Fair Employment Practice Commission with Special Emphasis on Municipal Varieties

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FAIR EMPLOYMENT PRACTICE COMMISSION
WITH SPECIAL EMPHASIS ON
MUNICIPAL VARIETIES

by
William Adolphus Jackson

A Thesis Submitted to the Faculty of the Institute of Social and
Industrial Relations of Loyola University in
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LIFE

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PREFACE

One of the most deplorable forms of discrimination in American life is discrimination in employment. The inability of members of minority groups to compete fully with others for existing job opportunities is not only widespread, but constitutes one of the most crucial forms of discrimination. By affecting the ability of people to gain a livelihood, it also handicaps them in their self-development and in their full participation in the life of the community.

Fair Employment Practice legislation does not compel an employer to decide among those he has already in his employment who should be advanced or upgraded. The law merely prevents him from discriminating between employees on account of race, creed or national origin. The operation of the laws in those municipalities where they have been enforced has demonstrated that they are workable, that they do not unduly interfere with the employers or labor unions freedom of action. The very existence of the laws is in itself one of the most powerful factors in minimizing discrimination.

This study represents an effort to compare the methods of enforcement. Emphasis is placed on municipal ordinances because they are closer to the problem and offer interesting variation. It was undertaken in the hope that a better understanding of the factors associated with the success of municipalities employment ordinances would furnish a reliable guide for those who would like to know if the ordinances is workable and desirable to make good our promised equal opportunity for all.
CHAPTER I

LEGISLATIVE ACTION: NATIONAL, STATE, AND LOCAL

A. FEDERAL EXPERIMENTS

There have been two widely separated periods during which the American people and their government have been profoundly concerned with group relations. The first wave of interest came in the wake of the Civil War, the second in the mid-1930's and continues to the present day. Both periods show great reliance upon the apparatus of government, federal and state, to make good the promise of democracy and equality of opportunity. But in the recent and current period attempts have been made to deal specifically with problems left over from the earlier era of accomplishment. ¹

Just after the Civil War "Group Relations" meant almost exclusively the relations between Negroes and Whites, and governmental machinery was put to the task of making the Negro a full citizen in all respects and in a somewhat wholesale fashion. ² In our own day we are dealing with the reforms not completed and with those which were undone in the years following the reconstruction. Current concern with group relations, further, deals not

² Idid, p. 7.
only with Americans of foreign birth or parentage, but also with the Negroes and religious minorities. In addition, current efforts to improve relations do not usually lead to broad civil rights measures designed to protect minorities in all areas of life; rather, they are specific, separate drives in various areas, such as employment, education, housing and voting.¹

Perhaps the most significant difference between these two periods of interest in civil rights derives from the fact that just prior to the recent period the concept of the proper role of government underwent a fairly rapid change—A change in a direction already noticeable before the 1930's. The acceleration under the New Deal gave the federal government more direct power in economic affairs which was reflected in the welfare and status of minority groups, especially Negroes.²

Early in the defense program it became evident that full mobilization of American Manpower was going to be a major problem. It was also obvious that since minority groups number some thirty million persons in the United States and important aspect of the overall manpower picture concerned their integration into the war effort. In July there began a series of measures to prevent discrimination in essential industry.³

² Idid., p. 8.
³ Murray, Pauli. State Laws on Race and Color, Cincinnati, 1951 p. 27.
Early in 1940, an office to facilitate the training of Negroes was established in the Labor Division of the National Defense Advisory Commission, and agreements were made with the American Federation of Labor and Congress of Industrial Organization by which they assumed certain responsibilities for removing discriminatory barriers against Negro workers. This was followed by announcement by the United States Office of Federal Funds for vocational training for defense. In October 1940 Congress in appropriating money for defense training forbade discrimination against trainees because of sex, race, or color.¹

Special letters and instructions were issued by various government officials during the next six months. For example, in January 1941 the administrator of the Federal Works Agency issued a regulation prohibiting discrimination in employment in the construction of defense housing projects. In a memorandum of June 12, 1941 to William S. Knudsen and Sidney Hillman, Directors of the Office of Production Management, President Roosevelt, emphasized the need for unity. "No nation combating the increasing threat of totalitarianism can afford to exclude huge segments of its population from its defense industries," he said. "Even more important is it for us to strengthen our unity and morale by refuting at home the very theories which we are fighting abroad."

