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REPORT

OF

THE PRESIDENT'S COMMITTEE ON FAIR EMPLOYMENT PRACTICE

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WASHINGTON, D. C.
MAY, 1943

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HISTORY AND BACKGROUND OF EXECUTIVE ORDER 8802

The promulgation of Executive Order 8802 for the purpose of integrating minority groups into the defense, later the war program, represents the final step of a series of measures taken by the government to insure full utilization of the nation's manpower in the present crisis. This series was initiated in July 1940, when in recognition of the growing demands for labor and the development of potential labor shortages in particular areas, the National Defense Advisory Commission established an office in its Labor Division to eliminate discrimination against Negro workers because of their race and to facilitate their integration into training programs and industry. This was followed by an announcement of the United States Office of Education that "in the expenditure of Federal funds for vocational training for defense, there should be no discrimination on account of race, creed or color." In August 1940, the National Defense Advisory Commission issued a statement of labor policy which recited that workers should not be discriminated against because of age, sex, race or color. President Roosevelt reiterated this policy in a message to Congress on the defense program. In appropriating money for defense training in October 1940, Congress stipulated that "no trainee under the foregoing appropriation shall be discriminated against because of sex, race or color, and where separate schools are required by law for separate population groups, to the extent needed for trainees of such

groups, equitable provision shall be made for facilities for training of like quality." During the same month an agreement was reached by the American Federation of Labor and the Congress of Industrial Organizations with the National Defense Advisory Commission to accept responsibility for removing barriers against Negro workers in defense industries.

In an effort to implement these statements of policy, the statute and the agreement, government officials issued a series of special letters and instructions. These included a letter in November 1940, to State and local Boards of Education by John W. Studebaker, United States Commissioner of Education, in which he called attention to the non-discrimination clause in defense training legislation and urged all directors of defense training activities to take special steps to facilitate the training of Negroes. Meanwhile the Office of Production Management had been created to replace the National Defense Advisory Commission. It instructed its regional and field representatives to consider the problems of Negro workers as related to upgrading and the apprentice programs in defense plants. At its request, Mr. Sidney Hillman sent a letter in April 1941, to all holders of defense contracts, urging the removal of bans against qualified Negro workers in defense industries. Mr. Hillman also created a Negro Employment and Training Branch and a Minority Groups Branch in the Labor Division of the Office of Production Management. On June 12, 1941, President Roosevelt issued a memorandum to Messrs. Knudsen and Hillman which gave his full support to the Hillman letter to defense contractors and in which he placed responsibility on industry to utilize the labor of all loyal and qualified workers regardless of race, creed, color or national origin. These steps, although admittedly forthright expressions of national policy, were not effective in controlling discrimination against minorities in defense employment. Help

wanted advertisements frequently called for "white" mechanics, or "Gentile" factory workers, or even "Protestant white Gentiles." Defense training courses were often administered to exclude Negroes, Jews, Spanish-Americans, aliens, foreign-born citizens. Members of certain religious denominations were on the unwanted list. Negroes had a phrase for it. They were "the last hired and the first fired."

Underlying government pronouncements against discrimination had been a prevailing and anticipated manpower shortage. Total and global war required the fullest mobilization of the entire production potential of the arsenal of democracy. Yet, however pressing the need and however high the stake, old patterns were slow to change. Negroes, aroused by the oratory of world conflict between the democracies and the totalitarians, called attention with increasing vigor and bitterness to the special disabilities to which they were subjected within the framework of a democracy. In response to their growing protest, the President, on June 25, 1941, issued Executive Order 8802 which reaffirmed "the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color or national origin" and created the Committee on Fair Employment Practice to carry this policy into effect.

COMMITTEE ORGANIZATION AND JURISDICTION

As originally constituted under Executive Order 8802, the President's Committee was composed of a Chairman and four other members appointed by the President. By Executive Order 8823, issued July 18, 1941, the membership of the Committee was increased to six. On that day the following members were appointed by the President:

Mark Ethridge of Kentucky, Chairman
David Sarnoff of New York
Earl B. Dickerson of Illinois
William Green of Washington, D. C.
Milton P. Webster of Illinois
Philip Murray of Washington, D. C.

Subsequently, the President appointed Mr. Frank Fenton as alternate for Mr. William Green and Mr. John Brophy as alternate for Mr. Philip Murray. Upon the resignation of Mr. Frank Fenton in December 1942, Mr. Boris Shishkin was appointed as alternate for Mr. William Green.

By Executive Order 9111 of March 25, 1942, the number of members was increased to seven and Dr. Malcolm S. MacLean of Virginia was appointed Chairman in place of Mr. Mark Ethridge who had resigned the chairmanship but who continued to act as a member of the Committee.

The Committee was originally established in the Office of Production Management where it functioned within the Labor Division. Subsequently, on January 26, 1942, the Office of Production Management was abolished and the Committee transferred to the War Production Board. On July 30, 1942, the Committee was advised by the President that it was transferred "as an organizational entity" to the War Manpower Commission, subject to the direction and supervision of the Chairman thereof. In response to many protests against this transfer, the President, on August 17, issued a statement declaring that the transfer was intended to strengthen, not to submerge the Committee, and to reinvigorate, not to repeal Executive Order

8802.

The staff of the Committee consisted in the beginning of a small secretariat and six field investigators. At the time of the transfer to the War Production Board, the staff included seven officers together with five clerical and stenographic employees. At the present time there are 13 officers and 21 clerical and stenographic employees.

The President's Committee on Fair Employment Practice is the special agency created to receive and investigate complaints of discrimination and to take appropriate steps to redress grievances which it finds to be valid. It has jurisdiction over complaints of discrimination in employment or in training for industries essential to the war effort or in Federal government service because of race, creed, color, national origin or alienage. Executive Order 8802 makes no specific reference to alienage, but on January 3, 1942, President Roosevelt wrote the Committee that it was the original intent of the order to include non-citizens in the scope of the Committee's responsibilities. Complaints may charge direct discrimination against a prospective employer or indirect discrimination against persons in a position to defeat the employment of the complainant through their relationship to the prospective employer or to the general employment situation, as for instance, unions or placement agencies.

In a series of opinions by the General Counsel of the War Production Board and the War Manpower Commission, the scope of Executive Order 8802 has been held to include jurisdiction over (1) common carriers which transport troops or equipment directly for the War or Navy Department, either under government contract or not; (2) steamship lines engaged in the transportation of war materials, even in the absence of government contracts; (3) radio broadcasting companies and stations, telephone and tele-

graph companies, and the Capital Transit Company of Washington, D. C.

The order places a direct responsibility and duty on employers, labor organizations and government officers to eliminate discriminatory practices. All departments and agencies of the Government of the United States concerned with vocational and training programs for war production are required to take special measures to insure that such programs are administered without discrimination. All contracting agencies of the government are required to incorporate in war contracts a provision obligating the contractor not to discriminate against any worker because of race, creed, color or national origin. This requirement applies to sub-contractors as well as to prime contractors.

Although employers, labor organizations and government officials have this direct responsibility, the Committee has the special duty of determining when and by whom discrimination is practiced, and to take steps to redress valid grievances. It is the final administrative agency to interpret and enforce Executive Order 8802. Thus, contracting agencies of the government have a responsibility to enforce the non-discrimination clause in war contracts. In the course of such enforcement they may find it necessary to determine whether or not discrimination is being practiced. Their determinations in this connection are not necessarily final because practices which they might approve or to which they might take no exception may nevertheless be complained against in connection with allegations of discrimination reaching the Committee. The Committee is then under obligation to make an investigation and a finding and might, in doing so, hold to be discriminatory acts not found to be objectionable by the contracting agency. It is clearly the purpose of Executive Order 8802 to fix on the Committee the responsibility for making determinations as to the validity of complaints. Contracting

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officers and other officers of the government, whether concerned with training for war industries or responsible for departmental employment practices, are, therefore, in effect bound by the decisions of the Committee within the scope of its authority.

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STATEMENT OF THE PROBLEM CONFRONTING THE COMMITTEE

Since the issuance of the order, there has been ample additional evidence that available and needed workers have been denied employment or have been employed at less than their full skills or capacities solely because of their race, creed, color, national origin or nationality. The morale of several racial and national groups made up of loyal and patriotic citizens has been and continues to be adversely and seriously affected by the various forms of discrimination to which they are subjected. They are urged by every device known to the public relations fraternity to participate in and contribute fully to the war effort. They respond, as do other patriotic Americans, to find all too frequently that their participation is in fact not wanted. Repeated frustration undermines their morale, raises doubt as to the validity of the stated objectives for which we are at war, and breeds disunity.

From the purely practical approach of manpower utilization, discrimination in employment is, in the present crisis of manpower shortage, of paramount importance. Those who question or oppose plans to increase our army and navy as recommended by our military authorities might more profitably direct their energies to the elimination of impediments which now bar the full use of available manpower and womanpower. Critics of our military leaders assume a grave responsibility in opposing their program, based as it is on full knowledge of military plans and requirements, before exhausting every other possibility for supplying the manpower needs of the military forces, war production, food production and production for civilian needs.

There are 13 million Negroes; 11 million foreign born, of whom approximately 5 million are aliens; 5 million Jews; 3 million Spanish-Americans; and smaller numbers of Chinese, Chinese-Americans, Japanese, Japanese-Americans, Filipinos, American Indians, Seventh Day Adventists, Jehovah's Witnesses, and others who in greater or lesser degree experience discrimination in employment because of their race, creed, color, national origin or nationality. Catholics also find the doors of employment closed to them in some cases.

This is not to say that 32 million potential workers are excluded from employment in war industries. The figures cited are population figures including man, woman and child. By no means are all potential workers in these categories excluded from employment or limited to employment at less than their full skills. But even with respect to the most easily identifiable group - the non-whites - no reliable statistics are available of the number actually excluded from employment in war industries. Latest War Manpower Commission estimates report 200,000 Negroes unemployed, but there is no indication of how many of them are employable. There are no informed estimates of the total number of Negroes, foreign born, Spanish-Americans, or others who are barred from employment at their fullest skills because of discriminatory employment patterns.

All criteria indicate, however, that there is substantial and continuing waste of available manpower and skills resulting from discrimination in violation of declared national policy. If for no other reason than the practical necessity arising out of manpower shortages, there is need for vigorous, prompt and effective action in eliminating irrelevant considerations other than qualification and capacity in utilizing our labor supply.

This is the more necessary if we are to strengthen the faith of one-quarter

of our population in the fundamental justice of our democratic institutions. Above all is it necessary if we are to safeguard for all our population the principle of individual, human rights which is basic to our political and constitutional philosophy. The corrosion or destruction of this principle endangers the majority no less than the minority. Denial of individual rights because of the color of an individual's skin or because of alien birth is on all fours with denial because of the color of his tie or because of his birth on the wrong side of the railroad tracks. Racial and religious discrimination which results in denial of economic or political rights is, therefore, not solely a minority group problem. It is even more the problem of the majority, since the majority is made up of the greater number of individuals each of whom has a direct interest in the maintenance of the principle of guaranteed individual rights.

Even the briefest study of our national history will make clear the reasons why Know-Nothing and Ku Klux Klan movements flourished only briefly; why the concept of permanent "minority groups" is alien to our political theory and constitutional doctrine. They have withered because they sought to deny freedom of religion and individual rights which are fundamental to our political institutions. It is not possible officially to set apart racial and religious minorities for differential and disadvantageous treatment without doing violence to the individual and constitutional rights of those who make up these minorities. President Eduard Benes of Czechoslovakia, when he recently outlined proposals for the post-war settlement, warned against the reestablishment of permanent minority groups in Eastern Europe. "In the future it should not be possible in Europe," he declared, "either to create by the use of minority treaties or minority laws a special state in another state and prepare a large fifth

column for a period of crisis or war, as we have seen it happen in the present war. We must base national rights on human rights alone, as you do in the United States." "All Americans speak English, after all;" he added, "and yet any national customs, languages, papers, etc., may be kept up by the foreign-born in complete liberty and tolerance." With the exception of the colored races, it is true that various national groups have been incorporated in the body politic without reference to their origin and without special legal or political arrangements to protect their "minority rights." Negroes and Asiatics have, on the other hand, in considerable degree been dealt with as though they were considered a permanent minority element. In certain sections of the country, special political arrangements set them apart for differential and disadvantageous treatment.

Such practices, however, do violence to our basic constitutional concepts which envisage only one class of citizens with equal rights. This conflict between basic political philosophy and sectional practices toward particular racial groups can and must be resolved only in accordance with the historical pattern developed in our treatment of other and more temporary "minority groups." In decisions in recent years, the Supreme Court has made it increasingly clear that our constitutional doctrine must prevail against any prejudice of race, creed or national origin. A similar clarification is becoming evident in the political and economic scene. This underlying fact is basic to any consideration of the problem of racial or religious discrimination at any particular time.

Any plan of action for bringing practice into conformity with professions must, of course, take into account the deep-rooted and emotional character of such prejudices. At the same time there must also be recognition of the fact that these prejudices are the raw materials of wars and must be

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greatly decreased or eliminated if we are eventually to emerge into a period of prolonged world peace.

RECEIVING COMPLAINTS

THE COMPLAINANTS

Race and Color

Negroes and other non-Caucasians are the most easily identifiable group against whom discrimination in employment is practiced. There are differences in the degree of discrimination to which they are subjected in various sections of the country, but everywhere they suffer from one or more of its forms. Everywhere there is exclusion or near exclusion of Negroes from supervisory, professional and administrative classifications, except in enterprises owned and conducted by Negroes themselves. In certain areas Negro men have gained considerable acceptance but Negro women are excluded or limited to menial or custodial functions. The volume of complaints reaching the Committee is, however, by no means an accurate index of the degree to which discrimination is practiced against them. There have, for instance, been a relatively small number of individual complaints from Negroes residing in the southern states where three-quarters of the Negro population of the country lives. Surveys of employment practices do not reveal that Negroes are not discriminated against in the war industries in this area. Their failure to complain is related to factors other than the nonexistence of discriminatory employment practices.

In a survey conducted in September 1941, the Bureau of Employment Security found that of 282,245 job openings in all classifications of employment expected to occur by February 1942, Negroes would not be considered for employment in 51 percent, with even greater exclusion in semi-skilled and skilled occupations. "At all skill levels" the survey summarized, "there are occupations with heavy defense labor requirements in which most employers

expect to continue to exclude Negroes." This, despite the fact that the failure to use locally available Negroes has in certain instances delayed production, compelled employers to recruit labor from distant areas with attendant intensification of housing shortages and increased labor turnover, and caused underemployment of vocational training facilities.

It might have been expected that our entry into the war would have brushed aside the luxury of "prejudice as usual" as it did the complacence of "business as usual." The evidence does not, however, support this assumption. Reports for certain industries for July, September and November 1942, although revealing a slight increase in the use of Negroes, disclose also the slight extent to which they have been admitted into these industries. In July 1942, Negroes constituted 2.9% of total employment in aircraft manufacturing, in September 3.1%, in November 3.3%; in explosives in July 3.3%, in September 4.5%, in November 4.5%; in guns in July 3.4%, in September 3.9%, in November 4.2%; in tanks in July 2.2%, in September 3.1%, in November 3.6%.

The policy of limiting Negroes to customary jobs has restricted their entry into these newer war jobs. Lifting, hauling, cleaning, carrying and unskilled production work was and continues to be "customary." In its publication The Labor Market, the War Manpower Commission makes the following observation in January 1943: "Even in important industrial centers where inadequate housing and transportation seriously impede recruitment of labor, many employers refuse to hire local Negroes for any but unskilled and customary jobs. This is true not only in the South, but in many northern war-industry centers as well. For example, although Negroes represent about 20 percent of the skilled and semi-skilled workers in the active file of Detroit, many employers who request referrals from the United States Employment Service specify 'no nonwhites' for such jobs as drill-press operators, machinists, bench

assemblers, machine operators, and various occupations in the aircraft industry."

In one week in October 1942, the United States Employment Service received in but six of the twelve War Manpower Commission regions, discriminatory job orders affecting a minimum of 16,477 workers. The then Director of the United States Employment Service commented on this situation as follows: "The discriminatory hiring practices continue to be reported against colored workers more frequently than against other minority groups. The extent to which these discriminatory practices are reaching into critical skills for which occupationally qualified workers are available is assuming alarming proportions. No longer do the reports merely indicate the refusal of an employer to hire a particular group of workers in specific occupations. They now indicate the outright refusal of employers to employ specific workers referred by the United States Employment Service. Discrimination against trainees and learners, especially females, is being reported in increasing volume. Discriminatory practices in the machine skills are increasing, according to the reports. Drill-press operators, machinists, bench assemblers, machine operators of all types, lathe operators, and the diverse occupations of the aircraft industry show a heavy incidence of discrimination."

