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Fair employment practices: Its policies and experiences

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FAIR EMPLOYMENT PRACTICES: ITS POLICIES AND EXPERIENCES

by

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INTRODUCTION

Discrimination is one of the more serious problems faced by our society. It is not a new problem, nor is it one that is peculiar only to the United States. Most nations, perhaps all nations, are faced with the issue in one way or another. In America, however, the problem has taken on a new significance during the last few years. The minorities who are usually discriminated against are no longer so complacent as in yesteryear. Organizations such as the National Association for the Advancement of Colored People, the National Urban League, and countless others have been organized in an effort to secure the rights our Federal constitution supposedly guarantees. Liberal whites are becoming more cognizant of the discriminatory practices that are taking place and are demanding that something be done. Hence, more and more demands are being made for legislation which will ensure these minorities of their rights.

The reasons why discrimination exists are many; so too are the ways in which it may be practiced. Thus, any attempt to enumerate them all would seem to be an insurmountable task. But, then, that is not the objective of this paper. However, a phase of discrimination is to be considered, that phase being discrimination in employment.

It has been held by many that discrimination is a normal way of life, and those persons have urged that any
attempt to alter the status quo, whether it be in employment or just general discrimination, would only result in increased antagonisms and increased disturbances. It is better, they say, to "let sleeping dogs lie". Apparently, this opinion was at one time held by a majority of our businessmen, our union leaders, and the general public. Now, it would seem, their positions are changing.

On the other hand, there still remains a significant number who either hesitate or bluntly refuse to alter their positions. Rather, they do all they can to hold the line, and this, in the writer's opinion, is unfortunate. It is unfortunate not only because a segment of our society is denied an equal opportunity to earn a living, but also because the whole of our American suffers. Considerable manpower is either under-utilized or completely ignored. Hence, the resources of the country are being misallocated.

Supposedly, a country is interested in maximizing the welfare of its society. Economic analysis tells us that this is done by utilizing the resources of that country in the most efficient manner. When a portion of the resources of that country are arbitrarily ignored, maximum welfare cannot be attained. Hence, discrimination is not only a moral problem, but also one of economic significance.

In the following pages of this paper, an account is given of this country's attempt to deal with discrimination in an effort to more effectively utilize its manpower re-
sources during World War II.
CHAPTER I

THE HISTORY PRIOR TO FEPC

June 25, 1941, was for at least one segment of the American population an historic day, for it was on this day that President Roosevelt issued Executive Order 8802, establishing for the first time in the United States, a Fair Employment Practices Committee. The history prior to the issuance of this Order is interesting.

The roots of the Order can be traced back to World War I; indeed some can be traced back as far as the Civil War. Any attempt to designate any particular event or set of events as the primary cause would be extremely difficult and no doubt controversial. However, a few of the causes stand out and can at least be identified as causal agents. The history can be briefly reviewed showing the extent of discrimination.

Prior to World War I, the majority of Negroes were engaged in agriculture or domestic services; only a few were engaged in industrial activities, and those were almost wholly relegated to the unskilled, dirty, and more menial jobs. Most managements refused to hire them and most unions refused to accept them as members. Even so, it would seem that it would have been to the Negroes' advantage to move North to the industrial areas. Because of the many in-
justices the Negroes received at the hands of the southern whites, coupled with their economic problems, it would seem that anything would have appeared better to the Negro than his existing status. Nevertheless, it was not until the actual war years that the great exodus from the South began.1

As America entered World War I, the increased need for war materials and the consequent need for more and more workers induced many employers to let down the color bar and hire Negro workers. In addition, the decrease in the number of immigrants into the country plus the exodus of some of the aliens back to their own country helped to accentuate the shortage of workers and thus induce the employers to utilize colored workers.

Since the Negro was an available source of labor for the employers, many of them began to employ him and in so doing, found that he was acceptable as a worker. As a consequence, labor scouts began to comb the South seeking to entice the Negro to the northern industrial areas. The results were dramatic. One source estimates that during the period (1916-1918), between 400,000 and 600,000 Negroes migrated from the South to the northern industrial areas.2

1E. J. Scott, Negro Migration During The War, (New York: Oxford University Press, 1920), pp. 16-17

As could be expected, this large influx of Negroes into the areas created many problems. The cities were just not prepared to handle such a large number of people. Perhaps it should be emphasized at this point that there was not only an increase in the Negro population, but also of many other races. They, too, created problems, but they were more easily absorbed than was the Negro. Housing was scarce for most migrants, but for the Negro the problem was doubled. Many owners flatly refused to rent to Negroes; others took advantage of the Negroes' plight and charged excessive rent; still others reopened tenement housing that earlier had been condemned.

The unions were also affected by this large immigration of colored workers. All at once they were confronted with a problem that had to be solved. Should they or should they not accept the Negro as a member into their unions? If they decided to accept him, would this be tantamount to an admission that the Negro was their social equal? Many of the whites felt that this was the case, and were unwilling to admit the Negro. On the other hand, if they refused to admit him, they had to recognize the fact that here was a potential strikebreaker. Hence, the unions and their members were in a dilemma as to just what to do. In 1919, this problem was brought up at the thirty-eighth convention of the American Federation of Labor (AFL), and out of this
convention came the resolution to accept Negroes.\(^3\)

Actually, this was nothing new for the AFL since this had been its "official" policy from the Federation's inception.\(^4\)

Nor had the government been oblivious to the new problems. Before the war it had been content to let well enough alone. Now, it was interested in increasing production for the war effort, and in order to do this it was necessary that all available sources of labor be tapped. Yet, there was some hesitancy to disrupt the status quo. Nevertheless, in line with its effort to see that all available sources of labor were utilized, the Secretary of Labor created the Office of Director of Negro Economics and appointed George E. Haines as the first holder of the Office. The stated purpose of this office was to "advise the Secretary, directors, and chiefs of the several bureaus and divisions of department on matters relating to Negro wage earners, and to outline and promote plans for greater cooperation between Negro wage earners, white employers, and white workers in agriculture and industry".\(^5\) However, this


\(^4\)Although the AFL's "official" policy had been non-discrimination, many of the internationals within the Federation continually discriminated against the Negro. This will be discussed more thoroughly in a later chapter.

was only a token attempt because neither his recommenda-
tions nor his proposals were heeded. In fact, after the
war ended and the need for workers was no longer so press-
ing, the government saw no further need for a special Ne-
gro department, and closed it out in 1920.6

With the end of the war and the consequent decreased
demand for war goods, many of the gains that had been won
by the Negroes were again lost. Unions that had earlier at
least tolerated Negroes, were no longer so friendly. Since
the Negro had been the last to be hired, he was the first
to be laid off. Nevertheless, during this period the Negro
had also made some lasting advances, especially in the non-
durable goods industries such as meat packing plants which
had absorbed a large number of Negroes. There was also the
work which the white workers felt to be below their dignity.
As a rule, anything too dirty, too hot, or too hard had
been left to the colored workers. Hence, many were to be
found also in certain durable goods industries, such as the
foundries.

The Negro, then, had slightly improved his position.
Even with the discrimination which he faced, the loss of
war jobs, the turnabout of some unions, his position had
improved somewhat. But, the depression was just around the
corner; employment was a scarce thing for all. Whites, who
had earlier refused work because it was below their status,

6Ibid.
were now eagerly competing with the Negroes for these jobs. Domestic work which had always before been classified as "colored" work was no longer so classified. Packing houses, which had absorbed large numbers of Negroes, were invaded by whites. Since product demand in this industry is more stable than in the durable goods industries, the fluctuation in employment is not so great. Because many of the managers seemed content to replace the Negro workers with whites, more and more of the Negroes joined the ranks of the unemployed and went on the relief roles. One author states that even though the Negroes made up only one-tenth of the population, they accounted for over one-sixth of the relief load of the country in 1936.\(^7\) The Welfare Council of New York reported that the annual home relief bill totalled $20,000,000, and in 1936 Negroes made up twenty-one percent of the bill even though they made up less than five percent of the total population.\(^8\)

And yet, the picture was not all dark. Some things that tended to help the Negro in his quest for economic equality also came out of the thirties, one of the more important of these being the birth of the Congress of Industrial Organizations (CIO). Unlike the AFL, the CIO (born in 1935) was created with the purpose of organizing unskilled,


\(^8\)"Negro Workers," \textit{Survey}, LXXVII, (July, 1941), 223.
as well as skilled workers. Since the Negro was concentrated so much more heavily in the unskilled and semiskilled than in the skilled areas, he loomed as a much bigger threat to the CIO than he had been to the AFL. Thus, it would seem safe to say that it was not purely altruistic reasons that prompted the CIO to be so much more insistent in their demands for economic equality for all. Indeed, discrimination did and does exist within the CIO, but it is on a local level rather than on the international level.9 It should also be remembered that the "official" policy of the AFL had always been against discrimination; the big difference between the two federations was the extent to which the CIO was willing to fight it within its internationals.10 At any rate, with the birth of the CIO came a new era for the Negro in his relations with the unions. Where before he had been shunned and excluded from union membership, now he was welcomed, and more important, the union was going to bat to see that his rights were recog-

9One example of discrimination within the CIO is shown by the treatment the Negroes received in the Atlanta General Motors UAW-CIO local. When this particular local was formed, the white workers refused to admit Negroes; some even advocated that they be fired. See: L. H. Bailer, "Automobile Unions and Negro Labor," Political Science Quarterly, LIX, (Dec., 1944), 557.

10"International Harvester's Non-Discrimination Policy," Monthly Labor Review, LXX, (Jan., 1954), 16-23. Here is an interesting example of how management and the CIO work together in order to practice non-discrimination and make it work.
As America entered World War II, the circumstances were somewhat different from which they had been in World War I. The Negro had made some gains in industry. As has been mentioned earlier, the non-durable goods industries had absorbed large numbers of colored workers, and even though many had been laid off in favor of white workers during the depression, a significant number remained. The tremendous technological advances of the twenties and the consequent use of large amounts of unskilled and semi-skilled labor in industry helped to improve the Negro's economic position. His education had improved considerably. All of these things tended to help the Negro carve a niche in the industrial world.

In some cases, competition between the two federations helped the Negro. In those cases where the CIO and the AFL were competing for jurisdiction over a particular plant in question, each union would vie for the Negroes' loyalty by attempting to offer them more than its rival.\(^\text{11}\) On the other hand, in some cases just the opposite tactics would prevail.\(^\text{12}\) For the most part, however, the unions were stepping up their efforts to eliminate discrimination within the different internationals and locals. And there


\(^{12}\)Ibid.
were considerable improvements to be made, especially within the AFL.13

In addition to the competition between the AFL and the CIO, the various managements and unions were in some cases competing for the loyalty of the Negro. Certain companies used the Negro as a threat to the other workers to discourage union organization.14 In some cases they were used as strikebreakers, and after the strike was settled some Negroes were retained.