On June 25, 1941, in response to the growing protest that the steps taken had not proved adequate, the President issued Executive Order 8802 and authorized a committee on Fair Employment Practice to administer it. The order stated that it was the duty of employers and the labor organizations "to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin." According to Executive Order 8802, the committee was to "receive and investigate complaints of discrimination in violation of the provisions of this order and take appropriate steps to redress grievances which it finds to be valid". It was also empowered to make recommendations to the government agencies and to the President.\(^1\)

Less than one month later on July 18, 1941, the President appointed a committee of six to serve without compensation. Mark Ethridge, Publisher of the Louisville Courier-Journal, was appointed the first chairman and Lawrence Cramer, former Governor of the Virgin Islands, was called from teaching at Harvard University to become Executive Secretary. Originally the committee functioned within the Labor Division of the Office of Production Management. On January 26, 1942, when Office of Production Management was abolished, the committee was transferred to the War Production Board.

\(^1\) Legislative Department, Illinois State Chamber of Commerce, Fair Employment Practice Law, Chicago; p. 4-5.
Dr. Malcolm S. Mac Lean, President of Hampton Institute, became Chairman in February 1942, and in July of the same year the committee was transferred as an "organizational entity" to the War Manpower Commission.  

By the beginning of 1942 it was apparent that a reorganization was necessary to enable the committee on Fair Employment Practice effectively to carry on its duties. The staff at maximum had consisted of thirteen officers and twenty-one clerical and stenographic employees. A number far too small to investigate thoroughly the numerous complaints being received by the committee. Under Executive Order 9346, issued on May 2, 1943, a new committee with a full time chairman was set up as an independent agency.  

The new order enlarged upon Executive Order 8802 while repeating its basic principles. It stated clearly that it was the duty of all employers including Federal agencies and labor organizations, "to eliminate discrimination in regard to hire, tenure, terms or conditions of employment or union membership because of race, creed, color, or national origin. Contracting agencies of the Government were directed specially to require a nondiscrimination provision in all sub-contracts in addition to all prime contracts, as was mandatory under Executive Order 8802." The committee's power to conduct

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1 FEPC, How it Operates. The Committee of Fair Employment Practice p. 4.
2 Ibid., p. 6.
3 Ibid., p. 7.
hearings and make findings of facts, to promulgate "rules and regulations" and to "take appropriate steps to obtain elimination of such discriminations were mentioned in detail.  

Monsignor Francis J. Haas, Dean of the School of Social Sciences at Catholic University and well-known labor mediator was appointed chairman of the new committee and served until nominated Bishop of Grand Rapids on October 7, 1943. Former Deputy Chairman Malcolm Ross, author and one-time Director of Information of the National Labor Relations Board, was named his successor by President Roosevelt on October 18, 1943.

Complaints of discrimination fell into three categories: (1) Complaints against agencies of the federal government; (2) complaints against all employers, and the unions of their employees, having contractual relations with the federal government which expressly or by implication contained a nondiscrimination clause regardless of whether such contracts pertained to the war-effort; and (3) complaints against all employers, and the unions employees, engaged in industries essential to the war effort whether or not they had contractual relations with the federal government.

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1 FEPC. How It Operates. The Committee on Fair Employment Practice p. 7.

2 Idid., p. 10

3 Legislative Department, Illinois State Chamber of Commerce, Fair Employment Practice Law, Chicago: p. 5.
The new committee was directed to recommend to the Chairman of the War Manpower commission appropriate measures for bringing about the full utilization and training of manpower in and for the war production, without discrimination because of race, creed, color, and national origin.

Operations by the second committee were extended to fifteen field officers throughout the nation (the former committee was limited to a small staff in Washington.) Although at first it relied upon Executive funds for the carrying on of its work, appropriations were twice made by Congress for its operation. In three years (to its termination in 1946), it handled some 8,000 complaints of discrimination in war industries and government service, and held thirty public hearings. 1

Persuasion was held by the new agency to be its best working tool. It published procedural rules and regulations for handling of bonafide complaints, informal investigations, weighing by the committee of complaints not adjustable in the field, and conduct of public hearings in exceptionally stubborn cases. Adequate notice was given to those requested to appear at a hearing, and they were given full opportunity to produce witness and to cross examine. The agency has no power to penalize a violator. Its last recourse was citation of a recalcitrant to the President, which was done only twice in the five years of FEPC work.

