

If a satisfactory settlement did not result, there would be the institution of proceedings in court in order to enforce the administrative decision. The procedure in court would parallel the procedure under the National Labor Relations Act.

In a Fair Labor Standards Act proceeding you have a situation in which you must move more immediately into the court and depend more fully on the court proceeding. There is also authority under FLSA procedure or a private suit to be instituted by an aggrieved employee.

The differences, I think, are not basic. They are more in detail than in the larger effect. In neither case is there a penalty for noncompliance with the Secretary's rulings. You have to go to court for a final decision.

Mr. BURTON. There is a third and fourth mechanism—in some States the age factor in terms of discrimination is included in a general commission type of proceeding whether it is race, religion, or sometimes sex. How do you respond to the query whether we should move in that direction to take advantage of the very limited, classic civil rights equal employment opportunity structure that we already have? Should we put age or include age in that?

Secretary WIRTZ. That has been given serious consideration. You could fit this into the jurisdiction of the Equal Employment Opportunity Commission. Our recommendation, and I think it would be reflected by the Commission's own judgment, is that that would be a mistake. They already have the problem of racial and sex discrimination before them. I think the added business of coverage on this age discrimination for the Equal Opportunity Commission would be a mistake. As for a separate commission possibility, I don't believe that is necessary.

Mr. BURTON. Well, there should be some kind of uniform enforcement standards for all arbitrary and discriminatory employer actions. It is useful if you have one common standard, one common set of ground rules. Except for a few members of this subcommittee and perhaps our counterpart, the other body, the average labor union or employer won't really know quite so clearly which of these forums he is to look to, to get some information. We are liable to have considerable disparity in the yardsticks applied for enforcement.

Secretary WIRTZ. Perhaps but with due respect to that parity, I would suggest this kind of discrimination is entirely different from racial discrimination; the root of racial discrimination is purely bigotry. That is not true here. Age discrimination, I think, develops because of oversight, lack of sense, lack of realization of the capacity of an older person.

I don't believe there are many cases of bigotry, except for some few exploitation situations. I don't believe there are many cases where an employer discriminates against a person because of age out of the ugliness of his spirit. I think it is a wholly different thing. So where education would be a large element here, it would be a lesser element somewhere else.

Mr. BURTON. Do you believe it improper that we should find some kind of financial insurance, or what have you, to deal in certain areas of this age discrimination? As I understand it, other than that