Tolerance on Trial

How New York's fair-employment law is working after eight months in operation

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"NO NEGROES employed here." Such a sign might well have been placed on the door of the personnel office of one of the country's greatest insurance companies. Ever since it had been founded it had maintained a consistent practice against the hiring of colored people, refusing even to interview them for job vacancies.

But by mid-July of last year that firm had 40 Negroes working in various departments in its New York offices and had ordered personnel workers to give every colored applicant equal consideration with whites.

That about-face change in policy was one of the immediate results of a revolutionary new state law creating a New York State Commission Against Discrimination with power to compel business, industry, employment agencies, and labor unions to eliminate employment practices prejudicial to an individual's race, creed, color, or national origin. The statute bans such practices in hiring and firing, promotion, application forms, and working conditions.

The incident, in which the insurance company simply had complied with the law, was only one of several which followed the enactment of the new statute. No longer could an employer reject an applicant or fire an employee because he was a Catholic, a Jew, a Protestant, or because he was Greek or Polish or Egyptian or his parents had been born in European or African countries, or because he was black or yellow or white. His application was to be judged solely on his experience, his ability, and his knowledge of the job to be done.

In view of the formidable opposition to the Ives-Quinn Bill, as it was known before it became law, the number of business and industrial concerns which have conformed to its provisions seems almost incredible.

Corporations, big and small, had contended that their business would be ruined. Factory officials declared that passage of the measure would force them to move their plants to other states. Some civic leaders said the bill would prohibit new enterprise from settling in the state. Businessmen cited it as another curb on their activities, a new case of government meddling, an impossible attempt to settle a purely moral issue by legislative intervention.

Because the law has been in operation less than a year, it may be too early to assess its results, but, so far, none of these predictions have materialized. Both (*Continued on page 16*)

(*Continued from page 14*) industry and labor have been in large degree co-operative, assisting the Commission in enforcing a statute that is without precedent in any state of the Union.

During the first 8 months of the law's operation, the Commission received 240 formal complaints charging some form of discrimination in employment. Of these, 178 have been closed, including 55 which did not come within the Commission's jurisdiction, 11 which were withdrawn, and 112 which were settled by the Commission. Settlement of 75 of the 112 was brought about by conference and conciliation between the complainant, the company or employer charged, and representatives of the Commission.

The charges varied greatly. Fifty-nine complained because of alleged prejudice against their religion: 52 Jewish, 2 Catholic, 1 Quaker, and 4 not stated. Another 113 charged color bias: 105 Negroes and 8 Whites. Still another 48 charged prejudice against their race or national origin: 8 Germans, 5 Spaniards, 2 Russians, 25 Italians, 1 Bulgarian, 1 British, 1 Swedish, 1 Greek, 1 American, and 3 unclassified.

In addition, the Commission instigated 79 investigations of its own, replied to 616 inquiries concerning the law, and reviewed the application forms and employment practices of 508 employers.

NEW YORK'S action in outlawing prejudice in employment was a bold and ticklish move. Nowhere in the nation, rarely in any other part of the world, is there a greater mixture of races, creeds, and colors than in the melting pot of Manhattan and its adjacent boroughs. For years certain national groups and colors have been forced into individual financial, social, and political cliques, with the result that many of their members have been unable to rise above the economic class into which they were born. The new law opens new horizons to all, regardless of their ancestors or beliefs, and there is every indication that it will aid in destroying the barriers between one section of a city and another.

It must be understood that the Commission is feeling its way along a route that has never been explored before. There is no legal or social precedent on which decisions can be based. Eventually there may be lawsuits demanding reversals of its rulings, and these will help, because they will become a strong but invisible part of the law. The law is flexible, and we of the Commission must apply it with common sense and fairness to bring about elimination of unlawful employment practices as defined under the Act. A typical case will illustrate how we operate:

A young man called at the Commission's office one day and said he wanted to file a complaint charging religious bias against a certain company. He explained that he had answered a newspaper advertisement by telephone and was asked whether he was Christian or Jewish. He replied that he was Jewish. Next he was asked his age. "Twenty-six," he replied, and was told that he was too young. "I don't believe that was the reason," he reported.

He filled out a formal complaint form, setting forth all available information, and it automatically came to my desk as chairman. Because the Commission had jurisdiction in the matter, I immediately assigned the complaint to one of the commissioners, who then assumed full charge of the investigation of the case. After the commissioner had examined the complaint, he called in a field representative, and the investigation was begun. The duty of the representative was to find and

assemble pertinent facts by interviews, examination of company records, and other methods.