The last phase of work was the period from VJ Day to the end of the fiscal year (June 30, 1946) during which the Committee by Executive order was directed to report to the President "with respect to discrimination in industries engaged in work contributing to the production of military supplies or to the effective transition to a peace-time economy."

In the final report, the Committee urged that steps be taken by the Government to "meet the evil of unequal opportunity among Americans". Although emphasis was placed upon the efficacy of informal negotiation, community educational efforts, and public hearings in dealing with instances of discrimination the committee expressed the belief that "no device will solve the problem short of the enactment by Congress for fair employment legislation."

B. STATE LEGISLATION

So much for the era of experimentation on the National level. State laws prohibiting discrimination in certain phases of employment, particularly civil service and public employment, date back to the early 1900's. Surveys show that as many as twenty-five state constitutions contained provisions against discrimination in public employment prior to 1945. In that year as many as sixteen northern and western states were considering antidiscrimination with the New York statute being the only successful law to

In many of the states where fair employment practice legislation is an issue, the measure has been accorded by-partisan support. Strong administration backing in several states, expressed in addresses made by governors, has given encouragement to legislators and citizens advocating F.E.P.C.

Within the same year that the Federal F.E.P.C. ceased operation, some of the states began to put legal machinery in motion for establishing Fair Employment Practice Commission and other Anti-Discrimination bodies.

On March 12, 1945 the Governor of New York approved a measure designed to eliminate, throughout that state, job discrimination. Three days previously a less comprehensive act had been approved in Indiana. A law creating a division against discrimination in employment became effective in New Jersey, April 16, 1945.²

Fair Employment Practice bills have been introduced in the 1945 legislatures of 17 states and in addition New York, Indiana, New Jersey, i.e. California, Colorado, Connecticut, Kansas, Maryland, Massachusetts, Illinois, Michigan, New Mexico, Ohio, Pennsylvania, Rhode Island, Texas, Washington, West Virginia, and Wisconsin.³

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Legislation designed to eliminate discriminatory employment practice with regard to race, creed, color, or ancestry was introduced in nearly half the states and five states adopted laws in this field. New York outlawed specified discriminatory employment practice of employers, unions, and employment agencies, and became the first state to establish a preeminent full time commission against discrimination to administer its new act. A similar law in New Jersey is administered by the Commission of Education with the advice of the part-time council. Laws against discrimination adopted in Indiana and Wisconsin empower the State Labor Department to hear cases of discrimination in employment and to make recommendations to the parties or publicize their findings.¹

The New York State law against discrimination applied a new technique. It lodged in a state agency the power both to investigate complaints of violation of the law and to enforce it by conciliation, public hearings, and, these failing, a cease to desist order enforceable in the courts. Thus it made fair employment practices a concern of the entire community, not merely a relatively private affair between the discriminator and his victim.

It is the belief of those who have made studies of the employment problem that Federal Legislation should set the basic national pattern, so that local laws may be enacted to apply this pattern to groups of employers,

labor organizations, and workers which cannot be appropriately covered by national legislation. It is for this reason the writer selected New York, New Jersey, and Massachusetts.

From state to state however, arguments have been raised against fair employment practices legislation. It may be helpful to examine these arguments in the light of statements made by business and industrial leaders in Connecticut, New Jersey, New York, and Massachusetts, where F.E.P.C. laws have been in operation for some time.

One argument commonly raised is that fair employment practices legislation is a violation of the "traditional American spirit of free enterprise" and that it interferes with the exercise of managerial prerogatives.

R. T. Barker, Superintendent of Personnel Administration, Western Electric Company, Inc., New York, has this to say:

"It is my opinion that Administration of the Fair Employment Practice law in the States of New York and New Jersey has been fairly reasonable and has not entailed any undue hardship on employers who are trying to do a conscientious job in their employee relations situations. We have not experienced any difficulty in meeting the requirements of these laws and so far as I know they have been accepted generally by our employees."


