Civil Rights and the Party of Lincoln in the Urban North: The Passage of Fair Employment Practices Legislation in New York and California

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Abstract

In 1945, New York became the first state to pass fair employment practices (FEP) legislation, doing so with considerable bipartisan support. Another populous, diverse state—California—did not pass FEP legislation until 1959, when Democrats had gained control of the state legislature for the first time in the twentieth century. Patterns of party control hence explain a large portion of the difference in legislative timing. But why did Republicans in the Golden State resist FEP legislation so much more fiercely than their counterparts in the Empire State? This paper considers whether political culture, political competition, or power-resources explain the observed variation in the stance of the "party of Lincoln" toward fair employment. Drawing on primary source research in newspapers, manuscript archives, and oral histories, it finds substantial evidence that the Republican party was not as sharply divided between a liberal northeastern wing and a conservative Sunbelt wing as arguments about regional political culture might lead us to expect. A hard core of conservative Republicans in each state, associated with employers' lobbies, resisted the passage of FEP legislation. Instead, what distinguished New York from California was the willingness of liberal Republican governors to act on their professed commitments to racial equality and civil rights. This difference, in turn, stemmed from the intensity of political competition they faced from Democrats and the power-resources of liberal forces in civil society more broadly. The paper concludes that state Republicans in the urban North accepted civil rights only reluctantly in the postwar U.S. and that the "social interpretation" of political development remains robust.

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INTRODUCTION

In 1945, as news of Allied victories in Europe and the Pacific prompted more imaginative onlookers to envision the contours of the postwar world, New York became the first state to enact fair employment practice (FEP) legislation with administrative enforcement provisions. The law was passed with the blessings of both parties. In the decades to come, numerous campaigns for fair employment took root across states of the urban North, bolstered by the example of bipartisan cooperation in New York. Many campaigns experienced success. Massachusetts passed a FEP law in 1946, Washington in 1949, and Michigan in 1955. However, one politically and economically important state, California, struggled rancorously over fair employment. Although FEP bills were introduced into every session of the California legislature following the war, not a single one became enacted into law until 1959.

Why was California such a laggard? Any answer should first begin with the observation that the Democrats swept to a breathtaking, across-the-boards victory in the 1958 elections, winning control of the state government for the first time in the twentieth-century. The elections ushered in California's storied era of "responsible liberalism" under governor Edmund G. Brown (Dem.). With a fair employment bill passing in the legislative session immediately following their historic conquest of Sacramento, there can be little doubt that the passage FEP legislation in California was primarily a Democratic achievement. This is consistent with the finding of previous, quantitative research that party control is among the most important variables predicting the timing of FEP legislation.[1] Yet there remains a puzzle as to why Republicans in New York proved so willing, even eager, to join a bipartisan coalition supporting fair

[1] Anthony S. Chen, "The Passage of State Fair Employment Legislation: 1945-1964: An Event-History Analysis with Time-Constant and Time-Varying Covariates," Institute of Industrial Relations Working Paper No. 79 (Berkeley: University of California, Berkeley, 2001).

employment. After all, their counterparts in California resisted fair employment until the bitter end.

This paper asks why bipartisanship came more easily to New York than California. In contrast to accounts that highlight the political culture of liberal Republicanism in northeastern states, it finds that Republicans in both states were not so ideologically distinct on the question of fair employment as they initially appeared. A core group of New York Republicans, along with the employers they represented, were also quite hostile to fair employment. In fact, Republicans and employers in New York and California objected to FEP legislation on the grounds that it constituted governmental interference with the sacrosanct prerogative of companies to hire, promote, and fire whom they pleased; that it represented a system of preferences and quotas that elevated group membership over individual merit; that it was unnecessary because discrimination was either nonexistent or waning; and that it would heighten racial antagonisms rather than diminish them. In the final analysis, however, bipartisan cooperation developed in New York because Republicans and conservative employers faced greater and more effective political competition from Democrats and liberals. This made it necessary for Republicans seeking or holding statewide office to support civil rights more strongly than their counterparts in California, where the Republican party enjoyed virtually unquestioned dominance over state politics until Brown's victory in 1958.

FAIR EMPLOYMENT IN THE EMPIRE STATE

Scarcely more than a year had elapsed between the time that a fair employment law was first proposed in New York and the cold March day in 1945 that newly elected Governor Thomas E. Dewey (Rep.) signed the Ives-Quinn bill into law. Named after its two chief sponsors, the new law prohibited racial discrimination in employment on the basis of race, religion, or creed. To enforce the new law, it established the State Commission against Discrimination, giving it the power to issue cease-and-desist orders against recalcitrant offenders. The passage of Ives-Quinn, to be sure, was greatly facilitated by a number of favorable developments. Since 1941, at the behest of then-governor Herbert Lehman (Dem.), New York's State Council on Defense had operated a Committee on Discrimination in Employment. Lehman's committee had carried out numerous educational campaigns, and it had received hundreds of complaints of job discrimination in war industries, eventually resolving more than a thousand. Beyond that, there were several laws on the New York statute books prohibiting employment discrimination by utility companies, civil service, and labor unions. Passage of Ives-Quinn bill was also surely aided by a heightened wartime sense that "when we are fighting to destroy the racial-superiority complex of our enemies we should discourage notions of racial superiority in our own land."[2]

Nonetheless, it does seem remarkable how quickly the idea of fair employment became actual law. Senator Arthur H. Wicks (Rep.) of Kingston introduced the first fair employment bill into the New York Legislature on March 9, 1944.[3] Governor Thomas E. Dewey (Rep.) had the

[2] "The Negro Worker," *New York Times*, February 14, 1944, 16.

[3] "Albany Bills Tighten Anti-Bias Job Laws," *New York Times*, March 10, 1944, 32. In addition to employment, the Wicks bill also covered housing. It made discriminatory practices a misdemeanor punishable by a fine of up to $500, or a jail term.

bill tabled straightaway.[4] Partly as a compensatory gesture, he established the New York Temporary Commission on Discrimination (TCAD) to carry out a study and devise a workable set of legislative recommendations. Dewey appointed Assembly majority leader Irving M. Ives (Rep.) to serve as chair of TCAD. In a close election two years later, Ives would defeat Lehman (Dem.) to win a seat in the U.S. Senate, where he became a prominent spokesman for fair employment among Republicans. Under his chairmanship in 1944, TCAD endorsed the passage of state legislation prohibiting discrimination by employers of six or more persons and establishing a relatively powerful state regulatory agency.[5] In late November and early December, hearings were held across the state to raise awareness of job discrimination and probe the nature of public opinion.[6] The day after Dewey's Commission issued a lengthy report, Ives and Senate minority leader Elmer F. Quinn (Dem.) introduced the Commission's recommended bill into their respective houses of the state legislature.[7] The bill passed the Assembly on February 28 by a 109-32 vote and the Senate on March 5, 49 to 6. It was signed into law on March 12.[8]

But the ostensibly speedy and bipartisan passage of the Ives-Quinn bill conceals a contentious history. It is easy to see how previous scholars have overlooked the acrimony. Early

[4] "Negro Educator Quits Racial Group," *New York Times*, March 26, 1944.

[5] David A. Kapelman, "Evolution of the Ives-Quinn Bill" (unpublished manuscript, 1972), 7-15.

[6] Public hearings were held in Albany (November 27), Syracuse (November 28), Rochester (November 29), Buffalo (November 30), and New York City (December 5, 6, and 7). According to one estimate, more than 3,000 individuals attended the hearings overall. Young Men's Christian Association, 11.

[7] New York State Temporary Commission against Discrimination, *Report of the New York State Temporary Commission against Discrimination* (Albany: Williams Press, 1945).

[8] Young Men's Christian Association, "Fair Employment Legislation in New York State: Its History, Development, and Suggested Use Elsewhere" (New York: Association Press, 1946).

on in the legislative process there did appear to be strong, statewide sentiment that "discrimination in opportunity for employment is the most injurious and un-American of all the forms of discrimination." At a time when the *ethos* of the New Deal still possessed some political resonance, it seemed perfectly right to assert that the "chance to make a living" was the "most fundamental of human rights." Nor did there seem to be much disagreement with the idea that the state could "afford to carry whole classes of citizens shackled to proverty (sic) and its consequent disorders by anti-social discrimination." When TCAD colorfully declared that "social injustice always balances its books with red ink," it appeared to be speaking for a broad consensus.[9]

Early backers of Ives-Quinn included local affiliates of many organizations that were also becoming active in the national politics of fair employment—and would subsequently become core members of similar coalitions in other states. Among the most prominent in New York were the Urban League, the NAACP, the Catholic Interracial Council, the Greater New York CIO Industrial Union Council, the National Lawyers Guild, the National Council of Jewish Women, and the National Negro Congress. Strictly local organizations like the also New York Metropolitan Council of Fair Employment Practices also played a key role. Working together, they marshaled a range of arguments to their side. Michael J. Quill, president of the CIO-affiliated Transport Workers Union, spoke the raw language of electoral power, threatening that "labor will have to organize and see the Legislature is changed" if a bill with "teeth" was not passed.[10] Others assumed a more idealistic posture and argued that the failure to pass the bill

[9] New York State Temporary Commission against Discrimination, *Report of the New York State Temporary Commission against Discrimination* (Albany: Williams Press, 1945), 48-9.