At that time Negroes constituted 26.6% of all workers in secondary smelting and refining of non-ferrous metals and alloys; 22.3% of workers in iron and steel foundry products; approximately 16% of workers in construction; 12.6% in steel works, blast furnace and rolling mills; and 11.1% in communications equipment and related products. Characteristically, whatever his education or training, the Negro is still relegated to heavy industry and unskilled work.

Another view of the practices which keep our Negro minority outside

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the main current of employment is shown in the negligible number of Negro selectees granted deferment because of their occupations. General Lewis B. Hershey, Director of the Selective Service System, declares: "The number of Negro registrants deferred because they are engaged in occupations necessary to the national health, safety, and interest has been relatively small. They represented to September 30, 1941 only 1.6% of registrants placed in Class II-A. The proportion of Negroes deferred and placed in Class II-B by reason of their being engaged in the work necessary to national defense is even smaller. It is only 0.65% of classification."

Negroes and other non-Caucasians do not get jobs commensurate with their skill in many instances because of the policies and practices of labor organizations. In a report of the Tolson Committee in 1941, there are listed nine unions affiliated with the American Federation of Labor which by constitutional provision bar nonwhites from membership. These are the Airline Pilots Association, the Brotherhood of Railway Clerks, the Brotherhood of Railway Carmen, the Railway Mail Association, the International Organization of Master Mates and Pilots of America, the Switchmen's Union of North America, the Order of Railroad Telegraphers, the Brotherhood of Sleeping Car Conductors and the Commercial Telegraphers Union of North America. The Weavers Protective Association of America, another American Federation of Labor affiliate, requires that members must be "Christian, white." The International Brotherhood of Blacksmiths, Drop Forgers, and Helpers, also affiliated with the American Federation of Labor, is cited as requiring that "where there are a sufficient number of colored helpers they may be organized as an auxiliary local and be under the jurisdiction of the white local having jurisdiction of their territory; colored helpers shall not transfer except to another auxiliary local composed of colored members and colored members shall not be promoted to black-

smiths or helping apprentices and will not be admitted to jobs where white helpers are now employed." The Tolan report lists also seven unions of the Railway Brotherhoods which bar nonwhites from membership. These are the Brotherhood of Dining Car Conductors, the Grand International Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Train Dispatchers Association of America, the Brotherhood of Railroad Trainmen, the Railroad Yardmasters of America and the Order of Railway Conductors. Not included in the Tolan report are a number of unions which by ritual or practice exclude non-Caucasians from membership throughout their organization or in particular localities. Some admit Negroes but limit them to severly restricted quotas.

Unions having closed shop or preferential shop agreements with war contractors and which exclude nonwhites from membership effectively prevent the employment of nonwhites in disregard of the "duty...of labor organizations" laid upon them by Executive Order 8802 "to provide for the full and equitable participation of all workers in defense industries without regard to their race, creed, color or national origin." In only a minority of cases have they granted work permits to nonwhites permitting their employment in closed shops.

On the southeastern railroads, exclusion of nonwhites or their exclusion from certain classes of employment is encouraged or accomplished by "percentage" or "non-promutable" clauses in union agreements or by tacit or other informal understanding. The percentage clauses generally provide that no more than a stated proportion of employees shall be non-promutable men. Their non-promotability excludes them from positions as engineers, conductors, and in some cases as switchmen, yardmen, or from other classifications of employment. Thus, the accredited bargaining agents on these railroads, declared by the courts to be competent to act as bargaining agents for all workers

whether they be members of the unions or not, not only prohibit certain workers from becoming members of their organizations, but also enter into, or use their bargaining power to compel the adoption of agreements which deny certain of these workers seniority and promotion rights which are of the essence of the agreements. The percentage clauses are intended to deny and do, in fact, accomplish the denial of employment on the railroads to many available and needed workers solely because they are Negroes. The 1940 United States Census shows that from 1930 to 1940 employment of Negro locomotive firemen decreased over 51% or from 4,642 to 2,265. Other evidence indicates that only a negligible number of Negroes have been hired as trainmen, switchmen or mechanics during the last fifteen years.

Where management and organized labor combine to exclude workers of a particular race or color, the problems of securing compliance with Executive Order 8802 become especially difficult. Fortunately, this type of case is the exception, not the rule. Wise leaders of labor have recognized that the arbitrary exclusion of any substantial proportion of the working population from organized labor's ranks leads to a weakening of the labor movement itself and constitutes an invitation to certain employers to use unorganized workers at low wage scales, or for strike-breaking or similar purposes. Both the American Federation of Labor and the Congress of Industrial Organizations have formally and officially taken positions opposed to race discrimination within their organizations. In each of them, the national officers have assisted in working out satisfactory adjustment of particular cases. The Railroad Brotherhoods, on the other hand, have not taken such a position and apparently act on the opposite policy.

On September 3, 1941, the President drew attention to another area

of employment discrimination which affects Negroes particularly. "It has come to my attention," he wrote to department heads, "that there is in the Federal establishment a lack of uniformity and possibly some lack of sympathetic attitude toward the problems of minority groups, particularly those relating to the employment and assignment of Negroes in the Federal Civil Service." At that time the employment and assignment of Negroes when accepted in the Federal Civil Service were characterized by their relegation to custodial and service functions. Thus, in April 1942, a sampling of Federal employment practice revealed that Negroes constituted 9% of all employees but that of them 62% were in custodial classifications. The proportion of service employees to the total employees in the Federal Government is roughly about 7%. Making all allowances for the lack of educational opportunities open to Negroes in certain areas of the country, that factor alone does not account for this concentration. Indeed, the Social Security Board reported at this same time that 1,050, or 11% of its employees were Negroes, of whom 872, or 83% were in clerical, administrative or fiscal classifications. In the number of Negroes employed and in their distribution between the custodial and clerical classifications, the Social Security Board approached more nearly than any other government agency what might reasonably be expected as an employment pattern where gross discrimination had been eliminated.

The emphasis placed on vocational training by the ever increasing demand for skilled or semi-skilled labor reveals an additional area in which Negroes are at a special disadvantage. They have received strikingly less opportunity to secure war training than have whites; fewer courses are available to them; less money is spent for training or for training facilities than the proportion of Negroes to whites would indicate. There is no denying that the difference in training programs offered Negroes is based solely on their

race and color.

The grant-in-aid character of the war training program has occasioned special difficulties in dealing with these conditions. Attempting to fix responsibility for failure to carry out the mandate of Congress and the specific direction of the President has required a high degree of skill and perseverance. The result of the failure is clearly evident, whether responsibility lies with Federal training agencies or with State or local educational systems. Thus, statistics on defense training furnished by the United States Office of Education for 17 "separate school States" and the District of Columbia indicate that as of January 31, 1942 there were 4,630 segregated training courses within the area. 4,446, or 96%, were for whites only, and 194, or less than 4%, for Negroes. According to the 1940 census, Negroes constituted over 20% of the population in this area. Of a total enrollment of 1,524,590 in pre-employment training courses between July 1940 and July 1942, 5.6% were Negroes. They constituted 1.6% of the enrollees in supplementary training during this same period.

Some State and local educational authorities have taken the position that they cannot with propriety train persons for employment in war industries unless they have assurance from prospective employers that the particular trainees will be accepted for employment. To train Negroes, they reason, without having in advance categorical and formal assurance that they will be accepted in jobs for which they have been trained would constitute a waste of public funds. Without training or experience, the Negro can be denied a semi-skilled or skilled job not because he is a Negro but because he lacks training or experience. He is, thus, effectively "kept in his place" by a system for which there is diluted responsibility. This vicious cycle of no job because not trained and no training because no job must be broken at some point. The
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provisions of Executive Order 8802 indicate that it was the intention to place initial responsibility to correct these conditions on Federal training agencies. The order directs that "all departments and agencies of the Government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination because of race, creed, color or national origin." (Underscoring supplied)

Dark-skinned Mexicans are subjected to all or most of the disabilities suffered by Negroes. Indeed, in certain areas all Mexicans, whatever their complexion, are differentiated from whites and denied the use of training, eating, recreation and toilet facilities set apart for "whites only." The impact of job discrimination, however, falls most heavily on the darker-skinned Mexican of Indian or Indian-Negro racial stock.

American Indians, Chinese and Filipinos likewise are frequently denied training, employment, membership in unions and are otherwise discriminated against because they are nonwhites.

It cannot be said that the policy and practices of the government or of private industry with respect to the employment of American citizens of Japanese origin are in conformity with the precepts laid down in Executive Order 8802. The removal from the West Coast of Japanese nationals and of Americans of Japanese origin and their confinement in "relocation centers" under authority of a Presidential executive order forecloses during their detention the possibility of their being refused employment in war industries because of race, color, national origin or nationality. In places other than the restricted area, Americans of Japanese origin have experienced discrimination because of their racial and national origin. Nearly all complaints made by them to the Committee run against the Federal Government itself. Although an

exclusion policy is not openly avowed by any government agency, certain agencies have systematically combed out Nisei already employed by "suspending" them for the duration. Other agencies have found many collateral and professedly innocent reasons for denying them employment. Special measures must, of necessity, be taken to investigate the loyalty of individuals who (not because of free choice on their own part) have been segregated and kept apart from other Americans, before they can be admitted for employment in agencies directly connected with the war effort. This has, however, in some cases been perverted into a means for denying rather than facilitating employment.

The case of certain complainants in Colorado illustrates the confusion and inconsistency of departmental policy concerning the employment of Nisei. There, during the construction of an army camp, fifty Japanese-Americans were denied employment because it was against departmental regulations. Investigation of their complaint led to the discovery that six other Nisei were already employed. These were, thereupon, dismissed in conformity with regulations which were presumably intended to prevent information about the nature of the preparations at the camp from reaching the ancestral home of the excluded workmen. But when the camp was completed it was occupied by Japanese-Americans who had volunteered for service in the United States Army.

Creed

Most of the complaints received by the Committee which allege

unequal treatment because of creed are from Jews. The pattern of discrimination against Jews varies greatly in different sections of the country and is strongest in northern, central and western urban industrial centers. Nearly half of the five million American citizens of Jewish faith live on the Atlantic seaboard from New York to Baltimore. By tradition the Jew has engaged in commerce and trade or has trained for the professions. In these pursuits, he has been free from the prejudice of employers, but his restricted occupational experience has built up a myth that Jews have no aptitude for industry. Although there is no adequate data on Jewish occupational distribution, nor statistical evidence of the extent of discrimination against Jews, it is estimated from reports in State labor market surveys that about half of New York City's 500,000 jobless workers are Jews and that in this huge reserve are to be found thousands of carpenters, plumbers, tinsmiths, and electricians. Complaints submitted to the Committee indicate that exceptionally well qualified chemists and engineers have been excluded from war plants because of their Jewish faith.

The difficulty of placing Jewish trainees in the labor market has led to discrimination by defense training schools and has created the same kind of vicious cycle which operates against Negroes. Other effective means which have served to exclude Jews from war jobs have been a practice by employers of specifying "Gentiles only" in want ads, and a requirement contained in application for employment forms calling for the disclosure of the applicant's race and religion.

Orthodox Jews and other Sabbatarians create a special problem in a civilization which worships, or relaxes, on the first day of the week. With the intensification of the drive against absenteeism, a number of them have been dismissed or denied employment in war industries or in government because of their conscientious scruples against working on Saturday. In war plants which operate seven days a week, it is as practicable, as it is sound personnel policy to arrange work schedules to permit employees to exercise their preferences regarding religious observances. In the government service where the seven day week is the exception rather than the rule, the problem is more difficult. The Committee's efforts to effect an adjustment have been entirely successful as will be pointed out later in this report.

The refusal of Jehovah's Witnesses to salute the flag because the tenets of their creed hold such action to be idolatrous has, in a few cases, caused loss of employment. In most of them, other workers have been responsible for dismissals because they regard it unpatriotic to refuse to salute the flag and object to working with "unpatriotic" persons. Because patriotism is a more respectable emotion than race or religious prejudice, Jehovah's Witnesses present problems of more than ordinary difficulty.

In a small number of cases, conscientious objectors have been dismissed or denied employment in war industries because their religious creed prohibits them from bearing arms. The Committee has jurisdiction only in those cases in which conscientious objectors are members of organized religious bodies which prohibit, as a matter of creedal tenet, bearing arms or engaging in combat duty. Persons who are not members of such organized religious bodies but who may, because of personal beliefs and convictions, object to

bearing arms and for that reason lose or are denied employment in war industries do not fall within the scope of the Committee's responsibility. That responsibility is limited to the redress of valid grievances involving discrimination in employment based on race, creed, color or national origin.

National Origin

Naturalized citizens born in enemy countries are sometimes denied employment because of their national origin. Except where secret or aeronautical contracts are involved, such cases have lent themselves to relatively prompt adjustment. But where there is necessity for special precautions against espionage and sabotage, naturalized citizens have sometimes been denied employment solely because of their foreign birth and without regard to their personal loyalty to the country of their adoption. Executive Order 8972 of December 12, 1941, authorizes the Secretary of War to take "appropriate measures to protect from injury or destruction national-defense materials, national-defense premises and national-defense utilities." This order has on occasion been interpreted by subordinate officials to justify measures in conflict with the provisions of Executive Order 8802. There is, of course, no necessary conflict between these executive mandates. The earlier order specifically prohibits discrimination based on national origin. The later order authorizes only those measures which are "appropriate" to protect war materials and facilities.

Since loyalty is by definition an individual and personal characteristic, it is obvious that protective measures against sabotage and espionage would be appropriate and should be taken not with reference to the national origin or birthplace of groups of people, but rather with reference to the loyalty of individuals, whatever their origin. Spy trials since Pearl Harbor disclose that our enemies have been able to find at least some native born

citizens who are willing to work against the interests of this country. Our enemies realize that exclusive preoccupation with the loyalty of aliens and foreign born elements in our population will inevitably lead to a false sense of security concerning native born citizens.

One large group that has been the object of discriminatory practices is composed of the Spanish-American residents in this country, who include Mexican nationals more or less recently admitted, United States citizens of Mexican origin of whom some are Indians or of part Indian stock and others of Spanish stock, descendants of the original settlers in our southwest who can match generations of domicile within our boundaries with the descendants of the prolific Mayflower, Puerto Ricans of Spanish or of Spanish-Negro stock, and immigrants from other parts of Latin America or their descendants. A common language is their principal point of similarity. In the southwest, where the great majority of Mexicans and Spanish-Americans resides, there is outward and visible evidence of discrimination against "Latinos." They are subjected, in parts of this area, to segregation in its various forms, restricted to heavy and menial types of work and paid less than "Anglos" for the same work. Often they are non-promutable men. Denied equal educational opportunities, they are later refused skilled and semi-skilled work because they are not trained or because they have learned only Spanish in their segregated communities. Language difficulties and unfamiliarity with our political concepts are responsible for the failure of Mexicans, Spanish-Americans and Puerto Ricans to submit any great number of specific complaints of discrimination.

Alienage

The second largest number of complaints reaching the Committee are submitted by non-citizens. As previously indicated, President Roosevelt instructed the Committee on January 3, 1942, that it was the original intent of

Executive Order 8802 to include non-citizens within the scope of the Committee's responsibilities and directed it to investigate cases "in which non-citizens allege that they have been discriminated against because of their national origin in a manner more restrictive than required by the law governing their employment in defense industries." On July 11, 1942, he issued a public statement directing that complaints of discrimination based on nationality be referred to the Committee for its action.

Except when he is the butt of xenophobes, the alien is not the victim of prejudicial discrimination as is the Negro. He suffers more often because of the excessive caution of employers who believe it unpatriotic or dangerous to employ an alien on war work, or who are unwilling to take the procedural steps necessary to secure consent to employ him. Whether because of malice, confusion or ennui, the alien frequently does not get the job or loses one he had. There is little selectivity in the denial of employment to aliens because of the country of their origin. Canadians, Englishmen, Germans, Austrians, Italians, Chinese, Mexican nationals suffer alike. Many of these workers possess essential skills needed in the war effort. Many had fled their native countries because of their anti-Nazi persuasion. Many have been law-abiding and loyal residents of the United States for years. Some are the fathers or close relatives of soldiers and sailors on active military service. In many cases their complete naturalization is only a matter of the issuance of final citizenship papers.

This situation has arisen out of certain statutory enactments and their administrative interpretation and elaboration. The Act of Congress of July 2, 1926 declares that no aliens employed by an aeronautical contractor "shall be permitted to have access to the plans or specifications or the work

under construction, or participate in the contract trials without the written consent beforehand of the Secretary of the Department concerned." Subsequently, by Act of June 28, 1940, similar restrictions with respect to the employment of aliens in the execution of secret, restricted or confidential contracts were established. Substantial penalties were imposed for violation of the Acts. The Act of June 28, 1940 expired on June 30, 1942. Except for the penal sanctions, its provisions, however, have been continued in force and effect by administrative regulation of the War and Navy Departments.

