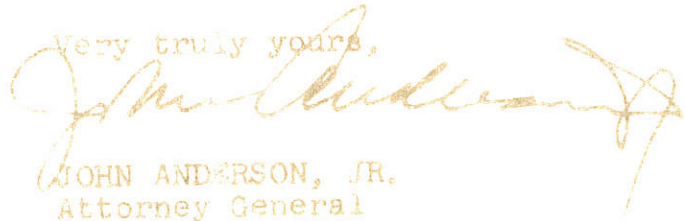
"to make no referral to a position where the services to be performed or the terms or conditions of employment are contrary to federal, state or local law (as section 1461c.)"

In view of our conclusion that the Kansas law does not provide an absolute prohibition against discrimination in employment, it would be our view that the actions of the state employment service could not have violated the policy of the United States Employment Service above quoted.

Your third and fourth questions involve matters of administrative policy. The Anti-Discrimination Commission is charged with making such decisions within the scope of the authority conferred.

We hope the foregoing has satisfactorily answered your inquiry.

Very truly yours,



JOHN ANDERSON, JR.
Attorney General

REP:mb

U S DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

NOV 16 1960



Mr. Carl W. Glatt
Executive Secretary
Anti-Discrimination Commission
State Office Building
Topeka, Kansas

Dear Mr. Glatt:

I have received your letter of October 18, 1960, in which you request a clarification of the Department's policy governing referrals by the State employment service pursuant to job orders containing discriminatory hiring specifications based on race, creed, color, national origin, or ancestry.

The pertinent Federal policies contemplate that in States where it is unlawful to discriminate in employment because of race, color, creed, or national origin, State employment security agencies will not accept job orders containing discriminatory specifications. In States where it is not unlawful to discriminate in employment because of race, color, creed or national origin, the Federal policies contemplate that State employment security agencies will accept job orders containing discriminatory specifications, will make every effort to persuade the employer to eliminate the discriminatory specifications from the job orders and to adopt a nondiscriminatory hiring policy but in no event will the agency service the order on a discriminatory basis. That is, referrals of qualified persons will be made as if the job order did not contain any discriminatory specifications.

You, of course, appreciate that the construction of the Kansas anti-discrimination statute is a matter for the appropriate State authorities and for the courts.

I trust that this letter adequately clarifies the Federal policies for you. The subject of discrimination in hiring policies is one in which I have great interest, and the policies adopted by this Department are designed to afford State agencies the opportunity, in the absence of State and local laws prohibiting the acceptance of discriminatory job orders, to work with employers towards the elimination of discriminatory hiring practices by such employers.

Sincerely yours,


Secretary of Labor



State of Kansas
 Labor Department
 EMPLOYMENT SECURITY DIVISION

 REFEREE'S DECISION

NOTICE: This Decision becomes final ten days after the date in item 7 below, unless appealed in writing to the Board of Review on or before the final date.
 Prescribed appeal forms may be obtained from any local Employment Security office. Ask them also for any needed explanation or assistance.

IN THE MATTER OF: Appeal No. 22,898 P

1. Appeal from Examiner's Determination dated 12-29-59 2. Office No. 080

Claimant Social Security No.

3. Date Appeal filed 1-4-60

4. Appellant Claimant Employer

5. Hearing Held
 Date February 4, 1960
 Place Topeka, Kansas

6. Appearances Claimant
 E.S.Div. By: A.R. L

7. Date this Decision mailed to interested parties Feb. 10, 1960

FINDINGS OF FACT

1. The Examiner's Determination held that the claimant was ineligible for benefits under Section 44-705 of the Law, effective December 13, 1959, because of lack of reasonable effort to obtain work.
2. The claimant was last employed from March 13, 1959 to May 9, 1959 as a stock record clerk at a wage of about \$1.50 per hour. She had previously worked for the same employer from 1954 to 1958. The claimant was experienced in operating the comptometer, addressograph and reproduction machines. She had a high school education and two years evening work in business school. She also had performed domestic work and baby sitting.
3. The claimant filed a new claim for benefits on October 14, 1959, effective October 11, 1959. Prior to her claim she filed applications at six locations in the Topeka area. After filing her claim, she registered with a private employment agency. In October the claimant made two applications for work with the federal government. She also rechecked at two locations where she had previously filed applications. In November she applied at two hospitals and made one renewal. During the four week period prior to December 21, 1959, she rechecked at another hospital and also watched the newspapers for new jobs. Although the evidence was vague there was some indication that the claimant made one other application during this period. In the latter part of December she made three new applications and one renewal. In January three applications were made.
4. Two businesses informed the claimant that they did not hire Negroes in their offices.

