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NINTH ANNUAL REPORT

COLORADO ANTI-DISCRIMINATION COMMISSION

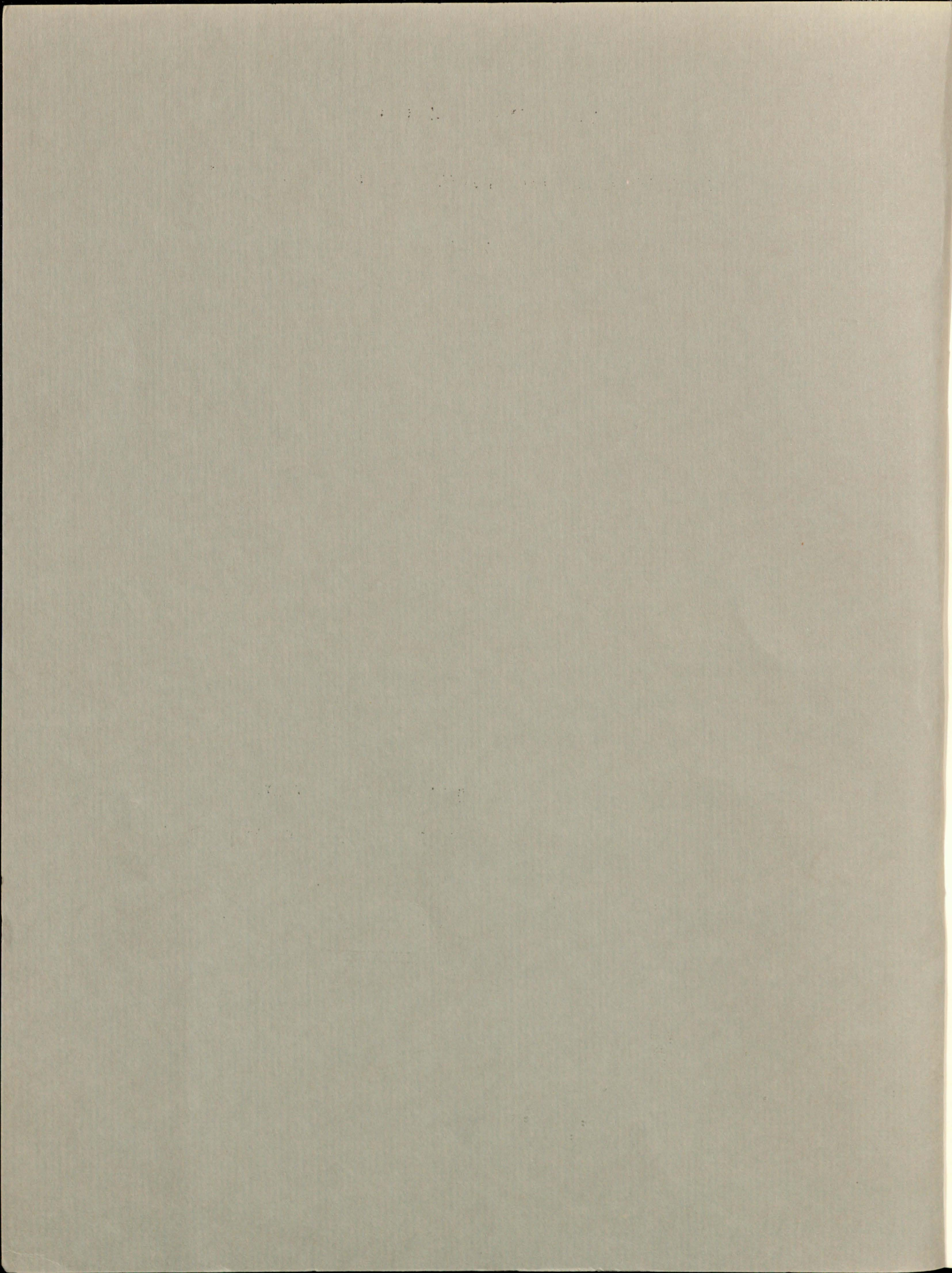
1962-63

THE STATE OF COLORADO

ANTI-DISCRIMINATION COMMISSION

Room 306 State Services Bldg.