In some cases, legislation favoring labor tended to work against the Negro. This was especially true of the

13Herbert R. Northrup, "Unions, Restricted Clientele," Nation, CLVII, (Aug. 14, 1943), 178-80. Northrup states that even as late as 1943, there were fifteen unions still excluding Negroes explicitly in their constitutions or their rituals. Those unions were the machinists, the commercial telegraphers, The Railway Mail Association, and the switchmen (all AFL affiliates), the independent railway brotherhoods including the Locomotive Engineers, the Locomotive Firemen and Enginemen, the Railway Conductors, and the Railway Trainmen. Five other unions had no explicit rules excluding Negroes, but usually did so by tacit consent. Those were the plumbers and steamfitters, the electrical workers, the asbestos workers, and the granite cutters (all AFL affiliates). In addition, nine organizations: the boilermakers, the maintenance of way employees, the railway carmen, the railway clerks, the blacksmiths, the sheet metal workers, and the Federation of Rural Letter Carriers (AFL), the Rural Letter Carriers Association, and the American Federation of Railroad Workers (both independent) confine Negroes to Jim Crow "auxiliaries" which permit them to pay dues, but in one way or another deny them the right of a voice in union affairs or an opportunity for occupational advancement.

1926 Railway Labor Act. When unions were given the right to bargain exclusively with management, the railway brotherhoods which had always been extremely antagonistic toward the Negro, were placed in a perfect position to implement their animus. They soon began to introduce clauses known as "non-promotable" clauses, which made the Negro firemen ineligible for promotion to engineer in accordance with customary practice. In addition, it was agreed that only "promotable" firemen would be hired in the future. Since Negroes were explicitly defined as being the "non-promotables", this meant that eventually the Negroes would be completely eliminated from the railroads. Because the Railway Commission had equalized the pay scales of the Negro and white workers, management was willing to enter into such agreements because no longer was it true that "frankly, Negro labor was cheaper".

Conversely, this same act, with the help of the Supreme Court, served to aid the Negro at a later date. When William Bester Steel, a long time Negro employee of the Louisville and Nashville Railroad, began to be demoted to less desirable jobs, he filed suit against his employer and the Brotherhood of Firemen and Enginemen charging that

16Ibid.
it was because of the 1941 contract between the two defendants that the demotions were taking place. The lower courts all held Steele's position to be without merit, but the Supreme Court reversed these rulings holding that the Railway Labor Act protected employees against management-union agreements seeking to drive them out or to deny them promotions. It held further that a union possessing exclusive bargaining rights was legally obligated to represent the interests of all employees working within the bargaining unit, whether they were union members or not. 17

One of the more damaging situations which the Negro faced immediately prior to World War II, in contrast with World War I, was the extent of unemployment for all workers in the later period. America was just coming out of its most severe depression and workers of all races were unemployed. As they were rehired, it seemed only natural to follow the old pattern and hire the colored workers only as a last resort. Since there was not an immediate shortage of labor as there had been during the earlier war, there was a difference in the time that elapsed before labor became scarce and Negro labor was again in strong demand.

But unlike the 1914 period, the new era faced a new Negro. He was more militant in his demands for equality, and he was better prepared to press his demands. His edu-

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17 "Still Writing the Law," Business Week, (Dec. 23, 1944), 100.
cation had improved and he was better organized. Such organizations as the National Association for the Advancement of Colored People and the National Urban League were leading his fight. Able leaders such as Walter White, Lester Granger, and A. Philip Randolph led the attack. In addition, many whites were more aware of the race problem and were concerned with the plight of these fellow Americans.

The government was also beginning to show more interest in the Negro problem. Reminiscent of World War I, Dr. Robert C. Weaver was appointed to the staff of Sidney Hillman in the Labor division of the War Production Board and assigned the task of "developing policies for the integration of Negro workers into the training and employment phases of the national defense program".18 But unlike the earlier period, the story did not end there. In rapid succession, several other actions were taken in an attempt to eliminate discrimination in employment in defense plants.

In July, 1940, the U.S. Office of Education, at the behest of the National Defense Advisory Commission (NDAC), announced that "in the expenditure of Federal funds for vocational training for defense, there should be no discrimination on account of race, creed, or color".19 One month later the NDAC announced a new labor policy which stip-

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19 Ibid.
ulated that workers should not be discriminated against because of age, sex, race, or color. 20 September 15 of the same year President Roosevelt cited the NDAC's nondiscrimination policy in a message to Congress on the defense program and at his request, Congress placed the following provision in the legislation appropriating money for defense training: 21

... No trainee under the foregoing appropriation shall be discriminated against because of sex, race, or color.

Then on June 12, 1941, after several other actions taken by various offices, President Roosevelt put his full support behind Hillman in a letter to that official: 22

... No nation combatting the increasing threat of totalitarianism can afford arbitrarily to exclude large segments of its population from its defense industries. Even more important is it for us to strengthen our unit and morale by refuting at home the very theories which we are fighting abroad.

Our nation cannot countenance continued discrimination against American citizens in defense production. Industry must take the initiative in opening the doors of employment to all qualified workers regardless of race, creed, national origin, or color. American workers, both organized and unorganized, must be prepared to welcome the general and much-needed employment of fellow workers of all racial and nationality origins in defense industries. ...

But the Negroes were not yet satisfied, and they had reason not to be. All of the above attempts to eliminate discrimination were just requests, or at least were treated

20 Ibid.
21 Ibid.
22 Ibid., inside cover.
as such. Most agencies, including the government agencies, continued to follow their accustomed practices.\textsuperscript{23} Negro leaders, remembering the "Negro Office" created during the last war and the failure of the officials to recognize it, were not content to let the above moves suffice. They wanted something more substantial than these moves appeared to be. In short, they wanted an Executive Order or a legislative act that would ensure them a fair share of the employment opportunities. As evidence that something was necessary in order to facilitate the utilization of Negroes, they were able to refer to statements by at least one union leader who said:\textsuperscript{24}

> Organized labor has been called upon to make sacrifices for defense and has made them gladly, but this admission of Negroes is asking too much.

Or, the president of a firm who made such statements as:\textsuperscript{25}

> We have never had a Negro worker in twenty-five years, and do not intend to start now.

Thus, it was for reasons such as these that the Negro leaders began a systematic push for legislation or an Executive Order to alleviate these conditions. Numerous meetings were held in an effort to induce President Roosevelt to issue an Executive Order calling for observation of

\textsuperscript{23}During the FEPC's first year of existence, one-fourth of its case load involved Government agencies.

\textsuperscript{24}Ruchames, \textit{op. cit.}, p. 17

\textsuperscript{25}\textit{Ibid.}
fair employment practices in connection with all government contracts. Finally, in an all out effort to bring the problem to a head, a "March On Washington Movement" was organized under the leadership of A. Philip Randolph. Fifty thousand Negroes were supposedly prepared to march on Washington to protest the unfair treatment they were receiving in relation to employment in the war industries. This action put considerable pressure on President Roosevelt since it would be an extremely embarrassing situation to explain to our allies, some of whom were of dark complexion. We were engaged in a war with a country that advocated racial superiority, and our philosophy was supposedly the exact opposite to this position.

This was the setting; the culmination of events that induced the President to issue his historic Executive Order 8802, creating for the first time in the history of the United States a Fair Employment Practices Committee.
CHAPTER II

THE FAIR EMPLOYMENT PRACTICES COMMITTEE:
ITS SUCCESS AND FAILURE

Executive Order 8802

The introductory paragraph of Executive Order 8802 rang an encouraging and familiar note:¹

Whereas it is the policy of the United States to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders; . . .

From this point the Order went on to say that evidence pointed to the fact that needed workers were being denied employment solely because of race, creed, color, or national origin, and that it was hereby declared "that there should be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin. . . ." Finally, it was ordered as follows: (1) All departments and agencies of the Government of the United States concerned with vocational and training programs for defense production were to take appropriate measures to assure that such programs were administered without discrimination. (2) All contracting agencies of the

government were to include in all defense contracts thereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color, or national origin. (3) Last, it established within the Office of Production Management a Committee on Fair Employment Practices, which was to consist of a chairman and four other members who were to be appointed by the President to serve on a voluntary, non-paid basis.\(^2\) The Committee was to "receive and to investigate complaints in violation of the Order and to take appropriate steps to redress grievances which it found to be valid". In addition, the Committee was to recommend to the several departments and agencies of the Government and to the President all measures which it deemed necessary to effectuate the provisions of the Order.

However, from its inception there were glaring weaknesses in the Committee's operational activities. Since the Committee had been created by an Executive Order rather than by a legislative act, it did not have the power of law behind it. It could investigate complaints of discrimination and issue directives, but if the recalcitrant party refused to abide by the decision of the Committee, there

\(^2\)The appointed members were: Mark Etheridge, Chairman, Publisher of the Louisville Courier Journal; Philip Murray, President of CIO; William Green, President of AFL; David Sarnoff, President of RCA; Milton Webster, Vice-President of the Brotherhood of Sleeping Car Porters (AFL); and Earl Dickson, Negro Attorney.
was nothing it could do to enforce its orders.

In addition to being hampered by the lack of enforcement powers, the Committee was suffering from other inadequacies which seriously limited its effectiveness. Money, or more precisely, the lack of money was one of its major problems. Because its funds came out of the President's emergency fund, the amount allotted to it was exceptionally small, and as a result, the operations of the Committee were limited. To compensate, some of the work of the Committee had to be delegated to the Negro and Minorities Division of the Office of Production Management. Even then, much of the work had to be done by correspondence. This, of course, limited the effectiveness and the extent of the Committee's operations.

To add to the problems mentioned above, one of organizational status developed. When the Executive Order first created FEPC, it was to operate out of the OPM, but when that Office was abolished, the Committee was transferred to the War Production Board. Again in July, 1942, it was transferred, this time to the War Manpower Commission where it came under the supervision of Paul V. McNutt. This move proved to be the beginning of the end for the first FEPC.

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3 The Committee was allotted $80,000 in its first year.

4 The OPM was abolished Jan. 26, 1942.

As has been indicated, the motives inducing President Roosevelt to issue the Executive Order were far from being wholly altruistic. He was trying to placate the Negroes who were exerting pressure for a more equitable share of defense work, and more important, he was trying to utilize all available workers in an effort to meet the increasing demands for war goods. On the other hand, he did not want to alienate the forces opposing FEPC by being overly adamant in the non-discrimination campaign. Hence, he was in a quandary as to just how firm his stand should be. This middle of the road policy was certainly no help to the Committee in its struggle for survival.

Government agencies which were supposedly more duty-bound than other groups were among the leading dissidents of FEPC. For example, witness the statement of Glen Gardner, New Jersey State Director of Defense Training:

This is a very deep rooted question which we are being called on to solve. I'm not very hopeful that it can be solved just like that. I can't see that the President's Order will have any particular effect on our program. Our function is in helping companies in their training of employees. It's not for us to say who shall be hired. I'm afraid to pressure the thing in an emergency may not work out.

Businessmen were just as wary of FEPC. Some were more opposed to the possibility of any additional government regulation of their business operations; to them, FEPC meant one more area in which their decision-making process

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was limited. Others feared the consequences of white workers' opposition. Even though unions were supposedly as duty bound as employers in the observance of non-discrimination practices, many employers opposed FEPC because of the strike possibility. At least this gave them an opportunity to "pass the buck".

Nor were unions to be left out of the group of opponents to the Executive Order. Many unions, especially those in the railroads and a number of AFL affiliates, were at odds with the Committee. For some, this meant a possible revision of their "lily white" constitutions. For others, opposition was based mainly on economic reasons. Before the issuance of the Executive Order, they were able to monopolize the labor forces in their particular trade; after the Order, this monopoly was less complete. Thus, FEPC was a threat to them.