[10] "Anti-Bias Measure Demanded by Quill," *New York Times*, December 5, 1944, 24.

constituted a threat to the stability of any postwar order. Ives himself considered racial discrimination a danger to democracy and a barrier to a successful transition from war to peace.[11]

As liberals from both parties rallied energetically around fair employment, critical voices appeared shrill and isolated. During the statewide hearings in 1944, Mark A. Daly of the Associated Industries of New York State expressed the worry that the law would be an "almost unbearable annoyance, expense and burden on the industries due to frivolous and irresponsible complaints made with revengeful intent."[12] Daly repeated his criticisms in the report of the Temporary Commission a few months later. But they were quietly consigned to the footnotes, where he was left to complain impotently that the law would provide no "brake on frivolous or irresponsible complaints."[13] Also relegated to the footnotes was Frank S. Columbus of the Railroad Brotherhood. Columbus argued that there was no need for a permanent commission. Ending discrimination was better achieved through education than legislation. Indeed, if a law were passed, it might be counterproductive: "it will be a cause of fomenting trouble between different classes of people instead of accomplishing its avowed objective."[14] Merwin K. Hart of the National Economic Council, a right-wing lobby, went a step further than either Daly or Columbus, vilifying fair employment legislation as a Communist-inspired and "totalitarian" plot."[15]

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[11] "Ives Report Urges Permanent Board to Bar Bias in Jobs," *New York Times*, January 29, 1945, 1.

[12] Quoted in David A. Kapelman, "Evolution of the Ives-Quinn Bill" (unpublished manuscript, 1972), 17, Karl A. Kroch Library, Cornell University.

[13] New York State Temporary Commission against Discrimination, *Report of the New York State Temporary Commission against Discrimination* (Albany: Williams Press, 1945)

[14] "Ives Report Urges Permanent Board to Bar Bias in Jobs," *New York Times*, January 29, 1945, 1.

[15] "Anti-Bias Law Red, M.K. Hart Asserts," *New York Times*, December 7, 23.

More politically shrewd criticism came from the respectable New York State Chamber of Commerce, which doubted whether fair employment legislation would ever work as intended. The chamber "questioned whether legislation on matters of morals or to change the customs of the community would not create more evils than those it attempted to remedy." In contrast to Hart's shrill denunciations, it did not declare any and all legislation illegitimate, pointedly maintaining that the "most constructive action that can be taken at this time is not to oppose the legislation but to recommend certain amendments and changes." Those recommendations corrected what the Chamber considered the most egregious flaws of the proposed law, limiting penalties to those directly stipulated in the act; exempting firms with less than five employees; making "aptitude, suitability, capacity, or character essential qualifications for employment"; and limiting the amount of time after which a complaint could be filed.[16]

Once the Commission's bill was introduced into the legislature in late January, however, the depth and breadth of the opposition became more apparent. This was clear even to Ives, who by early February conceded that it would face a difficult fight, even though he remained optimistic that the bill would pass in substantially the same form that it was proposed.[17] Tension grew openly as the State CIO strongly endorsed the bill in a bid to offset the "opposition of the railroad brotherhood organizations" and "increased attacks by business interests." President of the New York CIO, Louis Hollander, urged a legislators to vote affirmatively, claiming that "passage of this antidiscrimination bill by our Legislature would serve notice to the people of the Empire State that democracy is not a slogan to be paraded on national holidays, but a living thing for each and every day of the year." The enthusiastic endorsement of the CIO was a contrast with the characteristically lukewarm support of the New York AFL, which was reportedly "not taking

[16] "Doubtful of Value of Anti-Bias Board," *New York Times*, January 1, 1945, 25.

[17] "Anti-Bias Job Bill Goes to Assembly," *New York Times*, February 7, 1945, 19.

as active a part…in pressing for enactment of the bill." Thomas A. Murray, president of the State Federation of Labor, had professed his support for the proposal "in principle," but his signature was absent from Hollander's strongly worded letter.[18]

Conservatives began voicing their complaints more openly. As the bill made its way through the legislative process, Columbus asked legislators to quash it.[19] Members of the West Side Association of Commerce warned that passage of a bill "would severely handicap the efforts of this State to get any new business and to hold its present business." It was obvious that discrimination on the basis of race, creed, or color could not be countenanced, but "that fact in itself…does not justified the adoption of hysterically conceived legislation which, conceivably, might intensify rather than eliminate any discrimination which exists."[20] As before, the New York State Chamber of Commerce urged Dewey and the Legislature to defeat the bill. If passed, it would result in a host of unhappy consequences. Administrative burdens might lead to the "loss of existing business…[and] other businesses which might later located here." The flight of business would translate directly into a "loss of jobs." "Disgruntled" employees could use the provisions of the law to "blackmail" employers. The resultant fear of complaints among employers would lead to the "enforced employment of undesirable persons" and a *de facto* system of quotas. Casting aside the restrained tone that had distinguished it a month earlier, the Chamber warned that Ives-Quinn, if passed in the form favored by liberals, would fuel a "burning resentment" that would exacerbate "intolerance and tend to foment, rather than

[18] "CIO Urges Albany Pass Job-Bias Bill," *New York Times*, February 8, 1945, 14.

[19] "Anti-Bias Job Bill Goes to Assembly," *New York Times*, February 7, 1945, 19.

[20] "Bias Law Opposed by West Side Group," *New York Times*, February 1, 1945, 15.

eliminate, the possibility of race riots, pogroms, and the evils associated with the Ku Klux Klan."[21]

Enough unfriendly sentiment accumulated that Ives felt compelled to make a public statement."[22] To counteract the sense that discrimination was a thing of the past, he began with the observation that "discrimination because of race, creed, color, or national origin not only has existed, but does exist." This should be quite nearly beyond dispute. The most pressing question at hand was not whether discrimination existed but how to address the problems it caused. One possibility was to follow a "policy of drifting and indifference." Another was to simply marshal an "army of field agents and investigators" to enforce laws already on the books. This, too, would merely "bedevil the problem" further.

The best and most lasting solution, in his view, was to "establish a new agency to handle the most important phase of the discrimination problem—discrimination in employment." To discourage deliberate delay, the agency would be made permanent. It would be staffed by five commissioners who would be paid the kind of salary that would "attract citizens who are exceptionally well qualified to perform the very delicate work to which they would be thus assigned." Most important, it would possess only sharply circumscribed and clearly defined powers. Grievances could only be filed within ninety days of the alleged discrimination. Conference, conciliation, and persuasion would be "mandatory in the first instance." All proceedings would be confidential. Only after all voluntary methods were exhausted would the agency turn to coercion in the form of cease-and-desist orders. Even then, such orders would be subject to judicial review. Ives concluded by confidently expressing that his bill represented the

[21] "Bias Bill Assailed by State Chamber," *New York Times*, February 12, 1945, 32.

[22] "Ives Assails Foes of Anti-Race Bills as Disfavor Rises," *New York Times*, February 13, 1945.

most "moderate, reasonable, and workable" approach. If enacted, it would result in "vastly improved human relationships."[23]

The controversy intensified in spite of him. This was most clearly reflected in the scores of letters that began pouring into the editorial offices of major New York newspapers. One group of illustrious letter-writers, led by New York attorney and judicial reformer, Charles C. Burlingham, echoed the views of the State Chamber of Commerce. After taking degrees at Harvard and Columbia Law School, Burlingham had forged a distinguished career in admiralty law, and his advice on judicial matters came to be sought by a bipartisan string of New York governors from Alfred E. Smith to Thomas E. Dewey. Burlingham lent his considerable personal prestige to opponents of Ives-Quinn, charging the bill proposed a "remedy that is worse than the disease." He claimed that it would set up an "elaborate and costly machinery" to implement an "inquisitorial process" that would ultimately prove useless. The true motivations behind employment decisions were simply too difficult to discern. Any attempt to "find out why Employer X did not employ Applicant Y, or why he discharged Employe (sic) Z, will be time-wasting and futile." Even if it were possible to descry a person's true racial attitudes, it was not within the power of the law to change them: "It is as impossible to destroy prejudice and discrimination by law as it is to control opinion or morals." Society would do far better if it relied instead on the greater potential for lasting social change that was to be found in civil society. Discrimination would erode only under "slow but steadily growing public opinion, guided and developed under the leadership of fair-minded men and women of every race, color, creed, and national origin."[24]

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[23] "Ives Statement on Anti-Race Bills," *New York Times*, February 13, 1945, 8.

[24] Letter from C. C. Burlingham to Editor of The New York Times, February 12, 1945, published in *New York Times*, February 13, 1945, 22.

Hailing from both parties, Ives-Quinn supporters did not sit on their hands helplessly; they launched a number of impressive rejoinders. Labor party official Hyman Blumberg sought to bolster liberal sentiment by denouncing the New York State Chamber of Commerce and Frank Columbus of the railroad brotherhoods. Blumberg noted, correctly, that they were hoping to win the votes of Republicans from upstate districts: "Up-State legislators are being fed the idea that the bill is simply a New York City measure in which they have no interest."[25] A liberal Republican, Charles H. Tuttle, counsel to the State Temporary Commission on Discrimination, denounced opponents as "modern Jeremiahs" lacking any "rugged faith that in business, American democracy works." With his characteristic forcefulness, the attorney noted the liability that civil rights might pose for U.S. foreign policy. "If we do not want the blue ribbon for international hypocrisy, let us curb our national passion for pulling motes out of other people's eyes until we have first cast this beam out of our own eyes."[26] Jack R. McMichael, executive secretary of the Methodist Federation for Social Services, wrote a letter to the *Times* directly responding to Burlingham's criticisms. McMichael conceded that "racial prejudice cannot be eliminated by legislation alone, since prejudice is largely a matter of emotional attitude." But he pointed out that prejudice and discrimination were not identical: "Discrimination…is not primarily a matter of internal unbrotherly feelings but of external unbrotherly actions—the proper and effective sphere for legislation with teeth." McMichael pointed to the geopolitical significance of the contest. Ives-Quinn constituted a "real test of democractic government." The failure to take a stand against discrimination would place a "powerful instrument in the hands of

[25] "Bias Bill Assailed by State Chamber," *New York Times*, February 12, 1945, 32.