OPINION

5. The issue is whether or not the claimant made reasonable efforts to find work from December 13, 1959 to the date of the hearing.
6. It has been held that "if a claimant does all those things toward becoming reemployed that a person of his occupational experience, industry or professional attachment, age, sex, race, (emphasis added), degree of education, and intelligence, * * * would normally be expected to do, then that claimant is making 'reasonable effort to obtain work'". It has also been stated that "personal active search is usually not required under most circumstances and seasons, periods, or conditions (emphasis added) when such conduct is known to be fruitless." In order to obtain an authentic picture of the claimant's efforts the referee must take cognizance of the sum-total search made during the claim period. When this is done, it is seen that the claimant made numerous applications and re-checks during her claim period and before. The applications were primarily filed with governmental or quasi-governmental entities and the question arises whether or not claimant was justified in not seeking work as a clerk-typist in private employment?
7. Under the referee's power to consider all evidence which may have a bearing on the case, the referee cites the findings of the Kansas Anti-Discrimination Commission in reference to discrimination against minority groups in employment in Topeka in 1956. In the survey inquiries were made into the educational backgrounds of minority group workers as compared with Cacaasian workers. The survey stated at page 2,
 8. "It is significant to note that in Topeka there is not much difference in the amount of formal education of Negro and white workers. Thirty-one percent of the white workers and twenty-five percent of the Negro workers have completed high school. The same percentage (20%) have had some education beyond high school."
 9. "Since education is considered an important factor in determining an individual's earning ability it is interesting to compare the amount of education of Negro and white workers with the jobs they hold, * * *. Of the jobs shown * * * it is reasonable to assume that semi-skilled and unskilled labor and service occupations are the ones which require the least education and which would likely be held by persons who have had only grammer school education."

10. "Eighty-one percent of the Negroes are in these jobs, although only thirty-three percent of the Negroes have less than some high school education. On the other hand only twenty-four percent of the white workers are in such jobs, yet twenty-nine percent have not gone beyond grammar school. From this it would appear that the types of jobs Negroes have is not entirely a result of their education. More Negroes than would be expected on the basis of their education, and fewer whites, than would be expected on the basis of education, are in relatively low skilled jobs. In other words, the Negro in Topeka, disregarding his education, finds most of his employment opportunity in the less skilled, lower paying and menial occupations."
11. "We also found * * * what the minority group members think about their chances of employment in Topeka firms. * * * A very large percentage of both minority group members said they believed there were firms in Topeka which did not hire Negroes * * * for jobs for which they are qualified. * * * This widespread belief on the part of minority group members that they will not be hired for certain jobs is perhaps one important reason why, as employers reported, few Negroes * * * have applied for clerical and white collar jobs."
12. "More information is available on the Topeka survey but enough has been given to indicate that Negroes * * * do not have equality of employment opportunity in our capital city."
13. From these findings and the testimony, it must be concluded that the Negro race is, in fact, discriminated against in employment in the Topeka area. The referee decides that the claimant was justified in not making applications for employment with businesses which she knew or had good reason to suspect did not hire Negro clerical workers.
14. The referee is aware of the claimant's written statements to the Division stating that she did not make personal applications in the four weeks preceeding December 21, 1959. However, the referee must consider these statements in the light of the claimant's testimony wherein she stated that it was during this period that she rechecked at a hospital where she had previously applied. In this period she also watched the newspapers for new job opportunities. In her statement of December 21, the

claimant remarked that she had been waiting for someone to call her for an interview. Under the circumstances of the case was this attitude justified? The referee does not believe in good conscience that the claimant should be required to recheck at locations where her applications are filed to the point of making a nuisance of herself. Indeed, this could result in adversely affecting her possibilities of returning to work! In such a milieu the referee holds that it was not unreasonable for the claimant to await for a reasonable time, a call pursuant to her written applications, for an interview.

15. The instant case presents a classic example of the result of discriminatory practices in employment. Here the claimant possessed a high school education and two years of evening work in business school; had the ability to operate numerous business machines and had 6 years of relatively stable work experience as a clerk. Yet she found a large portion of the business community closed to her! Such represents a sheer economic waste to say nothing of its social and moral implications.
16. The claimant should take note that as her period of unemployment lengthens she will be expected to expand her search for employment to other fields beyond her primary skill and to lower her wage demands.