To some extent FEPC was itself responsible for some of the opposition. Being interested in showing quick, positive results, and being limited in the funds it had to spend, the Committee at times issued cease-and-desist orders to companies by mail without any investigation of the circumstances or the validity of the alleged complaint. This alienated many firms who would have been otherwise friendly toward the Committee. Weaver, in analyzing this weakness of the Committee says:

Because of its limited staff, the Committee could not handle quickly and adequately the cases which came to it. There had to be a choice: either the cases would be carefully investigated or they would be quickly and partially investigated. The latter alternative was decided upon in many instances. As a result, many employers received formal letters from FEPC, charging them with violation of Executive Order 8802 and directing them to cease and desist from such action in the future; some of these communications were issued without any prior detailed investigation. This was, perhaps, the most serious administrative error that the Committee made, and it occasioned much loss of prestige for FEPC, both inside and outside of government.

For the above and numerous other reasons, the President's Committee was destined to ride a rocky road during its entire existence.

In spite of the faults and the handicaps of the Committee, its accomplishments were considerable. As has been indicated, the Committee was not able to force the different parties to abide by its decisions. Rather, it had to resort to other means in order to accomplish its ends. One such method, and by far the most effective, was its use of publicity through public hearings. Most companies, even if

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8For an interesting account of FEPC's opponents, the writer suggests I. Ruchames, op. cit., Part II, "Its Decline and Demise".

9Hearings were held as a last resort by the Committee. This was true for a number of reasons. First, the Committee was lacking in funds, and therefore could not afford to hold as many hearings as it would have liked to have held. In order to economize, the Committee attempted to summon several of the recalcitrant parties to the same hearing, and thus "kill two birds with one stone". In addition, under the first Committee, the first hearings, were, to a certain extent, an investigative survey, to determine the extent of discrimination and facilitate the use of minority workers in defense plants at the same time.
they thoroughly believed in and practiced discriminatory hiring techniques, did not want that fact publicized. Consequently, in order to avoid adverse publicity, they would comply with the Executive Order so that a hearing would not take place. Hence, the threat of a public hearing induced many employers to comply with the wishes of the Committee. Others, who were more adamant in their determination to follow discriminatory hiring practices, gave ground and eventually complied with the directives of the Committee only after a hearing. And then, there were a few who refused to comply regardless of the tactics used by the Committee.\textsuperscript{10}

During the first eighteen months of the Committee, four hearings were held across the country involving some forty-nine companies, unions, and Government agencies.\textsuperscript{11} As a result, Negro employment increased considerably in most of those industries.\textsuperscript{12} On the other hand, FEPC met with some total failures, and as a result of one of these failures, the railroad hearings, the first FEPC came to an abrupt end. The actual hearings involving the railroads and

\textsuperscript{10} Malcolm Ross, \textit{All Manner of Men}, (New York: Reynold and Hitchcock, 1948), ch. III. Ross gives a vivid example of a guilty party who refuses to comply with the Committee's directives. Actually, this was a civic problem rather than an industrial problem.

\textsuperscript{11} Hearings were held in Los Angeles, Chicago, New York, and Montgomery, Alabama.

\textsuperscript{12} FEPC, \textit{op. cit.}, p. 65. Of thirty-one plants involved in hearings, non-white employment was 1.5\% of total employment before the hearings. It increased to 5.1\% after the hearings.
the corresponding railroad brotherhoods, did not take place until the organization of the second Fair Employment Practice Committee, but the roots of the controversy began with the first Committee. The hearing will be discussed in more detail later in this chapter, but a brief comment is necessary at this point.

Because of the importance of the railroads to the defense program, many, including President Roosevelt were afraid of the possible consequences that might result if the hearings took place and resulted in a cease-and-desist order to the accused parties. Since the majority of the accused members were southern, and since the South represented the strongest resistance to any type of civil rights measures, the possibility of a strike seemed more imminent in this particular case. In addition, political pressure was increasing against FEPC at this time. Southern Congressmen, who, from its inception were opposed to FEPC, were stepping up their opposition. They were especially opposed when this committee began to invade their backyard. Hence, for a combination of circumstances, the railroad hearings were postponed several times until finally, on January 11, 1943, McNutt, acting on an order from President Roosevelt, cancelled the hearings indefinitely. This action, by the way, was the direct cause of the resignation of several Committee members.13

13Ross, op. cit., p. 122.
As could be expected, with the cancellation of the hearings came a storm of protests from the proponents of FEPC. The "March On Washington" Committee resumed its activity, and other organizations began to increase their efforts toward the survival of FEPC. The pressure had its effect. On February 19, 1943, the President instructed McNutt to call a conference of organizations to discuss the reorganization of a new Committee and three months later, as a result of these meetings, President Roosevelt issued Executive Order 9346, creating the second FEPC.

Executive Order 9346

The new Executive Order was an enlargement on 8802; some of the more glaring shortcomings were rectified. For instance, there had been considerable controversy regarding the Committee's organizational status and its autonomy. This was rectified when the new Committee was removed from the supervision of McNutt in the WMC and placed under the protective custody of the Executive Office of the President. Money, or the lack of it, had plagued the old Committee, and although the new Committee did not receive an excessive amount, it did receive funds much larger than under the old Executive Order. This permitted it to expand its operations, and presumably, to operate more efficiently and effectively.\(^4\) Regional offices were set up across the country.

\(^4\)A sum of $500,000 was allotted the new Committee—considerably greater than the $80,000 allotted to the former Committee.
so that complaints could be investigated with dispatch. This helped to eliminate one of the more glaring shortcomings of the old Committee, which had garnered many of the justified complaints by businessmen.¹⁵ Under the old Committee, all members had been on a voluntary, unpaid basis; the new Order provided for the appointment of a full-time Chairman who was to receive an annual salary of $10,000. Monsignor Francis J. Haas, a noted labor mediator, and Dean of the School of Social Sciences, Catholic University, was the first to be appointed.¹⁶

The question of whether the Committee had jurisdiction over subcontracts had arisen under the old Executive Order; this, too, was rectified with the issuance of the new Order since subcontracts were specifically included. A summary of the Committee's powers and duties are listed as follows:¹⁷ (1) To make recommendations to government agencies, the President, and the WMC, for the utilization of available manpower. (2) To hold hearings and take "appropriate" steps for the elimination of discrimination. (3) To utilize the services and facilities of other private and public organizations.


¹⁶Shortly after Monsignor Haas' appointment, he was obliged to resign to accept a new position within the Church. He was succeeded by Malcolm Ross, who remained at the helm until the end of the Committee.

¹⁷FEPC, op. cit., pp. 103-104
With the organization of the new Committee, it inherited all of the pending cases of the former group. Two of these proved to be among the most difficult cases which the Committee faced during its existence. In one case, a satisfactory adjustment was reached; in the other, the results were not so good. These two cases illustrate the successes and the failures which the Committee experienced during its lifespan.

The Philadelphia Rapid Transit Case\textsuperscript{18}

Although this case revolved directly around the Negro problem, and for this reason the FEPC was involved, technically the case was settled on a different basis. The seeds of union domination by the Company and an apparent rivalry between unions are part of the picture. The problem of upgrading Negroes served as a convenient spark to start the fire.

The roots of the disturbance date back to 1911 when the management of the Philadelphia Transit Company set up an Employee's Cooperative Association. In conjunction with the Association was an employee's cooperative wage fund in which employee's were required to invest ten per-cent of their salaries. The money was used to buy stock in the Company.

\textsuperscript{18}Most of the material for this case has been drawn from two sources: Weaver, \textit{op. cit.}, Ch. X. and Ross, \textit{op. cit.} Ch. X.
Under this arrangement, it was not long before the union was on its way to gaining control of the Company but the Company officials, realizing this, were able to avoid it by forming a holding company and inducing the union officials to trade the transit stock for the new stock. This action by the union officials created considerable animosity among the members of the union, who apparently had had nothing to say about the transaction. To add fuel to the fire, the company became involved in a series of suits, and through mismanagement, the union's stock value was decreased to almost nothing.

In 1937, after the constitutionality of the Wagner Act was upheld, the Company informed the members that the Company union was no longer legal, and that a new union would have to be formed. Because of the discontent that existed with the old union and the split of the members on who should be the legal bargaining agent, none of the competing unions gained a majority vote, and the old union under a new name remained as the legal bargaining union. Still, the majority of the workers were dissatisfied. Although they had not been able to agree as to who they wanted to represent them, they were in agreement that they did not want to be represented by the existing union. Consequently, the CIO Transport Workers Union and the Brotherhood of Railroad Trainmen continued their recruiting drives for ultimate representation. Several elections were held
but the results were always the same; a majority vote could not be garnered by any of the competing unions and as a result, the old union remained in power. The company which was always officially on the sidelines, had been accused several times of meddling in the union but nothing had ever been proven. They, apparently, favored the existing union since it was felt that they were able to control the union officials in the old union. Finally, in 1944, the CIO Transport Workers Union emerged victorious.

Interwoven with this union rivalry and company favoritism for a specific union was the question of upgrading Negroes, but as yet FEPC had not been involved. In the fall of 1942, the Company placed a request with the War Manpower Commission for referral of the workers and specified that the applicants must be white. Since WMC was committed to a policy of non-discrimination, it so informed the Company and suggested that it comply with the Executive Order. The Company countered by saying that they were willing but the existing contract would not allow them to do so.

At this point FEPC entered the case. The War Manpower Commission informed FEPC of the situation and asked their help in resolving the problem. FEPC sent investigators to the scene, and after several fruitless meetings with both the union and company officials, issued directives to both the union and company officials ordering them
to cease and desist from the discriminatory practices in hiring and upgrading, and comply with the President's Executive Order. Countering this directive, the union, Philadelphia Rapid Transit Employee's Union, asked for a public hearing, which was granted and held in December of 1943. Out of this hearing came the same charges and countercharges; the Company blamed the union for its refusal to upgrade Negroes and the union countered by saying that hiring and upgrading was management's prerogative. The union did say, however, that former customs should be observed. FEPC again charged both the Company and the union with discriminatory practices and re-issued its cease and desist directives.

Now, management did an about face. It stated its willingness to comply with the directive of FEPC and began to take steps to carry out the Committee's order. During the time when the hearings and negotiations had taken place, several things had occurred to slightly change the picture. As has been indicated, an organizing drive and subsequent election was held to determine the legal union to represent the employees. TWU-CIO, which had emerged victorious, had at all times voiced its opinion that a policy of non-discrimination should be followed. Conversely, a few of the old standbys of the defeated union had been most vociferous in denying Negroes the right to be upgraded. When the Company finally issued notices stating that it would no long-
er discriminate in hiring or upgrading Negroes, these few members began agitating among the members for a strike in the event Negroes were actually upgraded. Apparently, this issue appeared to them as one which they might possibly use to dispel the new union, since the membership was split on the issue.

In July, 1944, the crisis came. Eight Negroes were selected by the management from the older workers for training as motormen. On the first day of their run, which was scheduled for August 1, a few of the dissident drivers, after reporting for work, became "sick" and refused to take out their motor cars.

The strike, although only a few employees initially participated, was strategically planned. All of the motor cars of the Company were left in car barns at the end of each day, one behind the other. The majority of the "sick" motormen, just by chance were supposed to operate the first cars to come out of the barns. Thereby, with just a few men "sick", they were able to tie up the whole system, and give the leaders time to persuade the other employees to join the wildcat strike.