[26] "Anti-Bias Bill Defended," *New York Times*, February 14, 1945, 15.

those who would like to see democracy overthrown in favor of some form of totalitarianism."[27] To critics of the bill who professed their genuine concern for racial equality and expressed sadness that the bill would be counter-productive, ACLU attorney Osmond K. Frankel responded with skepticism. "Pious hopes and crocodile tears will accomplish nothing."[28]

Their responses would not prove enough to stem the growing tide of dissent. By mid-February, reports from the normally sober and understated *Times* indicated that both the Assembly and Senate were fully in the midst of a "large-scale revolt against the demand of Republican legislative leaders for enactment of the Ives-Quinn anti-discrimination bill." The situation appeared grave enough that "advocates of the bill were expressing serious doubts that they would be able to muster enough to put it through the two branches of the Legislature in view of the extent and mounting intensity of the opposition." Making matters worse were the "whip-cracking tactics and pressure" of the CIO, which "appeared to be alienating up-State Republicans." It might have been possible for Governor Dewey to intervene on behalf of Ives-Quinn, but he had not yet done so—and even if he were to apply pressure some "legislators [expressed] doubt that many votes could be changed."[29]

The revolt reached an ominous crest on February 15, when a group of Republican legislators announced that they intended to call a party conference on the bill before it went to a vote. Most of the legislators hailed from counties in upstate New York, which had strongly supported Dewey in his 1942 race against John J. Bennett, Jr. (Dem.). At the conference they

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[27] Letter from Jack R. McMichael to Editor of the New York Times, February 13, 1945, published in the *New York Times*, February 15, 1945, 18.

[28] Letter from Osmond K. Frankel to Editor of The New York Times, published in the *New York Times*, February 20, 1945, 18.

[29] "Hearing is Voted on Ives-Quinn Bill in Senate Revolt," *New York Times*, February 14, 1945, 1, 15.

planned to introduce "several amendments which would eliminate some of the penalty provisions of the proposed law and curtail the powers of the anti-discrimination commission it would set up." Republican insurgents also succeeded in calling for a joint Assembly-Senate hearing on the bill, scheduling it for Tuesday, February 20. With these sudden developments, the Commerce and Industry Association of New York sensed a politically fortuitous opening and launch another barrage of criticisms and insinuations. Implicitly professing their support for the principle of racial equality, association lobbyists lamented that Ives-Quinn would ironically work "against those whom it is intended to benefit." It might, moreover, have unintended and unhappy consequences. For instance, they cautioned, Ives-Quinn might prohibit the use of "bona fide occupational qualifications" by employers. Although a "kosher butcher" could not hire "Gentiles" if he wished to observe Jewish law, Ives-Quinn might very well force him to do so. Worse yet, it might "require the hiring of particular persons by an employer" irrespective of their capacity to accomplish the job.[30]

Before the window of opportunity closely for good, however, reports began to surface that Dewey was prepared to intervene on behalf of Ives-Quinn, notwithstanding the objections of Burlingham and his ilk. The governor had recently met with a delegation of officials representing the Associated Industries of New York State, flatly denying their request for aid in obtaining amendments to the bill. Dewey also reportedly wielded the threat that that the only alternative to Ives-Quinn was legislation even more restrictive of business prerogatives.[31] The extent of his support become clearer in subsequent days. Facing the "fire of many Republican Senators and Assemblymen" as well as "almost united opposition from employer organizations," Dewey met with a delegation of citizens supportive of Ives-Quinn, including Charles E. Hughes, Jr. of the

[30] "Anti-Bias Bill Goes Plan New Strategy," *New York Times*, Februaxry 15, 1945, 17.

[31] "Dewey Interviews for Anti-Bias Bill," *New York Times*, February 16, 1945, 21.

Mayor's Committee on Unity, Thurgood Marshall of the NAACP, and Nathan D. Perlman of the American Jewish Congress. The governor told everyone in attendance the he considered the bill one of the "great social advances of our time," assuring them that he thought it would promote "equality of opportunity for all elements of our citizenship, regardless of race, creed, color, or national origin."[32]

Dewey's stand was potentially decisive. One report went as far as to surmise that it might mean the "difference between passage and defeat of the proposal" in the Senate. Party discipline appeared somewhat stronger in the Assembly, where Ives remained majority leader. Despite their misgivings, Republican Assemblymen were more likely to toe the party line than their compatriots in the upper house. At least a "half dozen Republican Senators…were wavering between demands of labor and minority racial groups for passage and pleas of employer organizations for its defeat."[33]

In the Sunday *New York Times*, Leo Egan, who had been covering Ives-Quinn on special assignment since January, rendered a perceptive summary of the crisis. Nearly all observers agreed that the bill had begun as a bipartisan venture, but rallying around it were mostly liberals—civil rights organizations, religious groups, industrial unions, and the Democratic membership of both the Assembly and Senate. Craft unions also lent their support, albeit less enthusiastically. Advocates for the bill stressed several arguments: the importance of adhering to democratic ideals at a time of great struggle against fascism and totalitarianism; the moderation of the Ives-Quinn approach compared to other proposed alternatives; and the necessity of passing some kind of legislation to stave off potential "racial outbreaks" after the war.

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[32] "Anti-Racial Bill Backed by Dewey," *New York Times*, February 17, 1945, 26.

[33] *Ibid*.

Republicans had professed some support for Ives-Quinn from the outset, mainly for political reasons. There had been hope among the most farsighted of them that it would "erase in party the 'reactionary' label that had proved a serious handicap to the GOP in national and State elections." But now a "deep cleavage" had divided Republican leaders in the legislature from their rank-and-file membership. Party chiefs wanted to see the measure pass, while a "majority of Republican Assemblymen and Senators would like to see it beaten or at least to extract most of its teeth." This chasm had yawned open only in the last two weeks, arising in Egan's words because of the "sudden recognition of the potentialities of the legislation by employers and others affected." Senator Frederic H. Bontecou (Rep.) of Poughkeepsie and Assemblyman William M. Stuart (Rep.) of Canisteo were the principal leaders of the revolt, which had the wholehearted encouragement of "most employer organizations of the State, several of the Railway Brotherhoods and by a number of civic groups."[34]

Over the course of the last two weeks, opponents of Ives-Quinn had repeatedly wielded several arguments: that the agency would be forced to entertain many "unfounded" complaints; that it would be used to "intimidate employers into hiring or retaining persons who are not qualified or competent"; and that it would actually precipitate, not deflect, interracial conflicts. Siding with the Republican leadership, Dewey had backed Ives-Quinn. If the bill now failed to pass, it could constitute a severe blow to his credibility, and it could lead to an irreparable breach between him and his party membership. But if it passed it could put him in a position to claim a leadership role on civil rights in the upcoming election year, and it could boost the overall

[34] Leo Egan, "Anti-Bias Bill Splits Republicans in Albany," *New York Times*, February 18, 1945, IV, 10.

political fortunes of Republican ticket.[35] This, then, was the political landscape as the crisis approached the joint legislative hearing that had been set for February 20.

The hearings in Albany were well-attended and widely reported, with more than 400 people filling every seat on the floor and gallery of the Assembly Chamber, spilling over two to three rows deep against the walls. Testimony came from some of the important and powerful lobbies and interest groups in New York politics. Among those arrayed against the bill were Daly of the Associated Industries, Columbus of the Railroad Brotherhoods, Gustave R. Michelson of the New York Board of Trade, Julian S. Myrick of the New York Chamber of Commerce, and James Dunne of the Commerce and Industry Association of New York. Among those speaking out in favor of the measure were Rabbi Stephen S. Wise on Henry Epstein on behalf of various Jewish groups, John F. Brosnan and Stephen S. Jackson of the New York State Catholic Welfare Committee, Reverend Wayne White of the Methodist Federation for Social Service, Louis Hollander of the New York State CIO, and Thomas A. Murray of the State Federation of Labor.

Familiar arguments for and against Ives-Quinn were rehearsed on the most prominent public stage they had thus far received. But perhaps because of the obvious stakes involved the ongoing controversy over quotas received special attention. In a letter read aloud by Senator Bontecou, Park Commisioner Robert Moses made his point somewhat dramatically, if ambiguously. "The most vicious feature of this proposal," he wrote, "is that it will inevitably lead to the establishment of what in European universities and institutions from the Middle Ages to World War II was known as the 'numerous clauses,' that is, the quota system under which Jews and other minorities were permitted only up to a fixed percentage of the total population."

[35] Leo Egan, "Anti-Bias Bill Splits Republicans in Albany," *New York Times*, February 18, 1945, IV, 10.

