

~~APRIL 30, 1983~~

5/1/83

REMARKS OF SENATOR ROBERT DOLE
KANSAS CITY, KANSAS HUMAN RELATIONS DEPARTMENT
NATIONAL FAIR HOUSING MONTH

I WOULD LIKE TO THANK MRS. ROBBINS-HUDGINS
ELMER JACKSON AND ALL THE OTHERS WHO WERE INVOLVED IN PUTTING
TOGETHER THIS CONFERENCE AND INVITING ME TO SPEAK.

EARLIER THIS MONTH, I HAD THE UNIQUE PRIVILEGE
OF SPEAKING TO THE NATIONAL COMMITTEE AGAINST DISCRIMINATION
IN HOUSING ON THE VERY DAY WHICH MARKED THE 15TH ANNIVERSARY
OF OUR FAIR HOUSING LAW'S ENACTMENT. AND I FEEL VERY
FORTUNATE TO HAVE THIS SECOND OPPORTUNITY TO SPEAK ON THE
SUBJECT OF FAIR HOUSING. IT IS A MATTER OF GREAT IMPORTANCE
TO ME, AS IT IS, I KNOW, TO THE PEOPLE IN THE AUDIENCE.

PASSED IN THE WAKE OF THE TRAGIC SHOOTING DEATH OF
MARTIN LUTHER KING, THE FAIR HOUSING LAW REPRESENTED THE
FINAL MAJOR BUILDING BLOCK OF THE LANDMARK CIVIL RIGHTS

LEGISLATION PASSED IN THE 1960'S -- LEGISLATION WHICH GAVE LONG OVERDUE PROMISES OF EQUAL OPPORTUNITY IN EDUCATION, EMPLOYMENT, PUBLIC ACCOMMODATIONS AND VOTING.

THE PROMISE OF THIS FINAL MEASURE WAS TO PROVIDE FOR FAIR HOUSING THROUGHOUT THE NATION. UNFORTUNATELY, THE CONGRESS FAILED TO INCLUDE IN THE LAW AN ENFORCEMENT MECHANISM WHICH WAS ADEQUATE TO FULFILL THAT PROMISE.

A PROMISE UNFULFILLED

SPECIFICALLY, WHILE THE LAW CHARGES THE SECRETARY OF HUD WITH PRIMARY RESPONSIBILITY TO ENFORCE THE LAW, IT EMPOWERS HUD ONLY TO INVESTIGATE COMPLAINTS AND SEEK "CONCILIATION." HUD DOES NOT HAVE THE POWER TO REQUIRE THE PARTIES TO CONCILIATE, AND EVEN IF THEY DO, AND AN AGREEMENT IS REACHED, HUD HAS NO POWER TO ENFORCE THE AGREEMENT.

THE DEPARTMENT OF JUSTICE HAS AUTHORITY TO BRING SUIT, BUT ONLY WHERE A "PATTERN OR PRACTICE" OF DISCRIMINATION

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CAN BE SHOWN. THUS, THE BURDEN OF REDRESSING INSTANCES OF DISCRIMINATION AGAINST INDIVIDUALS FALLS UPON THE VICTIMS THEMSELVES, THROUGH PRIVATE CAUSES OF ACTION. BUT TO MOST VICTIMS, THIS AVENUE OF ENFORCEMENT IS MEANINGLESS BECAUSE THEY LACK ADEQUATE FINANCIAL RESOURCES TO PURSUE FEDERAL COURT LITIGATION.

EVERY ADMINISTRATION HAS SPOKEN TO THE NEED TO STRENGTHEN THE LAW'S ENFORCEMENT. AS CARLA HILLS, PRESIDENT FORD'S HUD SECRETARY CANDIDLY PUT IT, "THE PRESENT LAW, IN RELYING ON CONCILIATION, IS AN INVITATION TO INTRANSIGENCE."

THE CONSEQUENCE OF THE LAW'S IMPOTENCE HAS BEEN THAT HOUSING DISCRIMINATION AGAINST MINORITIES AND WOMEN CONTINUES TO BE PERSISTENT AND PERVASIVE. AND DESPITE IT'S KNOWN LACK OF AN EFFECTIVE ENFORCEMENT TOOL, HUD CONTINUES TO RECEIVE THOUSANDS OF COMPLAINTS A YEAR, ONLY A FRACTION OF WHICH IT IS ABLE TO SUCCESSFULLY CONCILIATE.