The Transport Workers Union, the legal bargaining union, immediately opposed the strike and worked diligently to try and urge the workers back on the job, but the damage had been done. Nothing short of Federal troops would bring the workers back to their duties. So, on August 3, two
days after the strike began, President Roosevelt ordered the transit lines seized by Federal troops. Because of the Army's decision to use as little visible force as possible, the workers took this as a request rather than an order to return to work. Only after notices were posted and loudspeakers blared that any worker not reporting for duty in twenty-four hours would be discharged, would not be eligible for referral by WMC, and would be subject to reclassification to 1A, did the workers decide that the Army was not fooling and they had best return to their stations. It was exactly one week from the onset of the strike until it was broken by Federal troops.

Although the question of upgrading Negroes was the supposed direct cause of the strike, the decision of the Army to break the strike was not based on the Negro upgrading. Technically, the strike was damaging to the war effort and it was on this ground that the Army entered the case. Coincident to the issue was the Negro problem. The Army was to operate the transit lines on the same basis that existed prior to the strike, and since the Negroes had technically been upgraded prior to the strike, even though they had not actually acted in the capacity of motormen, they were retained in that position. It is interesting to note that when the workers returned to their positions, all traces of racial tension seemed to have vanished.

Reflecting over the cause and the cure of the Phila-
Philadelphia situation, it is interesting to note the position of the Negro in relation to the strike. Although he was the causal factor of the strike, he also served as a convenient issue that the defeated union members were able to use to their advantage in an effort to dispel the legal bargaining union. His ultimate upgrading was a secondary thing in so far as the government was concerned. Even though FEPC had ordered the union and the company to practice non-discrimination, and at least a few of the union members had refused, the direct reason that troops were sent in was not to uphold the directives of FEPC, but to end the strike which was damaging to the war effort. Hence, FEPC emerged victorious in this particular dispute in a rather indirect manner.

The Railroad Case

Whereas the Philadelphia case ended with a satisfactory adjustment for FEPC, the case of the railroads turned out differently. The railroads proved to be the nemesis of the first Committee; they remained to taunt the new Committee. Some of the following material has been discussed earlier in this chapter, however, a review of the facts are necessary to better understand the railroad case.

For six months in 1942, the first Committee had col-

19The majority of the material for the above case has been taken from three sources; Ross, op cit., Ch. VIII, Weaver, op cit., Ch. I, VI, VII, VIII, and Ruchames, op cit., Ch. IV.
lected complaints of Negroes charging the railroads with refusal to hire them in certain jobs and failure to upgrade them in accordance with seniority provisions. The South­eastern Carriers Conference Agreement, which was later proven to be restrictive and would eventually eliminate Negro workers from the railroads, and hence declared invalid by the Supreme Count, was part of the grievances. Because of the complaints, hearings had been scheduled by the first Committee, but had been postponed each time for one reason or another. As the complaints kept piling up, and as the pressure was intensified, the hearings were rescheduled for January, 1943.

Because this would be an almost exclusive southern venture, the southern opposition went all out to have the hearings cancelled and President Roosevelt, capitulating to the intense Congressional opposition finally relented and ordered McNutt to cancel the hearings indefinitely. This action brought on extreme disappointment among the Committee members, and as a result several of them resigned. Thus the Committee, or rather the remnants of the Committee, laid in a state of suspended animation from January 9, 1943 until May of the same year when it was revived with the issuance of Executive Order 9346.

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20 See: Supra, pp. 13-14
As the new Committee came into existence, the railroad case was first on its agenda. Hearings were rescheduled for September and, unlike the previous attempts, went on as scheduled. Although both the railroads and the railroad brotherhoods were requested to appear at the hearings, only the companies appeared; the brotherhoods refused, questioning the Committee's validity. Out of the hearings, which lasted four days, came the corroborative evidence that the railroads, in collusion with the railroad brotherhoods, were systematically discriminating against the Negro. Little effort was made by either party to refute the evidence.

At the end of the hearings, the Committee ordered the brotherhoods and the companies to refrain from their discriminatory practices, but both the companies and the brotherhoods refused, writing a letter to the Committee and to Congress challenging the power of the Committee to issue such an order. With this, the Committee referred the case to the President along with recommendations that he (1) request the heads of the fourteen railroad companies and seven labor unions to confer with him within thirty days for the purpose of exploring, devising, and adopting methods by which to comply with the Committee's directives and that he appoint such person or persons as may be necessary to assist in effecting compliance with the Committee's
directives. The second recommendation was, in the words of Ross, an "irretrievable mistake".

The Committee had felt, according to Ross, that the President was too busy with other war duties to properly study the issues in the railroad cases. But if he were to summon the recalcitrant parties to the White House and to appoint a person or persons to assist him, some solution could be worked out. Unfortunately, the President did appoint a committee, and in so doing washed his hands of the whole matter. Since the President had been reluctant to have the hearings in the first place, he was just as reluctant to become involved if he could avoid it. The recommendation by the PEPC to appoint someone to assist in effecting compliance served as a convenient means for the President to relieve himself of the whole affair. Hence, he appointed a committee of three: Walter Stacey, Chief Justice of the Supreme Court of North Carolina, Frank J. Lausche, Mayor of Cleveland, Ohio, and William H. Holly of the U. S. District Court in Chicago.

When the Stacey Committee met with the railroads, rather than working toward a solution, they did nothing. After several meetings in which neither the accused parties

\[21\text{Ross op. cit., p. 133}\]
\[22\text{Ibid., p. 132}\]
nor the Committee offered anything in the way of a solution
the subject was quietly dropped with a vague promise that
both groups would get together at a later date and begin
negotiations again. Actually, the case ended there, be­
cause no other meetings were held and the railroad brother­
hoods and the companies continued in the same old way of
discriminating against the Negro. Thus ended the first
case of the new Fair Employment Practice Committee. It had
failed in one of its most important hearings.

A Review of FEPC

In two of its biggest cases the FEPC came through
with a fifty-fifty batting average. Fortunately, its over­
all average was much better. During its lifespan, Negro
employment increased appreciably. To give all the credit
to FEPC for the increase in Negro employment would be a
little far-fetched, since the increased demand for war ma­
terials and the subsequent demand for workers would have
eventually absorbed Negro workers anyway. However, the
fact remains that in those industries which prior to FEPC
hearings used relatively few Negroes, after the hearings
the number of Negro employees increased considerably. In
addition, after the hearings in most of the plants involved,
Negroes were upgraded. The following table shows a compa­
rison between the increase in non-white employment in those
plants involved in four FEPC hearings with that of the gen­
eral gains in the same industries. Finally, during the per-
iod between July, 1943 and December, 1944, some forty strikes over racial issues took place, and FEPC aided considerably in the satisfactory settlement of each one.23

For a Committee that had to depend primarily on mediation and conciliation to effect its objectives, the Committee was exceptionally successful. On the other hand, when the Committee did fail it failed miserably. But even in these cases it made a point—the need for a legislative act which would give the Committee the power to enforce its directives.

23FEPC, op. cit., p. 79.
### TABLE 1

**EMPLOYMENT GAINS BY NONWHITES IN FIRMS INVOLVED IN HEARINGS AND IN SAME INDUSTRIES AS A WHOLE**

<table>
<thead>
<tr>
<th>Industry</th>
<th>Nonwhite percent of total July, 1942</th>
<th>Nonwhite percent of total January, 1944</th>
<th>Nonwhite percent of total July, 1942</th>
<th>Nonwhite percent of total January, 1944</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft</td>
<td>2.9%</td>
<td>5.3%</td>
<td>1.5%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Blast furnaces, steel works, and rolling mills</td>
<td>9.8%</td>
<td>11.4%</td>
<td>6.4%</td>
<td>9.5%</td>
</tr>
<tr>
<td>Communication equipment and related products</td>
<td>.7%</td>
<td>4.5%</td>
<td>.5%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Engines and turbines</td>
<td>1.9%</td>
<td>3.5%</td>
<td>.2%</td>
<td>1.3%</td>
</tr>
<tr>
<td>General Industrial machinery, Scientific instruments</td>
<td>1.6%</td>
<td>4.1%</td>
<td>1.1%</td>
<td>11.0%</td>
</tr>
<tr>
<td>Shipbuilding</td>
<td>5.7%</td>
<td>10.1%</td>
<td>8.3%</td>
<td>14.9%</td>
</tr>
<tr>
<td>Tanks</td>
<td>2.2%</td>
<td>5.5%</td>
<td>1.1%</td>
<td>2.0%</td>
</tr>
</tbody>
</table>

CHAPTER III

FEPC, THE NEGRO, AND SELECTED UNIONS

The degree to which the different unions were affected, or were willing to comply with the Executive Orders varied almost as widely as the number of unions in the country. Some were extremely cooperative with the Committee; others leaned toward the other extreme; while others were neutral, that is, they complied if necessary to avoid censure from the Committee but otherwise went along in the usual pattern. At least one union, almost entirely Negro, was partially responsible for the issuance of the Order.¹

Although both federations (AFL and CIO) had official policies of non-discrimination, the extent to which the two policies had been enforced varied considerably. Whereas in no instance could it be said that an international within the CIO discriminated against the Negro, several unions within the AFL explicitly excluded Negroes either by constitution or ritual provisions.² On the other hand, several instances could be cited where local unions within the CIO were guilty of discrimination.

¹The Brotherhood of Sleeping Car Porters-AFL
²Northrup listed fifteen AFL affiliated unions which discriminated either by constitution, ritual, or tacit consent. See Supra., Ch. 1, p. 12, footnote 13.
³One such example has been noted. See p. 10, footnote 9.
Nevertheless, in most instances the CIO is able to boast of the better record of practicing equality.

In discussing the background of the two federations, it will become more clear as to why the policies of the two federations contrasted so greatly even though they were officially the same.

The AFL

In 1888, the Negro question first came to the attention of the AFL when the International Association of Machinists (IAM) applied for affiliation. Primarily a union of southern origin, the Negro exclusion clause was an automatic part of its constitution. At this time, however, Samuel Gompers, the President of the AFL, still believed that a policy of non-discrimination should be followed. Hence, he denied them admittance. This attitude was not to last for long; when in 1895, the IAM switched the exclusionist clause from its constitution to its ritual, it was accepted with no questions asked. There is little doubt that Gompers knew that the official policy of the IAM had not changed; a letter written by Gompers to the Locomotive Firemen lends credence to this belief:

... Does the AFL compel its affiliated organizations to accept colored workmen? I answer No! Decidely not.

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5Ibid. Much of the above context is taken from the article by Mandel.

6Ibid.
No more than it compels organizations to accept Americans, Frenchmen, Englishmen, Irishmen, or even Hottentots.

. . . What the AFL declares by its policy is that organizations should not declare against the colored man because he is colored. . .

If a man or set of men array themselves for any cause against the interests of labor, their organizations have the right that their membership be barred. . . . The International Association of Machinists formerly had the color line in its constitution. It eliminated the objectionable item and became affiliated with the AFL. . . Yet I venture to say. . . that they are more than pleased with their affiliation, that their autonomy and independence is as fully recognized today as any time in the existence of their organization.

