

Mr. DENT. As it is now, the Secretary does have under section 13 discretionary power to go under age 45 or over age 65 if he finds reason to do so. If we get background information on the matter we may be able to extend his powers to where he will have less of a decision to make arbitrarily, as it were, when he has a problem affecting the age limitation itself.

I think his willingness to work with us in this matter may make this a better piece of legislation in the end than when it started out, although it is a good piece of legislation in my opinion.

Mr. Burton.

Mr. BURTON. As I understand, the employer must have at least 25 employees?

Secretary WIRTZ. That is right. It would be 50 until June 1968 and after that it would be 25 employers.

Mr. BURTON. How much legislation would be needed to assert primary jurisdiction in this area?

Secretary WIRTZ. There would be some question as to whether there would be primary jurisdiction under the bill, but I know what you mean and I think that is a matter on which you may wish to have further discussion.

The Senate made some modification on that. The outline for the answer to your question is there are presently 23 States in which the State prohibits discrimination in private organizations.

Mr. BURTON. Does the staff have that data?

Secretary WIRTZ. I think they do and we will be glad to supply it in detail.

Mr. BURTON. The enforcement provisions apparently are directed toward your office and you or your designated agent?

Secretary WIRTZ. Yes.

Mr. BURTON. As distinguished from some kind of commission kind of enforcement?

Secretary WIRTZ. That is correct. There is a point here that the Senate subcommittee has considered in some detail. There is a question as to whether the best enforcement procedure is the one proposed here which is, in general terms, like the NLRB enforcement procedures or whether the better procedure would be that paralleling the Fair Labor Standards Act.

We are willing to consider with the committee what might appear to be its best judgment on that.

Mr. BURTON. Would you briefly spell out the difference between these two procedures?

Secretary WIRTZ. Yes, but if I do it briefly, I may mislead. The detail of it becomes a little complex but under the procedure proposed in this bill, paralleling the NLRB procedures there would be involved in a particular case, first, of course, the persuasion procedures, which I don't mean to pass over lightly because experience indicates that is where most of these matters would be worked out. If they could not be worked out that way, there would be the institution of an administrative proceeding by the Secretary of Labor against the employer or, if it were a case involving the labor union or employment agency, against the union or agency. The Secretary would attempt to get back pay, reinstatement only or reinstatement with back pay.