

TIME TO ABOLISH THE U.S. CIVIL RIGHTS COMMISSION

The House of Representatives has passed legislation to abolish the U.S. Commission on Civil Rights. By a 269 to 66 vote this July, an amendment to the Fiscal Year 1987 State, Justice, Commerce Appropriations bill denies funding for the Civil Rights Commission after December 31, 1986. This is the good news. The bad news is that the House action left the Commission's shell intact so that it easily can be resuscitated in the future, presumably when a liberal president can stack the Commission with liberals. It would be much better policy if the Commission were abolished completely. Under its current Chairman, Clarence Pendleton, it has performed well, but its institutional mission is flawed.

Established in 1957, the Civil Rights Commission was authorized to investigate and report on the extent of discrimination in American society, to suggest the need for new laws and to monitor enforcement of existing civil rights statutes. All of these functions duplicate the powers of Congress. Unlike appointed Commissioners, however, Members of Congress are accountable to the people and have no institutional incentive to contrive civil rights issues to justify their existence or perquisites.

In contrast, any Civil Rights Commission has the incentive to complain and to posture, no matter how much progress is actually achieved by Congress or the Executive Branch on civil rights issues. A Commission's incentive is to find new "problems" to justify its existence. Such "problems" are discovered in large part by the Commission's battery of staff employees. During the 1960s, Congress enacted civil rights statutes insuring equal opportunity irrespective of race, gender, ethnicity, or other unfair characteristics: the Equal Pay Act of 1963, the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Fair Housing Act. Additionally, president after president issued Executive Orders guaranteeing equal opportunity and more in government employment or contracting.

With Congress and the President addressing just about all the major civil rights issues, the Commission looked for new areas of concern. In the 1970s, complains a recent Washington Post

editorial, the Commission "strayed into such questionable areas as how women and minorities are portrayed in TV sitcoms." Examples: the Commission issued a report evaluating whether the broadcast programming roles assigned women or minorities were degrading. In 1975, the Commission issued a report on the Constitutional Aspects of the Right to Limit Child Bearing. More recently, President Reagan's education budgets and the allocation of industrial revenue bond funds among banks have been assailed under the banner of civil rights.

These Commission activities threaten to warp the concept of civil rights by bringing any perceived social ill within its compass. Is it surprising that State Advisory Committees to the Commission have transformed concerns over energy costs or the working conditions of mushroom workers into civil rights issues? Level-headed discussion over civil rights is impossible with such open-ended concepts as these. There is no longer justification for the Commission's survival despite its propensity to invent new forms of discrimination. Congress has proved consistently that it is willing to act on civil rights issues without prodding from any commission. Abolishing the Commission would restore public policy debate over civil rights matters to the proper platform of Congress and the Executive.

If Congress declines to act, the Commission will expire in 1989. Chairman Pendleton forcefully argues that the Commission is spurring enlightened debate on civil rights concepts; that several important studies and projects are incomplete; and that by 1989 all legitimate work of the Commission will be concluded. Thus, the Chairman maintains, there will be no reason for Congress to extend the Commission past 1989, but every reason to fund it until then.

Pendleton's position is soundly reasoned, but ultimately unpersuasive. How can support today for continued operation of the Commission be reconciled in principle with opposition to extension after 1989? To defend the former on the theory that the Commission at present constructively contributes to the debate and evolution of civil rights policy, but that a 1989 Commission with a possibly different composition would not is to admit that the Commission rests only on partisan expediency: liberals support the existence of the Commission when it is controlled by liberals while conservatives support it when it is controlled by conservatives.

Pendleton deserves applause for his courageous stand for color-blind laws. He further can be saluted for exposing the legal and practical infirmities in the idea of so-called comparable worth in setting terms of compensation. But sound principles of public policy cannot be set aside to accommodate even the most distinguished officials. The simple fact is that the Civil Rights Commission is a relic. It does nothing that Congress cannot do, and it is inevitably the focus of bitter dispute rather than constructive progress. That is why it must be abolished.

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