Administrative regulations and interpretations developed under these statutes are not peculiarly appropriate for war industries expanding under lease-lend and war demands. They have given some justification to employers for believing that the government objected to the employment of aliens on so-called classified and aeronautical contracts. The rule of stare decisis applies in some degree to administrative regulations and interpretations. As a consequence, many workers with vital skills, wholly loyal to the principles of this government, have been denied employment in war industries solely because of their lack of United States citizenship. Nationals of the United Nations, as well as nationals of enemy and enemy dominated countries, have been turned away by want ads specifying "only United States citizens need apply," or by the summary refusal of war contractors to consider them for employment. Even nationals of the United States who are not citizens, such as Filipinos, have been denied employment on this account.

For a time, native-born citizens who did not possess birth certificates, and there are a large number of them, were denied employment by contractors engaged in the execution of classified or aeronautical contracts. Contractors did not wish to subject themselves inadvertently to the penalties of the law and refused, with a cautious eye to War and Navy Department regulations,

to accept anything but an official birth certificate as proof of United States citizenship. This anomalous situation in the midst of a manpower shortage was substantially corrected on August 22, 1942, when the War and Navy Departments authorized the acceptance of sworn declarations of citizenship by workers. Previously, on July 11, 1942, the President had restated the government's position on the employment of aliens. The matter was finally clarified in October 1942, when the Attorney General ruled that "A contractor who accepts in good faith . . . (such proof) of citizenship will not be subject to prosecution for employing a person submitting such proof, notwithstanding the representation of citizenship made therein is false."

Few aliens may hope for employment in the Federal Civil Service. The rules and regulations of the United States Civil Service Commission bar from open competitive examinations persons who are not citizens of the United States or who do not owe allegiance to the United States. A non-citizen may be appointed through a non-competitive examination only if the department or agency desiring his services has specific authority to employ non-citizens. The annual appropriation acts for all Federal departments and agencies except the Navy Department contain specific provisions forbidding them to expend funds appropriated therein for the employment of any non-citizens other than citizens of the Commonwealth of the Philippines, with only minor exceptions relating to employment outside the continental United States, employment of military personnel, and employment by certain agencies of the government which have had small appropriations made available without this limitation. The Military Appropriations Act for 1943 does, however, permit the employment of nationals of countries allied with the United States in the prosecution of the war whose employment is determined by the Secretary of War to be necessary. These statutory enactments make the provisions of Executive Order 8802 inapplicable to the employment of aliens in the Federal Civil Service.

THE PARTIES CHARGED

Direct Discrimination

The complaints submitted to the Committee demonstrate that many prospective employers, including private industry, government agencies and public utilities, are still motivated by considerations of race, creed, color, national origin or alienage in the selection of workers. With respect to private industry, complainants allege either an inability to obtain employment or when, because of acute labor shortages, they are employed, charge discrimination in the conditions of their employment. This is equally true of complaints against government agencies, the outstanding fact about this group being that the overwhelming majority are filed by Negroes.

Public utilities, long considered a desirable area of employment opportunity, customarily have attracted the majority group and have excluded minorities except in menial capacities. Public utility companies are large employers, quasi-public in nature and admittedly affected with the public interest. They developed employee protection considerably in advance of State or Federal legislation for compensation and retirement benefits and usually have maintained adequate salary levels. It is not unusual, therefore, that minority groups, traditionally denied access to these jobs, have filed numerous complaints with the Committee against the utility companies, especially the transportation systems.

Indirect Discrimination

Those persons or agencies which indirectly prevent complainants from getting employment include unions, training institutions and employment agencies. Complaints against unions generally allege a refusal to accept for membership, to issue work permits and to handle grievances, or describe dis-

crimatory segregation into auxiliary locals where promotions and other benefits are limited. The complaints against training institutions, the great majority of which are filed by Negroes, state that training is denied entirely or, where there are segregated schools, complain that the equipment is inadequate or inferior, that the courses are extended unnecessarily and that the training agencies do not make the customary effort to place graduates in war jobs when the graduates are Negroes.

Non-Caucasians, Jews and aliens are most frequently the victims of discriminatory specifications in want ads and in job orders submitted to employment services. The service character of employment agencies, public and private, prompts them to supply what their customers want. Except in New York State, where State law prohibits discrimination based on race, creed, color or national origin in war industries and imposes penalties on those who aid and abet such discrimination, private employment agencies in their advertisements freely furnish the propagandists of the Master Race convincing evidence of the discriminatory character of employment patterns in this country. It is apparent from the nature of the want ads published by these agencies that the employers for whom they are recruiting workers specify with great frequency that they wish referred to them no non-whites or no Jews and in some cases only workers of Protestant faith. Even in Illinois, where State law prohibits discrimination in war industries based on race, creed or color, employment agencies publish want ads specifying that only whites or Gentiles need apply. While not disclosing the name of the prospective employer, these advertisements declare that the workers are being sought for war industries. The agencies can publish such advertisements with impunity because nothing in the Illinois law prohibits persons from aiding and abetting employers who desire to discriminate. In states where there is no local law prohibiting

discrimination, employment agencies are without specific legal restraint in aiding employers to do so. Executive Order 8802 does not give the Committee or any other agency of the Federal Government direct control over them.

The United States Employment Service receives large numbers of discriminatory job orders from war contractors. The United States Employment Service reports to the Committee only those cases in which employers who submit discriminatory job orders refuse to withdraw the discriminatory specifications. But even these cases are not all reported to the Committee. Further, in states in which Negroes are segregated by law, the USES sometimes maintains wholly separate offices for Negroes and whites. Employers desiring to recruit only whites or only Negroes may do so by requesting referrals from only one of the separate offices. They need not specify that they desire whites only or Negroes only to accomplish their purpose to limit referrals to one race only. In such cases there is no basis for submitting a report of a discriminatory job order to the Committee.

As the importance of the United States Employment Service increases as a recruiting agency for war industries, its policy toward discriminatory job orders becomes more crucial. Under existing instructions, USES officials have been directed to seek withdrawal of discriminatory specifications when submitted, but if the prospective employer desists, to fill the order as given. This instruction is declared to apply except in states which by law prohibit race or religious discrimination in employment. Efforts to secure its modification to conform with Executive Order 8802 have so far not been successful.

Certain USES offices have made vigorous and effective efforts to overcome discriminatory employment patterns in their communities in the interest of efficient labor utilization. The adoption in labor shortage areas of War Manpower Commission stabilization agreements under which the USES is

made the principal recruiting agency for war industries and which have uniformly emphasized the need for utilizing all available local labor at its highest skill places the USES in a position to contribute substantially to the elimination of discrimination.

THE NATURE OF THE DISCRIMINATION ALLEGED

Discrimination usually operates as a total bar to employment. In other instances it means unequal opportunity and treatment on the job, failure to utilize the minority worker at his highest skill level, or early and unwarranted dismissal. Other disabilities related to denial of training, shut-out by unions and unequal pay for equal work also give rise to complaints. The following table sets forth an analysis of these factors in the complaints received by the Committee for the period from October - December 1942:

TABLE I

NATURE OF DISCRIMINATION ALLEGED IN COMPLAINTS RECEIVED BY COMMITTEE, OCTOBER-DECEMBER, 1942*

TYPE OF DISCRIMINATION	OCTOBER	NOVEMBER	DECEMBER	TOTAL	PERCENT OF TOTAL
Refusal to hire	233	216	251	700	42.6
Unable to get employment	160	186	135	481	29.2
Dismissal	46	46	47	139	8.4
Unequal working conditions	33	35	49	117	7.1
Failure to upgrade	42	54	12	108	6.6
Denied training opportunities	17	12	23	52	3.1
Union Restrictions	10	15	6	31	1.9
Pay Differential	5	9	3	17	1.0
TOTAL	546	573	526	1645	100.0

*The type of discrimination was not specified in 82 complaints.

THE INCIDENCE AND DISTRIBUTION OF COMPLAINTS

As indicated above, in the three months, October-December 1942, 1,727 individual complaints alleging discrimination were received at its headquarters office by the Committee on Fair Employment Practice. As might be anticipated, the great major-

ity were submitted by Negroes. Their incidence was as follows: 71.6% from Negroes and other non-Caucasians, 16.3% from aliens, 8.7% from those alleging discrimination because of creed, and 3.3% alleging discrimination because of national origin. Since the issuance of Executive Order 8802 the volume and distribution of complaints have not varied significantly.

The following tables set forth the geographical distribution of the great majority of these complaints and the agencies against which they run:

TABLE II

PRINCIPAL GEOGRAPHICAL SOURCES OF COMPLAINTS
RECEIVED BY COMMITTEE, OCTOBER-DECEMBER, 1942*

STATE	OCTOBER	NOVEMBER	DECEMBER	TOTAL	PERCENT OF TOTAL
New York	104	88	72	264	15.2
Pennsylvania	71	69	71	211	12.2
Illinois	58	53	58	169	9.8
Ohio	51	50	46	147	8.5
California	26	43	32	101	5.8
Michigan	34	37	35	106	6.1
New Jersey	37	26	38	101	5.8
District of Columbia	84	30	33	147	8.5
TOTAL	465	396	385	1246	71.9

*The remaining 481 complaints were widely scattered over 39 states.

TABLE III

AGENCIES CHARGED WITH DISCRIMINATION IN COMPLAINTS
RECEIVED BY COMMITTEE, OCTOBER-DECEMBER, 1942*

PARTIES CHARGED	OCTOBER	NOVEMBER	DECEMBER	TOTAL	PERCENT OF TOTAL
Private Industry	323	360	286	969	62.9
Government Agencies	112	115	111	338	21.9
Public Utilities	56	75	38	169	11.0
Unions	12	15	9	36	2.3
Training Agencies	9	8	11	28	1.9
TOTAL	512	573	455	1540	100.0

*No specific agency was charged in 187 complaints.

These tables clearly indicate that the great majority of complaints are submitted by Negroes and charge discrimination by private industry now engaged in war production. The most frequently repeated complaint is the failure to obtain any employment in essential war work, a fact that underscores general recognition of the unused reservoir of labor. The areas which supply the bulk of the complaints are the middle eastern seaboard states, the middle west of the Great Lakes region and one far western state, California, where there is a concentration of aircraft industries and shipbuilding.

MAKING INVESTIGATIONS

The Committee has received complaints primarily through letters received at its central office in Washington, D. C. However, in cities where field offices have been set up for the purpose of preparing for hearings, many complaints have been received by these offices. Staff personnel, in receiving such complaints on behalf of the Committee, analyze the allegations contained therein and advise the complainants either that the complaint is not within the jurisdiction of the Committee, or that sufficient information has not been submitted, or that the complaint will be investigated. In most cases in which insufficient information has been furnished, staff members include in their responses copies of the Committee's formal complaint form which indicates the facts desired by the Committee prior to initiating investigations. When sufficient allegations have been received from complainants to indicate a prima facie case of discrimination within the jurisdiction of the Committee, investigation has been initiated either through correspondence with the party charged or by reference to field representatives. Obviously, investigation by correspondence from Washington is not the most effective method for arriving at the facts in all cases. In certain situations it has been necessary and possible to send investigators into the field to bring about adjustment or clarification of issues.

When the Committee was established, arrangements were worked out for the staff and field forces of the Negro Employment and Training Branch and the Minority Groups Branch of the Office of Production Management to undertake primary investigations of complaints against war contractors submitted to the Committee. When these branches had exhausted all efforts to negotiate satis-

factory adjustments, the cases were referred to the Committee for such steps as might be required to enforce the provisions of Executive Order 8802. Meanwhile, the Committee's own staff conducted special investigations in certain cases as well as investigations into complaints against government agencies over which these branches had no authority.

Both the Committee and the Negro Employment and Training Branch and the Minority Groups Branch were transferred on January 26, 1942 to the War Production Board. However, the two latter divisions were transferred to the War Manpower Commission in April 1942, being renamed the Negro Manpower Service and the Minority Groups Service. The arrangement by which investigations for the Committee were conducted was thereupon discontinued, the Committee having reviewed carefully the procedures and status of the plan. Experience indicated that the Committee could not satisfactorily perform the function of investigating complaints of discrimination through investigators not under its jurisdiction and whose services were not available to the Committee full time. Later, when the Committee also was transferred to the War Manpower Commission, a new arrangement was made to combine certain field staff of the Negro Manpower Service and Minority Groups Service with the Committee's field staff. This has not been accomplished and the Committee, being without an adequate field staff, has had to rely heavily upon the technique of correspondence in investigating complaints. The Committee has a permanent regional office in New York which handles all cases for New York State.

The Committee, whether operating by correspondence or through field representatives, makes every effort not only to assure itself of the validity of complaints received, but also to seek adjustments of such complaints from the party charged with violation of Executive Order 8802. The Committee has formulated techniques of investigation and adjustment which are set forth in

its Operations Bulletin in detail. These instructions are comprehensive and include methods of analyzing complaints, establishing contact with complainants, of checking with government agencies for collateral information, of conferring with parties charged with violation of Executive Order 8802, of adjusting valid complaints, of cooperating and advising with the contracting agencies, and finally of preparing unadjusted cases for reference to the Committee for further action. To permit it to make recommendations on the facts of a particular case and to carry into effect the provisions of the Order, the Committee has found it necessary to conduct surveys of the character and extent of discrimination in employment because of race, creed, color, national origin or alienage. Also it has maintained relationships with State, municipal and private organizations concerned with the problem or any of its phases. It has considered it important to ascertain the trend of employment of minority groups, and the policies of companies, unions, training agencies and government agencies without regard to specific complaints, to assure full and equitable participation of all workers in war industries and government without discrimination.

In carrying out its function to investigate complaints, the Committee sometimes finds it necessary to determine in quasi-judicial hearings when, in what manner and by whom discrimination in violation of the Order has been or is being practiced. As its policy and techniques have developed, the Committee has reserved for disposition in public hearings only those cases in which a hearing is demanded by the agency against which the complaint is made or in those cases in which all efforts at adjustment prove to be unsuccessful. The Committee has recognized that employers accustomed in times of peace to consult only their own preferences with respect to the personal characteristics of their

employees and accustomed to following established community patterns of employment tend to resent, even in time of total war, what they regard as intrusion by the government into their selection of employees. It has recognized also that complaints of discrimination made against individual employers who follow what they regard as the "community pattern" may bring into question the employment practices of a particular employer and leave out of consideration similar practices of other employers against whom, by chance, no complaint has been made. It has, therefore, wished in the first instance to give adequate notice to employers engaged in war work that they have assumed a contractual obligation to refrain from discriminating against persons because of race, creed, color or national origin. It has also sought to adjust through negotiation and without formal proceedings all complaints reaching it. It has, in addition, entered into agreements with the War Department, the Navy Department, and the Maritime Commission, under which it notifies these agencies of unadjusted complaints prior to announcing or holding public hearings in order to permit them to assist in bringing about adjustment without the necessity of public hearings.

In its earlier activities the Committee held public hearings in centers of war production concentration, labor shortage and high incidence of complaint from minority groups, principally to draw attention to the policy laid down in Executive Order 8802. With its small staff, it was not at that time possible, nor had the Committee's procedures developed sufficiently to emphasize negotiation and adjustment as was subsequently held to be desirable.

At its first hearing held in Los Angeles in October 1941, the Committee confined itself to an exploration of the employment practices of war contractors against whom complaints of discrimination had been submitted. Its findings were of a general character and not related specifically to the practices of particular employers against whom complaint was made. It did not

issue specific directions to the employers concerned to redress particular complaints. Instead, it made certain general findings of the practices and methods which resulted in the exclusion from employment or from certain classifications of jobs of workers of particular races or creeds. At the same time it made recommendations of changes in recruiting and upgrading methods which, if adopted, would lessen discriminatory practices.

In subsequent hearings, the Committee's emphasis shifted from the object of calling attention to the government's policy of non-discrimination to the redress of particular grievances and the modification of employment patterns disclosed in these particular cases to be in violation of Executive Order 8802. With this shift of emphasis, procedures were modified to transfer to the Committee's staff the function of giving adequate notice to employers and exhausting negotiation and adjustment procedures before holding public hearings. This change resulted in part from an appreciation by the Committee of the reluctance of employers to be publicly questioned as to their employment practices. War contractors having obligated themselves not to discriminate against persons because of their race, creed, color or national origin, were loath to have violations of this obligation brought to public notice. Recognizing the force of the sanction of public opinion, the Committee felt it desirable to call before it in public hearings only the exceptional case in which negotiation had failed to redress prima facie grievances or modify practices found in preliminary investigation not to be consistent with or to be contrary to government policy. It has been the Committee's experience that the announcement of an intention on its part to hold a public hearing in particular cases or in particular areas, has often resulted in correction of unsatisfactory employment practices.

In addition to the public hearings before the full Committee, it has

held private hearings, especially in cases involving government agencies. Other hearings in executive session by boards of review, made up of three or four members of the Committee's staff, have been authorized. In cases in which a staff board of review holds hearings, the Committee reviews the record and makes final determination of the findings and directions to be issued. Hearings by boards of review are held in cases in which there are special difficulties in arriving at an agreed statement of fact or in which unusual complexities exist.