The purpose of his allusion to numerous clauses is not entirely clear at first blush. The characteristically blunt Moses may have meant to argue that any agency created by Ives-Quinn would inevitably develop the power to set upper limits on the employment of racial and religious minorities. If the upper limits were unreasonably low, then the bill would ironically serve to curtail the opportunities of individuals who it was originally meant to help. Or he might have intended to hint darkly that the provisions of the bill would harden into a system in which allotment of jobs in the economy would be made to reflect the racial and religious composition of the population as a whole. In either scenario, however, hiring and promotion would not depend on merit or qualifications but on whether a decision would violate or satisfy a quota. Any future in which Ives-Quinn had become law would inevitably be a chilling one.[36]

The invocation of quotas was a flashpoint in a long day of testimony. President of the American Jewish Congress, Rabbi Stephen S. Wise—who had co-founded the NAACP and ACLU—expressed pity for Moses. Wise described him as one "for whom the light has gone out." But the most striking and perhaps effective rejoinder to his accusation came when New York City official Reuben Lazarus read a letter from Mayor La Guardia. In a display of the keen instincts that made him a revered and successful figure in New York City politics, La Guardia had anticipated that the subject of quotas would surface and addressed them directly in his letter. He began by quoting a key passage of the bill: "No person, because of race, color, creed, or religion, shall be subjected to any discrimination in his civil rights by any other person, firm, corporation or institution." In plain and unambiguous language, Ives-Quinn sought to prohibit discrimination. Yet the law would only have meaning if it were properly enforced. "To give this guarantee to persons within our State and not to provide the machinery for its enforcement would

[36] "Bias Bill Battle Waged at Hearing," *New York Times*, Febraury 21, 1945, 1, 15.

be a mockery, an empty, shallow constitutional provision." The design of such machinery was properly the subject of democratic deliberation. But there should be no doubt that the "bill, as I have read it, does not give preference to anyone because of race, creed, color or religion. It does not compel an employer to employ quotas or to employ less efficient persons because of race, creed, color, or religion, but it specifically prohibits discrimination solely on these grounds."[37]

Almost instantly, seasoned observers recognized that the hearings might have "backfired" against the Republicans who had called for them.[38] Indeed, one day after the hearings, Seantor Bontecou and Assemblyman Stuart paid their opponents a backhanded compliment—calling them a "brilliantly organized minority"—and conceded that the bill would pass without the inclusion of any weakening amendments.[39] The rebellion of Republican legislators, which had rendered the prospects of bill so cloudy only days before, had fallen apart in one climactic confrontation.

The conclusiveness of their collapse was only confirmed when the *New York Times*, which had remained curiously silent on Ives-Quinn despite a record of strong support for civil rights, finally took a definitive—if closely worded—editorial stand on the bill. The editors took great pains to acknowledge the inherent difficulty of the problem, conceding the even "men of demonstrated good-will" who had built up "equally long and honorable records in the cause of civil liberties and racial and religious understanding" could—and did—differ "sharply" with one another over the means of achieving fair employment. Enforcement was at the heart of the disagreement. Compared to friends of the bill, critics felt that it was to difficult to discern the

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[37] "Bias Bill Battle Waged at Hearing," *New York Times*, Febraury 21, 1945, 1, 15.

[38] *Ibid*.

[39] "Anti-Bias Bill Foes Admit Defeat by a 'Highly Organized Minority,'" *New York Times*, February 22, 1945, 1.

"motives" involved in employment decisions; that there was a great deal of potential for "nuisance suits"; that the desire to avoid such suits would lead employers "to employ, or to retain in their employment, obviously inefficient workers; and that the net result will be the establishment of 'quota' systems, and the exasperation rather than the amelioration of racial and religious feelings." In their thoroughgoing evenhandedness, they even conceded that they shared many of these "misgivings" toward bill. In the end, however, the editors came down on the side of accepting the enforcement provisions—arguing that "experience alone can provide th[e] test" to see whether enforcement was effective.[40]

In a matter of days, Ives-Quinn cleared the Assembly by a vote of 109 to 32. A total of 55 Republicans, 53 Democrats, and one Labor party member voted in favor of the bill, while 32 Republicans cast votes against it.[41] Less than a week later the Senate passed the same bill by a 49-6 vote. Only six Republicans opposed the bill, while 28 Republicans and 21 Democrats favored it.[42] When it was sent to Dewey on March 12, he signed it with twenty-two pens.[43]

FAIR EMPLOYMENT IN THE GOLDEN STATE

In contrast to New York, where a fair employment law was enacted only one year after it was initially proposed, California took more than fifteen years to pass comparable legislation. The first fair employment bills were introduced into the California Assembly in 1943 by black

[40] "The Anti-Discrimination Bill," *New York Times*, February 22, 1945, 26.

[41] "Anti-Bias Bill Is Passed, 109-32, by Assembly without Amendment," *New York Times*, February 29, 1945, 1.

[42] "Anti-Racial Bill Passed by Senate and Sent to Dewey," *New York Times*, March 6, 1945, 1.

[43] Anti-Racial Bill Signed by Dewey," *New York Times*, March 13, 1945, 38.

Assemblyman Augustus F. Hawkins (Dem.) of south-central Los Angeles.[44] During the depths of the depression, Hawkins had won election to the lower house in 1934 as part of a broad slate of liberal New Dealers who were sweeping into state legislatures across the country. Like other liberals of his generation, Hawkins shared the belief that economic security was best guaranteed through a government-sponsored program of full employment. The central purpose of fair employment legislation was to extend the promise of economic security to all Americans. The early wartime bills Hawkins proposed, however, were merely halting steps toward a workable program on fair employment. None resembled the bolder, more coherent bills he would later sponsor in the California legislature and then in Congress as a U.S. Representative. It was only in 1945 that Hawkins introduced A.B. 3, which prohibited discrimination and called for the establishment of a statewide agency with enforcement powers. This bill contained the main features of the model of administrative regulation that liberals thereafter set out to institute. Under his sponsorship, dozens of such bills—consciously based on Ives-Quinn in New York—made their way into the Assembly hopper.[45]

The campaign for fair employment in California was no quixotic journey by a lonely, isolated Democratic legislator. Hawkins had numerous allies. By the end of 1940s, W. Byron Rumford (Dem. – Berkeley), California's second black Assemblyman, had informally agreed with Hawkins to take responsibility for fair employment bills in alternate sessions of the

[44] A.B. 41, A.B. 50, A.B. 1732, A.B. 1775. See California Legislature, *Final Calendar of Legislative Business,* Assembly Final History, 1943 Regular Session (Sacramento: California Legislature, 1943), 141, 529, 537.

[45] Letter from David Ziskind to Roscoe C. Carroll, November 27, 1956, Carton 3, Folder: Fair Employment Practices; Letter from William Becker to W. Byron Rumford, December 7, 1956, Carton 3, Folder: Fair Employment Practices; Letter from W. Byron Rumford to Raymond L. Frick, June 3, 1955, Carton 3, folder: General Correspondence, Rumford Papers, BL. Rumford claimed that A.B. 971 was "in principle is the same as the initiative that was defeated" in 1946.

legislature.[46] Educated at the University of California, Rumford was a pharmacist by profession; he had been elected to office in 1948 to represent a largely black district encompassing parts of north and west Oakland, along with a sliver of south Berkeley. His name would come to be most closely associated with California's 1963 fair housing bill, which was nullified in 1964 by a referendum that the Supreme Court would ultimately declare unconstitutional.[47] Yet, like Hawkins, he was a central legislative figure on fair employment. Indeed, fair employment was embraced by all but the most conservative Democrats. While they proved spectacularly unsuccessful until Brown's run in 1958, Democrats gubernatorial candidates like James Roosevelt supported the establishment of a California FEPC, and successive party platforms routinely endorsed such legislation.[48]

Hawkins, Rumford, and other Democrats drew their staunchest political support from a broad-based coalition of liberal groups. This coalition gathered in the early postwar period under the banner of the California Federation for Civic Unity. The federation had been formed during the war as a coordinating body for local civic unity and community relations organizations; it sought to promote harmonious relations among people of different racial and religious backgrounds. But it also actively worked to strengthen public policy that would achieve the same ends. Although they were involved in numerous aspects of intergroup relations, fair employment legislation was at the top of their agenda. In 1953, led by the NAACP, liberals founded the

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[46] Tarea Hall Pittman, *NAACP Official and Civil Rights Worker*, an oral history conducted in 1971-1972, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1974.

[47] Raymond E. Wolfinger and Fred I. Greenstein, "The Repeal of Fair Housing in California: An Analysis of Referendum Voting," *American Political Science Review* 62 (September 1969): 753-769.

[48] Roosevelt, James, *California Democrats in the Earl Warren Era*, an oral history conducted in 1971-1972 by Amelia R. Fry for the Regional Oral History Office, The Bancroft Library, University of California, Berkeley, California, 1976.

California Committee for Fair Employment Practices, hoping to give their lobbying more focus than it had enjoyed under the California Federation. C.L. Dellums of the Brotherhood of Sleeping Car Porters was chosen to head the committee, and the founding membership included the CIO, AFL, Community Service Organization, California Federation for Civic Unity, Jewish Community Relations Council, and the Friends. The members of the committee did not all share the same commitment to fair employment as the NAACP—many long-time proponents of fair employment felt that the AFL was only half-heartedly signing on board—but the committee was notable for the breadth as well as diversity of the organizations involved.[49]

In the words of NAACP official Tarea Hall Pittman, the new committee formed specifically for the purpose of obtaining a "strong civil rights bill" on fair employment, which they defined as a bill that had "sanctions and enforcement provisions."[50] As the *San Francisco News* noted, even if the "real accomplishments in FEP are rendered by conciliation and quiet persuasion," it was necessary to have "enforcement powers to apply where persuasion fails."[51] The point of enforcement power was not to achieve a specific pattern of results but to give non-discrimination a real chance to succeed. "We plead no special cause," said Rumford once, "but

[49] Although the AFL was savvy enough to make a nominal show of support for FEPC, Rumford never considered it a solid ally. When asked in an oral history interview whether the AFL had supported such legislation, he said, "They didn't—not strongly." The federation would regularly testify in favor of FEPC before the Assembly, but Rumford considered their approach "weak-kneed." "They'd get up there and say they were for it," Rumford recalled, just so that they would be able to say " 'We testified for it.'" But he could never shake the suspicion that "some of the henchmen in the background…were working against it." W. Byron Rumford, *Legislator for Fair Employment, Fair Housing and Public Health*, an oral history conducted by Joyce A. Henderson, Amelia R. Fry, and Edward France in 1970-1, Regional History Office, The Bancroft Library, University of California, Berkeley, 1973.

