

CR 1.8: C. 12

HEARING
BEFORE THE
UNITED STATES
COMMISSION ON CIVIL RIGHTS

HEARING HELD
IN
CAIRO, ILLINOIS
March 23-25, 1972

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Members of the Commission

The Reverend Theodore M. Hesburgh, C.S.C., *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Maurice B. Mitchell

Robert S. Rankin

Manuel Ruiz, Jr.

John A. Buggs, Staff Director-designate

John H. Powell, Jr., General Counsel

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UNITED STATES COMMISSION ON CIVIL RIGHTS

THURSDAY, MARCH 23, 1972

The U.S. Commission on Civil Rights met at 9 a.m., Thursday, March 23, 1972, in the Federal Courtroom, Post Office Building, Cairo, Illinois, Frankie M. Freeman, Commissioner, presiding.

PRESENT: Frankie M. Freeman, Commissioner; Maurice B. Mitchell, Commissioner. Also present: John A. Buggs, Staff Director-designate; John H. Powell, Jr., General Counsel; Lawrence B. Glick, Deputy General Counsel; John C. Ulfelder, Assistant General Counsel; Conrad Smith, Assistant General Counsel; Stephen C. Brown, Counsel; Michael R. Smith, Counsel; and Michael D. Walker, Counsel.

PROCEEDINGS

COMMISSIONER FREEMAN. The hearing will come to order.

I would like to swear in the reporter, Mr. McLaughlin.

(Whereupon, Joe C. McLaughlin was sworn in as Reporter.)

COMMISSIONER FREEMAN. Next I will swear in the engineer, Mr. O'Neill.

(Whereupon, Donald O'Neill was sworn in as Sound Engineer.)

COMMISSIONER FREEMAN. Mr. Stephen Brown and Mr. Michael Walker.

(Whereupon, Stephen Brown and Michael Walker were sworn in as Clerks.)

COMMISSIONER FREEMAN. Ladies and gentlemen, I am Frankie M. Freeman, a St. Louis attorney and a member of the United States Commission on Civil Rights. I wish to welcome you to this hearing conducted by a Subcommittee of the Commission and introduce you to Dr. Maurice B. Mitchell, Chancellor of the University of Denver, another Commissioner, who is serving with me on this Subcommittee.

I also wish to introduce to you some of the members of the Commission's staff who will participate in this hearing. They are, on my immediate left, Mr. John A. Buggs, Staff Director-designate; on my far right, Mr. John H. Powell, Jr., General Counsel; and next to Mr. Powell, Mr. Lawrence B. Glick, Deputy General Counsel. Is Mr. Conrad Smith here?

MR. BUGGS. No.

COMMISSIONER FREEMAN. This hearing is being held under the authority of the Civil Rights Act of 1957, as amended. As required by

law, notice of this hearing was published in the *Federal Register* on Saturday, February 19, 1972. A copy of this notice will be introduced into the record as Exhibit No. 1.

(Whereupon, the document referred to was marked Exhibit No. 1 and received in evidence.)

COMMISSIONER FREEMAN. The Commission is an independent, bipartisan agency of the United States Government established by Congress in 1957. Its duties are as follows:

1. To investigate sworn allegations that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin.

2. To study and collect information regarding legal developments which constitute a denial of equal protection of the laws.

3. To appraise Federal laws and policies with respect to the equal protection of the laws.

4. To serve as a national clearinghouse for information with respect to denials of equal protection of the laws because of race, color, religion, or national origin; and, finally,

5. To investigate sworn allegations of vote fraud in Federal elections.

Under the law, the Commission is required to submit reports to the President and the Congress which contain its findings and recommendations for corrective legislation or executive action. To enable the Commission to fulfill its duties the Congress has empowered the Commission to hold hearings and issue subpoenas for the attendance of witnesses and the production of documents. Under the law, also, the Congress has empowered the Commission to hold such hearings before a duly appointed Subcommittee of no fewer than two Commissioners. We are holding this hearing under this authority with Dr. Mitchell and me serving as members of this Subcommittee.

When we have finished this opening public session we will go into an executive session in accordance with the statute governing Commission hearings which provide for such a session, closed to the public, during which persons who may be defamed, degraded, or incriminated by testimony given at the public sessions will have an opportunity to be heard.