Procedures for the conduct of hearings have been developed by the Committee in accordance with the customary practices of administrative fact-finding agencies. At New York City, the chairman announced some of the basic rules governing the conduct of hearings as follows:

"It is understood that the complainants will be heard and that those companies and employers complained against will have as usual in legal procedure, the full right to be represented by counsel and to cross-examine witnesses. It is also understood that the Committee, as such, has no special interest in any companies; that we make no prejudgment whatsoever; that the results of the hearings are deliberated upon in detail by the Committee after all evidence is in; that in addition to such other powers which the Committee has and may exercise, it also has the power and privilege to report to the President of the United States directly and to make its findings public."

Subsequently the Committee formulated a more detailed statement of its rules which embody the following principles and practices:

The Committee may sit as a body to hear a case or cases, or may in its discretion appoint one or more of its members or a hearing commissioner to hear a case or cases.

The Committee's decision to request a representative of a firm, labor organization or training agency to appear before it and give statements concerning complaints and the policies and practices of such firm, labor organization or training agency does not constitute prejudgment, nor does the Committee's selection of a particular firm, labor organization or training agency necessarily constitute a conclusion that the policies and practices of parties not selected are in conformity with the national pol-

icy of non-discrimination. The selection of parties to appear rests within the sound discretion of the Committee and time is one of the important factors entering into its selections.

The purpose of the public hearing shall be to effectuate the provisions of Executive Order 8802 by:

- (a) clarification of the rights and duties of prospective employees, employers, labor organizations, and training agencies under the provisions of Executive Order 8802.
- (b) determination as to whether qualified workers have been denied employment, training, or promotion or denied employment in particular skills or occupations solely because of their race, color, creed or national origin.
- (c) determination of responsibility for discriminatory employment policies found to exist.
- (d) preparation of a public record of the practices and policies of parties charged and examined at such public hearings together with the findings, recommendations and directions of the Committee.
- (e) correction of discriminatory policies and practices by recommendations and directions to parties charged and by recommendations to independent agencies of the Federal Government, and to the President of the United States.

The conduct of the hearing is not limited by formal legal rules of evidence and procedure. The public generally may not participate in the presentation of evidence at the hearing but the Committee may in its discretion invite a person or persons to make statements relating to the subject matter of a hearing and any person may submit written statements to the trial attorney or special counsel or to the Committee bearing on policies and practices under examination. The disposition of such written statements is entirely within the discretion of the Committee.

The trial attorney or special counsel assigned to present the case or cases shall so present the case or cases as fairly and justly to reveal the nature of the complaints and the statements of representatives of the party charged, with due regard to the basic concept of a fair and impartial hearing with adequate notice and opportunity to be heard.

The trial attorney or special counsel may in his discretion permit a complainant to present his complaint with the aid of counsel selected by the complainant.

Any representative of a party charged who is requested to appear at a hearing may present his statements with the aid of his counsel and he shall have the right of cross-examination. The party charged or his counsel shall have the right to examine any documentary evidence presented at the hearing and within a reasonable time thereafter to submit an answer.

The Committee shall cause a complete record of the hearing to be prepared within a reasonable time after the termination of the hearing. A party charged who desires a copy of that portion of the record covering matters in which such party is involved, shall give notice to the trial attorney before the hearing.

Under its authority to determine the validity of complaints, the Committee makes findings based upon the record of the hearing and evidence which may be established after the hearing and before the Committee makes its findings. Before making any finding the Committee shall give written notice to the party charged of any evidence established after the hearing and to be considered in making any finding.

Under its authority to redress valid grievances the Committee makes recommendations and issues directions to correct discriminatory policies and practices found to exist.

As soon as the record of the hearing has been prepared, the Committee shall cause to be prepared a summary of the hearing, together with appropriate findings, recommendations and directions.

A copy of the summary, with findings, recommendations and directions approved by the Committee shall be transmitted to the party charged and with respect to which findings, recommendations or directions have been made or issued, with a notice that such party may submit written objections thereto within fourteen (14) days after receipt thereof and that if no objection is received within fourteen (14) days, the Committee will release the summary with findings, recommendations and directions for publication.

Where a party charged objects to the summary, findings, recommendations, or directions within the time provided in the above paragraph, the Committee must consider the objection within a reasonable time after receipt thereof.

After consideration of the objections, the Committee may amend its summary, findings, recommendations or directions, order additional hearings, or overrule such objections, in which case it shall so advise the party submitting objections.

At the time the Committee releases the summary, findings, recommendations and directions for publication, it shall submit a copy thereof to the appropriate contracting agency of the Federal Government, to the Chairman of the War Manpower Commission and to the President of the United States with appropriate recommendations in each case.

Thus, either by correspondence, field investigations, or quasi-judicial hearings, the Committee not only determines the validity of individual complaints, but also establishes relationships with interested persons and agencies and ascertains general trends in the employment of minority groups. This interpretation of the function of making investigations has made possible a wider and more effective response to the Committee's stated objective of providing for the full and equitable participation of all workers in war industries.

REDRESSING VALID GRIEVANCES

Following a decision that discrimination has been practiced, the Committee must determine the appropriate steps necessary to redress a particular grievance. Cases may be satisfactorily adjusted through (a) requests of staff executives for adjustment of specific complaints in lieu of formal reference of a matter to the Committee; (b) requests of staff executives that the obligations of the parties charged under Executive Order 8802 and under the government contracts be implemented by the taking of certain affirmative steps (usually the issuance of written notices and instructions to personnel officers, placement agencies, training agencies and unions that the party charged will employ persons solely on the basis of their qualifications and without regard to their race, creed, color or national origin); (c) directives of the Committee after a formal finding of facts; (d) reference of the determined violation of Executive Order 8802 and the provisions of a government contract to the proper contracting agency, including either the War Department, the Navy Department or the Maritime Commission; (e) reference of the matter to the Chairman of the War Manpower Commission; and (f) reference of the matter to the President of the United States.

Executive Order 8802 does not provide penal sanctions for its enforcement. Such sanctions cannot, of course, be established by the President alone in the absence of Congressional statute. Nor is the Committee given the power to subpoena persons or records. This, again, can be conferred only by statutory enactment. It is not a part of the Committee's function, therefore, to impose penalties on those guilty of violating Executive Order 8802. Nor may contracting agencies of the government impose specific penalties to enforce the non-discrimination clause in contracts. They may, to be sure, require the payment of monetary penalties in the form of liquidated damages at a specified rate per day beyond the agreed completion date for failure to complete a contract on time. It is doubtful, however, that a similar form of penalty could be imposed solely by executive action with respect to the violation of the non-discrimination clause. Breach of contract proceedings may, of course, be initiated in cases where there has been substantial violation of contract terms. Likewise, persistent violators of the terms of existing contracts might be barred by administrative action from receiving any new and additional contracts. These sanctions, however, are drastic and might, in their application, defeat one of the basic purposes underlying Executive Order 8802, namely, to bring about increased war production. They have not as yet been applied or recommended in any case coming before the Committee.

In spite of the absence of specific penal sanctions, the Committee has not been without means to bring about compliance with the Order. It is significant that in all of its public hearings, including that held in Birmingham, Alabama, there has been no case in which open defiance of the Committee or of the Executive Order has been voiced. In cases of non-compliance, following referral to the contracting agencies and after all other means of securing enforcement have been exhausted by the Committee, it may

find it necessary to refer cases to the President for his action.

There is as yet no substantial basis for holding that the means available to the Committee for bringing about compliance with the government's non-discrimination policy are inadequate because of the absence of penal sanctions. Even in the matter of securing the attendance of parties to complaints at its hearings, the Committee has found that its lack of authority to issue subpoenas has not seriously impeded its activities.

In all cases since the hearing held in Los Angeles, the Committee, after making a finding of discrimination, has issued directions to the company or agency concerned to take certain steps to bring its recruiting or training activities into conformity with national policy. Typical of these are the following:

The Committee directs that _____ Company, in fulfilling its government and defense contracts, immediately cease and desist from discriminatory employment practices.

The Committee directs that the Corporation issue formal instructions to all of its personnel officers and employees to carry on their activities in the recruitment, training or upgrading of workers or prospective workers solely on the basis of the qualifications of applicants or workers without regard to their race, creed, color or national origin, and in the case of qualified aliens, to submit to the Secretary of War or Secretary of the Navy applications for consent to employ such aliens in accordance with War-Navy regulations.

The Committee directs that the Corporation issue formal instructions to the appropriate officer of its Company to delete from application for employment forms any reference to race or religion which may be included on them.

The Committee directs that the Corporation give formal notice to any employment agency, either public or private, through which the Corporation recruits workers or trainees that it will accept needed workers for any and all classifications without regard to their race, creed, color or national origin.

The Committee directs that the Corporation give formal notice to any training institution or agency through which it recruits or trains workers for upgrading, that it will

accept workers for any and all classifications of work solely on the basis of their qualifications and without regard to their race, creed, color or national origin.

The Committee directs that the Corporation give formal notice to all labor unions with which it has labor contracts that it will comply fully with its contract obligation not to discriminate against workers because of their race, creed, color or national origin in recruitment, upgrading, or in any other terms or conditions of employment.

The Committee directs that the Corporation give written authority to all public and private employment agencies to make the Corporation requisitions for employees available to the Committee.

The Committee directs that the Corporation give written notice to the local and State Boards of Education and to the local and State supervisors of vocational training for defense workers, stating that the Corporation will accept and employ Negroes who complete national defense training courses for all classifications of company employment on the same basis that others are employed.

The Committee directs that the Corporation submit to the President's Committee on Fair Employment Practice copies of each of the above instructions and notices.

The Committee directs that the Corporation employ, train and upgrade applicants and workers without regard to race, creed, color or national origin and file with the Committee a monthly report setting forth the number and classifications of any Negro workers and the number and classifications of Negroes in training or trained and the number and classifications of Negro workers upgraded.

In addition to those indicated above, the Committee has in some instances issued directions to companies to hire persons who have been discriminated against or has directed reinstatement of workers dismissed for discriminatory reasons.

PROGRESS IN EFFECTUATING EXECUTIVE ORDER 8802

The specific activities undertaken by the Committee to effectuate the purposes of Executive Order 8802 fall into two main categories which include action on individual complaints of discrimination, and efforts to eliminate or modify those factors which make possible discriminatory practices in particular situations. The following summary of the Committee's activities to date is intended to present some of the major developments.

ACTION ON INDIVIDUAL COMPLAINTS

During the calendar year 1942 the Committee received 7,240 individual complaints. All but a small fraction were analyzed, investigated, adjusted, dismissed, or otherwise disposed of in accordance with policies and procedures established by the Committee. As has been pointed out, the lack of a regionalized field staff has made it necessary for most complaints to be dealt with by correspondence. In the remaining cases, the issues have been clarified and adjustments made by field investigations. By far the largest number of valid complaints handled by the Committee were adjusted satisfactorily. Contact with parties charged, whether by correspondence or personal conference, usually has resulted in effecting a solution of the individual complaint. In most cases, moreover, the Committee has sought to get the party charged to adopt such non-discriminatory employment policies and practices as would eliminate the occasion for future complaints. It is significant that of all the complaints received by the Committee only 92 have been considered in public hearings. The balance have been disposed of by negotiation.

An illustration of the achievements of the Committee and its staff in the handling of specific complaints is to be found in the statistics of

the disposition of a large volume of reports made to the Committee by the United States Employment Service. Between October 1, 1942, and March 1, 1943, the U.S.E.S. referred to the Committee 1,003 reports involving 578 separate companies, unions or government agencies which had submitted discriminatory job orders and refused to withdraw the discriminatory specifications. With only few exceptions these were, perforce, dealt with by correspondence from the Washington headquarters of the Committee. Yet 59% of the companies and agencies in question were persuaded to take the steps requested by the Committee to bring their employment practices into conformity with national policy.

In a few cases of the remainder, USES reports proved to be in error. In others, the Committee had no jurisdiction. In the balance, the Committee is continuing its efforts. It has not in any of these cases found it necessary, as yet, to hold a hearing to make a formal finding of discrimination or to determine appropriate corrective measures.

RESULTS OF PUBLIC HEARINGS

The Committee has held six public hearings. At Los Angeles, California on October 20-21, 1941, complaints were heard against nine companies, five of them large aircraft manufacturers, and three labor unions. On January 19-20, 1942, in Chicago, Illinois, complaints were heard against eleven companies operating in the Chicago and Milwaukee areas. Complaints against ten companies were considered in a hearing held in New York City on February 16-17, 1942. On April 4, 1942, a sub-committee made up of three members of the Committee heard complaints against two unions in a hearing held in Chicago. At Birmingham, Alabama, on June 18-20, 1942, the Committee heard complaints against six companies, four of them large shipbuilders, four labor unions and the educational authorities in charge of defense training in three states. On

December 21, 1942, the Committee heard, in Washington, D. C., complaints against one company.

Of the complaints considered at these public hearings, 70 were submitted by Negroes, 10 by Jews, 7 by Jehovah's Witnesses and 5 by persons alleging discrimination because of their national origin.

The Committee decided that 23 of the 37 companies against which complaints were heard in public hearings had engaged in discriminatory employment practices. It did not make such a finding in 14 cases. Six of nine union organizations against which the Committee heard complaints at these hearings were found to be responsible for barring Negroes from employment. The practices of the training authorities in three states against which complaint of discrimination was made at public hearings were found to be in violation of Executive Order 8802.

As previously mentioned, after making a finding of discrimination the Committee has issued directions to the company or agency concerned to take certain steps to bring its recruitment, training or upgrading activities into conformity with the national policy of non-discrimination. It has also issued directions to employ particular applicants or to reinstate former workers.

The cases in which there has been failure to comply with the formal directions of the Committee are in the small minority. In some of these cases the Committee has made recommendations to the contracting agency of the Government concerned as to the specific steps necessary to bring about compliance, and it has found it necessary in a very few cases to refer them to the President for his action. In the few brought to his attention, the President has acted promptly to bring about compliance. On the whole, the contracting agencies have acted favorably on the Committee's recommendations in such cases. A further elaboration of this phase is discussed in a later section of this

report dealing with the Committee's relationship with the contracting agencies.

Follow-up has been found to be a highly essential part of the Committee's program to obtain compliance with the Committee's directions. In this connection employment statistics on minorities found to have been discriminated against are sometimes important as a factor in appraising the change in a company's policies and practices. An illustration of some of these changes as regards Negro employment in 32 companies against which complaints were heard by the Committee in its various public hearings, is shown in Charts A and B. The first of these reveals the increase in the number of Negroes employed by these companies between the date of the Committee hearings and specified later dates. It will be noted that there is a sharp rise in each case, ranging from 204% in Birmingham six months following the hearings in that community, to 1327% increase in Los Angeles fourteen months after the hearings there. In terms of actual number of Negroes employed by these companies, there were 5,101 at the time of the hearings, as compared with 17,938 at the close of 1942.