[50] Tarea Hall Pittman, *NAACP Official and Civil Rights Worker*, an oral history conducted in 1971-1972, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1974; Minutes, January 31, 1953, Folder: FEP—1953 Sponsors' Report, Carton 36, NAACP West Coast Region, BL.

[51] *San Francisco News*, February, 23, 1959.

ask that California's two million minority people be granted equal opportunity in employment."[52]

It was not for lack of controversy or concern that fair employment bills consistently failed. News of legislative fights over it would periodically spill into news sections of various California newspapers. There was a great deal of private interest as well. Myriad interest groups, often through hired political consultants, closely monitored the progress of fair employment legislation throughout the 1940s and 1950s. Fair employment quickly caught the attention of the most important lobbyist in postwar Sacramento, Arthur Samish, whose legendary influence was exceeded only by his 300-pound girth. Drawing on a redoubtable network for gathering political intelligence, which he brazenly dubbed his "Gestapo," Samish regularly and ably represented the interests of California's eclectic business community—including the liquor, transportation, tobacco, banking, and chemical industries. A report in 1945 by Samish's consultancy noted that "among the firecracker bills of the [previous] session were bills designed to establish commission to prevent and penalize the hiring and hiring of workers where elements of discrimination on account of race, creed, or color were involved."[53] Other important interest groups concurred with Samish's characterization of civil rights legislation. A legislative report by the California State Federation of Labor observed that "civil rights was one of the most controversial matters before the 1951 legislature."[54] In their in-house legislative advisories,

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[52] Friends Committee on Legislation, *The Story of the 1955 California Legislature* (San Francisco: Friends Committee on Legislation, 1955), 22, Folder: Legislature 1955, Box 15, Cleary Collection, BL.

[53] Bulletin, Arthur H. Samish & Associates, June 19, 1945, Folder: Legislature 1945, Box 15, Leary Collection, BL. A colorful portrait of Samish is Lester Velie, "The Secret Boss of California," *Collier's*, August 13, 1949.

[54] California State Federation of Labor, *Report on Labor Legislation, 56th Session of the California Legislature* (San Francisco, California State Federation of Labor, 1945), 15, Folder: Legislature 1945, Box 15; California State Federation of Labor, *Labor and the Legislature—*

business lobbies like the California Chamber of Commerce and the California Retailers Association also vigilantly tracked the fluctuating political fortunes of fair employment legislation.[55]

Republican-controlled committees in the lower house proved the main obstacle blocking the passage of early fair employment bills. In 1945, Hawkins' A.B. 3 was referred to the Assembly Committee on Governmental Efficiency and Economy, known as the graveyard of legislation. The chair of the GE&E committee was C. Don Field (Rep. – Los Angeles), a former trucking contractor representing Glendale in southern California.[56] Field's committee held true to reputation. After two months of legislative tussling in which it sought to have the bill fatally amended, Hawkins withdrew the bill from Field, hoping a motion to consider the bill would pass the full Assembly. A.B. 3 failed to receive the sixty required votes on Jun 13, and it officially "died on file" on June 16. A similarly unfortunate fate awaited other measures introduced by Hawkins in 1947 and 1951.[57]

1951 (San Francisco: California State Federation of Labor, 1951), 7, Folder: Legislature 1951, Box 15, Cleary Collection, BL.

[55] California Retailers Association, *It's a Law, 1951* (Sacramento: California Retailers Association, 1951). Folder: Legislature 1953, Box 15; California State Chamber of Commerce, *Legislative Information, Bulletin No. 4* (February 1945), 15, Folder: Legislature 1945, Box 15, Cleary Collection, BL.

[56] A.B. 3. California Legislature, *Final Calendar of Legislative Business,* Assembly Final History, 1945 Regular Session (Sacramento: California Legislature, 1945), 178.

[57] In the 1947 session, Hawkins introduced A.B. 2211, which was modeled more closely on proposed federal legislation than his 1945 bill. California Legislature, *Final Calendar of Legislative Business,* Assembly Final History, 1947 Regular Session (Sacramento: California Legislature, 1947), 678. In 1951, when he introduced A.B. 2251, Hawkins would be joined by Democrat W. Byron Rumford, a black Assemblyman from Berkeley, as well as half a dozen other sponsors. Like his other bills, A.B. 2251 would be referred to the Governmental Efficiency and Economy Committee. By 1951, Los Angeles attorney H. Allen Smith had take over Field's seat, but the committee remained chaired by a Republican, Albert I. Stewart (R-Los Pasadena).

In subsequent battles, Senate committees became the central obstacle. A fair employment bill first cleared the Assembly in 1955 by a vote of 48 to 27, but a little more than a week later the Senate Labor Committee buried the bill by a 5-2 vote, with employer groups registering their strong opposition.[58] In 1957, after clearing both the Government Efficiency and Economy Committee and the Ways and Means Committee, the Assembly passed a fair employment bill—sponsored by Hawkins and more than forty others—by a vote of 61 to 15.[59] But the Senate Labor Committee voted 4-2 along party lines to table the bill, thereby preventing it from going to the floor for a vote. H. Howard Williams (Rep. - Porterville), John A. Murdy, Jr. (Rep. – Huntington Beach), John F. McCarthy (Rep. – San Rafael), F. Presley Abshire (Rep. – Santa Rosa) favored tabling the bill, while Harold T. Johnson (Dem. – Roseville) and Robert I. Montgomery (Dem. – Hanford) favored reporting it.[60]

Arrayed against Hawkins, Rumford, and their liberal allies were Republican legislators. Even the most biased observers could hardly overstate the extent to which California Republicans, particularly in the Senate, sought to derail fair employment legislation. In 1955, one editorial claimed, correctly, that FEP had been bottled up by a "tiny majority of five men" in the Senate Labor Committee. All five were Republicans "and out of the reach of liberal wrath, elected as they are from rural areas, notorious for their opposition to social chance and their exploitation of migratory workers, usually of minority racial backgrounds." Once again,

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[58] "Assembly OKs Pension Boost, Passes FEPC," *San Francisco Chronicle*, May 18, 1955, 10; "Assembly Passes FEPC Bill After Stiff Debate," *Los Angeles Times*, May 18, 1955, 1, 20; "State Senate Group Kills 3 FEPC Bills," *San Francisco Chronicle*, May 25, 1955.

[59] "State FEPC Bill Wins in Assembly by 61-15 Vote," *San Francisco Chronicle*, April 16, 1957, 6; "Assembly OKs FEPC Measure by 61-15 Vote," *Los Angeles Times*, April 16, 1957, 1, 9.

[60] "Senate Unit Kills State FEP Bill—Issue Dead for Session," *San Francisco Chronicle*, May 14, 1957, 9.

Republicans posed the main barrier to civil rights, and unless "radical changes" were made, subsequent campaigns for FEP might be "doomed to the same finish." Republicans had to be held "accountable for the failure of its standard bearer to redeem the party's pledges to its people." "For far too long, Republicans have hoodwinked minorities on the subject of civil rights…there has been much ambiguity, plus a tendency to let them slip by in the shadow of the glory that was Abraham Lincoln."[61]

The unremitting hostility of some Republicans to enforceable fair employment legislation was plainly evident in their charge that such bills were simply a convenient pretext for instituting a system of preferential treatment on behalf of unqualified minorities. This was no isolated charge. It was a characteristic Republican argument for much of the time that the struggle over fair employment legislation took place. In 1955, Harold K. Levering (Rep.) of Los Angeles thought that any FEPC "must discriminate in favor of members of such minority races."[62] When the FEP measure passed the Assembly in 1957, A. I. Stewart (Rep.) said the bill "intended to take care of people who are not qualified."[63]

A young Assemblyman from southern California, Casper W. Weinberger (Rep.), was more circumspect in his criticisms. In a meeting with Franklin Williams of the NAACP in 1955, the Harvard-trained Weinberger flatly stated his opposition to a fair employment bill then in the Assembly. According to Williams, who must surely have sought to ascertain Weinberger's position as accurately as possible, the Assemblyman "doesn't agree with the bill" on the grounds that "he doesn't believe in compulsion." Weinberger staunchly opposed "state control, interference, and the creation of another commission." Moreover, any kind of compulsory bill

[61] *Los Angeles Tribune*, June 3, 1955.

[62] *Los Angeles Examiner*, May 23, 1955.

[63] *California Voice*, April 19, 1957.

would cause "antagonism" and "retard progress" at a moment when significant "progress is being made against discrimination." At the same time, Weinberger foreshadowed the response of future Republicans when he proposed his preferred alternative. Instead of a NLRB-style agency, he favored the establishment of a "civil rights study commission" that would "permit anyone to sue for damages."[64]

The core concerns of Republicans were shared by the powerful California business lobby. L.C. Vanderlip of the California Chamber of Commerce, Jack Chelew and Randolph van Nostrom of the Merchants and Manufacturers Association of Los Angeles, Guilford Rowland of the Federation of Employers of San Francisco, and Charles Gibbs of the Associated Farmers were among the most active, consistent, and powerful opponents of enforceable fair employment legislation. They worked regularly with groups like the California Association of Employers, San Francisco and Oakland Chambers of Commerce, and San Francisco Retail Council, appearing before the Assembly and audiences across the state to speak out against such bills.[65] One of the strongest reactions came from the Associated Farmers, which called A.B. 3 "vicious beyond description." In their view, it was completely counterproductive. "We have no hesitancy in predicting that had the bill become law it would not only contribute to but would have created racial strife rather than alleviate it." It was "radical legislation, pure and simple." To be sure, little joy could come from standing up against A.B. 3, since it was the subject of "many sincere

[64] Letter from William Becker to W. Byron Rumford, May 4 (n.d., probably 1955), Folder: FEPC—A.B. 971—1955, Box 3, Rumford Papers, BL.

