

and HUD should also use the certification process to examine whether such fees are available under State law.

H.R. 5200 carries forth existing case and statutory law regarding "standing," which simply defines those persons who may challenge discriminatory housing practices. The bill uses the phrase "person aggrieved" to define those who may file complaints with HUD or in the courts, or petition for review of the administrative law judges orders. The "aggrieved person" language of title VIII should not be construed to limit the rights of "interested parties" or "interested persons" to participate in the HUD administrative proceeding under the Administrative Procedures Act as set out in sections 554 (c) and 555(d) of title 5.

H.R. 5200 codifies the decisions of the courts of appeals in the Shannon and Otero cases. Those decisions simply say that aggrieved persons have a right of action against HUD or HUD recipients for violations of title VIII, including section 808. The Otero case also makes plain that recipients of Federal assistance under housing and urban development are equally bound by the affirmative action requirement of section 808(d) and section 808(e) (5).

Mr. Chairman, housing is a very basic right which is often vital to both educational and employment opportunity. A recent survey of the practices of nearly 3,200 real estate sales firms and rental agencies in 40 metropolitan areas found that the probability of a black home-seeker encountering discrimination would be 75 percent in the rental market and 62 percent in the sales market. The promise of fair housing opportunity made in the original 1968 act is long overdue. H.R. 5200 affords us the means to honor that promise and I urge its adoption.

□ 1040

Mr. RAILSBACK. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. FISH).

□ 1050

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 5200, a bill which may very well be the most important civil rights bill to reach the House floor in over a decade, as it seeks to assure equal housing opportunities for all citizens irrespective of race, creed, nationality, religion, sex, or handicap by amending title VIII of the 1968 Civil Rights Act.

The primary shortcoming in the existing law derives from the almost total dependence upon private remedies. Present law, while giving HUD the responsibility to receive and investigate complaints of housing discrimination, fails to give HUD any authority to remedy the violations its investigations reveal. Where HUD fails to achieve a remedy for the violation through conciliation, aggrieved individuals are left to seek redress through private civil actions. While the court route is adequate

for those who can afford to hire legal counsel and pay for alternative housing, this does not afford a viable alternative to the majority of Americans. The immediate problem—an inability to obtain the desired housing—is not resolved expeditiously enough in the courts to help most individuals who experience such discrimination. These private remedies are certainly not adequate for minorities who are generally discrimination's victims.

The consequence of HUD's powerlessness, is that HUD is unable to get respondents to take the conciliation process seriously. Victims, too, do not perceive conciliation as offering any real hope of relief. In the entire country, fewer than 4,000 complaints have been filed with HUD under title VIII in any given year. HUD estimates that more than 2 million instances of housing discrimination occur annually. More pointedly, a recent nationwide survey of the practices of nearly 3,200 real estate sales firms and rental agencies in 40 metropolitan areas found that the chances of a black encountering discrimination when seeking to buy a house is nearly 62 percent, and a staggering 75 percent when seeking to rent.

Today's discrimination now often takes subtle but effective forms. Some examples of housing practices that are currently unlawful, but which continue unchecked because of the lack of effective enforcement include:

Providing a member of a "protected class" racial or ethnic minority—with information different from that provided to others thereby making the dwelling less "available";

"Steering"; that is, suggesting that blacks seek housing only in black or integrated neighborhoods, and whites only in white neighborhoods;

Requiring different terms of sale or rental for certain races; that is, higher interest rates, down payments, security or cleaning deposits, and so forth; and

"Redlining"; that is, refusing to finance or insure a dwelling because of the racial composition of the neighborhood.

H.R. 5200 will strengthen the fair housing section of the 1968 Civil Rights Act in several key areas. Most importantly, however, this bill will finally give HUD the authority it needs to effectively enforce the Federal fair housing law, without compromising the rights of those against whom discrimination complaints are brought.

The fair housing amendments would create an independent administrative law judge (ALJ) and administrative court process to hear housing discrimination cases. Those judges, whose independence is already assured by existing Federal law, would issue final orders subject to an appeal in the local U.S. district court and thereafter the court of appeals. This administrative alternative is far better suited to handle the large majority of discrimination cases, which arises from simple questions of law and fact, than the present private process. It will also respond to the high costs of litigation and the inordinate length of time involved before the final resolution of these cases, while retaining

the right of the individual to go directly to the court for relief if he so desires or if the nature or complexity of the case makes it appropriate.

Another important feature of H.R. 5200 is the improvement it offers in its clarification of what constitutes unlawful discrimination by specifically including mortgage redlining and the discrimination in the provisions of hazard insurance and property appraisals. H.R. 5200 also expands the housing rights of the more than 35 million handicapped individuals in the United States.

The effects of housing discrimination on both the individual and society are truly pervasive. To the individual it means economic hardship, loss of job opportunities, humiliation, and alienation; to society, it has meant the creation of the massive problems affecting our neighborhoods, schools, and our economy. H.R. 5200 will not eliminate those problems, but it will help alleviate one of the most persistent and unjustified causes. Accordingly, I urge your support for this bill, and yield back the balance of my time.

Mr. FISH. Mr. Chairman, my father, Hamilton Fish, spoke at the John Wesley American Zion Church in Washington, D.C., on January 2, 1928, the 65th Anniversary of the Emancipation Proclamation. At that time—52 years ago—he assessed racial progress and looked ahead.

All the colored people ask is an equal right to educate their children, to work for wages and enjoy the fruits thereof, to own property and be afforded the protection of the laws and the Constitution for their civil rights, property, and lives. They ask justice, no more and no less.

It is manifest, as both races have lived peacefully together since Emancipation and both have prospered and increased, that the future will show a continuation of the remarkable progress, and that 65 years hence, in 1993, there will in all probability be 35,000,000 colored people in America enjoying equal rights and opportunities in all trades and professions, and having more of their own banks, industries, literature, music . . . political organizations, and Members of Congress. Much of this we will see in our day and generation, and although it is not given to us to unveil the future, but judging it from the progress made in the past, the destiny of the colored race in America is not only secure, but it is exceedingly bright.

My father's words, spoken over 50 years ago, point to the great strides that black people had made since Abraham Lincoln signed the Emancipation Proclamation, and as well—he predicted that progress would continue on an upward course throughout our Nation's history.

I would not be in his tradition, or in the tradition of my party, however, if I were to say that our efforts to bring about equal opportunity and equal justice for blacks and all minorities are over. Advances in the cause of civil rights have been made. In 1964, 1965, and 1968 this House acted forthrightly to outlaw practices incompatible with our Constitution.

Fair housing is a major unattained goal.

In 1968, the Congress declared it unlawful to discriminate on the basis of race, color, religion, sex, or national origin, in the sale, rental, or financing