Denver, Colorado 80203



State of Colorado

JOHN A. LOVE, GOVERNOR

COMMISSIONERS

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DENVER

GEORGE J. WHITE
PUEBLO



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FIELD REPRESENTATIVES

SYLVIA PROFFIT
OFFICE MANAGER

December 23, 1963

Honorable John A. Love
Governor of the State of Colorado
136 State Capitol Building
Denver, Colorado 80202

Dear Sir:

In accordance with Chapter 80, Article 24, Section 5 (8) of the 1953 Colorado Revised Statutes, 1960 Permanent Supplement, we respectfully submit herewith to you the Ninth Annual Report of the Colorado Anti-Discrimination Commission.

The Report reflects the activities in which the members of the Commission and its staff were engaged during Fiscal Year 1962-63.

Sincerely,

Dora Piccoli
Chairman

DP:dh

NINTH ANNUAL REPORT
OF THE
COLORADO ANTI-DISCRIMINATION COMMISSION

July 1, 1962 - June 30, 1963

The preface of the First Biennial Report of the Anti-Discrimination Division of the Colorado Industrial Commission and now this Commission reads as follows:

"The right to work is synonymous with the right to live. Take from me my opportunity to work, deny to me the opportunity to work because of my color and you deny to me the opportunity to raise a family, you deny to me the opportunity to educate my children, and you deny to me the opportunity to build a home and to acquire those things which, according to all human standards, should be the minimum which any individual should have * * * * "

These words were expressed by Congressman William L. Dawson in the House Committee on Labor back in 1944 when efforts were being made to enact a federal FEP law.

Today, those same words can be applied to situations that exist not only throughout the United States but here in the State of Colorado as well.

Although Colorado has a relatively good set of civil rights laws in employment, housing and places of public accommodation, no one can change over night the prejudicial thinking of people by legislation. The only thing that legislation can change are acts of discrimination which result from prejudice; and in this process it is hoped that prejudicial attitudes will eventually change. Since its inception, the Commission has grown in staff and has been given responsibilities which are by far greater than perhaps it ever thought it would be able to handle.

The people of the State of Colorado, through its representative government have enacted the laws herein referred to because they recognized the inequities in our society which cause many of our citizens to be relegated to second class citizenship.

The citations to these laws are: Colorado Anti-Discrimination Act of 1957 (1953 CRS, Chapter 80, Article 24, Sections 1 through 8 as amended (1960 Perm. Supp.)); Civil Rights Anti-Discrimination (1953 CRS, Chapter 25, Article 3, Sections 1 through 6 (1960 Perm. Supp.)); and the Colorado Fair Housing Act of 1959 (1953 CRS, Chapter 69, Article 7, Sections 1 through 7 (1960 Perm. Supp.)).

The authority under which this report is presented is provided by 80-24-5 (8) and 69-7-4 (i) which reads as follows:

To prepare and transmit to the governor and to the general assembly from time to time, but not less often than once each year, reports describing its proceedings, investigations, hearings it has conducted and the outcome thereof, decisions it has rendered, and the other work performed by it.

By virtue of the same aforementioned statutes, the Commission is also empowered "To make recommendations to the general assembly for such further legislation concerning * * * unfair and discriminatory practices * * * as it may deem necessary and desirable."

Therefore, at the conclusion of this report there will be set forth certain legislative recommendations which the Commission, by experience in administering the laws, feels that the general assembly should consider and act upon.

Administration

The Colorado Anti-Discrimination laws are administered by a seven-member, non-salaried commission appointed by the

Governor, with the advice and approval of the Senate. The present Commission is made up of the following persons:

Mrs. Dora Piccoli, Chairman, Durango
Mrs. Tor Hylbom, Colorado Springs
Robert C. Keeler, Longmont
Mrs. E. Thomas Mills, Jr., Denver
Gerald M. Quiat, Denver
Mrs. Armando J. Sisneros, Denver
George J. White, Pueblo

The Governor made two appointments to the Commission this year. Mr. Gerald M. Quiat and Mrs. Armando J. Sisneros, both of Denver, were appointed to serve four-year terms, which terms expire April 13, 1967.

