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Memos, John C. Stennis, January 31-February 16, 1950

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United States Senate

MEMORANDUM

Attached
Memos
prepared
for Town Meeting
Broadcast

1/31/50

JCS/LL -

[1950s]

It is just as clear as crystal that the Constitution of the United States places the sole power of saying who shall be eligible to vote in the powers left to the states. I challenged the proponents of this legislation to name one single court, one single judge, or one single outstanding, reputable practicing attorney who has ever said that the Congress had the power to enact the Anti-Poll Tax law. I made this challenge on the floor of the Senate in July, 1948. It has not been answered. I repeat it now. Granting, for the sake of argument, that the Poll Tax should be abolished, then there is only one lawful way to do it -- and that is to amend the Constitution. Then you will have accomplished your immediate aim and, much more important, you will have preserved Constitutional government. Constitutional government is the only source and the only guarantee that the plain people have for their freedom. Amend it if you can, but so far as I can prevent it, you will not emasculate it.

Every Communist in America, every radical group, every Left-Wing group, every pressure group, and every organization which makes a racket out of playing on the emotions of the people are for this program. But that doesn't make it sound.

I want to say to the rank and file labor member that, in my humble opinion, you have certainly been sold a bill of goods when you back the FEPC. If the Congress can say whom a man can hire or fire, by the same process they can say you shall not hire a man who belongs to the union. This shows clearly that it is a field into which the Congress has no business poking its nose.

With an audience to ask questions, a director to direct, and two United States Senators to talk, and especially on the subject which boldly challenges that Section, the Bill of Rights of our Constitution, we have a debate here that could well take thirty days compressed into a period of thirty minutes. But I believe that a great majority of the people, once they really understand the far-reaching way they would be affected, would not favor this political pressure, misnamed Civil Rights program because:

The so-called Civil Rights bills are misnamed. They destroy rights and create strife. They ought to be called the "political pressure" bills because they have forced their way into the party platforms of the two major parties, not on their merits but through sheer political pressure, with the more level-headed of even the liberal wing of each party knowing at the time that the bills were unconstitutional and practically unsound.

I heard a delegate say on the floor of the ^{Democratic} National Convention in Philadelphia in 1948 that he was not for that plank in the platform, but would vote for it because it meant votes for his side in local elections in his state that fall.

This legislation, particularly the FEPC, affects all the people, but it is not favored by the people. They are being victimized by pressure groups who will create government by pressure.

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 - Gloucester) 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

with Senate amendments in concurrence (The Providence Journal, February 11, March 26, 30, 1949).

In Washington S. B. No. 12 passed the Senate February 22, 1949; passed the House March 6, 1949; and was approved by the Governor March 19, 1949, becoming chapter 183 of the Laws of 1949. The vote in the House was 77 to 19 in favor of the bill (Seattle Post-Intelligencer, March 7, 1949, page 2, col. 4). In the Senate only four Republicans and two Democrats voted against the bill on February 22, 1949 (Seattle Post-Intelligencer, February 23, 1949, page 1, col. 4).

In the States where F.E.P.C. laws came to a vote, including those States wherein the vote was on a motion to discharge a committee but excluding those States where the Bills became law, the Legislatures rejected F.E.P.C. bills as follows:

In California Assembly Bill No. 3027 was killed by a vote of 35-31 when a motion to withdraw it from the Committee on Governmental Efficiency and Economy was refused June 16, 1949. Three years previously, at the November 6, 1946, general election an initiated measure, being a Fair Employment Practices Act, was defeated by the people: 675,697 voting "Yes" and 1,682,646 voting "No."

In Colorado House Bill No. 877 passed the House on March 24, 1949 by a vote of 35 to 23. The bill was sent to the Senate and passed the Senate April 16, 1949. (Vote not ascertained). The bill died in conference, when numerous conference committees failed to compose their differences (The Denver Post, April 20, 1949, page 3).

In Illinois House Bill No. 163 passed the House by a vote of 81 to 43. The bill was sent to the Senate where it was voted down, 25 to 23 on June 14, 1949. The bill was thus three votes short of the twenty-six votes required for passage in the Illinois Senate.

In North Dakota House Bill No. 331 passed the House, February 14, 1949 but the bill died in a Senate committee.

In Ohio H. B. No. 106 passed the House by a vote of 70 to 61 on March 23, 1949 and passed the Senate by a vote of 30 to 1 on May 4, 1949. After going to conference where the bill was not agreed to, the Senate refused to withdraw the conference report by a vote of 17 to 13, on June 22, 1949.

In Pennsylvania S. B. No. 137 was killed on April 21, 1949 when the Senate by a vote 35 to 15 defeated a motion to discharge the Committee on Labor and Industry from further consideration on the bill. Also in the Pennsylvania House, a similar bill, H. B. No. 32 was killed

when on April 21, 1949 a resolution to discharge the Committee on Labor Relations from further consideration on the bill was defeated 103 to 79. Also on April 5, 1949 by a vote of 109 to 89 a resolution to discharge the House Committee on Labor Relations from further consideration of H. B. No. 975, was defeated 109 to 89. H. B. No. 975 was a F.E.P.C. bill similar to S. B. No. 32.

In West Virginia one F.E.P.C. bill, H. B. No. 113, was introduced. It passed the House of Delegates March 10, 1949 but died in a Senate Committee. The bill had been amended in a House Committee so as to remove all penalty provisions (The Charleston (W. Va.) Gazette, March 11, 1949, page 1, col. 7).

Samuel H. Still, Jr.
American Law Section
February 16, 1950

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