IT'S TIME TO ACT

I WILL NOT BELABOR THE LAW'S INADEQUACIES. THEY

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HAVE BEEN BELABORED FOR THE PAST FIFTEEN YEARS. THE NEED TO STRENGTHEN THE LAW IS CLEAR. THE TIME TO ACT IS NOW.

THOUGH THERE MAY BE A WIDE RANGE OF VIEWS AS TO HOW THE ENFORCEMENT MECHANISM SHOULD BE STRUCTURED, IN LIGHT OF CONTINUED WIDESPREAD NONCOMPLIANCE, IT MUST BE A STRONG ENFORCEMENT MECHANISM TO GIVE TRUE MEANING TO THE LAW'S ANTI-DISCRIMINATION MANDATE. SYMBOLIC GESTURES WILL NOT BE ENOUGH. IN ADDITION, IT SHOULD BE DESIGNED TO PROVIDE FOR PROMPT RESOLUTION OF FAIR HOUSING COMPLAINTS, INSOFAR AS THE VICTIMS OF DISCRIMINATION MAY BE DENIED ADEQUATE HOUSING DURING THE PENDENCY OF THE SUIT.

IN ADDITION TO A MEANINGFUL ENFORCEMENT MECHANISM, THERE ARE TWO OTHER AREAS WHICH I WOULD LIKE TO DISCUSS BRIEFLY.

THE FIRST RELATED TO THE STANDARD OF PROOF IN FAIR HOUSING SUITS: SPECIFICALLY, THE INTENT-VS-EFFECTS ISSUE, WHICH WAS THE SUBJECT OF SO MUCH DEBATE DURING THE SENATE JUDICIARY COMMITTEE'S CONSIDERATION OF THE VOTING RIGHTS ACT EXTENSION

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LAST YEAR. AFTER LISTENING TO THAT DEBATE, I REJECTED THE "INTENT" TEST AS DID THE VAST MAJORITY OF MY COLLEAGUES IN THE SENATE, AND MY VIEWS ON THE SUBJECT REMAIN UNCHANGED.

THE FOCUS OF THE TEST IS MISPLACED. IF DISCRIMINATION IN FACT HAS OCCURRED, THE SUBJECTIVE MOTIVATION OF THE OFFENDER IS OF THE MOST LIMITED RELEVANCE. FURTHER, THE TEST PLACES AN INORDINATE BURDEN OF PROOF ON THE PLAINTIFF, THUS FRUSTRATING VIGOROUS ENFORCEMENT EFFORTS. FINALLY, THE TEST INHERENTLY REQUIRES THAT UGLY ALLEGATIONS OF "RACISM" BE INJECTED INTO CIVIL RIGHTS LITIGATION, A RESULT UNDESIRABLE FOR ALL PARTIES.

ANOTHER AREA OF IMPORTANCE TO ME RELATES TO EXTENDING THE PROTECTIONS OF THE LAW TO THE HANDICAPPED. FOR MANY YEARS, IT HAS BEEN THE WELL-DEFINED POLICY OF THIS NATION TO BRING THE HANDICAPPED INTO THE MAINSTREAM OF AMERICAN LIFE. OPENING THE DOORS OF THE HOUSING MARKET TO OUR DISABLED CITIZENS CONSTITUTES A CRUCIAL LINK IN CARRYING OUT THAT POLICY.

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CONCLUSION: RENEWED ALLIANCES

IN CONCLUDING, I WOULD LIKE TO SAY THAT IN THE UPCOMING MONTHS, I LOOK FORWARD TO WORKING WITH SENATORS MATHIAS AND KENNEDY, WHO HAVE BEEN EFFECTIVE ADVOCATES IN THIS AREA, THE NATIONAL CIVIL RIGHTS LEADERSHIP AND LOCAL ORGANIZATIONS SUCH AS THIS ONE IN A COORDINATED EFFORT TO PASS A STRONG AND EFFECTIVE MEASURE. THROUGH HARD WORK, A SPIRIT OF BIPARTISANSHIP, AND A WILLINGNESS TO SEEK OUT CONSENSUS APPROACHES, WE WERE ABLE TO EXTEND A STRENGTHENED VOTING RIGHTS ACT FOR AN UNPRECEDENTED 25 YEARS. BY FOLLOWING THE SAME APPROACH IN THE UPCOMING FAIR HOUSING EFFORT, I AM OPTIMISTIC THAT WE WILL AGAIN SUCCEED.