The Commission held nine regular meetings and convened on two occasions in executive session for lack of a quorum. A breakdown of the Commission's appropriations for the year was:

Personal Services	\$65,396
Maintenance and Operation	6,083
Travel	4,520
Capital Outlay	<u>1,285</u>
TOTAL	\$77,284

Activities of the Commission and its staff

The statutes under which the Commission operates require that the laws be administered in three general areas--research, education and regulation. Activities undertaken under any one of these three areas usually complement those that fall under the other two areas. For example, while implementing an educational project, the Commission may find a need to conduct a research study or survey to determine to what degree a problem of discrimination exists in a certain industry, community or

phase of employment. And in the course of such a study cases of alleged discrimination may come to the attention of the Commission, which cases come under the category of regulation. It should be noted, however, that complete reliance upon any one of the three types of activities for the elimination of discrimination on account of race, religion or ancestry would certainly prove ineffective. On the other hand, when the problem is attacked from all three directions quite often reasonable results are effected.

Research

Apprenticeship Survey

During the year the Commission conducted a Joint Labor-Management Apprenticeship Survey questioning employers concerning their programs of apprentice training. A total of 128 firms from throughout the State furnished information requested by the Commission. Four of these employers gave no breakdown of employees by minority groups, stating they kept no such records; four others kept no record of their employees' religion.

The following tables are based on 52 firms having apprenticeship programs and 72 having none.

Those employing apprentices have had training for less than one to as much as 19.5 years, averaging 9.1 years of training. At the time of the survey, a total of 121 apprentices were in training; including four Negroes, 20 Spanish-Americans, no Orientals and at least one person of the Jewish faith*. Minority group apprentices, therefore, comprised 20.7 percent of the total number of apprentices. Of 56 companies, 40 cooperated with labor unions and stated that restrictions as to the number of apprentices to be hired were regulated by the cooperating unions; nine others set their own limit. Ratios of apprentices to journeymen ranges from one to one to one to 12, with an average of one apprentice to every 4.9 journeymen.

*Includes 0 for 4 employers (total employees: 620) who stated no record of Jewish employees was kept.

52 Employers Surveyed Who Have
Apprenticeship Program (177 ave. employees)

White Collar	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Professional	1,928	8	15	7	28	58	3.
Managerial	581	0	2	3	5	10	1.7
Clerical- sales	1,474	0	31	8	12	51	3.5
W. C. Sub- totals	3,983	(.2%) 8	(1.2%) 48	(.5%) 18	(1.1%) 45	119	3.
Production	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Skilled	3,256	56	329	3	10	398	12.2
Semi-skilled	867	29	99*	1	5	134	15.5
Labor and service	1,103	74	123	3	8	208	18.9
Prod. Sub- totals	5,226	(3.%) 159	(10.5%) 551*	(.1%) 7	(.4%) 23	740	14.2
TOTALS	9,209	(1.8%) 167	(6.5%) 599*	(.3%) 25	(.7%) 68**	859**	9.3
Apprentices	121	4	20	0	1**	25**	20.7

*Includes one "Indian."

**Includes "0" for 4 employers (total employees: 620) who stated no record of employees' religion was kept.

72 Employers Surveyed Who Have
No Apprenticeship Program (81 ave. employees)

White Collar	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Professional	513	5	40	1	1	47	9.2
Managerial	285	1	12	0	10	23	8.1
Clerical- sales	1,181	29	246	1	3	279	23.6
W. C. Sub- totals	1,979	(1.8%) 35	(15.1%) 298	(.7%) 2		14	349 17.6

Production	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Skilled	2,013	32	380.5*	3.5	3	419	20.8
Semi-skilled	1,237	29	737	1	0	767	62.
Labor and service	600	34	302*	1	1	338	56.3
Prod. Sub- totals	3,850	(2.5%) 95	(36.9%) 1,419.5	(.1%) 5.5	(1.%) 4	1,524	39.6
TOTALS	5,829	(2.2%) 130	(29.5%) 1,717.5**	(.1%) 7.5	(.3%) 18	1,873	32.1

*Includes one "Indian."

