A BILL

To establish a Fair Employment Practice Commission and to aid in eliminating discrimination in employment because of race, creed, color, or national origin.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Fair Employment Practice Act."

FINDINGS AND DECLARATION OF POLICY

Sec. 2. The Congress hereby finds and declares—

(a) That the practice of denying employment opportunities to, and discriminating in employment against, properly qualified persons by reason of race, creed, color, or national origin is contrary to the principles of freedom and equality of opportunity upon which this Nation is built, is incompatible with the provisions of the Constitution, forces large segments of the population
permanently into substandard conditions of living, foment

2 domestic strife and unrest, deprives the United States of the

3 fullest utilization of its capacities for production and defense,

4 substantially impairs and disrupts the market for goods in commerce,

5 and burdens, hinders, and obstructs commerce.

6 (b) That it is the policy of the United States to bring

7 about the elimination of discrimination because of race, creed, color,

8 or national origin in all employment relations which fall within the

9 jurisdiction or control of the Federal Government.

10 DEFINITIONS

11 Sec. 3. As used in this Act—

12 (a) The term "person" means an individual, partnership, asso-

13 ciation, corporation, legal representative, trustee, trustee in bank-

14 ruptcy, receiver, or any organized group of persons and includes any

15 agency or instrumentality of the United States or of any Territory or

16 possession thereof.

17 (b) The term "employer" means a person having in his employ

18 fifty or more individuals, or any other person acting in the interest

19 of such an employer, directly or indirectly.

20 (c) The term "labor union" means any organization in which

21 employees participate and which exists for the purpose, in whole or in

22 part, of dealing with employers, as above defined, concerning grievances,

23 or terms or conditions of employment.

24 (d) The term "commerce" means trade, traffic, commerce,

25 transportation, or communication among the several States; or between any

26 State or Territory, or the District of Columbia, and any place outside

27 thereof; or within the District of Columbia or any Territory; or be-
two points in the same State but through any point outside thereof.

(a) The term "Commission" means the Fair Employment Practice
Commission created by Section 4.

FAIR EMPLOYMENT PRACTICE COMMISSION

Sec. 4. (a) There is hereby created a commission to be known as the
Fair Employment Practice Commission (hereinafter referred to as the
("Commission"), which shall be composed of five members who shall be
appointed by the President, by and with the advice and consent of the
Senate. One of the original members shall be appointed for a term of
one year, one for a term of two years, one for a term of three years, one
for a term of four years, and one for a term of five years, but their
successors shall be appointed for terms of five years each, except that any
individual chosen to fill a vacancy shall be appointed only for the
unexpired term of the member when he shall succeed. The President shall
designate one member to serve as chairman of the Commission. Any member
of the Commission may be removed by the President upon notice and hearing
for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right
of the remaining members to exercise all the powers of the Commission
and three members of the Commission shall at all times constitute a
quorum.

(c) The Commission shall have an official seal which shall
be judicially noticed.

(d) Each member of the Commission shall receive a salary
at the rate of $10,000 a year, and shall not engage in any other
business, vocation, or employment.

(e) When three members of the Commission have qualified
and taken office, the Committee on Fair Employment Practice estab-
lished by Executive Order Numbered 9346 of May 27, 1943, shall
cease to exist. All employees of the said Committee shall then be
transferred to and become employees of the Commission, and all
records, papers, and property of the Committee shall then pass into
the possession of the Commission.

(f) The principal office of the Commission shall be in
the District of Columbia, but it may meet and exercise any or all
of its powers at any other place and may establish such regional
offices as it deems necessary. The Commission may, by one or more of
its members or by such agents or agencies as it may designate, conduct
any investigation, proceeding, or hearing necessary to its functions
in any part of the United States.

(g) The Commission shall have power—

(1) to appoint such officers and employees as it deems
necessary to assist it in the performance of its functions;

(2) to cooperate with or utilize regional, State,
local, and other agencies and to utilize voluntary and uncompensated
services;

(3) to pay to witnesses whose depositions are taken
or who are summoned before the Commission or any of its agents or
agencies the same witness and mileage fees as are paid to witnesses
in the courts of the United States;

(4) to issue, from time to time, such regulations as
it deems necessary to regulate its own procedure and the appearance
of persons before it, and to amend or rescind, from time to time, any
such regulation whenever it deems such amendment or rescission
necessary to carry out the provisions of this Act;

5) to serve process of other papers of the Commission,
at any place in the United States or any Territory or possession
thereof, either personally, by registered mail, or by leaving a copy
at the principal office or place of business of the person to be
served; and

(6) to make such technical studies as are appropriate
to effectuate the purposes and policies of this Act and to make the
results of such studies available to interested Government and non-
governmental agencies.