In addition, later acts by other unions prove further that neither Gompers nor the AFL was still willing to stand behind the original non-discrimination policy. In 1889 the Order of Railroad Telegraphers and the Brotherhood of Railway Trackmen affiliated with the AFL; both had discriminatory clauses in their constitutions, yet neither Gompers nor the AFL made any protest.7 In fact, after the admission of the IAM, the AFL did not once refuse to admit a union because of its racial policies.8

The very makeup of the AFL helped to exclude Negroes from membership. First, the AFL was originally made up of craft unions, and most unions were extremely hesitant to organize any worker, regardless of his color, unless he was a skilled craftsman. Since very few Negroes were skilled, 

7Ibid.
8Ibid.
and since very few were afforded an opportunity of gaining a skill, even if the unions had not been discriminatory, there would have been relatively few Negroes eligible for membership. But for the few who were skilled, and there were some, chances of admittance into a union were very slim. On the other hand, some unions did admit Negroes, in fact, encouraged Negro membership, and interestingly enough some of these unions were in the South. The AFL has always taken a great deal of pride in the autonomy and independence of its several international affiliates; any attempt of the Federation to make demands on an international's internal affairs would probably have been considered as an undue encroachment on the union's independence. Unionism was just beginning to grow, and, if the Negro problem slowed down union growth, it was felt better to avoid "as far as possible all controversial questions". Finally, early unions were organized as fraternal organizations, and it was felt that to admit the Negro would have been an admission of social equality. This, the members refused to do.

With this background, it is not surprising that it was for the most part AFL affiliates who defied the Com-

9Some unions in the building trades were forced to take in Negroes since a considerable number were tradesmen and posed a threat to the white workers if they were not organized. See: Ibid., 17-47.

To this writer, there appears to be much contrast between the CIO and the AFL. Therefore, it is difficult to compare them. First, unlike the AFL, the CIO was organized on an industrial basis rather than on a craft basis. Whereas, the CIO was interested in organizing all workers whether they were skilled or unskilled; the AFL was interested in organizing only skilled workers. Since the majority of Negroes who were in industrial work were unskilled, they posed more of an immediate threat to the CIO workers if not organized, than was true of the AFL. Thus, if for no other reason than for survival, the CIO was forced to consider the Negro.\textsuperscript{11} The time element must be of some importance. The CIO was born in 1935, almost fifty years after the birth of the AFL. Undoubtedly, the feeling toward the Negro had changed during that time. When the AFL was formed, the Negro was hardly removed from slavery, and therefore it was more common to think of the Negro as being inferior and unsuited for union membership. The philosophy of independence and autonomy of the separate unions was not so strong in the CIO as it was in the AFL.\footnote{This same reasoning holds true for the industrial unions of the AFL. Such AFL affiliates as the International Ladies Garment Workers, The United Mine Workers, have advocated and have practiced non-discrimination since their inception.}
Such militant leaders as John L. Lewis and Philip Murray were the backbone of the CIO and they were noted for their authoritarian ways. Finally, in most instances it was within the CIO that the Communist element existed, an element which has stood for non-discrimination. Thus it was not by chance that the CIO affiliates were by far the most receptive to the President's Fair Employment Practice Committee. Northrup summed up the philosophy of the CIO by saying:

\[ \text{\ldots It is not difficult to comprehend why the CIO has pursued its liberal racial policy. Unlike craft unions, which are organized on an exclusive and narrow basis, and which depend upon their control of a few highly skilled and strategically situated jobs to obtain their bargaining power, industrial unions acquire their strength by opening their ranks to all workers in an industry \ldots \text{Besides, their officers saw the projected campaigns to organize the workers of the iron and steel, the automobile, and the other mass production industries doomed to failure unless the unions in these fields opened their doors to workers of all creeds and colors.} } \]

Having briefly discussed the background of the two federations in an effort to explain why the different unions responded to FEPC as they did, the rest of this chapter will be devoted to discussing selected international labor unions' policies before FEPC, and their compliance or non-compliance with the directives of the Committee. In most cases, eventual compliance was effected, but the

efforts which FEPC had to make in order to reach a settlement varied considerably. In one case to be discussed below, it was the courts rather than FEPC which enacted the final settlement. On the other hand, specific unions were instrumental in persuading the President to issue the Executive Order.

The Brotherhood of Boilermakers, Shipbuilders, and Helpers-AFL

From its inception, this particular union discriminated against the Negro. At first it was by a provision in its ritual, but later (1937) it was through the creation of "Auxiliary" locals.13

With the outbreak of World War II, the shipyards all over the country expanded tremendously, as did the need for workers. At approximately the same time, the Metal Trades Council of the AFL had negotiated contracts with the majority of the shipyards on the west coast, and as a result of these contracts, the Boilermakers had gained exclusive bargaining rights for the representation of about sixty-five percent of the workers in most shipyards.14 Since these contracts gave the Boilermakers a


closed shop agreement, and since they at that time exclud ed Negroes, it was impossible for Negroes to be hired at the shipyards. At least, this was the contention of the shipyard managements. If they were to hire Negroes, the Boilermakers would be able to invoke the closed shop provision of their contract. And when the Negroes persisted in trying to make the Boilermakers change their exclusionist policy, the Union replied by saying that all the Negro labor could be absorbed as janitors.

Because of the pressing need for workers however, and under pressure from the various government agencies, employers, and Negro organizations, the Union finally consented to organizing auxiliaries and letting the Negroes work as long as it was in the capacity of the unskilled laborers. Apparently this was done only as a means of avoiding a hearing if possible. The IAM had just been directed by the FEPC to allow Negroes to work in the aircraft plants, and until this hearing the Boilermakers steadfastly refused to let Negroes work.

The Negroes, however, were dissatisfied with auxiliary status because of the obvious inequality and unfair-

15 Provisions were made for setting up "auxiliary" unions during the Boilermakers 1937 convention, however none were actually set up on the west coast until 1941.

ness that went with it, and many refused to join. Hence, the Boilermakers asked the companies for the discharge of these men because they were not members in good standing. To this demand, the companies complied, pleading the closed shop agreement again. In addition to the above skilled Negro workers who were sent to the west coast to help fill the demand for labor, many were immediately reclassified as unskilled laborers by the business agent of the Boilermakers so that they could maintain their policy on letting Negroes work in unskilled positions. These were the complaints which FEPC had collected when it held its hearings in 1943.

After four days of the hearings, the Committee held that auxiliary unions were discriminatory and were affecting the employment of Negroes in shipyards. It issued cease-and-desist orders to unions and held further that if such practices were to continue, the closed shop provision of their contracts was void. With this edict, the companies began hiring Negroes and in a short time, Negro member-

17Auxiliary status meant that Negroes could only transfer to other auxiliaries; they were denied any representation in the affairs of the international; they were under the jurisdiction of the nearest white local; the auxiliary could be disbanded at any time; and although they paid the same dues, they received only half as much as white members for death benefits, etc.

ship increased to 20,000 in the Bay Area alone.\textsuperscript{19}

Nevertheless, the union was not yet willing to bow to the orders of the Committee. It did, however, agree to give the auxiliary unions a little more autonomy in that they allowed the Negro auxiliaries to seat delegates at the international convention, but this concession did not satisfy the Negro workers.

In an effort to gain full status as union members or to gain immunity from joining the auxiliary locals, and still hold their rights as workers, suits were filed in the California State courts to test the legality of the auxiliary unions.\textsuperscript{20} The courts found in these cases that the auxiliary unions were discriminatory and that in order for the Boilermakers' closed shop provision to be valid, it would have to give the Negro members full status on the same basis as the white workers. In essence, the decision was the same as that found by the Executive Committee.

Thus, it was with reluctance that the Boilermakers' Brotherhood finally admitted Negroes into the unions, but this did not mean that segregation had been abolished.

When the courts ordered the Brotherhood to do away with the auxiliary unions or forego its closed shop contract provi-


\textsuperscript{20}Suits were originally filed in the Federal district court, but the court refused to accept the case because of the lack of jurisdiction. Hence the case was then tried in the California State Supreme Court.
sion, it complied by giving the auxiliary locals, made up of Negro membership only, equal standing with the white locals in the area. But, the Negro locals were still segregated. In addition, the policy of the International did not change. Negroes who wished to be admitted to locals outside of California were not necessarily admitted, nor were the Negro boilermakers of California able to gain reciprocity in other locals outside of California. As far as this writer has been able to determine, the policy has not yet changed. Hence, although compliance was effected in California, it was only made effective with the help of the California Supreme Court. Because the status of the International had not changed, FEPC filed this case as an unsatisfactory adjustment.21

The International Association of Machinists—AFL

Like the Boilermakers, the IAM had a discriminatory clause in their ritual barring Negroes from membership, and like the Boilermakers, the IAM was found guilty of discriminatory practices by the FEPC. Unlike the Boilermakers, was the manner in which the IAM complied with the Committee's directives.

When the FEPC held its first hearing in California in 1941, and found the IAM guilty of not complying with the President's Executive Order 8802 because of its refusal to admit Negroes to membership and thereby blocking their em-

ployment into defense industries, it issued cease-and-de­
sist orders to the Union. The Union, in order to comply
with the directives of the Committee without giving mem­ber­ship to the Negroes, permitted them to "buy" work permits
which cost $3.50 per month. This was in contrast to the
$1.50 which union members paid. The Negro workers did not,
however, have to pay the regular initiation fee. But this
arrangement was not satisfactory with the Negro employees
because they did not gain any of the benefits nor protec­tion of the union. Hence, they, in some cases, refused to
pay the work fee. Many continued to insist upon full union
membership.

Apparently, there was some split in the union ranks
on how to treat the Negro problem. For instance, in Seattle
at Boeing Aircraft, the workers voted unanimously to accept
the Negro employees but they were enjoined from doing so by
the officials of the International.22 Nevertheless, it was
the 1941 hearings which began the break in the racial bar­riers of the Machinist's International.

As has been mentioned earlier, when FEPC first held
its hearings in California, few Negro employees were being
utilized in the aircraft factories, the stronghold of IAM.
Because of the complaints of the colored people, FEPC held
its investigations and ordered IAM to allow Negroes the

opportunity to work. In order to hold to its policy of excluding Negroes and still comply with the Committee's directives, IAM issued the Negroes work permits. Some locals, however, feeling that this was unfair, granted Negroes membership in defiance to the policy of the International. Two years after the hearings in California, one of the local lodges of the Machinists, assumedly with the approval of the International, accepted Negroes of the Warner-Swazey plant in Cleveland into full membership. The organizing chairman of that local when accepting the Negro members said:

... I remind you that no matter where you go, if you have your union card with you then you will be recognized as a member of the Machinists Lodge #54. ... There will be no separate meetings of white and Negro. You will sit in our regular meetings, with full voice and voting rights. ...

Thus, FEPC in this case brought about a satisfactory adjustment. Not only did they facilitate the employment of the Negroes in the aircraft industry, they also helped to bring about the acceptance of Negroes into the International Association of Machinists. It is interesting to note the gradual change that took place within the International. First, after FEPC ordered the various locals to allow Negroes to work, they issued work permits to the Negro workers. Second, since the Negro workers and many white members were dissatisfied with this arrangement, at least one

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24 H. R. Northrup, "In the Unions," Survey Graphic, XXXVI, (Jan., 1947), 54.
local unanimously voted to accept Negro members. However, at this time the International enjoined the local from doing so. But the climate was set. Two locals defied the International and accepted Negro members anyway. Third, apparently the International conceded and the Negro members were admitted to a local in Cleveland, Ohio. Finally, at the 1948 convention of the IAM, the discriminatory ban was completely removed from its ritual.25

The United Automobile, Aircraft, and Agricultural Implement Workers of America-CIO

Whereas both the IAM and the Boilermakers resisted PEPC, the UAW did just the opposite. In all instances the International tried to uphold the policies of the Executive Committee. In some instances, disturbances occurred, but it was always on the local level, and in most cases, the International worked diligently to correct the difficulty and stand firm behind its policy of non-discrimination. In all cases it at least condemned the guilty parties.