**Includes three "Indians."

124 Employers Surveyed--Combined Employees

White Collar	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Professional	2,441	13	55	8	29	105	4.3
Managerial	866	1	14	3	15	33	3.8
Clerical- sales	2,655	29	277	9	15	330	12.4
W. C. Sub- totals	5,962	(.7%) 43	(5.8%) 346	(.3%) 20	(1.%) 59	468	7.8

Production	Total	Negro	Sp. Ancestry	Oriental	Jewish	Total Minorities	%
Skilled	5,269	88	709.5	6.5	13	817	15.5
Semi-skilled	2,104	58	836	2	5	901	42.8
Labor and service	1,703	108	425	4	9	546	32.1
Prod. Sub- totals	9,076	(2.8%) 254	(21.7%) 1,970.5	(.1%) 12.5	(.3%) 27	2,264	24.9
TOTALS	15,038	(2.%) 297	(15.4%) 2,316.5**	(.2%) 32.5	(.6%) 86***	2,732**	18.2

**Includes three "Indians."

***Includes "0" for 4 employers (total employees: 620) who stated no record of employees' religion kept.

The tables indicate that employers having apprenticeship programs tend to be larger than those with no certified training program. On the other hand, the smaller firms appear to employ a much larger percentage of minority group workers. As might be expected, minority group workers in production work are much more frequent than in white-collar positions.

Of those employers giving reasons for not having many or any minority group workers, the following are some frequently stated: "no applicants"; "lack of experience and skills"; "possible union discrimination"; "not dependable"; "limitation on number we can hire"; "very few live in our area"; "not mechanically inclined"; "locally we cannot produce individuals (minorities) that can meet the high standard of efficiency set by our other employees."

Plant Survey

Many people have told our commissioners and staff members at one time or another that Colorado really does not have problems regarding employment for its small Negro population; that these problems are primarily located in the South and large northern cities.

During the year, a Commission representative conducted a personal survey of thirty business firms in the Denver area in an effort to determine whether the aforementioned contention is a valid one.

Of the thirty companies surveyed, three were considered big business firms employing 600 to 2400 people. Of the thirty firms contacted it was found that:

1. only two knew of the Colorado Anti-Discrimination Commission
2. no Negroes were found in professional jobs
3. only three officials of the thirty firms felt that there is a national problem of discrimination against Negroes
4. none felt there is a local problem of discrimination, although many could not explain why they hire no Negroes or do not care to do anything to find out about the problem.

With special reference to the three large companies, the following should be noted:

1. all three had no Negroes employed
2. all three had no written non-discrimination policy
3. two of the three put the total blame of discrimination on several unions that "were keeping the Negroes out"
4. all three said the problem would "take care of itself in due time"

It is admitted that the thirty firms may not have been a true sampling of employment patterns and policies in the Denver area; but the mere fact that none of the companies employed Negroes above menial and unskilled jobs is prima facia evidence that employment discrimination against Negroes in Denver is still a major problem, although conditions have improved somewhat as compared to what the situation was when the Colorado Fair Employment Practices Act was passed by the legislature in 1957.

Education

The Commission, in carrying out its educational activities, utilizes a variety of techniques: Mass media publicity, displays, posters, personal appearances, individual counseling, personal calls on management, labor, employment agencies, places of public accommodation and the real estate industry.

The following is a list of the Commission's educational activities: 57 speeches by Commissioners and staff to a total audience of 3,878; 64 interviews with management, employment agencies, labor organizations, places of public accommodations and real estate industry; 33 conferences, workshops and meetings with fifteen different public and private organizations either wholly or in part engaged in the field of intergroup relations.

A Commissioner and two staff members attended the annual conference of the National Association of Intergroup Relations Officials in Washington, D. C., and the Conference of Commissions against Discrimination (now the Conference of Commissions for Human Rights) in Seattle, Washington.

Six radio and one television program in Denver, Grand Junction and Pueblo through which media information about the Commission went to an undetermined number of people.

An estimated 35,000 pieces of literature was distributed throughout the state either by person or through the mails to interested parties, employers, people engaged in real estate and to hotels and motels.