While these figures represent a substantial rise in Negro employment by these companies, they should be read in connection with the data in Chart B. This Chart reveals the ratio of Negro employment to total employment in these same companies at the time they appeared before the Committee at the public hearings and at the same specified periods shown in Chart A. It also shows the proportion of Negroes to the total population in these communities. An examination of this Chart discloses that not only was there an insignificant degree of utilization of Negro workers in these companies at the time of the Committee hearings, but that there has been relatively slight change in the ratio of Negro employment to total employment in these plants. It shows, moreover, that at the close of the year 1942, these plants had less than a third of the pre-

CHART A

TREND IN NEGRO EMPLOYMENT BY COMPANIES
APPEARING BEFORE THE PRESIDENT'S COMMITTEE
ON FAIR EMPLOYMENT PRACTICE AT PUBLIC
HEARINGS IN LOS ANGELES, CHICAGO, NEW YORK,
AND BIRMINGHAM

(INDEX BASE AT TIME OF HEARING=100)

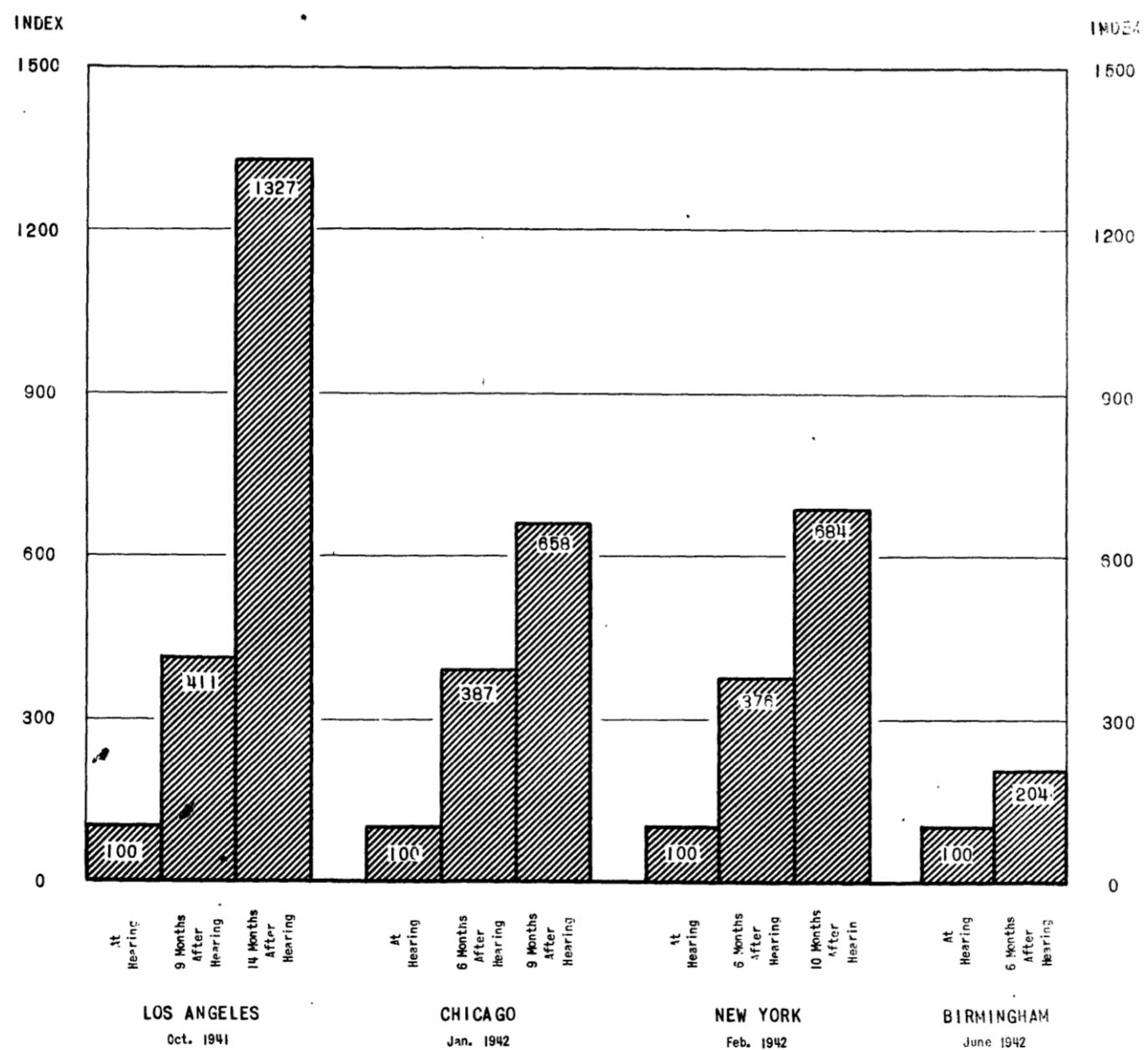
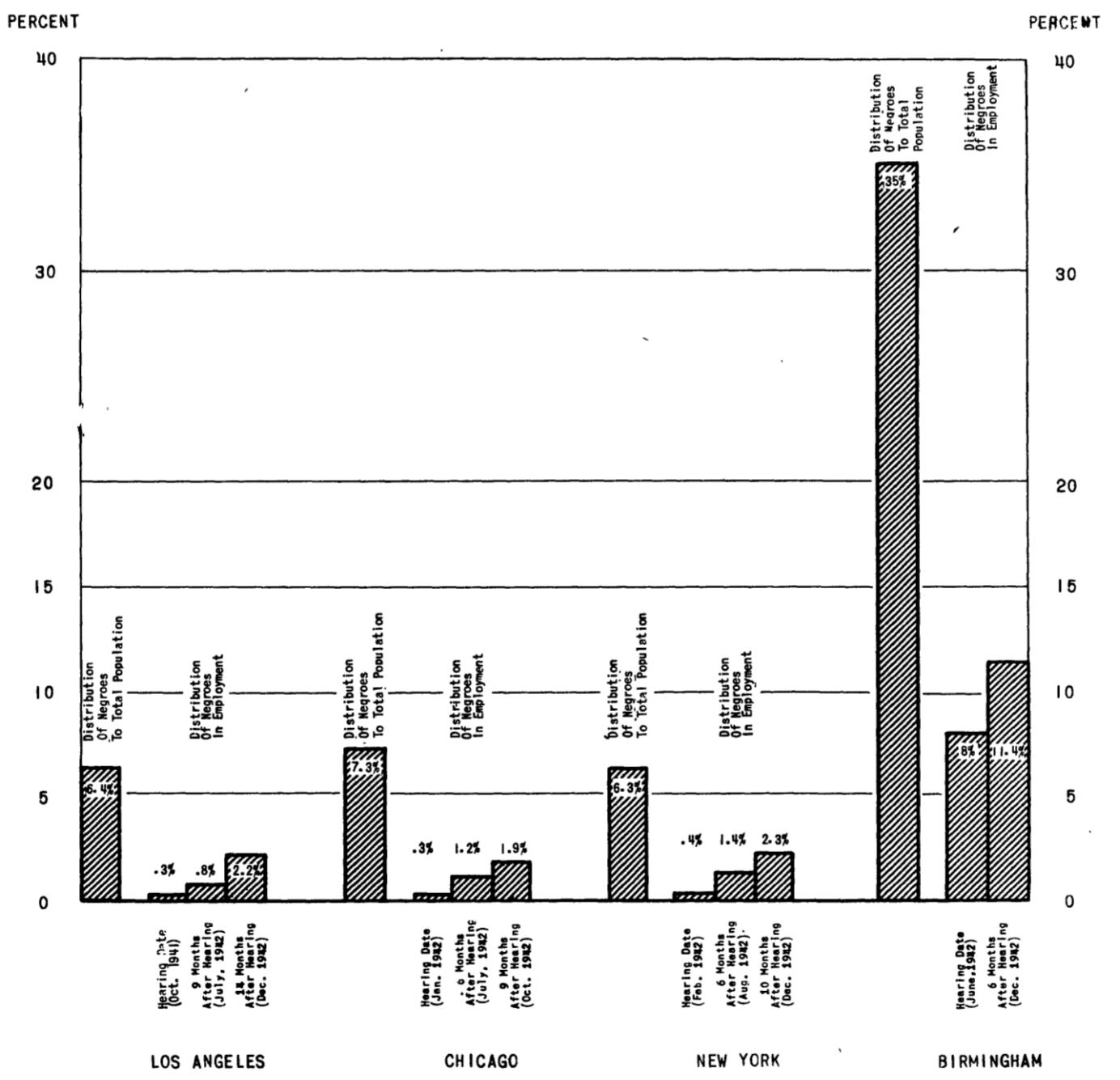


CHART B

PERCENTAGE DISTRIBUTION OF NEGROES IN EMPLOYMENT IN COMPANIES APPEARING BEFORE THE PRESIDENT'S COMMITTEE ON FAIR EMPLOYMENT PRACTICE IN FOUR COMMUNITIES, SHOWING CHANGES IN DISTRIBUTION SINCE HEARING, AND COMPARISON WITH DISTRIBUTION OF NEGROES IN POPULATION OF THESE COMMUNITIES



portion of Negroes in their employ than might be expected on the basis of the proportion of Negroes to the total population in these communities.

Both of these charts relate only to the bare facts of employment. They do not indicate the degree to which Negroes have been accepted for or denied admission in skilled or semi-skilled classifications of employment. Statistics of the number of Negroes accepted for these classifications of work, where available, show a rising tendency but at a distinctly lesser rate even than these employment figures.

Nevertheless, there is ample evidence that the Committee's work with these firms has produced effective results. Some of the companies which appeared before the Committee have established, since that time, particularly satisfactory records. The A. O. Smith Company of Milwaukee, Wisconsin, which in January 1942, at the time of its appearance before the Committee, employed no Negroes in any capacity, took prompt steps after the hearing to carry out the assurance given by its representative that its employment practices would be carried on without discrimination. In succeeding months, Negroes were employed in increasing numbers. By March 1943, 636 were employed in the following categories:

Professional	1
Skilled	37
Semi-skilled	82
Unskilled	516

More than 200 of its Negro employees have at one time or other been enrolled in the company's in-plant training program.

The Lockheed Aircraft Corporation, which was reported in March 1943, by the War Manpower Commission to be employing 1189 Negroes, actually increased its Negro employment between January 30 and March 31, 1943, from 1585 to 2633.

In March 1943, the War Manpower Commission announced an increase of

more than a hundred percent in Negro employment in war industries in Los Angeles, California, between May 1942 and January 1943. It declared that the most substantial increases were made in the aircraft industry, the focus of the Committee's concentration at its public hearings in Los Angeles, in October 1941. Mentioning three of the companies which appeared before the Committee (Douglas, North American, and Lockheed-Vega), the War Manpower Commission report states: "Negroes are employed in skilled, semi-skilled and unskilled capacities in all of these plants, and the number of skilled workers is being increased through upgrading and in-plant training."

That employers have given serious consideration to the intention of the Committee to eliminate discrimination in employment and that the Committee's hearings had a salutary effect beyond determining the facts on individual complaints is apparent from the action taken by the Employers' Association of Chicago in issuing a warning to its membership immediately following the Committee's hearings in that city. In a special release to its members, it cited the nature and purpose of the Committee's hearing, called attention to the Employer's responsibility in eliminating discrimination, and declared in part as follows:

"Those hearings should be a warning signal for employers to guard against even the appearance of discrimination, because of race, creed, color or national origin. The Committee, by its own statement, has not completed the formulation of its policy, and appears to be more interested in eliminating future discrimination than in seeking penalties for past unfair practice—but it is perfectly clear that employers must maintain fair employment policies or face certain penalty. . . .

"Employers must expedite the tremendous job. Some employers have raised the objection that the attitude of their own employees forces them to discriminate. However true this may have been in the past, it is now the job of employers to influence their employees toward sacrificing such prejudices as a matter of patriotic necessity. It is not going to be easy—nor is it going to be easy to train a whole new army of unskilled men and women—but both must be done, and the employer must do it."

COOPERATION FROM LABOR UNIONS

Mention has already been made of the importance of labor unions in relation to discrimination in employment because of race, creed, color, national origin, and alienage. The Committee has been making some progress with individual complaints against unions and has secured the support of numerous Locals as well as of many of the national affiliates and the executive bodies of the American Federation of Labor and the Congress of Industrial Organizations. In May 1942 the Committee, in a communication to the President, cited a number of specific instances in which local or international unions, by constitutional provision, ritual, policy or practice barred non-Caucasians from employment in war industries, and recommended to the President that he call upon the American Federation of Labor, the Railway Brotherhoods and the Congress of Industrial Organizations to take vigorous and effective steps to eliminate any impediments which might exist to prevent the employment or upgrading of Negroes or other non-Caucasians in war industries. Instead, the President determined that he would take up with the appropriate officials of labor organizations any case in which the Committee had found it impossible to work out a satisfactory adjustment. Thus, in the case of Locals 751 and 68 of the International Machinists' Union of San Francisco and Seattle, the President took up with the president of the American Federation of Labor the facts cited to him by the Committee and brought about a satisfactory adjustment. Recently, a number of Locals of the International Association of Machinists' have begun admitting Negroes to membership and there is a movement in progress among these Locals to have a national referendum on the elimination of the ritual color bar.

DEVELOPMENTS IN FEDERAL EMPLOYMENT

Very early in its official life the Committee came to the conclusion that its chances of success in securing cooperation from private employers would be lessened if the government's own employment practices were open to serious criticism. It therefore associated itself with the Council of Personnel Administration, which had independently undertaken a study of the Negro's place in the Federal civil service, in a recommendation to the President that he call upon all heads of Federal departments and agencies to take special measures to eliminate practices which barred or limited the employment of particular racial groups in that service. On September 3, 1941, the President acted on this recommendation and issued a letter to department heads which has had substantial effect in reducing discriminatory practices.

Subsequently, the Committee recommended to the President that he call upon department heads to furnish periodic reports of the number and classification of Negro employees in their establishments. The President authorized the Committee to secure this information directly from department and agency heads. Compilation of these reports has necessitated periodic appraisal of changes in Negro employment figures. At the time of the President's action, the employment and assignment of Negroes when accepted in the Federal civil service was characterized by their relegation to custodial and service functions. Thus, in April 1942, a sampling of Federal employment practice revealed that Negroes constituted 9% of all employees but that of them almost two-thirds were in custodial classifications. The proportion of service employees to the total employees in the Federal Government is roughly about 7%. Making all allowances for the lack of educational opportunities open to Negroes in certain areas of the country, that factor alone does not account for this concentration.

Indeed, the Social Security Board reported at this same time that 1,050, or 11%

of its employees were Negroes, of whom 872, or 83% were in clerical, administrative or fiscal classifications. In the number of Negroes employed and in their distribution between the custodial and clerical classifications, the Social Security Board approached more nearly than any other government agency what might reasonably be expected as an employment pattern where gross discrimination had been eliminated.

Presidential intervention, with Committee implementation, has been effective in bringing about a noticeable modification of federal employment practice. By November 1942, the proportion of Negroes had risen from 9% to more than 17% of total personnel in the departmental (Washington) service, almost one-half (48%) of whom were in clerical, administrative, fiscal and professional classifications. In the field service Negroes still constituted only 5% of total employees of whom about two-fifths (38%) were in other than custodial classifications.

Chart C, which follows, illustrates the changes taking place in some of the principal agencies of the government as regards the employment of Negroes.

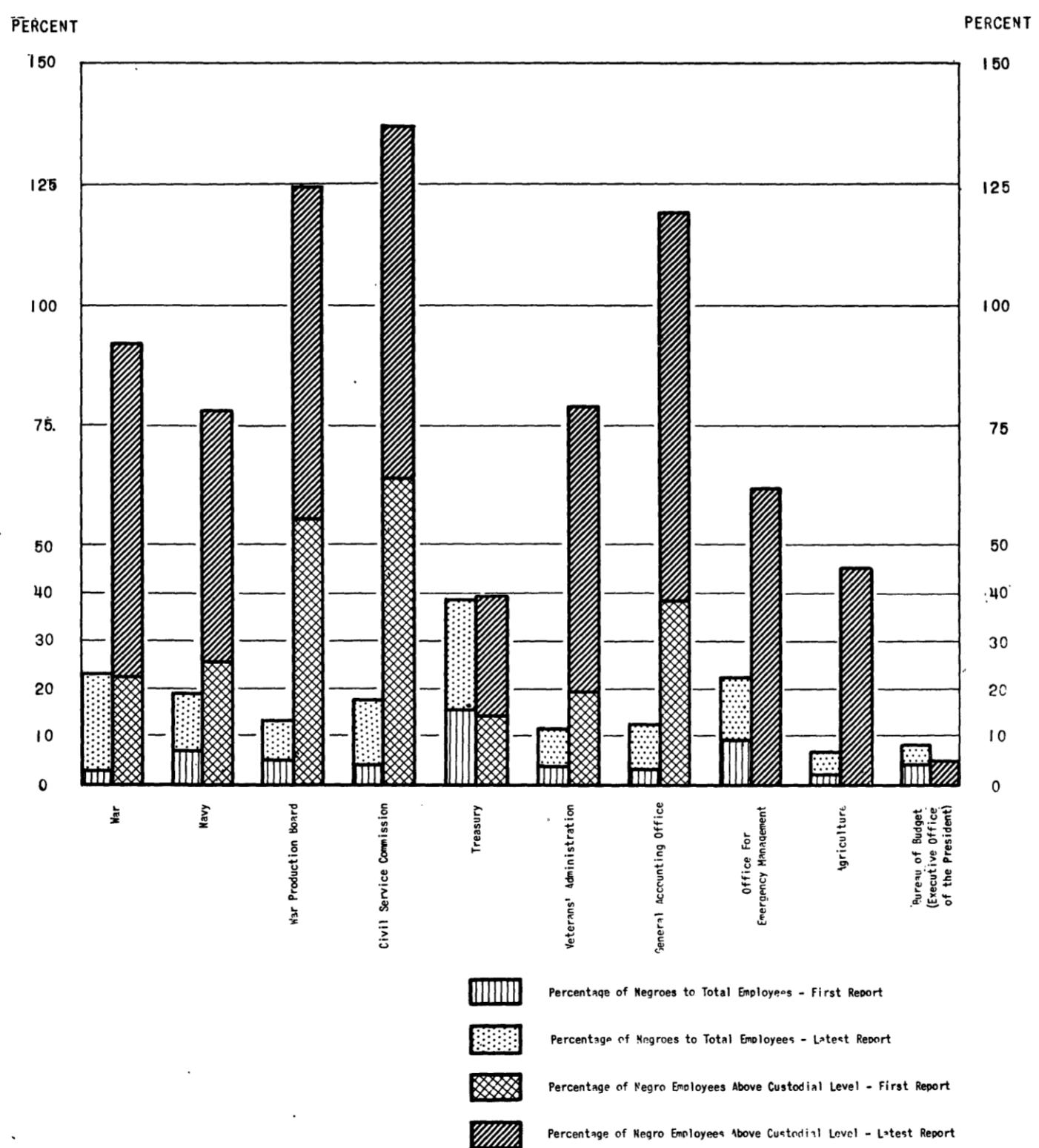
The Committee has made numerous recommendations to the Civil Service Commission and to the Council of Personnel Administration, the latter made up of the personnel officers of all important government agencies. Numerous conferences between the Civil Service Commission, the Council of Personnel Administration and Committee representatives have been held to discuss particular phases of the government's employment procedures in relation to the non-discrimination policy.