In those cases where discrimination did occur, it was concerned with seniority and upgrading rather than a refusal to let Negroes work.26 And a good deal of the blame in these cases, could be rightfully placed on the management.


26Strikes occurred in the Packard plant in 1941 and 1943 over the upgrading of Negroes.
It would not be too inaccurate to say that the UAW-CIO was not really organized until 1940, for it was not until that year that the Ford Motor Company employees were brought into the fold, and without the organization of the whole automotive industry, the unions did not have overly effective bargaining power.

Prior to the organization of the Ford Company, few Negroes were members of the UAW. This was true for two reasons. First, none of the other automobile producers hired a significant number of Negroes and therefore, the union was indifferent toward organizing the Negro. The same was not true for Ford however; for some reason this company had always made a practice of hiring at least ten per-cent of its work force from the colored population. This, of course, made him very popular in the Negro community. The union, realizing this, knew that in order to gain the Negroes loyalty, it would have to show the Negro substantial proof that he would be better in the union than out. Second, a considerable number of the white employees

26In the 1941 strike, two Negro metal polishers were upgraded to the production lines and the white workers immediately staged a sit-down strike. Management immediately removed the Negroes. In 1943, Negro worked protested the fact that they were not being upgraded according to custom, and when the company attempted to do so, 25,000 employees walked out for four days. See: Irving Howe and B.J. Widlick, "The UAW Fights Race Prejudice," Commentary, VIII, (Sept., 1949), 263.

27Northrup, Organized Labor... pp. 189-90.
were southerners and were naturally antagonistic toward the Negro. Since the Negroes were so scarce at the other plants, the UAW, as had the AFL affiliates earlier, felt it best to avoid trouble if possible. Hence, little effort was made to organize the Negro. At the Ford plant, again the same was not true. Either the whites worked with the Negroes or found another job. The majority chose to work. In addition, Ford utilized Negroes in skilled capacities which was almost unheard of in the other plants—all the more reason why UAW had to convince the Negroes that they would receive at least as good a treatment in the union.

When the Executive Order was issued, the union was therefore forced to follow a practice of non-discrimination.

As stated previously, the UAW was not always successful in securing equality for the Negro in so far as upgrading but in all instances it worked toward this end. It did succeed insisting that Negroes by hired and upgraded in the aircraft plants in California, and incidently, this is probably why the IAM in the same plants began accepting Negroes. It established a Fair Committee within its own international to help fight prejudice. In all cases it has been, militant, if not the most militant union, in its fight against discrimination.28

The United Steelworkers of America-CIO

Like the UAW, the Steelworkers have always practiced non-discrimination, and also like the UAW, most of their racial problems concern promotions. A majority of the Negroes have been traditionally in the foundries and apparently, many of the white workers would like to see them stay there.

Curiously enough, the Steelworkers' troubles with discrimination and their subsequent negotiations were the result of strikes instigated by Negro workers. One such strike occurred in the Clairton by-products plant, a coke plant of the Carnegie-Illinois Steel Corporation.

Prior to 1933, the plant was entirely manned by Negroes but after that time the company began introducing whites and as they were trained by Negroes, the Negroes were transferred to other departments of a lower classification. Apparently the same process continued up to and after the organization of the plant by the Steelworkers. At the time of the strike, the Steelworkers had negotiated a contract calling for straight seniority, but by that time most of the Negroes had been demoted and there appeared little chance that they would get their jobs back.

Disgruntled by this, the Negroes decided to strike and tie up the plant. Because of the significance of the plant, a strike would have affected the entire operations of the company. Since the plant made coke and gas, and the
gas was piped to all the various plants, a shutdown in this plant would have automatically shut down all other plants. After unsuccessful attempts by the U. S. conciliation service, Army ordinance, and Naval industrial relation, to persuade the workers to return to their jobs, an FEPC official was called in. After talking to the workers and explaining that FEPC would investigate all complaints that the workers had in conjunction with upgrading and promotions if the men went back to work, they agreed to do so. With the help of the union officials, the FEPC examiner was able to explain the promotional sequence worked out in the contract negotiations and the need for them to abide by the contractual obligations. Subsequent investigation by the FEPC examiner disclosed that the major difficulty had resulted from the lack of understanding of the seniority and promotional provisions by the Negro members. Since before organization of the plant the Negroes had been steadily losing their positions, they were afraid the situation was to continue. Unfortunately, the losses they had already encountered could not be made up. Thus, FEPC aided considerably in settling this particular strike and incidentally was able to bring about a better understanding between union members and the company in its promotional system.29

As in the UAW disputes, this writer believes that the trouble that arose in the Clairton by-products plant

29Taken from FEPC, First Report,..., pp. 81-82.
could rightfully be traced to management. In most other cases, the Steelworkers have, like the UAW, tried to follow a policy of equality. They, like the UAW, have created a Fair Employment Practice Committee to help see that their convictions are enforced. Most contract include a clause calling for non-discrimination.

The International Union of Mine, Mill, and Smelter Workers—CIO

Mine-Mill, although its constitution explicitly condemns discrimination, apparently practices a "Laissez Faire" policy. That is, it lets well enough alone. In those companies where the minority group makes up a considerable part of the labor force, and thus threatens the Mine-Mill's position, it vigorously upholds the rights of the minority. On the other hand, where the minority represents an insignificant part of the labor force, it refuses to fight as vigorously. At least one such example can be given.

In October, 1942, the Army furloughed 4,000 soldier miners in an effort to ease the shortage of labor in the non-ferrous mines. Thirty-two of those miners were sent to Butte, Montana to work in the Anaconda Copper Mines. When fourteen of the Negro miners appeared at the mines for work, one hundred white miners walked off the job and when

30In 1950, Mine, Mill was expelled from CIO fro its alleged Communist affiliation.

the management tried to urge them back, the whole local decided to strike until the Negroes were removed. Reid Robinson, the President of the International flew to Butte and called a mass meeting which was held in the Fox theatre of that city in an effort to persuade the workers to return to the mines, but his efforts failed. The Army then removed the soldiers. It is ironic that at the approximate time this strike took place, the Mine-Mill international sent a telegram to the Fair Employment Practice Committee commending them for their work.

A Summary

In numerous instances AFL affiliates were guilty of discrimination against the Negro, where in most cases, the CIO did its best to uphold the non-discrimination policy. The reason for the actions of the different internationals' actions are not hard to understand. Whereas it had been economically advantageous to exclude the Negroes in the case of the AFL affiliates, just the opposite prevailed in so far as the CIO affiliates. Discrimination in most cases was more of an economic problem than a sociological issue.
CHAPTER IV

FAIR EMPLOYMENT PRACTICES: STATE LEGISLATION

The End of Federal FEPC

FEPC, during its five years existence, gathered many friends. Through its subsequent investigations, the committee had disclosed the extent of discrimination in the various industries, and as a result, numerous bills were introduced in Congress for the creation of a permanent Fair Employment Practices Committee. However, no such Federal legislation was enacted.¹ But since FEPC had been created as an emergency defense effort, it was destined to die as the need for war materials decreased.

Just as the Committee had gathered many friends, it had also garnered considerable enemies during its existence. Using the various bills which had been introduced in both houses to their advantage, its foes argued successfully that the Committee should be abolished because of the possibility of a permanent Committee being created by the pending legislation. Thus they were successful in reducing the appropriations for the Committee from $500,000 to $250,000

¹More than sixty bills for a permanent committee have been introduced by the two houses since 1942. See: U.S. Senate, Committee on Labor and Public Welfare, Hearings Before the Subcommittee on Labor and Labor-Management Relations, Discrimination and Full Utilization of Manpower Resources, 82nd Cong. 2nd Sess., 1952, pp. 408-15.
"for completely terminating its functions and duties".2 Hence, in July, 1946, the President's Committee on Fair Employment Practices came to an official end. But, the stage had been set. Numerous states were to enact Fair Employment Practices legislation in the following years.

In March, 1945, New York took the initiative and passed the first state Fair Employment Practices Act; since that time twelve other states have followed its example. During that same year, New Jersey, Indiana and Wisconsin passed similar acts; Massachusetts (1946), Connecticut (1947), New Mexico, Oregon, Rhode Island, Washington (1949), Colorado (1951), Kansas and Alaska (1953) have also passed similar acts.3 Although the various acts are not identical, they are basically the same. For that reason the majority of this chapter will be spent in discussion of the New York Fair Employment Practices Committee and its experience.

**New York FEPC: Its Provisions**

Opportunity for employment is defined as a right regardless of race, creed, color, or national origin, and therefore, it is declared against the law for an employer of more than six persons to refuse to hire, promote or to pay discriminatory wage rates to an individual because of

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2Ibid., p. 407.

3The laws of Indiana and Kansas do not have provisions for enforcement of the committee directives. They are only "educational" committees.
race, creed, color, or national origin. It is also unlawful for an employer to demote, or discharge an employee for the same reasons. Furthermore, it is unlawful for a labor union to exclude or expel any individual because of race, creed, color, or national origin. Finally, it is against the law for an employer or an employment agency to inquire about these matters or to use application blanks which require such information.

The act provides for the creation of a Commission called the State Commission against Discrimination (SCAD), consisting of five members appointed by the Governor with the advice and consent of the Senate. They are to serve staggered terms for five years so that there will always be experienced members on the Commission. Each member receives a salary of $10,000 per year.

The Commission is authorized to create state or local advisory agencies and conciliation councils to study the problems of discrimination and to make recommendations on policies and educational programs. Finally, the Commission is empowered to receive, investigate, and if necessary, to hold hearings and pass upon complaints of unlawful employment practices. If, after the hearings, the accused party is found guilty of violating the law, the Commission has the power to issue cease-and-desist orders. The respondent, on the other hand, is entitled to court review. If still the recalcitrant party refuses to obey the law, he is subject
a one year prison sentence, a $500 fine, or both. 

Handling of Complaints

When a person applies for a job and is refused and he believes it is because of race, creed, color, he may submit a complaint to the SCAD. That agency investigates the complaint, by sending a representative to see the accused and by checking the accused's past employment policies, the number of minority members attached to the firm, the positions they hold, etc. The accuser is also investigated to see why he left his last job, how long he worked, how many positions he has held in the last few years, etc. In other words, every effort is made to determine whether the complainant's accusation is valid or not.

If, after investigation, the complaint is considered to be valid, the guilty party is informed of the law and asked to change his discriminatory practices. Every effort is made to redress the grievance through conciliation and mediation. However, if the recalcitrant party refuses to comply, a public hearing is scheduled, and if the defendant is found guilty, the Commission issues cease-and-desist orders which are enforceable in the courts.

As has been mentioned, every effort is made to re-

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dress the grievance of the complainant through conciliation and mediation, and in most cases this action is sufficient. By thorough investigation of the complainant and the accused, the Commission is able to filter out the unwarranted complaints and thus reduce any misgivings against the law. Interestingly enough, in some cases the Commission may find that a registered complaint is invalid, but through its investigations it may discover that discriminatory practices do exist, but for a different reason. Thus, it is able to eliminate a discriminatory practice which has not garnered a complaint.

The Results of SCAD

Like any agency, SCAD has had its problems. There have been cases of individuals claiming discrimination where none exists. These cases, however, have not been nearly as great as was first anticipated.\(^5\) The over-all results of the Commission seem impressive. Since the Commission does not publish reports on any case that is settled at any stage before a public hearing, and since the necessity for holding public hearings has been very slight, it is impossible to give exact information as to just how effective SCAD has been.\(^6\)

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\(^5\)Irwin Ross, "Tolerance by Law," Harpers Magazine, CXCV, (Nov., 1947), 458-59. During the first two years, valid complaints totalled a little less than half of the 706 cases handled. Since then, the percentage of valid cases has been much higher.