The public sessions will resume this afternoon at 1 p.m., in this courtroom where all the sessions will be held. We will hold an evening session tonight beginning at 7 p.m., which will adjourn at 10 o'clock. We will convene tomorrow at 9 a.m., adjourn for lunch at noon, and reconvene here for an afternoon session which will end about 6:30 p.m. The concluding session on Saturday morning will begin at 9 a.m. and adjourn at 12:30 p.m.

In carrying out its legislative mandate, the Commission has made detailed studies in the fields of the administration of justice, education, employment, housing, and voting. To augment these studies it has held hearings in communities throughout the country from California to New York.

We have come to Cairo for specific reasons. The Commission has received allegations from individuals and organizations all over the country that extensive and overt racial discrimination exists here. We have also been told that government officials at all levels have not utilized all of their authority to assist Cairo in dealing with these problems and in some instances have abused their authority and contributed to the worsening of problems in Cairo.

We realize that information which is received from secondary sources or from persons outside a community can often be misleading and distort the truth. We have come here, therefore, to ascertain for ourselves the nature and extent of problems and, among other issues, to seek the reasons why Federal statutes have not been enforced or have not been effective, and to find out how similar situations in other communities may be rectified.

I would like to emphasize that a hearing of the Commission is not an attempt to embarrass any one State, community, or individual. The history of the Commission shows that it has always been honest and objective in all its presentations, even though the subject matter is inherently emotional. The same objectivity will hold true in this hearing.

We will hear from representatives of the local community, from representatives of the local, State, and Federal governments, and from persons who, while they may not be residents of Cairo, have firsthand knowledge of conditions here and are, therefore, competent to speak to them. Federal law protects all such witnesses subpoenaed to appear before the Commission from threats or intimidation.

The testimony we will hear during the next 2½ days will explore the pattern of racial and economic conflict that has developed here and the effect it has had on the community. We will examine a wide range of Government programs that have been proposed for Cairo and try to determine why so few of them have come into being. Our inquiries will cover economic development, education, employment, health services, housing, and law enforcement. Equally important, we will focus on possible solutions which can be pursued by the community and its governing officials at all levels.

I want to emphasize again that in turning our attention to the racial situation in Cairo we also will learn a great deal about similar situations in other communities throughout the country. In this way, we hope to gather information and arrive at conclusions that will be enlightening and of benefit to Americans everywhere.

When this hearing is completed, the Commission's efforts in Cairo will not end. As in the past, we intend to follow up this hearing to see that responsible officials act on the information brought forth in this proceeding.

And now I shall ask Commissioner Mitchell to read the rules of this hearing. Commissioner Mitchell.

COMMISSIONER MITCHELL. Thank you, Commissioner Freeman.

As the Chairman has said, the hearing has been divided into two parts after the opening session this morning. First there will be an

executive session which will be held in this room and which will begin in a few moments. At this executive or closed session, individuals have been invited to appear, if they so desire, and to state their objections to the public presentation of any testimony which they believe might be damaging to them.

Following such objections, the Commission will decide whether the testimony will be received in public.

Then, beginning at 1 p.m. today, testimony will be received in public in this room and will continue through early Saturday afternoon.

At the outset I should emphasize that the observation I am about to make on the Commission's rules constitutes nothing more than a brief summary of the significant provisions. The rules themselves should be consulted for a fuller understanding. Staff members will be available to answer questions which arise during the course of this hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain in some detail the differences between the public session and the executive session.

Section 102 (e) of our statute provides, and I quote :

If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony.

The executive session to follow this morning is being held to comply with this statutory mandate.

Several weeks ago, the Commission met in Washington and received the material which had been collected in preparation for this hearing. It was then determined that certain individuals were entitled to a hearing in executive session. Accordingly, these individuals were notified of their right to appear at this session. Each also was sent a copy of the Commission's rules which explained this right and was invited to communicate with the Commission in the event he wished to appear or had any questions concerning the executive procedure.

Although some of these persons have been subpoenaed by the Commission to appear during the public session of this hearing, none of them was subpoenaed to appear at this executive session. Ten days ago they received notice of this executive session, an explanation of its purpose, and an invitation to appear if they so desired. They are not required by law to appear. The decision to appear or not to appear lies entirely with them. The executive session is for their benefit alone, and if they determine to forego this opportunity, that is their privilege.