One of these recommendations grew out of the practice in some government agencies requiring applicants to disclose their race and to furnish a personal photograph, thereby facilitating discrimination on the part of appointing officials. The Committee urged the elimination of these requirements and in March 1942 the Civil Service Commission ruled that no government agency could thereafter use an application form containing any items other than included on its standard form #57 from which race and photograph had been deleted.

On the recommendation of the Committee, the Civil Service Commission has established a procedure whereby the name of an eligible certified for appointment who has been passed over because of his race, creed, color or national origin will be placed at the head of the register and continued in that position until he has received a number of considerations equal to those lost because of discrimination against him. The Committee has been especially concerned over the concentration of Negroes in custodial classifications. The Commission has adopted its recommendation that well developed and formalized processes of upgrading be established in all government departments and agencies on the model of the best systems in effect in the government. Also it agreed to establish well developed and formalized training programs within the government service in accordance with the best practices now in operation. Under the "rule of three" appointing officers in the various government agencies have discretion to choose one of three persons certified to them by the Civil Service Commission as eligible. Because of the frequency with which this rule operated to the disadvantage of Negro eligibles, the Committee recommended that the Civil Service Commission undertake, especially during the war emergency, not only the certification of eligibility, but also the actual selection of personnel on behalf of all government agencies. This was intended to centralize

CHART C

PERCENTAGE DISTRIBUTION OF NEGRO EMPLOYMENT
IN WASHINGTON OFFICES OF TEN FEDERAL GOVERNMENT
AGENCIES SUBMITTING REPORTS TO PRESIDENT'S
COMMITTEE ON FAIR EMPLOYMENT PRACTICE, 1941-1942



responsibility for the selection of personnel instead of leaving it to thousands of supervisors who might exercise their preferences or even prejudices without the necessity of disclosing their reasons for passing over any particular eligible. The Committee recommendation could be adopted only partially because the power of appointment in the government service is not vested in the Civil Service Commission. That agency can select personnel only for those departments which request it to perform that service for them. Certain important war agencies have done so in the interest of expediting their recruiting activities.

Meanwhile, the exigencies of the war necessitated the suspension of the rule of three. Now, appointing officers are permitted freedom of choice from lists of eligibles limited only by the number of persons available. This has not resulted in any apparent increase of discrimination against persons of particular races or colors, probably because the demand for qualified persons has tended to exceed the available supply.

The Committee has recommended that the Council of Personnel Administration establish a permanent committee of its membership to study and devise methods for carrying out the policy of Executive Order 8802 and the Presidential directive of September 3, 1941. This recommendation has been favorably acted on by the Council.

In the course of investigations into complaints made by Seventh Day Adventists, Orthodox Jews, and other Sabbatarians, the Committee found that there was a substantial lack of uniformity among government agencies in dealing with this problem. Some dismissed or denied employment to Sabbatarians because they could not, without violating their conscience, engage in secular work on Saturdays. The Committee, therefore, recommended to the Civil Service Commission

that a uniform policy be adopted, based on the regulations of the War Department which were the most liberal and satisfactory of any government agency. The Civil Service Commission in February 1943, advised the Committee that appropriate steps had been taken to establish this policy uniformly throughout the government service. This policy involves the following:

1. Permitting absence from work to those whose conscience leads them to spend certain holy days in religious devotion;
2. Whenever situations permit, rearranging work schedules to provide substituted work time to make up production time so lost;
3. Where work schedules cannot be rearranged, charging the absence against annual leave accredited to the employee;
4. Whenever the employee has no annual leave to his credit, recording his absence as leave without pay with no prejudice to the employee's standing.

The Committee has held hearings in Washington, in executive session, on complaints submitted by Negroes against the Department of Commerce and against the United States Office of Education. In each of them it held that discrimination had been practiced, and it issued appropriate directions to redress grievances found to be valid. Staff boards of review have heard complaints against the State Department, the Board of Economic Warfare, the Library of Congress, the United States Employees' Compensation Commission, the Civil Service Commission and the War Production Board. These involved allegations of discrimination by persons of foreign birth, Negroes, and an American citizen of Japanese origin. In two of these, in which the Committee has so far taken final action, its finding has been against the complainant.

PROGRESS IN DEFENSE TRAINING

An earlier section of this report presents some of the serious aspects in the discriminatory practices connected with defense training which have effectively excluded large numbers of persons from participation in war industry.

It will be remembered that a vicious cycle existed whereby employers refused to hire members of minorities, mostly Negroes, because they had no special training, while at the same time training was denied them because it was asserted that employers would not hire them and that therefore it would be a waste of public funds to provide such training. In an effort to break this bottleneck the Committee attacked the problem from both sides - the employers and the training agencies. The Committee's activities with companies charged with discrimination already have been described. Mention has been made also of hearings held by the Committee involving state training agencies.

The Committee recognized, however, that a primary responsibility for this problem rested with the United States Office of Education which under Congressional mandate supervised and directed the war training program. Accordingly, when its earlier negotiations with the Office of Education failed to accomplish the results necessary to assure the effectuation of the national policy of non-discrimination, the Committee held a hearing in Executive session in Washington on April 13 1942 as a result of which it issued the following findings and directions pertaining to the U. S. Office of Education:

"The Committee finds that the Office of Education is obligated under the provisions of Executive Order 8802 as well as the provisions of Federal laws appropriating funds for defense training programs, to prevent discrimination against persons in defense training programs supported by Federal funds, on the ground of race, color, creed, or national origin, and that where separate schools are required by law for Negroes and whites, the Office of Education is obligated to assure that defense training opportunities provided by Federal funds are equally available to Negroes and whites, both as to types of training and as to equipment for such training.

"The Committee finds that the Office of Education has failed to comply with the provisions of Executive Order 8802, to take special measures to assure that defense training programs are administered without discrimination because of race and has been negligent in the performance of the duty imposed upon it to make equitable provision for training

facilities for Negroes where separate schools are required by law, but on the contrary has left to state and local officials the administration of said defense training programs thereby allowing flagrant denial of equitable defense training opportunities to Negroes solely because of their race.

"The Committee finds that state officials in control of defense training programs in the State of Georgia have failed to provide equitable defense training for Negroes in the vicinity of Atlanta, Georgia with the result that Negroes in this area are denied defense training opportunities financed by Federal funds and available to white persons in this area, and that the Office of Education has failed to take effective steps to eliminate this discrimination.

"The Committee finds that Negroes in Austin, Texas and Gulf Port, Mississippi were denied equitable defense training opportunities and that the Office of Education has failed to take effective steps to eliminate this discrimination.

"The Committee finds that the Office of Education has approved plans for defense training programs without requiring adequate provisions in such plans to prevent discrimination against persons solely because of their race, creed, color or national origin, and that in particular, the Office of Education has approved plans for defense training in states where separate schools are required by law without requiring adequate provisions for the setting up of training facilities of like quality, simultaneously and concurrently for Negroes and white persons.

"The Committee finds that the law gives the Office of Education adequate means to prevent discrimination against persons because of their race in administration and execution of defense training programs, but that the Office of Education has failed to avail itself of these means and has failed to take any effective steps to eliminate such discrimination.

"The Committee finds that the President and various Federal agencies charged with the recruitment and mobilization of manpower have determined that the war effort requires the utilization of all available manpower without regard to race, creed, color or national origin and accordingly the Committee finds that the duty imposed upon the Office of Education where separate schools are required by law, to make equitable provision for facilities in training of like quality to the extent needed for the separate population groups, requires the Office of Education to make equitable provision for training opportunities for Negroes concurrently and simultaneously with opportunities provided for white persons.

"The Committee finds that the small number and limited classification of Negro employees of the Office of Education estab-

lishes the fact that the employment practices in the Office of Education are not in conformity with the provisions of Executive Order 8802.

"The Committee directs that the Office of Education cease and desist approving plans for defense training programs which do not contain adequate provisions against discrimination on the ground of race, creed, color or national origin.

"The Committee directs the Office of Education to re-examine all defense training plans heretofore submitted and approved, particularly for defense training in Atlanta, Georgia, Austin, Texas and Gulfport, Mississippi, and take such steps as may be necessary to assure that there will be no discrimination against persons because of their race, creed, color or national origin in the execution of these plans, and advise the Committee in writing within 30 days of the steps taken.

"The Committee directs the Office of Education to inspect the various defense training programs now in operation as the result of plans approved by the Office of Education to ascertain whether such programs are in fact being administered in such manner as to afford equal defense training opportunity to persons without regard to race, creed, color or national origin. The Committee further directs the Office of Education to submit a report to the Committee showing the findings of such inspection.

"The Committee directs the Office of Education to forthwith issue written instructions to all state officials in charge of the administration of defense training programs subject to the control of the Office of Education, advising that where federally financed defense training opportunities are offered, equal opportunity for such defense training must be made available to persons without regard to race, creed, color or national origin, and directing these officials in states where separate schools are required by law to take prompt and positive steps to assure that defense training opportunities are simultaneously and concurrently available to persons without regard to race, creed, color or national origin. It is further directed that copies of these instructions be submitted to the Committee.

"The Committee directs that the Office of Education study its own employment practices, and in view of the fact that it has general supervision over and assists in the education of several million elementary and secondary Negro school children and several thousands in colleges and universities, the Committee recommends that the United States Office of Education employ highly trained professional Negro educators in its various elementary, secondary, agricultural, vocational and higher education divisions."

The Committee's various recommendations and directions to the Office of Education have resulted in considerable change in the vocational training picture. An indication of some of these changes can be seen in the following Table which presents information on the number of persons enrolled in various vocational war training programs in 1941 and 1942, with a similar breakdown for Negroes. Of particular note is the increase of Negroes in pre-employment training programs in 1942 as compared with 1941. While the total enrollment increase was doubled, the Negro enrollment more than trebled:

TYPE OF TRAINING	TOTAL		NEGROES	
	1941	1942	1941	1942
General Pre-Employment	658,000	1,356,000	28,000	94,000
General Supplementary	794,000	1,089,000	12,000	20,000
Professional & Technical	245,000	550,000	1,000	6,000
Total	1,697,000	2,995,000	41,000	120,000

IMPROVEMENT IN RECRUITING PRACTICES-
UNITED STATES EMPLOYMENT SERVICE

In other parts of this report, various references have been made to the significance of the United States Employment Service (USES) in connection with discrimination in employment. From its inception the Committee has endeavored to enlist the cooperation of this agency further to effectuate the purposes of Executive Order 8802 and to fulfill its obligations in connection with it. Until January 1942, when the USES became federalized, the Committee was frequently informed that its recommendations could not be followed inasmuch as the states still exercised major control over the Employment Service offices within their boundaries. After federalization in January 1942, other reasons were advanced for the inability or unwillingness of the USES to act favorably upon the Committee's recommendations. In the main, however, the underlying reasons have been the previously described service character of the agency, the effort to satisfy its customers, and its desire to extend the area of its service during this period and to increase its control over the flow of manpower to war industries. It has, therefore, been reluctant to take any action which might turn aside any employer using the Service or deterring any prospective employer-client.

Despite these obstacles, the Committee has been able to make some progress in getting the USES to assist in reducing discriminatory employment practices. Thus, the agency has issued a series of bulletins calling attention to the desirability of utilizing the brain and brawn of all racial and creedal groups. Further, it has undertaken to attempt to persuade employers submitting discriminatory job specifications to withdraw them. In addition, it has been furnishing the Committee with reports on such cases in which it fails to secure retraction of the discriminatory specification. The USES

has acted favorably on the Committee's recommendation to eliminate in officially sponsored want ads any discriminatory specifications or any wording which states or implies that applicants for employment in war industry must be United States citizens. Lastly, it has agreed to assist aliens and prospective employers in the execution of alien questionnaires for submission to the Secretary of War and the Secretary of the Navy in connection with the consent procedure governing employment of aliens on classified war materials.

There remain, however, major differences between the Committee and the United States Employment Service which still await settlement. A discussion of these will be found in a subsequent section of this report dealing with unresolved problems.

TOWARD SOLUTION OF THE ALIEN PROBLEM

The Committee holds that the failure of a war contractor not engaged in the execution of a secret, restricted, confidential or aeronautical contract to employ needed and qualified workers because they are not citizens of the United States is a violation of Executive Order 8802. It holds that the failure of a war contractor engaged in the execution of a secret, restricted, confidential or aeronautical contract to submit to the Secretary of War or Secretary of the Navy an application for consent to employ needed, qualified and available workers who are aliens is, likewise, a violation of the order.

The large number of complaints received from aliens early revealed to the Committee that this problem required action on a broader basis than the investigation and redress of individual cases. It was apparent that misconceptions and confusion among employers and alien applicants alike, regarding the government's position on the employment of aliens in war industry, constituted the major factor in keeping many workers with vital skills, wholly loyal to this government, from contributing to the war effort. Evidence was

also at hand that some representatives of the contracting agencies of the government were unfamiliar with the national policy and often discouraged management from employing qualified aliens or from submitting applications through channels for consent to employ aliens.

Early in its official life the Committee, through its representatives, undertook to impress upon other agencies of the government interested in the matter, the growing seriousness of the problem and to point out the need for maximum clarification and announcement to all concerned of the true national policy of encouraging loyal aliens to participate in war industry. For many months it conferred with the War Department, Navy Department and Department of Justice in an effort to formulate procedures that would facilitate the maximum utilization of loyal aliens in war industry. These efforts resulted in the issuance of a release by the President, on July 11, 1942, setting forth the government's position and the various procedures for the employment of aliens. He declared "persons should not hereafter be refused employment or persons at present employed discharged solely on the basis of the fact that they are aliens or that they were formerly nationals of any particular foreign country....There are no legal restrictions on the employment of any person (a) in non-war industries and (b) even in war industries if the particular labor is not on 'classified' contracts which include secret, confidential and restricted aeronautical contracts." Citing the provisions of the 1926 and 1940 statutes, he declared further, "the laws of the United States do provide that in certain special instances involving government contracts an employer must secure from the head of the government department concerned permission to employ aliens. There are no other Federal laws which restrict the employment of aliens by private employers in national war industries. There are no Federal laws restricting the employment of foreign born

citizens of any particular national origin...In passing upon applications for permits, the department will give special and expedited consideration to nationals of United Nations and friendly American Republics, and any other aliens, including enemy aliens, who come within the following categories:

(a) Aliens who have served in the armed forces of the United States and have been honorably discharged. (b) Aliens who have, or who have had, members of their immediate family in the United States military service. (c) Aliens who have resided in the United States continuously since 1916 without having returned to the country of origin within the last ten years. (d) Aliens who have married persons who, at the time of marriage, were citizens of the United States and who have resided in the United States continuously since 1924 without having returned to the country of origin within the last ten years. (e) Aliens who have declared their intention to become citizens of the United States and who had filed petitions for naturalization before December 7, 1941."

The wide publicity given this release materially assisted in making known the facts and enabled both aliens and employers better to understand their rights and obligations. In addition, the Committee was instrumental in prevailing upon the contracting agencies to notify their representatives as to their duties in effectuating the national policy regarding employment of aliens. These measures have had a salutary effect in accelerating the absorption of loyal aliens into war industry. It cannot as yet be said, however, that all loyal and occupationally qualified aliens are accepted for employment with enthusiasm in all industries in which their services are needed. There is, however, at the present time a wider and more general understanding of government policy. The problem now relates more to the volume of paper work and the length of time necessary to secure consent to employ an alien than it

does to unwillingness to employ him.

Under existing regulations only the employer and not the alien may submit an application for consent to the Secretary of War or Navy. Although such applications can be acted upon finally only by Washington, there has sometimes been failure and more often prolonged delay in forwarding them to Washington by field offices through which they must pass. Employers frequently express their readiness to employ aliens if permission to do so could be obtained in a matter of weeks rather than in a matter of months. The Committee has made various recommendations to accomplish this end consistent with the interests of national security. In recent months there has been definite evidence of reduction in time consumed for giving clearance on applications to employ aliens on classified war contracts.