After a rude reception by the company superintendent and an indirect refusal by the president to see him, the Commission's representative reported that he could make no headway with the case.

More drastic action obviously was needed. We sent a letter to the president of the company, requesting a meeting, and one was granted. The commissioner met with the president and explained the law to him. An appointment was made for the investigator. But again there was little success. After a half-hour's conversation, during which no facts of importance were elicited, the president refused to open the company's books as authorized by the statute, and said he would answer no more questions.

Again the investigator reported failure, and added that he was being treated as a spy. The Commission turned to new tactics. Another letter was sent. No reply. A registered letter was mailed but was returned, the receipt unsigned. Finally the Commission sent a telegram, setting a definite date for an appointment. A letter from the company's attorney stated the president believed he "was being persecuted and will have nothing further to do with the Commission." That was what he thought.

With infinite patience the commissioner made another telephone call, explaining the powers of the Commission, its right to subpoena books and records and witnesses.

That finally did it. The president agreed to open his books to the investigator, who discovered that there was no discrimination apparent in any of the company's employment activities, but that the employer was just stubborn about what he considered government interference with his affairs.

Had the company continued its obstinate stand and refused to co-operate with the Commission, it would have been necessary to order a formal hearing—none have been held so far—at which we could have forced the company through subpoena to report thoroughly on its methods of hiring, firing, and promotion. Such a hearing would be before three members of the Commission, not including the original commissioner in charge of the case.

WE HAVE found that conference and conciliation work well, that this method not only eliminates much delay, cuts red tape, but also protects the employers from unfavorable publicity which might result from unwarranted complaints.

Not all of the complaints received are legitimate nor do all of them come within the jurisdiction of the Commission as authorized by law. Almost every day we receive letters from people who complain of imagined violations of civil rights and demand that we do something about it.

One rambling letter from a woman describing herself as "an elderly homebody" expressed trepidation about the "Bill of Indiscrimination." She wanted to know, she said, if that "means that Negroes can live in my neighborhood, and I am against it."

Some come from cranks, like the profane letter from a self-described "perfect lady" who demanded that the law be set "on a little black so-and-so who fought my little Albert and made his nose bleed." We would have liked to suggest that she have little Albert take boxing lessons or else keep off the streets, but instead we wrote and informed her that the case did not come within our province.

Despite these odd complaints which come

Despite these odd complaints which come to the offices, most of the cases brought to our attention are serious, made by sober-minded people who understand the law and expect just and honest treatment. We do our best to give them just that, but, at times, we find our hands tied by regulations other than those imposed by the state. In one case which I particularly recall there was an outright violation of the law but we were forced to rule against the complainant.

Born in Germany of one Jewish parent, the man fled to the United States when Hitler took over the Reich. Later he became a naturalized American citizen and worked hard at his trade. He was a good workman and had never given his employers any trouble, yet he was refused employment where he knew there was a vacancy after having been asked where he had been born. He immediately requested our help, filing a complaint against a war-production plant.

"They asked me where I was born," he told the Commission. "When I said 'Germany,' they turned me down. Said I was ineligible."

We started the usual investigation with a field representative going to the plant and requesting records and interviews with personnel people. He ran into a stone wall. "Sorry," he was told. "We can't let you see a thing." There was no bitterness or argument, just a flat refusal. He reported to the commissioner in charge of the case and asked for advice.

"Here is something definitely wrong," we thought, until we received a visit from a representative of a federal agency. In essence, the federal man said, "Lay off and don't ask any more questions."

Because the war had not ended, we were unable to do anything but comply and inform the complainant that there was nothing we could do for him at that time. A few days after the first atomic bomb leveled Hiroshima we got the answer. The plant was manufacturing components for the bomb, and the War Department had issued strict orders that only native-born American citizens were to be employed on any project connected with it.

HIRING and firing are not the only phases of employment with which the Commission must deal. One of the most prevalent forms of complaint has been that against biased questions in application forms. The law states that it is unlawful "to use any form of application for employment or to make any inquiry in connection with prospective employment which expresses . . . any limitation, specification, or discrimination as to race, creed, color, or national origin."

In order to acquaint business and labor with this and other sections of the law, the Commission, soon after its appointment by the Governor, mailed letters to 11,000 companies, informing them of the law's provisions and pointing out that certain types of questions were illegal.