[65] "Mild FEP Bill Gains in Assembly," *San Francisco Chronicle*, May 1, 1953, 5; "Rumford to Ask Call-Out Vote on FEPC Bill, *San Francisco Chronicle*, May 3, 1955, 10; "Employers Group Condemns FEP," *San Francisco Chronicle*, May 2, 1957; "Senate Unit Kills State FEP Bill—Issue Dead for Session," *San Francisco Chronicle*, May 14, 1957, 9; Press Release, Office of W. Byron Rumford, February 12, 1959, Rumford Papers, BL.

representations" by the "racial groups who appeared at the hearings on the bill." Yet it was "essential" to block the bill, and the Associated Farmers "accepted that responsibility."[66]

The furious lobbying of groups like the Associated Farmers embodied the deep, conservative conviction of many California employers that the decision to hire, promote, or fire a worker was close to a sacred prerogative. As one business owner wrote in an angry missive to Rumford, "the hireing (sic) of employee is entirely a matter for the employer to decide." "It is the employers (sic) right to exercise his own personal judgment as to how he shall operate his business. The proposed FEP law is an infringement on personal liberty."[67]

Nowhere were the ideological battle lines in the conflict over fair employment more clearly apparent than in the battle over Proposition 11 in 1945. In early-June 1945, Field's Committee on Governmental Efficient and Economy had successfully manuvered A.B. 3 to certain death in the full Assembly. Fearful that future fair employment bills would share the same fate, delegates from the Southern and Northern California Committee for a State FEPC met in Fresno in late-October to devise a strategy to collect enough signatures to qualify a ballot initiative for the 1946 elections.[68] Organizations represented at the meeting included the Los Angeles, San Francisco, and statewide CIO Council, the Los Angeles, San Francisco, Vallejo and regional offices of the NAACP, and the Los Angeles office of the American Jewish Congress.

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[66] Associated Farmers of California, *The Associated Farmer*, V5, N12, June 28, 1945, Folder: Legislature 1945, Box 15, Cleary Collection, BL.

[67] Letter from "Old Employer" to W. Byron Rumford, May 4, 1955, Folder: FEPC—A.B. 971—1955, Box 3, Rumford Papers, BL.

[68] "Group Maps Plan for State FEPC Initiative Campaign," *California Eagle*, November 11, 1945.

Proposition 11, as the initiative came to be numbered, was virtually identical to A.B. 3 in all but name. The initiative proposed to make it "unlawful to refuse to hire, to discharge, or discrimination in conditions of employment against any person because of race, religion, color, national origin, or ancestry." To enforce the new law, it established a NLRB-style agency that was empowered to issue an order requiring offending parties to "cease and desist from such unlawful practice…and to take such affirmative action, including (but now limited to) hiring, reinstatement or upgrading of employees with our without backpay."[69] In addition to Hawkins, other signatories of Proposition 11 included Leon H. Washington, Editor of the Los Angeles *Sentinel*; Herman Hill; Pacific Coast Editor, Pittsburg *Courier*; Loren Miller, attorney and one-time reporter for the California *Eagle*; and Assembly member George D. Collins, Jr. (Dem. – San Francisco).

Even as the NAACP, California CIO, League of Women Voters, and Catholic Interracial Council rallied around the proposition, they met with a host of arguments that would soon become familiar refrains. Law could never shape morality, since "intolerance is a matter of individual conscience" and beyond the realm of "legislative coercion." "Prejudices can be eliminated only by evolution and education, not by compulsory legislation." Proposition 11 would undermine the business climate. California's agriculturalists— who found it "necessary to confine the hiring to one group in order to avoid ill feeling and even violence between minorities"—would become vulnerable to outbreaks of racial mayhem. Proposition 11 violated constitutional rights and skirted valuable legal safeguards. Echoing earlier business complaints about the NLRB, critics claimed that it would "deprive those accused under it of the right of trial

[69] *Proposed Amendments to Constitution: Propositions and Proposed Laws, Together with Arguments—General Election, Tuesday, November 5, 1946* (Sacramento: Secretary of State, California State Printing Office, 1946).

by jury," and it would "deprive the accused, whether employees, labor unions, or employers, of the customary rules of evidence and legal procedure," leading to an "inquisition" of "arbitrary and oppressive action." Despite the lofty ideals that gave rise to it, they concluded, Proposition 11 would "defeat its alleged purposes."[70]

Business lobbies sought to undermine popular support for the proposition by associating it with communism. In southern California, they formed the misleadingly named "Committee for Tolerance" to finance attacks on the proposition. These included numerous radio advertisements as well as billboards that read, "Don't Be Misled. Vote No on No. 11. Smash this CIO-PAC Scheme." The committee was headed by Republican Frank P. Doherty, former director of the California State Chamber of Commerce, and Thomas Deane, vice president of the main Los Angeles branch of Bank of America.[71] A number of similar organizations took root in northern California. One such group called itself the "Northern California Committee against State Proposition No. 11." It was headquartered in Oakland at 95 Market Street, and it received financial support from Oakland's United Employers Incorporated.[72] The proposition also

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[70] *Ibid*.

[71] "Labor Paper Unmasks Backers of Unsigned Smear Attack on Prop. 11," *California Eagle*, October 17, 1946, 1, 8; "Fair Practices Act Assailed as Public Menace," *Los Angeles Times*, October 27, 1946, 2.

[72] "Employers Group Calls for $2000 Contributions in Plot to Defeat FEPC," *California Eagle*, October 24, 1946, 20. In his dissertation on the African American community in Los Angeles between the Great Depression and the *Brown* decision, Josh A. Sides calls the *California Eagle* the "premier" black newspaper. The *Los Angeles Sentinel*, which would outlast it, ran a close second. Nonetheless, reporting in the *Eagle* should be treated with some care. Owner and editor Charlotta Bass was a lifelong progressive, and she wore her left-leaning sympathies openly. Many of her best reporters, like attorney Loren Miller, shared her beliefs. The paper exhibited a discernible editorial bias toward workers and organized labor, particularly in stories about their conflicts with employers and management. If at all possible, it is best if accounts in the *Eagle* are checked against other sources. For a discussion of Miller and Bass, see Josh A. Sides, "Working Away: African American Migration and Community in Los Angeles from the Great Depression to 1954," Ph.D. diss., Department of History, University of

attracted the opposition of the Oakland Chamber of Commerce.[73] Employers warned darkly that Proposition 11 would make it easy for minorities to wrest jobs away from hard-working Americans: "anybody believing himself held back by his color, his race, his religion, his national origins, or his ancestry needs only to complain. The commission could force him into your job."[74]

Newspapers across the state took strong stands; none equivocated. Editors at the Republican-leaning *Los Angeles Times* charged that it was a "scheme well designed to promote race and religious prejudice instead of allaying it."[75] Additional critics of the proposition included the *Oakland Tribune*, *San Francisco Chronicle*, and *Sacramento Bee*.[76] Black newspapers like the *California Eagle* and *Pittsburgh Courier* responded with strident rhetoric of their own. "To the minority groups," wrote the editors of the *Eagle* with characteristic hyperbole," it will be salvation. It will be a gate opening into a Paradise of freedom from the hell of discrimination practices against Negroes, Catholics, Mexicans, and others so many years."[77]

Proposition 11 ultimately met with what the *Oakland Tribune* characterized as a "smashing" defeat at the polls[78] The *Los Angeles Times* gloated that the rejection of the

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California, Los Angeles, 1999, 65-6. For her recollections as editor of the *Eagle*, see Charlotta Bass, *Forty Years: Memoirs from the Pages of a Newspaper* (Los Angeles: C. A. Bass, 1960).

[73] "Political Notes, Comment of California Interest," *Oakland Tribune*, November 4, 1946, 7.

[74] Josh A. Sides, "Working Away," 197; Kevin A. Leonard, "Years of Hope, Days of Fear: The Impact of World War II on Race Relations in Los Angeles," Ph.D. diss., Department of History, University of California, Davis, 1992, 328.

[75] "Promotion of Race Prejudice," *Los Angeles Times*, October 24, 1946, 4.

[76] "Recommendations by Tribune on Proposals," *Oakland Tribune*, November 5, 1946, 3; "The Chronicle Recommends," *San Francisco Chronicle*, November 2, 1946, 10; "Ballot Proposition Recommendations," *Sacramento Bee*, November 2, 1946.

[77] "Votes 'Yes' Proposition 11," *California Eagle*, October 11, 1946, 7.

[78] FEPC, Dog Racing Defeated," *Oakland Tribune*, November 6, 1946, 1.

proposition was a "victory for tolerance, sanity and fair dealing."[79] If their triumphalist rhetoric was overwrought, conservatives were nonetheless correct to rejoice. The defeat saddled liberals with a debilitating legacy. It permitted opponents of fair employment to make the powerful argument that the 1946 vote was a decisive "mandate from the people."[80] More than ten years later, it was still possible for the anti-FEP *Sacramento Union* to cast aspersions on liberal ambitions, declaring that "some legislators apparently believe the people do not know what they want or need, and so they take it upon themselves to provide laws for them."[81]

Yet, partly through the tenacious lobbying of organizations like the California Committee for Fair Employment, momentum for FEP built steadily during the 1940s and 1950s. As it became increasingly apparent that they could not hold off the passage of a FEP law indefinitely, some critics sought to cast California as a racial and religious nirvana. In 1957, San Francisco businessman Adrian J. Falk, who had served as president of the San Francisco and California Chambers of Commerce, claimed that there is "more tolerance, more justice, and more fair play in California in employment practices than in any other State."[82] Other voices argued that fair employment laws would bring down the economy. "Such a measure would create chaos and confusion in the business atmosphere of California, hampering its orderly growth and retarding its natural development."[83]

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[79] "A Great Republican Sweep," *Los Angeles Times*, November 6, 1946, 4.