More recently, two recommendations made by the Committee regarding the alien questionnaire have been favorably acted upon which further should reduce objections by employers to utilize aliens in war industry. The first of these called for the simplification and shortening of this form which previously imposed upon employers a considerable burden in submitting applications for aliens and discouraged them from doing so. The new simplified and abbreviated form has eliminated many of the former objections. The second recommendation was made as a result of the prevailing impression among employers that they should submit applications only in the cases of aliens who possess special skills who could not readily be replaced by United States citizens. This belief was encouraged by an inquiry in the alien questionnaire which read: "Can alien be shifted to other work and replaced by a citizen without interfering with production? If not, state special qualifications." In March 1943, the Committee's recommendation that this item be deleted was approved by the Provost Marshal General of the War Department.

Acting upon complaints received, the Committee has communicated with hundreds of employers charged with refusing to employ aliens, or whose help-wanted advertisements conveyed the explicit or implied message which served to discourage aliens from applying. In almost every instance the Committee has effected a satisfactory adjustment. These successful results have assisted not merely the individual complainants, but thousands of other aliens who, because of the modification of employers' policies and practices, have been able to obtain jobs previously closed to them.

ACTION ON DISCLOSURE OF RACE AND CREED

It has long been known that the practice of requiring applicants for employment to reveal their race or creed has facilitated discrimination against these applicants. The Committee, therefore, soon after its inception took cognizance of this problem and shortly thereafter adopted the position that the requirement for disclosure of an applicant's race or religion is contrary to the intent of Executive Order 8802 when imposed prior to employment. In all cases of such requirements coming to its attention, it has directed and obtained elimination of the practice and the deletion of such questions from application blanks. Reference has already been made to the action taken with respect to removal of such questions from application blanks used by the Federal Government. The Committee has secured the cooperation of the war contracting agencies of the government - War Department, Navy Department and Maritime Commission - to inform their contractors "that any reference to race or religion should be deleted from employment forms if such exist."

The Committee discovered that in some instances commercial investigating concerns utilized by the War Department to assist it in making investigations relating to the loyalty of individuals so that the Department could reach a decision as to suitability for certain strategic employment, inquired

into race and creed and on occasion released such information to prospective employers thus enabling the latter to discriminate against the applicants because of their race or religion. As a result of the Committee's recommendation to the War Department that this practice be discontinued, a memorandum of understanding between the Committee and the Provost Marshal General, War Department, was issued on March 10, 1943, part of which declares: "The Provost Marshal General agrees to write into each contract with each commercial agency making loyalty investigations pursuant to contract with the War Department an agreement on the part of such agency that without the written permission of the President's Committee on Fair Employment Practice such agency shall not divulge to anyone save the Provost Marshal General, or his duly authorized representative, any information regarding race, creed, color or national origin developed pursuant to investigations made under the contract."

It may be observed that these various actions to eliminate the practice of inquiring into applicants' race and creed will not automatically remove racial and religious discrimination. They will, however, put those bent on discrimination to the necessity of doing something more than summarily rejecting the applications of persons of particular races or creeds.

The Committee has not objected to inquiry concerning race and creed when it is made after employment if such records are not used for discriminatory purposes.

RELATIONSHIP WITH GOVERNMENT CONTRACTING AGENCIES

Mention has already been made in other parts of this report to the various ways in which the major contracting agencies of the government, namely, the War Department, Navy Department and Maritime Commission, have figured in the Committee's work. This section sets forth one important phase of the re-

lationship between the Committee and these agencies which has not been described elsewhere.

After the Committee had held a number of public hearings and had dealt with several thousand complaints, it formulated certain conclusions as to the errors of commission or omission which most frequently are responsible for the existence of discriminatory employment patterns. Its experience indicated also that the major contracting agencies of the government, with power to grant or withhold war contracts, could exercise great influence in eliminating improper practices. The Committee therefore, in May 1942, forwarded identical communications to the Secretary of War, the Secretary of the Navy, and the Chairman of the Maritime Commission, in which it cited the substantial variation in the manner in which employers carried out their contract obligation to refrain from discrimination. It recommended that each of these departments issue clarifying instructions to all contractors setting forth the specific steps which were held to be necessary to implement this obligation as follows:

That the contractor issue formal instructions to all of the personnel officers and employees of the company to carry on their activities in the recruitment, training, or upgrading of prospective workers or workers solely on the basis of the qualifications of applicants or workers without regard to their race, creed, color or national origin, and in the case of qualified aliens, to submit to the Secretary of War or Secretary of the Navy applications for consent to employ such aliens in accordance with War-Navy regulations;

That the contractor issue formal instructions to the appropriate officer of the company to delete from application for employment forms any reference to race or religion which may be included on it;

That the contractor give formal notice to any employment agency, whether public or private, through which the company recruits workers, that it will accept needed workers for any and all classifications of work solely on the basis of their qualifications and without regard to their race, creed, color or national origin;

That the contractor give formal notice to any training institution or agency through which the company recruits or trains workers for upgrading that it will accept workers for any and all classifications of work solely on the basis of their qualifications and without regard to their race, creed, color or national origin;

That the contractor give formal notice to all labor unions with which the company has labor contracts that it will comply fully with its contract obligation not to discriminate against workers because of their race, creed, color or national origin in recruitment, upgrading, or in any other terms or conditions of employment;

That the contractor furnish the President's Committee on Fair Employment Practice with a copy of each of these instructions and notices.

Each of these steps had proved to be necessary in the majority of the cases coming before the Committee. Recognizing that their formal adoption did not prevent the occurrence of every type of complaint submitted to it, the Committee, nevertheless, held that an authoritative statement of the particular measures called for by the non-discrimination clause in government contracts would bring about an appreciable reduction in the number of justifiable complaints. Its own experience in issuing directions embodying these same steps to employers coming before it had already proved their effectiveness.

In a joint response to the Committee's letters, the Secretaries of War and Navy and the Chairman of the Maritime Commission on July 2, 1942, expressed their official agreement with the policy laid down by the President in Executive Order 8802 but, except for agreeing to call on contractors to delete from their application for employment forms any reference to race or religion, failed to act on the Committee's proposals for specific implementation of the non-discrimination clause in contracts executed by their departments. Instead, they stated their interpretation of the order and defined

their responsibility under it as follows:

"This joint letter of the War Department, Navy Department and Maritime Commission, which has been submitted to the War Manpower Commission, is in reply to your identical letter to us of 26 May, 1942, regarding compliance with Executive Order No. 8802, Fair Employment Practices.

"The responsibilities of the Army, Navy, and Maritime Commission for enforcing the non-discrimination principles of Executive Order 8802 may properly be considered under three general categories:

- a. Government establishments, i.e., Navy Yards, Army Arsenals, etc.
- b. Government owned, privately operated plants.
- c. Privately owned, privately operated plants having Government contracts.

"In considering this subject it is desirable to discuss the matter in order that there may be a clear understanding and acceptance of our procedures by all interested parties.

"Government Establishments. In regard to those Government establishments which are under our jurisdiction, we have directed compliance with Executive Order No. 8802.

"Government Owned, Privately Operated Plants. In regard to the Government owned, privately operated plants, operating for our account, we will, through our Inspectors-in-Charge, or Commanding Officers, instruct the contractor-operators that their policies and procedure must conform to the principles of Executive Order No. 8802. In this category, although the Government agency concerned has a vital interest in the matter, it should not itself take over any of the details of personnel matters, but should hold the contractor-operator to his contractual obligations including maintenance of satisfactory labor-management relationships. The Government agencies will concern themselves with insuring that the policies followed in such plants shall be consistent with maximum production, good management, safety and security of the plant, and with the principles of fair employment practices set forth in Executive Order No. 8802.

"Privately-Owned, Privately Operated Plants. The situation regarding plants in this category is somewhat different. The Government agencies do not have direction over the personnel or other management procedures of such contractors, even though they may be working on Government contracts. However, such Government contracts now contain a non-discrimination clause calling for compliance with Executive Order No. 8802. We are, therefore, prepared to inform our contractors through the customary channels that the Government agency concerned regards it as necessary that the contractor carry out his contractual obligations regarding non-discrimination and that the

points enumerated in paragraph 8 hereof are deemed essential elements of the contractual obligation. You will appreciate the point we are making in foregoing, namely, that such instructions shall not be interpreted as an intrusion upon the contractor's responsibilities in handling personnel, but rather as a definition of an obligation that already exists by virtue of the non-discrimination clause in the contract. For the same reasons we cannot intrude upon labor unions, employment agencies and vocational training schools outside of our jurisdiction.

"Recognizing that the methods of providing equal employment opportunities for all qualified persons regardless of race, creed, color or national origin will vary in different parts of the country and in different types of plants, the following principles will be used as a general guide in handling minority group questions:

- a. Efforts will be continued particularly in cooperation with the War Manpower Commission to provide equal opportunities for employment, in-service training and advancement to all qualified citizens, regardless of race, creed, color or national origin, to expedite maximum production.
- b. Such equal opportunities for minority groups may be provided either parallel to or integrated with the opportunities afforded majority groups, and thus may be arranged and provided for to conform to existing state laws and community customs.
- c. In the practical application of this policy every effort will be made to open available employment opportunities to minority groups in such numbers and in such classes of positions as will expedite maximum production and as governed by the available supply of qualified workers.
- d. In the event of any misunderstanding we will be glad to clarify our positions as set forth in this document with any specific agency or business concerned.

"The letters which we are prepared to issue in conformity with the foregoing will include the following:

- a. That Executive Order No. 8802 should be complied with, and specifically.
- b. That recruitment, in-service training and upgrading of employees should conform thereto.
- c. That any reference to race or religion should be deleted from employment forms if such exist.
- d. That recruitment should not be confined to any source

that results in discrimination against workers solely because of race, creed, color or national origin, provided of course, that the National Labor Relations Act and the laws regarding aliens must be complied with.

- e. That the contractor should not in any other way discriminate against loyal qualified applicants or employees solely because of race, creed, color or national origin.

"Success in carrying out these policies must depend largely upon the cooperation of all parties concerned, including the War Manpower Commission, the Federal contracting agencies, your own Committee and minority groups, unions, State and local officials and the citizenry of particular localities. The molding of public opinion in any given working force and community is of great importance and should be the concern of all.

"Notwithstanding the difficulty of this problem, we recognize the importance of securing compliance, not only with the word, but with the spirit of Executive Order 8802, and we will continue to cooperate with your Committee in all practicable ways in reaching a satisfactory solution."

Although falling short of the Committee's request, this joint response of the three contracting agencies has had a distinct value and its distribution among the agencies' officers throughout the country has had a beneficial effect, together with the letters sent by the contracting agencies to their major contractors in keeping with the provisions of the agreement.

In a few cases of contractors who failed to comply with its formal directions, the Committee has made recommendations to the contracting agency of government concerned as to the specific steps necessary to bring about compliance. Of the three major contracting agencies, the War Department and Navy Department have shown greatest readiness to act on the recommendations of the Committee. The Maritime Commission, on the other hand, has in a number of instances failed to take action in accordance with the Committee's recommendations, or consistent with its own declarations of policy.

CONTACT WITH WAR LABOR BOARD

In the course of its investigation of numerous complaints of discrimination submitted by persons of Mexican or Spanish-American origin, alleging that they were denied promotion solely because of their national origin, the Committee learned that a provision of a certain union contract approved by the War Labor Board was relied on to justify failure to promote Spanish-Americans. This clause declared that "equal opportunity for employment and advancement....shall be made available to all to the fullest extent and as rapidly as is consistent with efficient and harmonious operation of the plant." Citing the action of the War Labor Board in the case of the Brown Sharp Manufacturing Company versus International Association of Machinists Lodges 1888 and 1142 (Case 101), September 25, 1942, in which the War Labor Board ordered the modification of a labor contract to accord to women equal pay for equal work, the Committee recommended to the War Labor Board that it take similar action to delete from any union contract coming before it any phraseology vitiating the application of the specific terms of Executive Order 8802 by permitting the employer to determine whether compliance with Executive Order 8802 would disrupt the "harmonious operation" of his plant. The Committee's view is that the War Labor Board is required to take at least the same steps to eliminate discrimination against persons because of race, creed, color or national origin as it has of its own volition undertaken to eliminate discrimination based on sex. Before positive action was taken on the Committee's recommendation, the labor contract in question was superseded by a new contract from which the offending clause was omitted.

UNRESOLVED ISSUES

COMMITTEE ORGANIZATION AND STATUS

Perhaps the most serious problem confronting the Committee throughout its existence has been that of clearly establishing its status and obtaining the organization, funds and staff to enable it to carry into effect the duties and responsibilities laid upon it. Because of its frequent transfers and unsatisfactory arrangement for carrying on its investigations through others, the Committee in the Spring of 1942 recommended to the President that it be established as an agency of the Office for Emergency Management in the Executive Office of the President with regional offices and an adequate staff, subject to its own direct and immediate control.

Although accepted in principle, this recommendation was not carried into effect. Instead, on July 30, 1942, the Committee was advised by the President that it was transferred "as an organizational entity" to the War Manpower Commission, subject to the direction and supervision of the chairman thereof. In response to many protests against this transfer, the President, on August 17, issued a statement declaring that the transfer was intended to strengthen, not to submerge the Committee, and to reinvigorate, not to repeal Executive Order 8802.

The Committee thereupon entered into negotiations with the Chairman of the War Manpower Commission to coordinate its activities with the various units of the War Manpower Commission as directed by the President in his letter of transfer. These negotiations were drawn out for more than three months until mid-October, when the Committee finally declared its unwillingness any longer to take responsibility for the failure to carry out the President's direction.

Thereupon, on October 26, a satisfactory agreement was entered into by the Chairman of the War Manpower Commission and the Committee. Its terms are as follows:

The President's Committee on Fair Employment Practice, and its staff, shall be the operating agency within the War Manpower Commission dealing with all phases of the problem of discrimination falling within the purview of Executive Order 8802. It shall, as an organizational entity, be an integral part of the War Manpower Commission and all questions relating to discrimination based on race, creed, color, national origin or alienage shall be referred to it for disposition.

The Committee shall determine all policies relating to the enforcement and effectuation of Executive Order 8802 and such policies shall be binding on the War Manpower Commission upon approval by the Chairman of the War Manpower Commission.

The Committee shall determine, in operations bulletins and in instructions, all procedures for investigating and redressing complaints and for the development of programs intended to insure the full and equitable participation of all workers in war industries and the government service without discrimination because of race, creed, color, national origin, or alienage. These procedures shall be operative upon approval by the Chairman of the War Manpower Commission.

There shall be one staff in Washington and in the field dealing with problems of discrimination under Executive Order 8802. The Committee shall select and remove field or headquarters personnel in accordance with established Civil Service procedure. In the case of field representatives the Regional Director of the War Manpower Commission shall, if he objects to a Committee appointee in his region, so advise the Director of Operations who shall take the matter up with the Executive Director. If the Executive Director is unable to adjust the matter with the Executive Secretary of the Committee, the Chairman of the Committee shall take it up with the Chairman of the War Manpower Commission for final decision.

The War Manpower Commission Regional Director shall have administrative responsibility over the Committee's permanent field staff in his region and shall be responsible for directing its activities in conformity with Operations Bulletins and Instructions issued by the Committee.

The Committee shall issue its instructions to the Executive Director of the War Manpower Commission for approval on behalf of the Chairman of the War Manpower Commission. The Executive Secretary shall then transmit the instructions through the Director of Operations to the Regional Directors.

In all cases in which it determines that a public hearing must be held to bring about compliance with Executive Order 8802, the Committee shall advise the Chairman of the War Manpower Commission through the Executive Director in advance of hearings and prior to publication of any notice of such hearings.

All War Manpower Commission files dealing with problems of discrimination shall be amalgamated with the files of the Committee as soon as practicable.

All field personnel of the War Manpower Commission dealing with problems of discrimination will be combined with and become a part of the field staff of the Committee on Fair Employment Practice.

The Deputy Chairman of the War Manpower Commission shall attend the meetings of the Committee and shall represent the Chairman at such meetings.

As of the date of this report, more than six months after the approval of the agreement, not one of its provisions has been carried into effect by the Chairman of the War Manpower Commission. In spite of repeated efforts on the part of the Committee's staff to have the terms of the agreement, which the Committee on its part, entered into in good faith, carried out, all such efforts have been unavailing.

Although it was agreed that the Committee was to be the operating agency within the War Manpower Commission dealing with the problem of discrimination, dual and overlapping arrangements have been maintained or newly created for dealing with the problem.

Although the agreement declared that all cases dealing with discrimination should be referred to the Committee, there is ample evidence that matters relating to the enforcement of Executive Order 8802 have been referred elsewhere than to the Committee.

According to the agreement, all policies and procedures relating to the enforcement of Executive Order 8802 were to be determined by the Committee and made effective upon approval by the Chairman of the War Manpower Commission.

Instead, policies and operations procedures laid down by the Committee have been disregarded and in one instance, after approval by the Chairman of the War Manpower Commission, deliberately not put into effect by ranking officials of the Commission.

