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Senator Stennis Civil Rights Correspondence B03F40L01

American Law Section

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Subject: What States have adopted F.E.P.C. and how, whether by the Legislature or a referendum; what States have rejected a Fair Employment Practices Bill (include the vote, of either the Legislature or the Referendum vote).

The States of Connecticut, Indiana, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington and Wisconsin have adopted F.E.P.C. laws. The laws in Indiana, New Mexico and Wisconsin have no penalty provisions. The States of Kansas and Nebraska have provided for studies on the subject of discrimination in employment, Kansas by Laws 1949 ch. 289 and Nebraska by Resolution No. 25, May 3, 1949. In 1945 the Utah Senate (S. B. No. 2) directed an investigation. In 1947 the Governor of Minnesota appointed a commission to study the subject.

No State has adopted a F.E.P.C. law either by initiated measure or referendum. The voters of California on November 5, 1946 defeated an initiated measure, being a Fair Employment Practices Act, by vote of 675,697 "Yes" or for the measure and 1,682,646 "No" or against the measure.

F.E.P.C. bills were presented in the legislatures of twenty-eight States in 1949. These States are Arizona, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington, West Virginia and Wisconsin. In the cases of Connecticut, Indiana, Massachusetts, New Jersey, New York and Wisconsin the bills were designed to strengthen existing F.E.P.C. laws.

The action of the Legislatures enacting F.E.P.C. in 1949 may be summarized as follows:

During 1949 the States of New Jersey, New Mexico, Oregon, Rhode Island and Washington enacted what is generally known as F.E.P.C. legislation. New Jersey had previously enacted a Law Against Discrimination in 1945. The 1949 act combined the provisions of the Fair Employment Practice Act of 1945 with those of the State civil rights law, and placed the administration of both under a single administrative agency called the Commission on Civil Rights.

The 1949 Oregon law established a State F.E.P.C. and prohibits discrimination in employment. At the same time the law repealed a 1947 law which was applicable only to public employment.

The vote in the five States, including New Jersey and Oregon, wherein F.E.P.C. laws were passed during 1949 was as follows:

In New Jersey Assembly Bill No. 65 passed the Assembly 54-0; and the Senate 20-0; and became Laws 1949 ch. 11.

In New Mexico S. B. No. 45 passed the Senate and House and became Laws 1949 ch. 161, effective March 17, 1949.

The F.E.P.C. bill squeezed by the House by a one vote margin. As the last action of the 19th New Mexico Legislature, March 12, 1949 (Albuquerque Journal, March 14, 1949, page 1, col. 3.1-2). There was a 2 1/2 hour filibuster on the bill in the House, March 11, 1949. On March 12 adoption of an amendment to strike a section of the bill ordering an educational program "designed to emphasize the origin of prejudice" was defeated in the House, 22 to 25. Final roll call vote in the House on S. B. 45 was 25 to 24 for the bill (Albuquerque Journal, March 13, 1949, page 2, col. 1). Roll call vote in the Senate is not available.

In Oregon S. B. No. 235 after passing the House and Senate, was signed by the Governor on March 25, 1949 and became Chapter 221 of the Laws of 1949, effective July 16, 1949.

S. B. 235 passed the House March 19, 1949 by a vote of 53 to 4. The House approved version was sent back to the Senate for approval of an amendment which struck the word creed from the bill (The Statesman (Salem) March 20, 1949, page 1, col. 4, page 20, col. 4). The Senate, February 18, 1949, voted 27 to 2 for the S. B. 235 but turned down a proposal for a separate commission to enforce the law. (The Statesman (Salem) February 19, 1949, page 4, cols. 4-5).