\(^6\)From its inception through 1954, only two cases had to be settled by hearings.
Nevertheless, from all indications the results of the Commission have been exceedingly good.

It was feared that work stoppages would occur if Negroes were introduced on certain jobs, but none have occurred. It was also feared that consumers would complain if Negro clerks were employed, but this fear, too, has been found unwarranted. It was also feared that the enactment of a Fair Employment Practice Act would induce businessmen to leave the state of New York. In answer to that, the Chairman of SCAD had this to say:

...Many of the fears voiced at the impending passage of the New York law have been proved unfounded. We are not aware of a single instance of any business or industry leaving the state because of this law. As a matter of face, in some areas more industries are moving in...

Another problem which the Commission faces and which appears more difficult to solve is that of "quotas". Many employers seemed to have felt that the enactment of a Fair Employment Practice law would mean that unless a certain percentage of their employees were of minority groups, they would be charged with discriminatory practices. This fear has likewise proved to be unwarranted. What the act does attempt to do is to induce each employer to hire his employees on the basis of merit regardless of race, creed, color, 

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8Irwin Ross, op. cit., 459.
or national origin. One employer with many employees of a minority group may be found guilty of discrimination, whereas another employer with no minority members may be completely innocent of discriminatory practices. On the other hand, the absence of minority members may be considered as indicative of discriminatory practices. This problem, to the writer, appears to be one of the more difficult problems which the Commission has to face. Since the lack of minority members may be considered as an indication of discrimination, it would seem that "token" employment would almost inevitably result. It would seem that those employers who are honestly trying to obey the law and hire employees on merit would perhaps fear being accused of discrimination if, at least, a few of their employees were not minority members, and thus would hire a token number. On the other hand, it would seem that an employer who is actively trying to evade the law would resort to the same practice. Apparently, this observation does not pose a serious problem however, since many of the firms in New York and other states feel that the enactment of a law has not hampered them to a significant extent.⁹

It would seem that the best test as to the effectiveness of Fair Employment Practices would be statistics showing the change in employment practices of the various

⁹"Does State FEPC Hamper You", op. cit., 114-17. In this article several employers cite their experiences with FEPC.
firms. Unfortunately, none of the commissions provide such information. First, in order to protect the employer from adverse publicity, the commissions make a practice of not publicizing any case which is settled at any stage before a public hearing. Second, it is felt that statistics would not adequately tell the story anyway. Since a complaint must be filed against a firm before it is investigated, many firms may change their employment policies and the commissions would have no record of those changes. It is felt too, that statistics might in some way suggest a "quota" system and this, they hope to avoid. Finally, education is stressed in the commissions' activities. It is hoped that by publishing reports on the improvements of anonymous firms, and by stressing the fact that discrimination is "poor business", the efforts will be better spent. On the other hand, statistics are issued on the types of complaints received, that is on such information as to the specific reason for discrimination and the number of cases filed during the year. From all indications, employment of minority groups has increased considerably in New York since the enactment of that state's FEP law.10

The final test for FEPC is how it has been accepted by the various organizations who are affected by it. In

almost every case, the reports have been the same. One representative of an association of retail merchants summed up his position by saying:11

Surely the present law imposes no hardships on the employer. It simply applies penalties to acts of discrimination when those acts deprive an inhabitant of our state of the fundamental human right which he has; namely, the right to earn a living. There is nothing involved or intricate about the requirements of the law. The employer is merely asked to hire or retain in employment, the best man or woman for the job. It simply says that regardless of race, color, or national origin, he or she cannot be barred from employment so long as he or she meets all the qualifications the employer has set for the job. I believe that in sum to be the simple truth about the statute.

Other State Experiences with FEP

As was noted earlier in the chapter, several other states have also enacted FEP legislation.12 And their experiences have been very similar to that of New York. There has been little resistance to the laws that have been enacted. Most employers have accepted them with good results. It is interesting to note that in most cases where hearings have been held, it has been a union that has refused to abide by the directives of the particular commission.13 This is probably due to the fact that unions are not as interested in the adverse publicity which results from a hearing, as are businessmen.

11Ibid., p. 113. 12see: Supra., p. 62.

13Both cases by New York involves unions, the Seafarers Union-AFL and the Railway Mail Association.
It should be noted also that the states in which PEP legislation has been enacted are northern rather than southern states. It would be expected that such legislation would be accepted in those states more readily than it would be in a southern state. Both consumers and producers would be expected to obey the law more readily.

One observation may be worth-while. In Cleveland, Ohio, when a Fair Employment Practice ordinance was suggested, considerable resistance was encountered. In order to avoid the passage of such a bill, the employers agreed to voluntarily practice a policy of non-discrimination. But it was soon found that such an arrangement did not work. When a local ordinance was enacted, employers were much more willing to cooperate, and apparently have not been disappointed with the result.14 Hence, it would seem that "teeth" are needed to induce the various organizations to practice non-discrimination in employment.

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Chapter V

AN EVALUATION OF FAIR EMPLOYMENT PRACTICES

Evidences of Negro Progress

Seventeen years have elapsed since the issuance of the historic Executive Order, and many changes have taken place. Negroes, although not yet as well off as white people, have improved their economic lot considerably. The following tables indicate the gains made by Negroes in various occupations since the issuance of Executive Order 8802.¹

In Table 2 on the following page several interesting points are worthy of comment. First, the Negro has made his greatest percentage gains in those occupations most likely to be organized by unions. It is also true that these occupations would appear to have been most likely in defense industries, and as such would have been subject to the surveillance and directives of FEPC. Conversely, the Negro has made his smallest gains in professional, technical, and clerical occupations which are least likely to be organized by unions or to be defense industries. Hence, they were more likely to escape the scrutiny of FEPC.

¹The tables are based on 1950 data and are therefore not complete accounts of the Negroes' progress. They are recent enough to show the trend. Later data should prove the Negroes' gains to be even greater.
Reflected also in Table 2 is the mass migration of Negroes from the southern farms to the industrial areas of the North. Table 4 shows more clearly the extent of this migration.

**TABLE 2**

PERCENT DISTRIBUTION OF EMPLOYED MEN BY OCCUPATIONAL GROUP, BY COLOR, MARCH 1940 AND APRIL 1950

<table>
<thead>
<tr>
<th>Major occupational group</th>
<th>Non-white 1940</th>
<th>Non-white 1950</th>
<th>White 1940</th>
<th>White 1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total employed men.</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Professional, technical, and kindred workers</td>
<td>1.9</td>
<td>2.2</td>
<td>6.6</td>
<td>7.9</td>
</tr>
<tr>
<td>Farmers and farm managers</td>
<td>21.1</td>
<td>13.5</td>
<td>14.2</td>
<td>10.5</td>
</tr>
<tr>
<td>Managers, officials, and proprietors, except farm</td>
<td>1.6</td>
<td>2.0</td>
<td>10.6</td>
<td>11.6</td>
</tr>
<tr>
<td>Clerical and kindred workers</td>
<td>1.2</td>
<td>3.4</td>
<td>6.5</td>
<td>6.8</td>
</tr>
<tr>
<td>Sales workers</td>
<td>1.0</td>
<td>1.5</td>
<td>6.8</td>
<td>6.6</td>
</tr>
<tr>
<td>Craftsmen, foremen, and kindred workers</td>
<td>4.4</td>
<td>7.6</td>
<td>15.9</td>
<td>19.3</td>
</tr>
<tr>
<td>Operatives and kindred workers</td>
<td>12.4</td>
<td>20.8</td>
<td>18.7</td>
<td>20.0</td>
</tr>
<tr>
<td>Private household workers</td>
<td>2.3</td>
<td>.8</td>
<td>.1</td>
<td>.1</td>
</tr>
<tr>
<td>Service workers, except private household</td>
<td>12.3</td>
<td>12.5</td>
<td>5.2</td>
<td>4.9</td>
</tr>
<tr>
<td>Farm laborers and foremen</td>
<td>20.0</td>
<td>11.3</td>
<td>7.0</td>
<td>4.4</td>
</tr>
<tr>
<td>Laborers, except farm and mine</td>
<td>21.3</td>
<td>23.1</td>
<td>7.6</td>
<td>6.6</td>
</tr>
<tr>
<td>Occupation not reported</td>
<td>.6</td>
<td>1.3</td>
<td>.7</td>
<td>1.2</td>
</tr>
</tbody>
</table>

Source: United States Senate, Hearings... Anti-discrimination in Employment, 83rd Cong. 2nd Sess., 1954, p. 121.
TABLE 3

MEDIAN INCOMES, WHITE and NON-WHITE FAMILIES and INDIVIDUALS WITHOUT NON-WAGE INCOME for the UNITED STATES 1939 and 1950

<table>
<thead>
<tr>
<th></th>
<th>1939</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>White families and individuals</td>
<td>$1,409</td>
<td>$3,647</td>
</tr>
<tr>
<td>Non-white families and individuals</td>
<td>$531</td>
<td>$2,021</td>
</tr>
<tr>
<td>Incomes of non-whites as percentage of incomes of whites</td>
<td>38%</td>
<td>55%</td>
</tr>
</tbody>
</table>

Source: United States Senate, Hearings... Discrimination and Full Utilization of Manpower Resources, 82nd Cong. 2nd Sess., 1952, p. 237.

TABLE 4

INCREASE of PROPORTION of NEGROES in 16 CITIES OUTSIDE the SOUTH from 1940 to 1957. DECREASE in PROPORTION of NEGROES in SOUTHERN CITIES DURING the SAME PERIOD

<table>
<thead>
<tr>
<th>City</th>
<th>Negro population (thousands)</th>
<th>1940</th>
<th>1957</th>
<th>Negro population as percent of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern Cities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Baltimore, Maryland</td>
<td>165,843</td>
<td>280,000</td>
<td>19.3%</td>
<td>29.2%</td>
</tr>
<tr>
<td>Chicago, Illinois</td>
<td>277,731</td>
<td>738,000</td>
<td>8.2%</td>
<td>19.6%</td>
</tr>
<tr>
<td>Cincinnati, Ohio</td>
<td>55,593</td>
<td>95,270</td>
<td>12.2%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Cleveland, Ohio</td>
<td>84,504</td>
<td>217,000</td>
<td>9.6%</td>
<td>22.0%</td>
</tr>
<tr>
<td>Dayton, Ohio</td>
<td>20,273</td>
<td>50,000</td>
<td>9.6%</td>
<td>19.2%</td>
</tr>
<tr>
<td>Detroit, Michigan</td>
<td>149,119</td>
<td>375,000</td>
<td>9.2%</td>
<td>19.6%</td>
</tr>
<tr>
<td>Gary, Indiana</td>
<td>20,394</td>
<td>60,987</td>
<td>18.3%</td>
<td>36.1%</td>
</tr>
<tr>
<td>Los Angeles, Cal.</td>
<td>63,774</td>
<td>275,000</td>
<td>4.2%</td>
<td>11.8%</td>
</tr>
</tbody>
</table>
TABLE 4—Continued