We also began a series of speaking engagements at businessmen's clubs, community and industrial round tables, and the like. After illegal practices under the statute were explained, the meeting was opened for discussion.

For these speeches we drew upon ourselves the ire of certain sections of the press. One newspaper in an article observed that "the $50,000-a-year commission against discrimination has made 60 speeches in the past few months," and pointed out that the average was a little less than $1,000 a speech, but it neglected to present our other activities.

The article was entirely unwarranted because, through these speeches and the letters, we had submitted to us over 500 employment

application forms with requests that we make necessary changes, eliminating questions of a discriminatory nature. We had hoped that these methods would save us trouble in the future, but objections to forms are still coming in.

A young woman with a foreign accent applied for a job and was given the company's standard application form, containing questions as to her national origin, her religion, her mother's and father's religions, and her membership in fraternal organizations, if any. She glanced quickly over the form and returned it to the personnel manager, telling him that the questions were illegal under the anti-discrimination Act.

At the time she filed her complaint with the Commission she reported that the manager grabbed the application from her, tore it to pieces, and ordered her out of the office.

Later, during the investigation, the employer admitted, rather lamely, that his forms did not comply with the law and had them changed. His personnel manager excused himself for his actions with the young woman on the ground that she had made him nervous and upset when she refused to fill out the blanks. He even asked her to re-apply for the job, but she turned him down.

MOST of the complaints filed with the Commission are those you would normally expect: Negroes charging discrimination by Whites, Jewish persons complaining about Gentiles, foreign-born people objecting to alleged prejudices by native Americans. But there was one particular case which was in direct contrast to the normal run:

In a small building in one city in the state there are two elevators, adequate to handle the number of tenants and visitors. In addition to the two operators there is one starter employed. At the time of the incident in question both the starter and one of the operators were Negroes and the other operator was white.

The white operator came to our offices and demanded that he get his job back, declaring, vehemently, that he had been fired by the starter for no apparent reason. He had done the job well and liked the work. An investigation revealed that another Negro operator, who had been serving in the Army, returned and asked for his old job under the provisions of federal law. Although the white man held seniority over the Negro, who had been working during the other's absence, he was discharged by the Negro starter to make room for the discharged veteran. As a result of the Commission's recommendation, the building operator gave the white man his old job back.

Although in each case I have cited so far the Commission has worked to protect the employee or job-seeker, the law is so worded that protection is also afforded the employer who may be subjected to unjust, unwarranted, and harassing complaints. Many employees call on us demanding (*Continued on page* 127) retribution for alleged unjust acts under the statute, but, through investigation, we have been able to reject those made by the crackpots and vengeance-seekers.

Hired as a first-class welder which he claimed to be, a man charged a factory with subterfuge and discrimination against his religion because, he told the Commission, he did not come to work on Jewish holidays. The day after one such holiday he returned to work and was fired. The company claimed he was inaccurate.

Officials of the union of which the man was a member were told a story by him different from that which he related to the Commission. He told the union the company had fired him

because he had made top rate, was entitled to more money, but was refused the rise. In his report to the union he did not mention discrimination. The union appointed its own investigation committee, one member of which was Jewish, which found no substantiation of the welder's charges to the union.

Other Jewish employees in the plant were interviewed. None could recall a single instance of discrimination or prejudice of any kind. Next, the Commission's representative talked to the man's foreman, his shop steward, and fellow employees in the same department. All testified that his work had been careless and that a number of his jobs had had to be re-welded because of poor workmanship.

Before the claim was finally dismissed the investigator had made 18 interviews and, in each instance, reported his finding to the commissioner in charge. The employer had been protected, his name as a man fair to labor was unblemished by the attempt of one who had been legitimately dismissed.

BUT these are just individual cases and, although they help in a small way to rid the state of discriminatory employment practices, they do not cover a sufficiently broad field to spread thoroughly the doctrine of anti-discrimination to everyone. The present law forbids us to delve into or prosecute cases involving social clubs, fraternal, charitable, educational, or religious organizations not organized for private profit. Yet, in looking into certain complaints, we have found prejudicial practices in some such institutions.

At present our major hope is in that section of the law which authorizes the Commission to use established educational systems, any legitimate means of publicity and propaganda, and our own local councils to bring to the people of New York State a knowledge of the problems of discrimination and how they are to be dealt with.

Until the day arrives when discrimination has taken its place with slavery in the history of the United States, we shall need the help of all public-spirited citizens to wipe it out.

THE AMERICAN MAGAZINE
June, 1946: p. 14