Regulation

Under authority vested in it by the Colorado Anti-Discrimination Act of 1957; the Colorado Civil Rights Anti-Discrimination Act as amended 1957 and the Colorado Fair Housing Act of 1959, the Commission is empowered to receive, investigate and pass upon verified complaints alleging discriminatory or unfair practices because of race, creed, color, national origin or ancestry in the areas of employment, public accommodations and housing. Discrimination based on sex is also prohibited under the Fair Housing Act. An aggrieved person, a Commissioner, the Commission or the Attorney General may file complaints of alleged discrimination pursuant to the provisions of the three laws administered by the Commission.

Should a finding of probable cause for crediting the allegations in the complaint be made, the investigating official endeavors to settle the case by methods of conference, conciliation and persuasion. If those methods fail to effectuate a settlement, that fact is then reported to the Commission. The Commission then may take whatever action it deems appropriate, including re-referral to the investigating official for further investigation or for further efforts at conciliation; or it may set the complaint down for hearing. On the other hand, complaints may be dismissed upon the face of the information contained in

the complaint or after investigation if no probable cause for crediting the allegations is found by the investigating official.

Complainants may apply to the Chairman of the Commission for reconsideration of an order of dismissal or the terms of a conciliation agreement. Both the complainant and the respondent may appeal to the district court an order issued after a hearing, or the refusal or failure of the Commission to issue an order.

It should be noted at this point that the Commission takes the position that any complaint filed is of paramount importance because in most cases the complainant's job may be in jeopardy; he may be in dire need of finding a home to live in or must obtain an apartment immediately. Therefore, the processing of complaints always takes precedence over any other matter that comes before the Commission staff.

Complaints

There was a total of 136 verified complaints and reported violations filed with the Commission, including one over which there was no jurisdiction and was dismissed for that reason. The following tables summarize the total number of verified complaints processed through June 30, 1963, according to: Complainant's group identity and final disposition of cases filed under each of the three laws.

TABLE I
Complaints by Group Identity
Fiscal Year 1962-63

Group Identity	Employment	Housing	Public Accommodations	Total
Negro	21	47	7	75
Spanish-Ancestry	15	6	1	22
Other*	2	1	0	3
TOTAL	38	54	8	100

*Indicates complaints filed by a Commissioner and other individuals.

TABLE II
 Employment Complaints According to Group Identity
 and
 Final Disposition

Group Identity	Dropped	Dismissed	Concili- ated	Hearing	Pending	Total
Negro	0	15	6	0	4	25
Sp. Ancestry	0	7	3	0	1	11
Other	0	2	0	0	0	2
TOTAL	0	24	9	0	5	38

TABLE III
 Housing Complaints According to Group Identity
 and
 Final Disposition

Group Identity	Dropped	Dismissed	Concili- ated	Hearing	Pending	Total
Negro	1	23	11	3	9	47
Sp. Ancestry	0	3	3	0	0	6
Other	1	0	0	0	0	1
TOTAL	2	26	14	3	9	54

TABLE IV
Public Accommodations Complaints
According to Group Identity
Final Disposition

Group Identity	Dropped	Dismissed	Concili- ated	Hearing	Pending	Total
Negro	0	4	3	0	0	7
Sp. Ancestry	0	0	1	0	0	1
Other	0	0	0	0	0	0
TOTAL	0	4	4	0	0	8

Of particular significance in connection with the processing of complaints are two decisions rendered by both the Colorado and United States Supreme Courts, which decisions have a direct bearing in the administration of the employment and housing laws.

In the case of Green vs. Continental Air Lines, Inc., after granting a petition for a Writ of Certiorari to the Supreme Court of the State of Colorado, the United States Supreme Court, on April 22, 1963, handed down a precedent-making decision in the case. The question presented for review and which the Court decided is as follows:

Does a state statute which prohibits discrimination based on race in the hiring practices on an interstate air carrier conflict with the provisions of Article I, Section 8, Clause 3 of the Constitution of the United States by being an undue burden on interstate commerce and prohibited by the pre-emption of this field by the laws of the United States.

The Court said that it did not, whereas, a Denver District Court and the Colorado Supreme Court both had declared that the Colorado Anti-Discrimination Commission did not have

jurisdiction to regulate the employment practices of interstate air carriers because Continental in fact was engaged in interstate commerce, subject to the Railway Act and the Civil Aeronautics Act, and because Colorado's Fair Employment Practices statute, as applied to Continental, constituted an undue burden on interstate commerce.

