

experts who have alternative solutions in mind. It is quite possible that certain types of industry, certain types of occupations, might give you a factual answer, but that does not give the answer to whether you should vote for the legislation. What we need are solutions for the obstacles people put up.

Mr. SCHERLE. I am not sure, but if I may make a suggestion, the consideration of this bill would be greatly endowed if material for a study could be found before voting on this piece of legislation.

My other question: Is this legislation enforceable with regard to a person applying for a job? How do you get over the hurdle of the problem of proving discrimination based upon age?

Dr. SHEPPARD. There are at least two ways in which we have been gaining experience in discrimination in minority groups. One is to have such an individual file a claim of potential or ostensible discrimination because he says on every other grounds he is qualified for the job; or, secondly, you can use aggregate studies showing the age distribution of industries, occupations, or given companies, and you would work with these companies through conciliation for the first stage.

In our experience, so far, this retail conciliation approach works out. If it doesn't work out, then there are the courts.

Mr. SCHERLE. This is a good idea. I am glad you brought that up. If a person makes application for a job and he feels he has been discriminated against purely because of age, no other conditions or reasons, is it possible to tie this company up in litigation so they must prove that there was no discrimination?

Dr. SHEPPARD. I don't know what you mean by tying them up. The company could go on producing.

Mr. SCHERLE. If this legislation has teeth in it and a person makes application for a job and a commission has been set up prior to this to enforce this piece of legislation, then if he makes application for a job and does not receive this position, can he file a grievance or complaint?

Dr. SHEPPARD. I am looking for my copy of the bill, but I am sure the chairman can answer that.

Mr. DENT. Yes, he can file a complaint.

Mr. SCHERLE. This is fine. After the complaint is filed, what happens to the employer that has been accused of discrimination? Will this take a raft of lawyers or litigation?

Mr. DENT. Mr. Scherle, I might say only in extreme cases because 90 percent of the cases from historic patterns of other discrimination legislation, for instance, FEPC on State levels, they have discovered that better than 90 percent of the complaints are resolved by conciliation and negotiation before it ever reaches any part or point of a litigation.

Mr. SCHERLE. Yes, but, Mr. Chairman, by the same token these people are still being tied up. This is in addition to legislation already on our books. In other words, what I would like to see is that this piece of legislation perform the function for which it is designed and intended. I would most certainly hope we can eliminate age discrimination.

I am hoping a harmonious relationship could be reached between the applicant and employer rather than have this piece of legislation unduly burden all concerned.