In providing for an executive session, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress wished to minimize dam-

age to reputations as much as possible. Congress wished to provide persons an opportunity to rebut unfounded charges before they were well publicized. Obviously, this protection would be meaningless if the person were confronted with and required to respond in public to the anticipated allegations.

Following the presentation of the testimony in executive session and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event that they find the testimony to be of insufficient credibility or the opposition to it to be of sufficient merit, they may refuse to hear certain witnesses even though they have been subpoenaed to testify in public session.

An executive session of this type is the only portion of the entire 21½ days of this hearing which is not open to the public.

The public hearing which begins this afternoon is somewhat different. The public and the press are invited and urged to attend the open sessions.

Copies of the rules which govern this hearing may be secured during any recess from a member of the Commission's staff. Persons who have been subpoenaed and persons who have been afforded an opportunity to appear in executive session have already been given their copies.

All persons who are scheduled to appear in public session who live or work in the State of Illinois have been subpoenaed by the Commission.

All testimony at the executive and public sessions will be under oath and will be transcribed verbatim by the official reporter.

All witnesses in public and executive sessions are entitled to be accompanied and advised by counsel. Counsel may subject his client to reasonable examination. He may also make objections on the record and argue briefly the basis for such objections.

Persons subpoenaed to the public session and persons who have been afforded an opportunity to appear in executive session may request that witnesses be subpoenaed on their behalf. All requests for subpoenas must be in writing and must be supported by a showing of the general relevance and materiality of the evidence sought.

In addition, persons who have been afforded an opportunity to appear in executive session may be accompanied by a reasonable number of witnesses who need not be subpoenaed. They may also submit statements prepared by themselves or others for inclusion in the record, providing these are submitted within the time required by the rules.

All witnesses at public sessions have a similar right to introduce statements into the record. At public sessions there is a limited right of cross-examination which is spelled out in detail in the rules.

Finally, I should point out that in many cases the Commission has gone significantly beyond the congressional requirements in its rules to provide safeguards for witnesses and other persons. We have done

this with the intent of insuring that Commission hearings be conducted in the fairest and most impartial manner.

Now, Madam Chairman, I would like to discuss for just a moment the security measures in effect here.

Undoubtedly, you have noticed the security measures that are being employed by Federal marshals at this hearing. The Commission regrets any inconvenience these measures may cause you but points to the fact that less than 3 months ago it was found necessary to cancel a Commission hearing in another part of the country so the safety against injury to the audience, the witnesses, and others associated with the hearing would not be jeopardized.

It is now standard procedure for the Commission to request the Federal marshals' service to provide security at its hearings.

We and the marshals know that the vast majority of the citizens of this city have no intention or desire to disrupt or to otherwise impede the orderly process of this hearing. The Federal marshals, however, have in their best judgment determined that the security measures that they have instituted are necessary in order to assure the safety of everyone in this room and to provide the kind of atmosphere in which this hearing can be conducted with dignity and dispatch.

The Federal judge under whose care this courtroom is operated has required that no more persons be admitted to this room than can be seated here. When, therefore, the room reaches its seating capacity, the marshals will admit no other persons.

In addition there is a prohibition against smoking that you are asked to observe.

We ask your cooperation with the marshals as they work to expedite entry into this room and in maintaining order, and, in addition, we urge you to explain to your friends in Cairo who may wish to attend this hearing that simple compliance with the security measures of the marshals is all that is required.

COMMISSIONER FREEMAN. Thank you, Commissioner Mitchell.

This public session is now adjourned until 1 p.m., and I will ask all persons except those who are here in response to the invitation of this Commission for the executive session to be excused at this time.

(Whereupon, at 9:47 a.m., the public session was adjourned, to be reconvened at 1 p.m. this date.)

THURSDAY AFTERNOON SESSION

March 23, 1972

COMMISSIONER FREEMAN. This public hearing of the Civil Rights Commission will come to order.

Ladies and gentlemen, I am Frankie M. Freeman, a St. Louis attorney and a member of the United States Commission on Civil Rights. I wish to welcome you to this hearing conducted by a Subcommittee of the Commission and introduce to you Dr. Maurice B. Mitchell, Chancellor of the University of Denver, another Commissioner, who is serving with me on the Subcommittee.

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We will hold an evening session tonight beginning at 7 p.m., which will adjourn at about 10 o'clock.

We will convene tomorrow at 9 a.m., adjourn for luncheon at noon, and reconvene here for an afternoon session which will end about 6:30 p.m.

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