Although the U. S. Supreme Court ruled on the case in April, as of the end of this reporting period Mr. Green has not been hired by Continental. He applied to the Company for employment as a pilot when he was given an honorable discharge by the United States Air Force in 1957.

The case of Rhone vs. J. L. Case, et al, was appealed to the Colorado Supreme Court when a lower court ruled that the Colorado Fair Housing Act, 1953 CRS, 69-7-6 (12) was "unconstitutional because of indefiniteness and uncertainty and because the said section provides for an unlawful delegation of legislative authority." In addition, the District Court failed to pass upon the Commission's order it had issued the respondents after a hearing had been held on the case. The order had required that the Respondents cease and desist from engaging in or committing unfair housing practices as defined in the Act; and to offer the Rhones, from the homes listed with the Respondent in his capacity as licensed real estate broker, the opportunity to purchase a comparable home in the same general neighborhood or in a comparable neighborhood; and under the same terms and conditions as such a home would be offered to any other person. In addition the Respondent was required to inform the Coordinator of the Commission within thirty days from the Order, and at thirty-day intervals, thereafter, concerning the manner in which the Respondent complied with the Order.

Upon review of the case, while upholding the lower court's judgment that 1953 CRS, 69-7-6 (12) was unconstitutional, the Colorado Supreme Court, in a six to one decision, held the remainder of the Act to be constitutional by declaring that:

It is not necessary that the Act as a whole be stricken, nor is it necessary to vacate the order of the Commission in its entirety.

Those portions of the order which are based on an unconstitutional delegation of power, as specifically identified above, are to be stricken, and that which remains should be upheld.

Recommendations

Pursuant to the provisions of the law mentioned at the beginning of this report the following recommendations are respectfully submitted to the General Assembly.

Housing

Although the Colorado Supreme Court held the Fair Housing Act to be constitutional, it crippled to a very great degree the enforcement powers of the Commission. The language of the law as it now reads gives the Commission only the authority to issue cease and desist orders after it has held a hearing on any case and has made a finding of fact that the respondent has violated the Act. There is no provision for a remedy that the Commission can order the respondent to accord the complainant.

It is recommended, therefore, that the General Assembly consider and enact legislation which would empower the Commission to specifically compel a respondent to offer a complainant any housing in which he may be interested.

Quite often the Commission, in processing complaints of alleged discrimination in housing, has found that the housing in question is no longer available to the complainant after the investigation has been completed for it has been either transferred, leased, rented or sold to another party. A provision in the law which would provide injunctive relief to hold the housing in question in status quo during the pendency of the complaint would greatly enhance the work of the Commission in processing cases of alleged discrimination in housing.

The present language of the housing law presently does not clearly delineate the coverage over real estate brokers and salesmen. It is recommended that the Legislature

seriously consider clarifying the provisions of the law in this respect.

Employment

The Fair Employment Practices Act of 1957 presently covers, in addition to public employers, private employers employing six or more employees. This restriction, in the opinion of the Commission, is discriminatory in itself, in that it excludes the overwhelming majority of private employers in the state; namely those employing one to five employees. It is, therefore, recommended that the law be amended to include these employers. Moreover, under the complaint process, when the Commission staff finishes its investigation of a complaint and approaches the respondent to settle the complaint, the position for employment in question is no longer available to the complainant. In order to correct this deficiency in the law, legislation is recommended that would prevent the employer from filling the position in question until the complaint is resolved.

Public Accommodations

In cases filed under the law prohibiting discrimination on account of race, religion or national ancestry in places of public accommodations, the Commission recommends that it be empowered to order respondents to pay the aggrieved party at least some financial reparation for his act of discrimination, for under the present provisions in this law, there is no material relief that the complainant can be granted.

An Omnibus Act

The foregoing recommendations have been based on the experiences the Commission has encountered in administering the laws. It would appear that if all three of the laws were brought together in one omnibus piece of legislation, they could much more easily be administered.

Another advantage of an omnibus act would be that the Commission's rules of practice and procedure would be less cumbersome to adopt and implement. Therefore, the Commission recommends that the General Assembly in considering amendments to our civil rights laws also consider bringing together into one omnibus legislative measure the laws presently administered by it.