DUTIES OF THE COMMISSION

Sec. 5. (a) It shall be the duty of the Commission to bring
about the removal of discrimination in regard to, hire, or tenure, terms,
or conditions of employment, or union membership, because of race,
creed, color, or national origin—

(1) by making comprehensive studies of such discrimina-
tion in different metropolitan districts and sections of the country and
of the effect of such discrimination, and of the best methods of
eliminating it;

(2) by formulating, in cooperation with other interested
public and private agencies, comprehensive plans for the elimination of
such discrimination, as rapidly as possible, in regions or areas where
such discrimination is prevalent;

(3) by publishing and disseminating reports and other
information relating to such discrimination and to ways and means for
eliminating it;

(4) by conferring, cooperating with, and furnishing tech-
nal assistance to employers, labor unions, and other private and
public agencies in formulating and executing policies and programs
for the elimination of such discrimination;
(5) by receiving and investigating complaints charging
any such discrimination and by investigating other cases where it has
reason to believe that such discrimination is practiced; and
(b) by preparing comprehensive plans as provided by
Section 9 hereof and enforcing the provisions of such plan.
(b) The Commission shall at the close of each fiscal year
report to the Congress and to the President describing in detail the
investigations, proceedings, and hearings it has conducted and their
outcome, the decisions it has rendered, and the other work performed
by it, and shall make such recommendations for further legislation as
may appear desirable. The Commission may make such other recommenda-
tions to the President or any Federal agency as it deems necessary or
appropriate to effectuate the purposes and policies of this Act.

INVESTIGATORY POWERS

Sec. 6. (a) For the purpose of all investigations, pro-
ceedings, or hearings which the Commission deems necessary or proper
for the exercise of the powers vested in it by this Act, the Com-
mission, or its authorized agents or agencies, shall at all reason-
able times have the right to examine or copy any evidence of any
person relating to any such investigation, proceeding, or hearing.
(b) Any member of the Commission shall have power to
issue subpoenas requiring the attendance and testimony of witnesses
and the production of any evidence relating to any investigation,
proceeding, or hearing before the Commission, its member, agent, or
agency conducting such investigation, proceeding, or hearing

(c) Any member of the Commission, or any agent or agency designated by the Commission for such purposes, may administer oaths, examine witnesses, receive evidence, and conduct investigations, proceedings, or hearings.

(d) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(e) In case of contumacy or refusal to obey a subpoena issued to any person under this Act, any district court of the United States or the United States courts of any Territory or possession or the District Court of the United States for the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, its members, agent, or agency, there to produce evidence, if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing; any failure to obey such order of the court may be punished by it as a contempt thereof.

(f) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any trans-
action, matter, or thing concerning which he is compelled, after
having claimed his privilege against self-incrimination, to testify
or produce evidence, except that such individual so testifying shall
not be exempt from prosecution and punishment for perjury committed
in so testifying.

DISCRIMINATION IN EMPLOYMENT BY THE FEDERAL GOVERNMENT

Sec. 7. The Commission shall make a study and investigation of
discrimination in regard to hire, or tenure, terms, or conditions of
employment, in the departments and agencies of the Federal Government
because of race, creed, color, or national origin, and shall recommend
to the Congress a specific plan to eliminate it and such legislation
as it deems necessary to eliminate it.

INCLUSION OF ANTI-DISCRIMINATION CLAUSE IN GOVERNMENT CONTRACTS

Sec. 8. (a) Every contract to which the United States, or any
Territory or possession thereof, or any agency or instrumentality of
any of the foregoing, is a party (except such classes of contracts as
the Commission may by regulation issue under section 10 exempt from the
scope of this section) shall contain a provision under which—

(1) the contractor agrees that during the period re-
quired for the performance of the contract he will conform to any plan
promulgated by the Commission under Section 5 hereof; and

(2) the contractor agrees that he will include a pro-
vision in each subcontract made by him for the performance of any work
required for the performance of his contract a provision under which
the subcontractor agrees—

(a) that during the period required for the
performance of the subcontract, the subcontractor will conform to any
plan promulgated by the Commission under Section 5 hereof; and
(2) that the subcontractor will include in
each subcontract made by him provisions corresponding to those re-
quired in subparagraph (4) and this subparagraph.