[80] Pittman, Tarea Hall, *NAACP Official and Civil Rights Worker*, an oral history conducted in 1971-1972, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1974.

[81] *Sacramento Union*, April 23, 1957.

[82] "Senate Unit Kills State FEP Bill—Issue Dead for Session," *San Francisco Chronicle*, May 14, 1957, 9.

[83] *Sacramento Union*, April 23, 1957.

Still other business interests warned that FEP bills would replace the "remarkable progress" achieved through "voluntary" programs with the "compulsion of a policeman with a club."[84] Few voices openly disputed the goal of non-discrimination. In fact, most businessmen took great pains to profess their allegiance to the ideals of racial and religious tolerance. What was problematic to them was the means of achieving social change. Business interests favored voluntary self-regulation over nearly all forms of governmental intervention, which they viewed as a fateful first step toward more intensive state control over private enterprise. The distinction between voluntary and coercive regulation had been made repeatedly by employers since the earliest days of the battle over fair employment, but it emerged with particular clarity in 1957, after more than 200 businessmen met at the Commercial Club to discuss a pending FEP ordinance in San Francisco. "We are no more in favor of discrimination than the proponents of the ordinance," said a spokesman. "We think it can be done better voluntarily than by a punitive ordinance. It won't be as messy, it won't be as difficult, it won't be as acrimonious, and it won't leave scars."[85] Editors at the *San Francisco Examiner* concurred in 1959, when it became evident that the newly elected governor would make fair employment a top legislative priority. "We believe with the Governor that the time has come for California to join the company of enlightened states outlawing racial and religious job discrimination." Yet even such a lofty "social purpose" would be "better served" if the state would follow the San Francisco model, which "places great emphasis on persuasion" over and against coercion.[86]

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[84] *San Francisco Examiner*, Assembly Kills State FEPC Bill," *San Francisco Examiner*, May 14, 1957.

[85] *San Francisco Chronicle*, April 5, 1957.

[86] *San Francisco Examiner*, January 12, 1959.

Success for Hawkins and Rumford—and the liberal coalition that had mobilized around them—finally came in 1959. Edmund "Pat" G. Brown (Dem.) had trounced U.S. Senator William Knowland (Rep.) in the 1958 gubernatorial election, winning 60 percent of the vote to Knowland's 40 percent.[87] In the state legislature, Democrats had won control of both houses for the first time since 1889. They held a substantial 28-12 edge in the Senate, while they were ahead by a 47-32 margin in the House.[88] Liberals recognized the opportunity before them. As Phillip Burton, Assembly member from northern California, wrote in a letter to NAACP official Franklin H. Williams, "The prospects for the passage of FEPC are excellent, in light of the fact that Pat Brown, unlike his Republican predecessors, is lending the full weight of his office in support of this bill."[89] Burton augured correctly. After meeting several times with the California Committee for Fair Employment Practices in early 1959, Brown wasted no time making good on his campaign pledge to back fair employment. In February, the California Assembly passed Rumford's A.B. 91. Rumford called the event a "smashing victory."[90] The bill was reported to the Senate and shuttled around various committees before it was resoundingly approved by a margin of 30-5. Only four Republicans and one brave Democrat went against Brown.[91]

Even before the bill could be brought back to the attention of the Assembly, which had yet to approve the minor amendments made by the Senate, editors at the *Los Angeles Times*—which had opposed FEP legislation as early as 1946—continued to grumble about potential

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[87] Congressional Quarterly, *Congressional Quarterly's Guide to U.S. Elections* (Washington, D.C.: Congressional Quarterly Press, 2001), 1420.

[88] Council of State Governments, *Book of the States, 1960-1961* (Chicago: Council of State Governments, 1960), 37.

[89] Letter from Phillip Burton to Franklin H. Williams, January 14, 1959, Folder: FEPC: Correspondence, 1957-Jan. 1959, Carton 36, NAACP West Coast Region, BL.

[90] Press Release, Office of W. Byron Rumford, Feburary 19, 1959, WBR, BL.

[91] "Senate OKs FEPC by 30-5 Vote," *Los Angeles Times*, April 9, 1959, 1, 25.

hazards of the legislation. The bill could "go beyond its proper function and become an agency of reprisal or blackmail." By concentrating authority in a single agency and thereby circumventing judicious constitutional safeguards, it made the FEPC "its own police force and prosecutor as well as judge, jury and executioner." It also came dangerously close to treading on the "rights of the majority." The editors concluded by noting the irony of the situation. "Anti-discrimination laws, however well-intentioned, can, in practice, harm instead of protect minority rights."[92]

If conservatives expressed grave concerns that enforceable FEP laws granted regulators too much authority to interfere in business decisions, then radicals felt that fair employment laws did not go nearly far enough. As the editors of the *California Eagle* wrote, "Assemblyman Byron Rumford's measure is molded closely, too closely, we believe, on the New York law which was passed a dozen years ago. Frankly, we're disappointment that the California bill does not permit the proposed Commission to initiate complaints of discrimination. It must wait for an individual complaint before it can take remedial measures."[93] The agency could only react to the symptoms of discrimination rather than proactively address the sources of discrimination. It provided only a mechanism to resolve individual complaints, leaving underlying structural and institutional conditions unchallenged.

Not to be deterred by conservatives or radicals, the Assembly accepted the Senate amendments without debate, and Brown proudly signed the bill into law on April 16, 1959, declaring it a "milestone in the long fight for equal opportunity and freedom from poverty."[94]

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[92] "FEPC: The Fair Employment of Power," *Los Angeles Times*, April 10, 1959.

[93] "Prospects for FEPC," *California Eagle*, January 1, 15, 1959.

[94] Assembly Oks FEPC; Bill Sent to Governor," *Los Angeles Times*, April 11, 1959, 4; "Brown Signs FEPC Bill; Effective on September 18," *Los Angeles Times*, April 17, 1959, 1.

THE POLITICAL ORIGINS OF BIPARTISANSHIP

Why did bipartisanship come more easily to New York than California? That is to say, why did Republican resistance to fair employment wilt so quickly in New York while it remained so hardy in California? It is understandably tempting to attribute the contrasting outcomes to broader, regionally based divisions in the political culture of Republican party. A strongly held—and largely accurate—tenet of postwar political history is that Republicans hailing from the affluent, cosmopolitan states of the northeast were generally more liberal on civil rights and domestic social policy compared to their more *laissez faire* counterparts in the western and midwestern states. The schism is most clearly manifest in the ideological differences between New York's Thomas E. Dewey and Ohio's Robert A. Taft in the 1940s and New York's Nelson Rockefeller and Arizona's Barry Goldwater in the 1960s. In fact, Rockefeller would eventually lend his name to a widely used eponym—Rockefeller Republican—that would come to serve as convenient shorthand for indicating the reformist, internationalist impulse that was characteristic of many northeastern Republicans until the electoral realignment and shift in the party system that brought Ronald Reagan to the White House.[95]

But focusing too single-mindedly on regional differences in the ideological makeup of the Republican party can obscure equally important divisions in the Republican party *within* regions. If liberal Republicans like Dewey and Rockefeller came from a political culture than was markedly more liberal than the ones that produced either Taft or Goldwater, New York Republicans nonetheless varied considerably in their ideological and political commitments; they

[95] On the factions within the postwar Republican party, see Nicol C. Rae, *The Decline and Fall of the Liberal Republicans from 1952 to the Present* (New York: Oxford University Press, 1989) and David W. Reinhard, *The Republican Right since 1945* (Lexington: University Press of Kentucky, 1983).

were not all cut from the same cloth. Dewey and Ives may have held typical views on fair employment for liberal Republicans in New York, but not all Republicans were liberal Republicans. As a close examination of the legislative history behind the Ives-Quinn bill has revealed, there was a hard core of Republican resistance to fair employment that was rooted in redoubtable conservative districts upstate and was led by Senator Bontecou (Rep.) of Poughkeepsie and Assemblyman Stuart (Rep.) of Canisteo.

Indeed, if it had not been for Dewey's strong commitment to Ives-Quinn in the liberal form that it had been originally cast, New York may not have been the first state to pass enforceable fair employment legislation. Republicans decisively controlled both houses of the legislature, holding the Senate by a 35-21 margin and the Assembly by a 94-55 margin (with the one remaining seat belonging to a member of the American Labor party).[96] In the absence of strong support from Dewey, one of several counterfactual scenarios may have plausibly unfolded. At the very least, resistance by conservative, upstate Republicans may have slowed the passage of Ives-Quinn. This meant that New Jersey—which also passed a FEP law in 1945—might have beat out New York for the distinction of passing the first state FEP law in the United States. Or else the enforcement provisions might have been sheared off; upstate Republicans may have succeeded in forcing the passage of a "voluntary" bill resembling the one that Wisconsin enacted in 1945. In the most extreme case, Republican control of the state government may have blocked the passage of Ives-Quinn altogether, dealing a major setback to the fair employment movement. Liberals elsewhere in the country might have interpreted the failure to mean that only states under complete Democratic control—seldom the norm in the postwar United States—were fertile ground for their cause.

[96] Council of State Governments, *Book of the States, 1945-1946* (Chicago: Council of State Governments, Chicago, 1945), 515.

The character of Republican and employer resistance to fair employment in California is also deceptively simple. To be sure, conservatives mobilized more thoroughly and perhaps even more effectively then they did in New York. But it would be wrong to conclude that California was devoid of liberal Republicans—that liberal Republicans like Dewey or Ives simply had no analogues. In point of fact, however, one of the era's most eminent liberals, Earl Warren, held the governorship for a decade, winning his first election in 1942 and leaving office only in 1953 when President Eisenhower appointed him to the Supreme Court. There, he would preside over a Supreme Court whose opinions effectively dismantled the segregationist practices of the Jim Crow south.