In Rhode Island H. B. No. 539 passed the House on a voice vote February 10, 1949; and passed the Senate under a suspension of rules, March 25, 1949. The bill was approved by the Governor April 1, 1949 and became chapter 539 of the Laws of 1949 effective July 1, 1949. The bill passed the House February 10, 1949 without debate on a voice vote. Without a record vote, the Senate passed the Wrenn Fair Employment Practices Bill (H. B. No. 539) prohibiting discrimination in hiring help on account of race, creed or color. Only one "no" was audible. Senator George D. Greenhalgh (R - Glocester) declared a F.E.P.C. act was not needed for Rhode Island and stated that he voted against the measure. Because it was amended in the Senate Finance Committee, which reported the bill for passage before debate opened, the bill went back to the House for a concurrent vote on the amendments. The original bill (H. B. No. 539) was introduced by Representative John J. Wrenn (D - Providence) on January 7, 1949. The House on February 10, 1949 by a voice vote passed the bill. On March 29, 1949 the House unanimously on a voice vote passed the bill

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File

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February 5, 1948

Senator John C. Stennis
Senate Office Building
Washington, D. C.

Dear Senator:

I am enclosing herewith a brief as per your letter with reference to House Resolution 29, 80th Congress, pending before the Senate of the United States. This brief has been hastily prepared due to the fact that the bill may come up quickly and if delayed for more full authorities, it might not get before the Senate in time to serve its purpose. You will note from the brief that I have commented on the poll tax and attempted to show that it did not apply to a large class of voters, especially those over 60. I desire to call your attention especially to the appeal provided by Section 248 of the Constitution by which the legality of any proceedings can be tested in the courts. I call your attention also to the Code of 1942, Sections 3224-3230, which provide a judicial hearing on any question affecting the voter's right to be registered and vote. You will note also that I have commented on the fact that the utmost poll tax that can be imposed in any one year does not exceed three dollars per annum or twenty-five cents per month and that the poll tax goes into the educational fund of the county and cannot be used for any other purpose. I think that this matter should be stressed and placed in the Congressional Record and called to the attention of all Senators and Congressmen. I think there is a misunderstanding throughout the North as to the effect of the poll tax and also as to the understanding clause contained in Section 244 of the State Constitution. If a person can read or write then the understanding clause does not come into play and a person may register and vote, but the understanding clause was placed in the Constitution to enable illiterate people to vote if they could understand the provisions of the Constitution when read to them or give a reasonable interpretation thereof. Senator J. Z. George, in his great speech in defense of the Constitution in the first days of January, 1891, shortly after the Constitution was put into effect, justifies and explains the understanding clause and makes it clear that it was for the purpose not of limiting the right to vote, but to enlarge the right so as to permit illiterate but intelligent people who understood the process and purpose of government to register and vote. The understanding of the voter is not left to the registrar alone, but appeal lies from the registrar's decision and the appeal in such case may be appealed even to the

Senator John C. Stennis--2

United States Supreme Court and the Bill of Exceptions taken on the appeal from the board of election commissioners must embrace the evidence as well as the findings. This speech by Senator George began on December 31, 1890, and continued for about three days and occupied pages 617 to 727 in "Mississippi Constitution" and appears in the Congressional Record covering the several days taken in delivering the speech. The speech is a very able one but it will be difficult to get Congressmen and Senators to read it in full. I desire to call your attention especially to the language used by the United States Supreme Court contained in 42 L. Ed. 1015, in which the Mississippi law, as contained on the poll tax and selection of jurors, was upheld. This opinion did not dwell on the right to appeal on the part of the voter or interested citizens and did not refer to Section 248 of the Constitution.

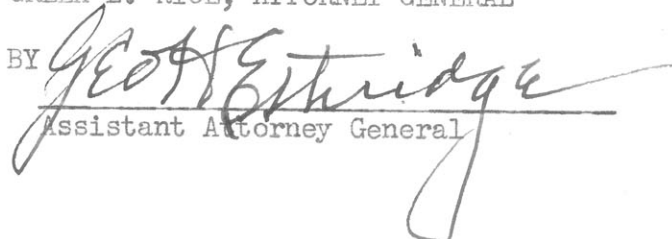
The crux of the whole matter is the absence of power in Congress to legislate on the subject. What matters that are reserved to the states is not clearly comprehended by most people and need to be better understood by even Congressmen and Senators in many instances. The powers reserved under the 10th Amendment are largely indicated in the list of subjects listed in the state codes.

With best wishes and personal regards, I am,

Yours very truly,

GREEK L. RICE, ATTORNEY GENERAL

BY


Assistant Attorney General

GHE:jm

Enclosure