<table>
<thead>
<tr>
<th>City</th>
<th>Negro population (thousands)</th>
<th>Negro population as percent of total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1940</td>
<td>1957</td>
</tr>
<tr>
<td>Northern Cities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York, New York</td>
<td>458,444</td>
<td>840,000</td>
</tr>
<tr>
<td>New Ark, New Jersey</td>
<td>45,760</td>
<td>86,000</td>
</tr>
<tr>
<td>Oakland, California</td>
<td>8,462</td>
<td>51,000</td>
</tr>
<tr>
<td>Philadelphia, Penn.</td>
<td>250,000</td>
<td>456,000</td>
</tr>
<tr>
<td>Pittsburgh, Penn.</td>
<td>62,216</td>
<td>107,000</td>
</tr>
<tr>
<td>San Francisco, Cal.</td>
<td>4,846</td>
<td>52,000</td>
</tr>
<tr>
<td>St. Louis, Missouri</td>
<td>108,765</td>
<td>235,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Southern Cities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atlanta, Georgia</td>
<td>146,290</td>
<td>195,500</td>
</tr>
<tr>
<td>Birmingham, Ala.</td>
<td>108,938</td>
<td>143,700</td>
</tr>
<tr>
<td>Charlotte, N.C.</td>
<td>31,403</td>
<td>44,680</td>
</tr>
<tr>
<td>Columbia, S.C.</td>
<td>22,195</td>
<td>35,340</td>
</tr>
<tr>
<td>Fort Worth, Tex.</td>
<td>25,254</td>
<td>50,000</td>
</tr>
<tr>
<td>Greensborough, N.C.</td>
<td>16,343</td>
<td>26,775</td>
</tr>
<tr>
<td>Houston, Texas</td>
<td>86,302</td>
<td>189,532</td>
</tr>
<tr>
<td>Jackson, Miss.</td>
<td>24,256</td>
<td>50,000</td>
</tr>
<tr>
<td>Little Rock, Ark.</td>
<td>22,103</td>
<td>28,200</td>
</tr>
<tr>
<td>Memphis, Tenn.</td>
<td>121,498</td>
<td>134,894</td>
</tr>
<tr>
<td>Montgomery, Ala.</td>
<td>34,535</td>
<td>48,070</td>
</tr>
<tr>
<td>New Orleans, La.</td>
<td>149,034</td>
<td>220,730</td>
</tr>
<tr>
<td>Richmond, Virginia</td>
<td>61,251</td>
<td>82,500</td>
</tr>
<tr>
<td>Tallahassee, Fla.</td>
<td>6,487</td>
<td>16,280</td>
</tr>
<tr>
<td>Tampa, Fla.</td>
<td>23,331</td>
<td>55,000</td>
</tr>
<tr>
<td>Winston Salem, N.C.</td>
<td>36,018</td>
<td>41,400</td>
</tr>
</tbody>
</table>

Of course, all of the above gains cannot be directly attributed to the Fair Employment Practices; other factors have also played an important role. World War II and the consequent demand for manpower opened many doors for the Negro; the subsequent high rate of production that we have since maintained, has helped to augment those gains. Nevertheless, it must be remembered that even after War II began many firms refused to hire Negro workers. The intensified efforts of the various unions such as the United Auto Workers (CIO), the Steelworkers (CIO), and the United Packing House Workers (CIO), have undoubtedly played an important part in the gains that Negroes have made. But again it must be remembered that it was not until after the efforts of FEPC that many unions changed their discriminatory practices. States enacting FEP laws have also facilitated Negro progress, but again it must be remembered that it was not until the Executive Committee had so vividly illustrated the extent of discrimination that these laws were passed. Thus FEPC can take its share of the credit for Negro gains.

Again, no single factor can be designated as the cause of the mass migration as shown on Table 4. Farm mechanization and the decreased need for farm hands, the quest for greater educational opportunities, and more civil equality are but a few of the reasons. More important, is the Negro's quest for economic equality. Indeed, he has not yet received full equality in the North, but his
opportunities here are much better than they are in the South. Nevertheless, it is not wholly coincidental that the Negro is concentrated in those areas where state or local Fair Employment Practice laws have been enacted. These laws have helped to provide the employment opportunities which made Negro immigration possible, and the growing political strength of Negroes in these areas has helped bring about passage of anti-discrimination legislation.

The Case for Fair Employment Practices

The remainder of this chapter is an attempt to summarize the behavior of unions and management in response to Fair Employment Practice laws, and to give some explanation of this behavior. Finally, an effort has been made to show why discrimination is irrational and economically undesirable.

It is not at all difficult to understand both the past and the present policies of the various unions regarding the Negro, since their actions have been basically economic. As has been indicated, discrimination by the craft unions is one more way that they can enjoy a monopoly position. Conversely, discrimination weakens industrial unions. Unlike craft unions, their power is in numbers, and their objective must be to unionize all workers within the industry. To exclude Negroes would considerably weaken their position. Thus, industrial unions were forced to be non-discriminatory.
Whereas it is understood why unions followed their various policies, the logic behind employer discrimination is not so clear. Management, it would seem, would be interested in employing the most capable worker at the "going" wage, or in getting given labor services at lower wage costs whenever possible. By discriminating, it appears that a firm is arbitrarily limiting its labor force and thus helping to create monopoly elements against itself. Therefore, it would seem that businessmen would be the last rather than the first to discriminate. But, as was shown by the investigations of the Fair Employment Practices Committee, they have in all cases been the worst, if not the first, offenders.²

There is little doubt that one reason management has failed to hire Negro labor in other than menial jobs is that, due to inferior educational opportunities many Negroes were unprepared for skilled work. However, increasing numbers, especially of those schooled in the North, were so prepared. An argument used by management, was fear of economic reprisals in the form of consumer boycotts and work stoppages by his white workers. Experience has shown that such fears are usually greatly exaggerated, and are soon forgotten once the break with discriminatory practices has

been made. The International Harvester Company has, in both northern and southern cities, followed a policy of non-discrimination, and apparently, has experienced a few adverse effects. It is true that consumer boycotts have occurred in protest to some alleged act of friendliness toward the Negro, but by and large these have been minor. Nevertheless, since consumer boycotts are a possibility, then it would seem that through enacting a Fair Employment Practice law this threat would be eliminated. Businessmen would then hire Negroes and point to the fact that they are only obeying the law if disgruntled consumers complain.

Summary and Conclusions

It is ironic and somewhat sad that the Negro has made his greatest gains during wartime periods, but this

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3To refute the above argument, the experiences of any one of the various states or communities that have enacted FEP laws would serve the purpose. For that matter, the experiences of the President's FEPC would hardly indicate that work stoppages would be a common thing. (1.4 percent of the total strikes occurring during the existence of FEPC were over racial issues) See: FEPC, op. cit., p. 39. It was felt, however, that if such an example were given, it would be possible to argue that in those states where FEP is mandatory, both the consumers and the employees could "forgive" the employer because he is only obeying the law. International Harvester's policy is purely of the employer's own choosing and is operating in both southern and northern states. See: J. A. Davis, "International Harvester's Non-Discrimination Policy," Monthly Labor Review, LXX, Jan., 1954), 16-23.

4"Where Discrimination Hits the Pocketbook, "U.S. News and World Report, XL, (Mar. 23, 1956), 42-44+. This is an extremely interesting article about how both Negroes and whites have alternately boycotted some producer in protest of alleged acts which were to the dislike of one or the other.
has been the case. During World War I the Negro began his economic climb. Those gains were lost somewhat after the war and during the depression of the thirties. Again the Negro began to improve his economic status with the onset of World War II. However, both unions and management, in many instances, had to be coerced by FEPC before they were willing to utilize Negroes to their full capacity.

For unions, discrimination was a matter of monopoly power, and thus if it could not be condoned could at least be understood. Conversely, it appears that for management to discriminate is just irrational. Nevertheless, management has been by far the most guilty of discriminatory practices. Finally, discrimination is costly to society as a whole since they must pay for the fact that resources are not being utilized efficiently.

As was pointed out in the introduction of this paper, maximum welfare for society requires that resources should be allocated in the best possible manner. Discrimination against an individual solely because of his race, creed, or color prevents best resource allocation. Hence, maximum welfare cannot be attained.
BIBLIOGRAPHY

Books


Articles and Periodicals


"Backing the Negro Worker," Business Week, (Feb. 19, 1955). 172+


"Bias Ban Voted; New York Applies to Employers and Labor Unions," Business Week, (March 10, 1945), 100+.


"Color Line Cited; FEPC Orders Railroads and Unions to End Discrimination", Business Week, (Dec. 4, 1943), 90+.

"Coming Out Into the Open; Southern Railroads Defy Order to Refrain from Discriminatory Practices," Commonweal, XXXIX, (Dec. 24, 1943), 244.


Daniels, J. "Brotherhood Except for Negroes; Excluded from Railroad Brotherhoods", Nation, CLIII, (Nov. 22, 1941), 513.


"Equality Campaign in Cleveland to Foster Employment of Negroes in City's War Industries," Business Week, (May 9, 1942), 70-2.

"FEPC in the House," New Republic, CXXII, (Mar. 4, 1950)5-6


"FEPC Challenged; Philadelphia Transit Union Defies Order to End Discrimination," Business Week, (Jan. 15, 1944)95.

"FEPC on Spot; End of Philadelphia Transit Leaves Basic Issue Unsettled," Business Week, (Aug. 12, 1944) 103-104.
"FEPC Finds Exit," *Business Week*, (June 10, 1944), 103.


Hedgeman, A. A. "Make the FEPC Permanent," *Nation*, CLIX, (July 15, 1944), 83.


"Job Bias Still High Civil Rights Committee Finds," *Business Week*, (Nov. 8, 1947), 96+.


"Jobs for Negroes," *Newsweek*, XIX, (June 8, 1942), 44+.

"Lots More Negroes are Needed for War Plants," Life, XII, (June 15, 1945), 410-411.


Mason, L. R. "Work and Color; Excerpt from To Win These Rights," Nation, CLXXV, (Sept. 27, 1952), 263-65.


Morse, J. M. "Fair Employment in Massachusetts," Nation, CLX (March 17, 1945), 293.


"Negro Workers," Survey, LXXVII, (July, 1941), 220.

"Negroes in Defense," Commonweal, XXXIV, (June 27, 1941), 221.

"Negro Enters the Labor Union," Literary Digest, LXI, (June 28, 1919), 12.


"Unions, Restricted Clientele; Color Bar," Nation, CIVII, (August 14, 1943), 178-80.


"In the Unions; Racial Policies," Survey Graphic, XXXIV, (Jan., 1947), 54-56.


"Plea to the President asking Passage of Chavez-Scanlon Bill for a Permanent FEPC," Nation, CLIX, (Sept. 9, 1944), 285.


"Racial Ills Grow; Conflict between Whites and Negroes, a Nation-wide Menace to Industry," Business Week, (June 12, 1943), 94.

"Railroads Demur, Notify FEPC They Won't Obey Negro Hiring Order," Business Week, (Dec. 18, 1943), 103.

"Race, Creed, or Color; Proposed Legislation to Penalize Discrimination in New York State," NewsWeek, XXV, Feb. 12, 1945), 94.

"Racial Bill is Hotly Debated," Christian Century, LXII, (March 7, 1945), 312.


"Still Writing the Law; Supreme Court puts its Foot Down on Union Discrimination against Negroes," Business Week, (Dec. 23, 1944) 100+.


"With the Negroes Help," Atlantic, CLXIX, (June, 1942), 696-707.


"Negro Comes of Age in Industry," Atlantic, CLXXII (Sept., 1943), 54-59.


Public Documents


Unpublished Material