Warren's true feelings about fair employment were notoriously difficult to discern; he had supported fair employment in at least one very limited case but remained conspicuously silent in all other instances the issue arose.[97] In her oral history interview at Berkeley, NAACP official Tarea Hall Pittman later remembered that Warren assiduously avoided contact with the California Committee for Fair Employment Practices, despite their many requests that he meet with them or hold a joint press conference. Warren's successor, Goodwin Knight (Rep.), had no qualms about stating unequivocally that he would veto any FEPC legislation that passed, but Warren "simply would not put himself on record."[98] Long-time editor of the *Sacramento Bee*,

[97] Langdon Post, who managed James Roosevelt's 1950 gubernatorial campaign in northern California, would later make the most provocative charge against Warren. Post claimed that Warren was acting disingenuously on fair employment, remaining silent when it stood a chance—however small—of passing and recommending it when he was confident it would be bottled-up by a Republican committee in the Assembly. Langdon Post, *California Democrats in the Earl Warren Era*, an oral history conducted in 1971-1972 by Amelia R. Fry for the Regional Oral History Office, The Bancroft Library, University of California, Berkeley, California, 1976.

[98] Tarea Hall Pittman, *NAACP Official and Civil Rights Worker*, an oral history conducted in 1971-1972, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1974.

Richard Rhoda, recalled that he attracted criticism for his passivity. "I remember people would say that if Warren really wanted to show some muscle he could get something through."[99]

If the architect of *Brown* had no public comment on fair employment, however, he nonetheless revealed his support of such legislation in other settings. Warren never shared his private convictions with Pittman, but she remembered that he was very close to both Hawkins and Rumford. Of the two, she said that his northern California colleague Rumford knew him best—he "knew him very, very intimately and well."[100] In his own oral history at Berkeley, Rumford recalled twice that the governor supported fair employment, saying that Warren "expressed himself to me that he was for it."[101]

Warren's subsequent judicial record, his reluctance to repudiate affirmative action, and his private assurances to close colleagues make it defensible, even reasonable, to infer that he personally supported FEPC. But he chose never to publicly speak about or act on his beliefs. This is all the more puzzling since Warren, like his counterpart in New York, enjoyed a Republican legislature that might have proven fairly tractable to the kind of firm and decisive leadership that Dewey had provided. Republicans controlled the legislature in each of the terms that Warren held office. In the Senate, Republicans tended to outnumber Democrats by a 2-1

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[99] Rodda did not blame Warren for his reluctance to get involved: "I don't fault him too much—he had precious little backing from his own party." Richard Rodda, *Bee Perspectives on the Warren Era*, an oral history conduced in 1969-1972 by Amelia R. Fry and June C. Hogan for the Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1976.

[100] Tarea Hall Pittman, *NAACP Official and Civil Rights Worker*, an oral history conducted in 1971-1972, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1974.

[101] W. Byron Rumford, *Legislator for Fair Employment, Fair Housing and Public Health*, an oral history conducted by Joyce A. Henderson, Amelia R. Fry, and Edward France in 1970-1, Regional History Office, The Bancroft Library, University of California, Berkeley, 1973.

ratio, and Republicans regularly held a significant advantage over the Democrats in the 80-member Assembly.[102]

Hence the explanatory question—cast most precisely—does not so much concern the apparent (but false) ease of bipartisanship in New York but rather the differing stances of liberal Republican governors in states where Republicans also controlled the legislature. That is, why did Dewey act on his convictions while Warren remained notably mute? The answer is to be found in the mobilization of liberal interest groups and the competitiveness of the Democratic party in statewide elections. Liberals in California did not form a lobby of any reasonable coherence or efficacy until 1953. A full-time lobbyist, Bill Becker, was hired only in the late 1950s.[103] Many of the individuals who stood to benefit from fair employment legislation—for instance, Mexican-Americans—were only beginning to be politically active.[104] By contrast, liberals groups in New York, particularly in New York City, mobilized quite effectively around the issue of fair employment within a matter of months. This was nowhere more obvious than in the number and fervor of organizations that turned out in 1945 to testify in favor of FEP at

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[102] The precise figures are as follows. In 1945, Republicans were up 27-13 in the Senate and 42-38 in the House. In 1947, Republicans were up 26-11 in the Senate and 48-30 in the House. In 1949, Republicans were up 26-14 in the Senate and 46-34 in the House. In 1951, Republicans were up 27-13 in the Senate and 47-33 in the House. See Council of State Governments, *Book of the States* (Chicago: Council of State Governments, various years).

[103] Friends Committee on Legislation, *The Story of the 1959 California Legislature* (1959), 18-22, Folder: 1959 Legislation, Carton 35, Mary Ellen Leary Collection, BL.

[104] James Roosevelt's statewide campaign manager, George E. Outland, a Yale-trained sociologist who had served two terms as a U.S. Congressional Representative from Santa Barbara, remembers that minority voters strongly favored candidates who endorsed FEPC. But many were poorly mobilized. Of the Chicano vote, for instance, Outland remembers, "they were just beginning to get interested in politics. But I don't suppose that one of twenty-five even registered, to say nothing of voting." Ed Roybal, head of the Community Service Organization, was "doing what he could, but they were just starting at the time." George E. Outland, Calif*ornia Democrats in the Earl Warren Era*, an oral history conducted in 1971-2 by Amelia R. Fry for the Regional History Office, The Bancroft Library, University of California, Berkeley, 1976.

legislative hearings across the state and in Albany. One crucial fact distinguishing Warren from Dewey, then, is that the former only belatedly faced the kind of organized liberal pressure for fair employment that beset the latter from the outset.

At the same time, liberal mobilization is only part of the story. Dewey also had strong electoral incentives to support fair employment. While his Republican colleagues who opposed enforceable FEP laws belonged to solidly conservative upstate districts that would not punish them if they voted against it, Dewey simply could not win the statewide race for governor without capturing the votes of urban liberals—Republican and Democratic—particularly in New York City. It was therefore decisively in his interests to promote issues like fair employment that would help him win their support. Warren had no comparable structure of electoral incentives. Even if the fair employment coalition in California had mobilized effectively, Warren almost certainly could have rejected them and still won a statewide election. This only magnified the inevitable political costs he would incur by challenging Republican legislators and the employer lobby.

A comparison of election results in the 1940s for major statewide offices is particularly revealing. In California, Warren's gubernatorial bids—in which he did not champion civil rights—were never close. In his first try in 1942, Warren defeated Culbert L. Olson (Dem.) by 15 points, 57-42. Four years later the Democrats did not even field a candidate against Warren, who handily beat out Henry R. Schmidt (Prog.). Even when James Roosevelt (Dem.) mounted a credible Democratic challenge in 1950, the outcome was never in doubt. Roosevelt won a meager 35 percent of the vote to Warren's 65 percent.[105] California elections for the U.S. Senate tell the same story. In 1940, Hiram W. Johnson (Rep.) trounced Fred Dyster (Dem.) 83-14. It

[105] Congressional Quarterly, *Congressional Quarterly's Guide to U.S. Elections*, 4th ed. (Washington, D.C.: Congressional Quarterly Press, 2001), 1420.

was a slightly closer contest in 1946, when William F. Knowland (Rep.) beat out Will Rogers, Jr. (Dem.) 54-44. In 1952, however, Knowland won the Senate election largely uncontested.[106]

By contrast, Republicans never dominated statewide elections as thoroughly in New York as they did in California. To be sure, Dewey twice won gubernatorial races by healthy margins—once in 1942 over John J. Bennett, Jr. (Dem.) and a second time in 1946 over James M. Mead (Dem.). In each of these contests, however, Dewey's liberalism on such issues like fair employment made him extremely competitive in liberal, urban areas where Democrats had begun to draw their support since the advent of the New Deal in the previous decade. The more telling figures come from contests over U.S. Senate seats. In 1940, James M. Mead (Dem.) actually won a close Senate race over Bruce Barton (Rep.), 53-47. In 1946, when the liberal Republican Ives beat out Lehman, he won by the same 53-47 margin.[107]

This contrast in political competition for statewide offices crystallizes the main reason why Republicans in New York quickly joined with Democrats to pass fair employment legislation. Statewide officeholders—as well as candidate eyeing such offices—had a strong incentive to take leadership on fair employment in order to bolster their chances for election or re-election. Since the liberal opposition was considerably weaker in California, Warren had no incentive to act on his own personal belief that California should have a FEP law. Doing so would have proven more disruptive to his party than any potential gains could offset.

CONCLUSION

Why did bipartisanship came more easily to New York than California? The idea that northeastern Republicans belonged to a more liberal political culture than their counterparts in

[106] *Ibid*., 1270-1.

[107] *Ibid*., 1290.

the west and Midwest is tempting. This paper, however, finds evidence that a hard core of Republicans in the Empire State shared the same ideological convictions about fair employment as their more conservative brethren in the Golden State. In fact, Republicans and employers in both states wielded a number of common arguments. Fair employment, they said, was a violation of the near-sacred privilege of companies to hire, promote, and fire whom they pleased. It was a system of preferences and quotas that elevated group membership over individual merit. It was unnecessary because discrimination was either nonexistent or waning. Most ironically, both groups claimed it would heighten racial antagonisms rather than diminish them.

Bipartisan comity ultimately developed in New York because Republicans and conservative employers faced greater and more effective political competition from Democrats and liberals, particularly for statewide office. This made it necessary for Republicans seeking or holding statewide office to support civil rights more strongly than their counterparts in California, where Republicans routinely dominated statewide elections. Hence, if Republicans came to support fair employment in states like New York, it was only reluctantly—with Democrats nipping at their heels. Bipartisanship on fair employment had political origins.