PREPARATION AND ENFORCEMENT OF COMPULSORY PLAN

Sec. 9. In accordance with the provisions of paragraph (2) of
Section 5, whenever the Commission finds that there is discrimination
against any particular group by reason of race, creed, color, or
national origin in any region or area or by any common carrier, it
shall make a comprehensive study of such discrimination and of the
best manner in which employment of persons in such group can be made
adequate and nondiscriminatory. It may then prepare a comprehensive
plan by which such employment would be increased in amount and improved
in character so that there may no longer be such discrimination. Such
plan may provide for additional employment throughout the area by in-
creasing the number of persons of the group discriminated against to
be employed by specified employers who employ more than fifty persons,
by encouraging the formation of new enterprises to give increased em-
ployment, by requiring any labor union which is certified under the
National Labor Relations Act, and also the National Mediation Board,
as a representative of employees to admit to membership persons of the
group discriminated against so that the rules of the union shall in no
way prevent full employment opportunities for the members of such group;
and by all other means which seem to the Commission helpful in securing
the necessary result.

When such plan has been completed, it shall be publicly pro-
mulgated in the area affected and copies shall be sent to all persons.
directly affected thereby. Within sixty days thereafter, any person
may file a protest with the Commission against the plan or against
any special feature of the plan, and the Commission shall give hearings
to those who file protests. After such hearings, the Commission shall
further consider the plan and may proceed to adopt it as the official
plan of the Commission, either in its original form or with such amends-
ments as may result from the aforesaid hearings.

After such plan has been adopted, it shall be the duty of all
persons affected thereby to put such plan into effect.

If, after six months, the Commission finds that there is any sub-
stantiation failure to put such plan into effect and that discrimination
still continues against any group or groups with regard to employment
in such region or area or by such common carrier, the Commission may de-
clare that it is necessary to proceed with a compulsory enforcement of
such plan. Thereupon, the Commission may issue an order (1) to any
employer who employs more than fifty persons, requiring such employer
to provide for with employment of specified character for the number
of persons belonging to the group discriminated against, as provided
by the plan, with due allowance for the total employment permitted by
the then condition of his business, and (2) to any labor union which
discriminates against members of such groups requiring such labor union
to permit the admission of members of such group as members of such union,
so that there may be no hindrance to their employment by the rules of
such union. If the order is not promptly complied with, the Com-
mission may apply to the United States District Court for the enforce-
ment thereof. The Court shall have jurisdiction to consider questions
of fact and of law, questions relating to the reasonableness of the
plan and the particular provision thereof sought to be enforced, and
all other matters relating thereto; and all persons who might be
affected by any order which the Court might enter shall have the right
to be heard and present evidence regarding the facts of the alleged
discrimination or the efficacy or reasonableness of the plan or order
designed to eliminate same. The findings of the Commission as to the
facts shall be conclusive unless it appears to the satisfaction of the
Court that the findings of fact are not supported by competent, material
and substantial evidence. The Court after hearing and submission may
approve the plan and the particular order sought to be enforced, or it
may otherwise modify the plan or order so as to establish a reasonable
method of eliminating any discrimination by the employer or the union
which the Court may find to exist against any group of workers because
of race, creed, color, or national origin.

Sec. 10. Any person aggrieved by the failure of the employer or
union to obey the cease and desist order issued by the Commission may
file written request to the Commission to apply to the United States
District Court for enforcement of its order as provided in Section 9.
If the Commission does not make application to the Court within thirty
days after receipt of the request and if the cease and desist order has
not at that time been complied with, the person aggrieved may apply to
any United States District Court having jurisdiction as provided in
Section 9, joining the Commission and the employer or union against whom
the order is directed, to compel the Commission to seek enforcement of
its order. If the Court finds that the Commission has unreasonably
failed or delayed in seeking enforcement of its order it shall proceed
with the case as if it had originally been brought by the Commission.
202

David Freeman Engstrom

with costs taxed against the Commission.

Sec. 11. In case the Commission shall find after notice and hear-
ing that discrimination exists in employment or conditions of employment,
in the service of the Federal Government or any territory or dependency
thereof, against any group of workers because of race, creed, color,
or national origin, it shall proceed first by conciliation to attempt
to eliminate such discrimination. If conciliation fails the Commission
shall refer the matter to the President or to Congress for Appropriate
action.

SEPARABILITY CLAUSE

Sec. 12. If any provision of this Act or the application of such
provision to any person or circumstance shall be held invalid, the re-
mainder of such Act or the application of such provision to persons or
circumstances other than those to which it is held invalid shall not be
affected thereby.

WILLFUL INTERFERENCE WITH COMMISSION AGENTS

Sec. 13. Any person who shall willfully resist, impede, or inter-
fer with, any member of the Commission or any of its agents or agencies
in the performance of duties pursuant to this Act shall be punished by
a fine of not more than $5,000 or by imprisonment for not more than one
year, or both.

9 GREEN BAG 2D 181