The agreement declared that field personnel of the War Manpower Commission dealing with problems of discrimination were to be combined with and become part of the field staff of the Committee, and that there was to be one staff in Washington and in the field devoted to this work. Although the Committee has repeatedly requested and urged that this provision of the agreement be made effective, more than six months afterward the War Manpower Commission still has failed to fulfill its part of the agreement and the Committee is still without the personnel promised. Personnel selected by the Committee for its staff have been denied appointment, and dual organization continues to hamper the Committee's work.

When it is noted that in addition to the above, specific provisions of the agreement were further violated by the calling off by the Chairman of the War Manpower Commission of announced public hearings, the failure of the Deputy Chairman to attend the Committee meetings, and the failure to amalgamate the files of the War Manpower Commission dealing with the problem of discrimination with those of the Committee, there can be little doubt that the direction given by the President in his letter of transfer "that the activities of the Committee on Fair Employment Practice be coordinated with the activities of the various units of the War Manpower Commission" has been completely disregarded.

LACK OF SUFFICIENT STAFF

The work of the Committee has been seriously impeded by the small number of staff persons made available to it. At no time has it had a staff

large enough to deal properly with the large volume of complaints. It has recognized from the very outset that these complaints, of a delicate and complex nature, require intensive and thorough investigation, and that carrying on its investigations and negotiations by correspondence is at best an unsatisfactory substitute. Insufficient funds, however, have prevented it from securing needed staff. Moreover, the failure to accomplish the transfer of War Manpower Commission field personnel to the Committee, as agreed upon in October, 1942 by the Chairman of the War Manpower Commission, has markedly hindered the performance of the Committee's duty to investigate complaints.

The small size of the Committee's staff has also prevented making provision for needed hearings conducted by hearing commissioners or by staff boards of review. The Committee has taken steps to appoint hearing commissioners and has selected personnel to fill such positions as well as trial attorneys, but appointments have not been made because of the refusal of the Chairman of the War Manpower Commission to act upon appointment papers. This too has greatly impeded the work of the Committee.

Various other phases of the Committee's program have been either entirely suspended or seriously curbed because of its limited staff. Thus, it has been impossible to carry forward a much-needed educational and public relations program. The maintenance of adequate relationships with interested community groups, state, municipal and private organizations concerned with the problem perforce has been sharply curtailed. Likewise it has been impossible to conduct needed surveys on the character and extent of discrimination or to ascertain the trend of employment of minority groups, and the policies of companies, unions, training agencies and government establishments to assure full and equitable participation of all workers in war industries and government

without discrimination because of race, creed, color, national origin or nationality.

COMMITTEE'S LATEST RECOMMENDATIONS
ON ITS STATUS

The Committee has made numerous recommendations concerning its own status and organization. The latest of these were made to the chairman of the War Manpower Commission in February 1943, and incorporated the following points:

That the Committee be given independent status as the President's Committee, set up in the Office for Emergency Management with a liaison established between the President's office and the Committee through one of the President's executive assistants;

That the Committee be a voluntary committee of seven members such as exists at the present time;

That the Committee be given an adequate budget for a staff of at least 120 persons with regional offices and field staff directly responsible to the Committee;

That the Committee be designated as the final administrative agency responsible for the enforcement of Executive Order 8802;

That it is understood that before holding public hearings, the Committee will first call upon all other government agencies that have a responsibility, under Executive Order 8802, to perform that responsibility, and that such agencies will be given a reasonable time, not to exceed thirty days, to perform their responsibility. Only after failure to act within the time specified will the Committee hold a hearing;

That the Committee will issue directives only after consultation with and approval of the contracting agency of the government involved. Where no agreement can be reached, then the matter will be certified to the President.

In a communication to the President on March 1, 1943, the Committee called his attention to the handicaps which had been imposed on it by reason of the failure of the Chairman of the War Manpower Commission to carry out his agreement with the Committee and recommended strongly that the Committee be established independently, outside the War Manpower Commission. In its letter the Committee declared that "the existence of an agency of the government in which the minority groups have confidence, with power to make a judicial

determination in cases involving denial of individual rights, is essential to achieve a peaceful, evolutionary and just solution of the minority problem. Without such a means of correcting injustices, those who have valid grievances will find it necessary through agitation, mass protest and other direct action to seek what they properly hold to be their democratic rights."

"DEFERRED" HEARINGS

A public hearing was scheduled by the Committee to be held in August, 1942 at El Paso, Texas to consider complaints that persons of Mexican and Spanish-American origin were being discriminated against in employment. This hearing was scheduled after the Committee had received numerous complaints and requests from prominent individuals, civic organizations and unions for a hearing to determine the facts and to provide a basis for appropriate action. As arrangements progressed for this hearing, the Committee was advised that the Department of State disapproved of a public hearing in the Southwest to consider this problem on the basis that the attendant publicity would have unfavorable repercussions since it was believed it would increase tensions and would provide Axis agents with data to discredit this country in Mexico and other American republics. As a result of further discussions and consideration of the matter, the Committee acceded to the request of the State Department and authorized several of its staff to undertake intensive investigation of complaints in the Southwest with a view toward adjusting them individually and insofar as possible without recourse to publicity. A considerable amount of work was done during the ensuing months, and most of the specific complaints received and investigated by the Committee as a result of its concentrated activity in the Southwest, have been negotiated. A few cases are still pending.

Careful investigation over many months disclosed grossly discriminatory conditions in the railroad industry affecting particularly Negroes and

other non-Caucasians. The Committee announced that it would hold a hearing in Washington, D. C. in January 1943 on complaints against railroads and railroad unions. Following its announcement the Committee continued with preparations for the hearings, but was notified by the Chairman of the War Manpower Commission after considerable time had elapsed to postpone the hearing. Other hearings scheduled for Detroit, St. Louis, Cleveland, Philadelphia and Baltimore were also postponed at this same time because of the announced purpose to reorganize the Committee. It was stated that this reorganization was, in part, necessitated by the resignation of Chairman Malcolm S. MacLean, who on January 19, 1943 entered the military service.

THE UNITED STATES
EMPLOYMENT SERVICE

On July 1, 1942 the United States Employment Service issued its Operations Bulletin No. C-45. This bulletin instructed USES field offices to refer workers to jobs without reference to their race, creed, color or national origin except when an employer's order included discriminatory specifications which the employer was not willing to eliminate. In such cases Employment Service officers were to attempt to secure relaxation. If unsuccessful, they were directed to fill the employer's order in accordance with his specifications. This instruction was declared to be operative except in states in which discrimination based on race, creed, color or national origin was unlawful under state statute. In July 1942, the Committee made vigorous representations to the Employment Service to modify these instructions, calling attention especially to the fact that they directed officers of the United States Government to aid and abet employers seeking to violate Executive Order 8802 and the specific terms of their contracts with the United States Government. It called

attention also to the fact that the provisions of Executive Order 8802 were as binding on Federal officers as were those of any state statute.

Although the then director of the United States Employment Service formally admitted that his instructions required USES field officers to aid and abet violation of Executive Order 8802, discussions looking to their modification have been without result. Committee proposals for changes were referred to the Labor Management Committee of the War Manpower Commission, where differences of opinion prevent action. The Committee therefore on March 1 1943, again recommended to the Chairman of the War Manpower Commission that this Operations Bulletin be modified to conform with the provisions of Executive Order 8802. When the Committee had no response to this recommendation, it referred the matter to the President on March 15.

The existence of segregated employment office facilities in southern states makes it unnecessary for an employer to voice any preference for workers of a particular race. If he desires only white workers, he submits his job order to the white USES office. If he desires Negro workers, he submits his job order to the Negro USES office. Thus, there is no basis for submitting a report that an employer has specified workers of a particular race. To meet this situation the Committee has recommended that instructions be issued requiring officers in charge of each of the segregated offices to refer all employers' orders to the other office so that all qualified workers may be referred without regard to their race or color. This recommendation is now under consideration.

OTHER PENDING ISSUES

In connection with its investigations of discrimination in the railroad industry, the Committee in March 1943, recommended to the Chairman of the War Manpower Commission that he exercise his authority to direct the Railroad

Retirement Board Employment Service (which is not a part of the USES) to conduct its recruitment and placement activities and make referrals in accordance with the national policy of non-discrimination and to take special measures to assure that qualified workers will not be denied employment or training because of their race, creed, color or national origin. The Committee has not as yet had any indication of action which may have been taken on its recommendation.

In November 1942, the National War Labor Board announced its policy not to approve wage increases for the purpose of influencing or correcting the flow of manpower but stated that "when in a particular case management and labor, in cooperation with the War Manpower Commission and other government agencies, have taken concerted action to solve a manpower need, the Board will consider a request in that case to correct whatever inequalities or gross inequities may then need correction." Citing this statement of policy, the Committee advised the Chairman of the War Manpower Commission that in its judgment there could not be a finding by the War Manpower Commission that a labor shortage exists in any particular area if available and qualified men and women of a particular race, creed, or color are denied employment at any level of skill because of the action of management, labor organizations, or both, and recommended that the War Manpower Commission refrain from acquiescing in any application for a wage increase made to the War Labor Board by a labor organization which prevents the employment in any classification of work, in a war industry, of workers solely because of race, creed or color. The Committee has had no indication of action which may have been taken on its recommendation.

CONCLUSION

The Committee's experience during the past two years in dealing with race and religious discrimination in employment perhaps justifies it in formulating certain observations and conclusions. Recognizing the difficulties of the problem, the Committee, nevertheless, believes that substantial progress has been made in reducing discrimination. The issuance of Executive Order 8802 has called attention to the existence of the problem and has authoritatively proclaimed the policy of the government concerning it. The Committee is certain that greater and more rapid progress can be achieved if a firm and steady course is pursued in administering the order. Nothing in the Committee's experience leads it to conclude that the problem is insuperable or that the elimination of race and religious discrimination in employment must necessarily be attended by disorders and disturbances to the public tranquility.

Representations have frequently been made to it that the employment or upgrading of Negroes, the upgrading of Spanish-speaking workers, the reinstatement of Jehovah's Witnesses, or other steps to eliminate discrimination based on race, creed, color or national origin will lead to walkouts, strikes, or even violence. In only a small minority of cases have any of these dread apprehensions materialized. Where they have, it has usually been because management has vacillated in its purpose, or by action or inaction encouraged such demonstrations. But even in the least satisfactory situations there have been only temporary work stoppages. In certain cases, moreover, there have been expressions of astonished relief by employers over the ease and smoothness with which the introduction of Negroes or others in the working force has been achieved. In a few cases positive evidences of

good will and welcome were unexpectedly shown by other workers.

In the instances in which disturbances have arisen over the initiation of a non-discriminatory policy, the Committee has observed that tension occurs where there are collateral labor grievances or where known opposition is met with ineptness and weakness. Where good personnel management has created satisfactory and cooperative employer-worker relations; where management, after firmly resolving that it is necessary or desirable to introduce workers of particular races, creeds, or colors hitherto excluded, discusses with unions or labor representatives plans and procedures for doing so, meeting intelligently any questions or objections raised; and where it selects carefully the first group of workers from the racial or creedal group concerned, there is customarily little or no difficulty in introducing these new workers.

War contractors have an unavoidable responsibility to eliminate discriminatory employment practices in their plants. When they enter into contracts with the government, they voluntarily bind themselves to refrain from discrimination based on race, creed, color or national origin. Whatever their previous practices and whatever the difficulties, they cannot in good faith fail to take positive steps to carry out this obligation.

Employers who undertake seriously to carry out their pledge of non-discrimination have not found these difficulties uniformly incapable of solution. Many have failed to give sufficient thought to the matter and have thus failed to take the elementary steps necessary to move toward a solution. With few exceptions large employers fail, without prompting by the government, to give appropriate instructions to their personnel departments to carry on recruitment and employment practices in conformity with the terms of their contracts relating to non-discrimination. Thus, want ads and job orders submit-

ted to employment agencies frequently contain discriminatory specifications submitted in the employer's behalf by uninstructed subordinate personnel. Similarly, interviewers and other recruiting officers select personnel under the "prejudice as usual" formula and without regard to the employer's contract obligation. It is, therefore, of first importance that employers give formal instructions to their subordinates to carry into practice the policy of non-discrimination which they have obligated themselves to follow. Such instructions should cover not only the recruitment process but training, upgrading, rates of pay, and all other terms and conditions of employment.

Where other employees interpose objection to the establishment of a non-discrimination policy, it is of first importance that union officials or other worker representatives be fully consulted concerning the necessities of the situation. Except in a minority of cases national or international labor organizations have formally and officially taken a position in favor of equal opportunity for workers without discrimination based on race, creed, color or national origin. If local union leadership opposes such a policy, international officers will in most instances find a means to overcome local objections. In the remainder of cases government agencies can and have, with only minor exceptions, overcome objections of organized labor. Since it is the employer who signs contracts with the government, it is clear that supine acceptance of employee objection is not enough to justify failure to comply with contract obligations.

In the matter of employment in war industries or government, workers do not, of course, have a legal right to a job in any particular establishment. They do, however, have a right to be considered for employment without discrimination based on race, creed, color or national origin. Executive Order 8802 declares that "all contracting agencies of the Government of

the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color or national origin." (Underscoring supplied) A war contractor, thus, has a contractual and legal duty to refrain from refusing employment or denying equal conditions of employment to any worker on any of these grounds. The Committee on Fair Employment Practice conceives its purpose to be the enforcement of this right.

It is obvious that the contracting agencies of the government have a direct and continuing responsibility to see to it that employers executing contracts for them do not violate any of the terms or conditions of these contracts. In the final analysis, it may be said that the elimination of discrimination based on race, creed, color or national origin in war industries will progress only to the degree that the contracting agencies themselves may demand. At a time when the great proportion of the industry of the country is executing war contracts, these agencies have all the power necessary to compel compliance with a national policy formally announced by competent authority and made part of all war contracts.

These agencies, training and recruiting agencies, and others directly concerned with the war production effort, have in many cases failed to insist on enforcement of Executive Order 8802 because they have been fearful of labor unrest and work stoppages, or even violence. Certain of their representatives have regarded the elimination of employment discrimination as a social reform which should not be undertaken in the midst of total war, disregarding the extent of discrimination based on race, creed, color or national origin, the direct relationship between such discrimination and labor shortages in particular communities, and the announced purposes for which we are at war.

Certain officers of the government have been especially concerned

over the disturbance to the public tranquility which they apprehend will occur if persons of particular races, creeds or colors are afforded equal economic opportunities as prescribed in Executive Order 8802. They fear violent opposition from members of the majority group, especially in particular areas, if that policy is made effective with any degree of rapidity. They shun objective evaluation of racial and religious tensions which exist irrespective of enforcement of the policy. They are hopeful that direct action can be avoided in achieving the elimination of racial and religious prejudices. Their wishful thinking will not, it is feared, make a useful contribution to the solution of an age-old problem.

Racial, religious and national prejudices are deep-seated, charged with emotion, stubborn and irrational. Racial and religious wars have been frequent in history. Modern, total war is a concomitant of the rise of national states. Our enemies have made it painfully clear that the issues of race and religion and the survival of national states are of the essence in the present world war. The same passions which are aroused and inflamed in the international conflict lie at the bottom of domestic and internal tensions. They are no less real there than they are internationally. They cannot be dismissed by refusal to recognize their existence. They cannot be made harmless except through statesmanship and moral leadership.

The problem assigned to the President's Committee on Fair Employment Practice is one of the most serious domestic problems facing the country. It is basically a moral problem which does not lend itself to solutions by political nose counting. Recognizing its moral character, the Committee has sought to supply the leadership whose wise exercise is essential to a sane and just solution. Because it has dealt with the problem of discrimination in employment as a denial of the exact and equal justice which is basic to

American political concepts, the Committee has been effective beyond the small staff or limited powers granted it. It has sought to supply moral leadership in a matter involving conscience, holding that proposals for solutions based on political expediency offer nothing but the trail of disaster leading from Munich.

We do not, where moral and ethical issues are involved, decide each issue by holding a plebiscite. We use all available political and social means to establish common or universal acceptance of the doctrine that it is wrong and anti-social to kill or to steal. We do not wait for our children to grow up to determine these matters for themselves, but apply all the resources of the family and the state to inculcate ethical concepts. We supply leadership and direction which is accepted by the great majority and apply penalties against the minority who cannot be led or educated.

If leadership is lacking, if there is merely alternating reaction to political pressure from opposing pressure groups, there can be only bitterness and exacerbation. Official drift will encourage extremists to direct action. This does not imply that practical problems should be lightly waved aside. They exist and will continue to exist. But these will merely be multiplied and intensified by yielding alternately to opposing pressure groups. They will be reduced and ameliorated only through firm and statesmanlike leadership. Doubt and vacillation engender extremist agitation and direct action. Munich has made clear that moral issues cannot be settled by appeasement.