DECISION

17. The Examiner's Determination is reversed. Claimant is eligible for the receipt of benefits, effective December 13, 1959, through the date of the hearing. Thereafter jurisdiction for determining eligibility is remanded to the Examiner.


James P. Johnston, Referee

GLATT

Exec Secy
Anti Disc Com'n.

HEARING: HOUSE BILL NO. 243

February 28, 1961

Order of Presentations

(Approximately 3 minutes each)

1. Rev. Harold Statler
Kansas Council of Churches
2. Mr. George D. Bell
Superintendent of County Schools, Wyandotte County
3. Mr. Robert H. Saft
Superintendent, County Schools, Sedgwick County
4. Mrs. Francis Heller
Kansas League of Women Voters
5. Mr. James Yount
Vice-President, Kansas State Federation of Labor
AFL-CIO
6. Dr. Harry Levinson
Kansas Advisory Committee to the U.S. Civil
Rights Commission
7. Dr. C.R. Roquemore
President, Kansas State N.A.A.C.P.
8. Dr. Jack Baur
Kansas UNESCO and Lawrence League for the
Practice of Democracy
9. Representative Charles Arthur
10. Mr. Marvin Larson
Director, State Dept. of Social Welfare

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For the Kansas Anti-Discrimination Commission
(Approximately 25 minutes)

1. Howard W. Brewer, Commissioner
2. Carl W. Glatt, Executive Secretary

LEAGUE OF WOMEN VOTERS OF KANSAS

Statement by Mrs. F. N. Heller, Vice president
of the Kansas League of Women Voters, presented
to the House Committee on State Affairs,
February 28, 1961.

Mr. Chairman,

Members of the committee:

The League of Women Voters is a nonpartisan organization, open to all women of voting age. With a general goal of working for the adoption of governmental policy in the interest of the public as a whole, our membership recommends and selects certain topics of state-wide significance for study. In 1955 the Kansas League selected an item based upon the Kansas Act against discrimination. In the course of the study the Kansas act was compared with fair employment practices legislation in 14 states and several cities. By the end of the study the League concluded that the Kansas law lacked effectiveness without enforcement provisions and an adequate budget.

The League in their study reached certain specific recommendations:

- (1) Acts of discrimination should be clearly defined in the law. (2) Employers, union officials, employment agencies should be required to meet with the Antidiscrimination commission for mediation purposes. (3) The commission should be permitted to subpoena witnesses and records of employers, unions or employment agencies if needed at hearings. (4) Employers, unions employment agencies should be required to cease discriminatory employment practices when such practices have been proved to exist. (5) Reports from the Commission should be made available to the public. (6) A larger trained staff, as well as trained field workers, should be provided for an educational program. And, lastly, a budget adequate to carry out

the provisions of the act.

HB 243 substantially accomplishes what the League of Women Voters concluded five years ago needs to be done and has urged ever since.

I am here tonight to ask that the committee report the bill for passage, and thus open the door for a healthy fair employment policy in Kansas.

I thank you.

Suggested change, House Bill No. 243:

Section 3, page 4, line 36, 37 and 38
should be changed to read:

"Receive as compensation for his services,
the sum of fifteen dollars (\$15) per day
for each day actually spent in the dis-
charge of his official duties:"

HOUSE CONCURRENT RESOLUTION NO. _____

By Committee on State Affairs

A CONCURRENT RESOLUTION directing the legislative council to make a study, report and recommendations as to the advisability and necessity of legislation to regulate construction and inspection of freight and passenger elevators, escalators and dumbwaiters.

WHEREAS, Safety of life and property is involved in the operation of elevators, escalators, and dumbwaiters; and

WHEREAS, Several of the states have enacted legislation regulating construction, alteration, operation and inspection of elevators, escalators and dumbwaiters: Now, therefore,

Be it resolved by the House of Representatives, the Senate of the State of Kansas concurring therein: That the Kansas legislative council is hereby authorized and directed to make a study of the advisability and necessity of enacting legislation to regulate the construction, alteration, and inspection of freight and passenger elevators, escalators and dumbwaiters; and to make a report of its findings together with its recommendations thereon to the 1963 regular session of the legislature.

Be it further resolved: That the secretary of state is hereby directed to transmit a copy of this resolution to the chairman and to the secretary of the Kansas legislative council.

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