The Massachusetts Fair Employment Practice Commission is in receipt of a letter from Roger L. Putman, President of the Package Machinery Company stating the following:

"Neither as Chairman of your advisory council, here in Springfield, nor as a manufacturer have I ever heard any one in the last two years say that the law ought to be changed. Everyone now admits that the principles that F.E.P.C. legislation is striving for are just. ¹

Almost without exception, the existing state F.E.P.C. laws have been administered without resort to public hearings and exercise of punitive power. The administrative agencies have relied heavily on methods of education and conciliation. The law against discrimination was passed on the theory that every discriminatory act could be policed and eliminated and that over the years the prejudice which leads to discrimination could be lessened by means of education. In appraising the results of the legislation one should therefore, look at available evidence of discriminatory practices in the State since the law was passed. It is perhaps too soon to attempt any review of the educational program itself, through this phase of the commission's work has already contributed in an important way to eliminating discriminatory practices. In fact, the principal technique used by the commission is to "sell" obedience to the law rather than to use the "big stick". In this selling job the commission has been supported by a law with "teeth" in it and also by a climate of public opinion which strongly

supports the law. Most employers and unions are individuals do not care even to be charged with discriminatory practices.

C. CITY ORDINANCES

Coincident with the movement of Fair Employment Practice Legislation on the federal and state levels, there has been increasing discussion of the desirability of municipal action as a further aid in the fight against employment discrimination.

On August 21, 1945 Chicago's City Council adopted the first municipal fair employment practice ordinance in the country. Since then similar ordinances have been proposed or introduced in the following municipalities: Ohio--Akron, Campbell, Cincinnati, Cleveland, Girard, Hubbard, Lorain, Lowellville, Mules, Stubenville, Struthers, Warren, and Youngstown; Pennsylvania--Clariton, Duquene, Erie, Farrell, Monessen, Philadelphia, Pittsburgh, and Sharon. Illinois--Chicago; Indiana--East Chicago, Gary; Minnesota--Minneapolis, Duluth; California--Richmond; Iowa--Sioux City; but with variations.

If it can be said that Chicago led the way, it can also be said that others have taken the leadership. Yet it can be said that Chicago Ordinance served a purpose--it was the pioneer legislation of its kind. Chicago's major contribution was in demonstrating that a city can articulate a local policy against discrimination in employment. For the past fifteen years.

1James B. O'Shaughnessy and John R. Jozewick, Chicago's Fair Employment Practice Ordinance.
national debate has been concerned with fair employment practice legisla-
tion on the federal level, but on March 12, 1945 New York state approved
its own anti-discrimination law.\(^1\) And when Chicago's City Council adopted
the ordinance of August 21, 1945 by a vote of 30-1, the issue was joined
at all levels of government.

The significance of this ordinance lies not only in the fact that it
set the pattern on which subsequent ordinance was based, but also that its
purpose as stated in the enacting clause was to establish a more effective
cooperation with agencies of the Federal Government in preventing discrimi-
nation in employment. In the ordinance the City Council expressed a "firm
belief that the democratic way of life whether the nation can be defended
successfully only with the help and support of all groups within its borders."
The ordinance provided for the elimination of discrimination in both public
and private employment, and affects contracting agencies of the City of
Chicago.\(^2\) The fine for a violation of the ordinance is up to two (\$200.00)
hundred dollars.

\(^1\) New York Laws 1945 Ch. 118. This was the first legislation in the
country.

\(^2\) The full text of the ordinance appears in Labor Relations Reference
In addition to the ordinance, there is a state law with provisions that no person may be refused employment or be discriminated against because of race, color, religion, national origin, or ancestry in the course of any employment, work or service performed for the State or a political subdivision thereof. The provisions of the statute automatically become a part of any contract or agreement to perform public work. The penalties are rather severe: For each calendar day of discrimination and for each person discriminated against, the State or the political subdivision concerned must subtract $5.00 from the amount due to contractor. At the same time, the injured party may file civil suit for damages against the persons who took part in the discrimination. For each act of discrimination, damages may be from $100.00 to $500.00.1 Like fines may be imposed as a result of criminal proceedings, besides imprisonment from thirty to ninety days or both fine and imprisonment. Other measures prohibit discrimination in work relief projects or in employment under any cooperation organized under the State Housing Act or any contractor employed by it.

It would thus appear that members of minority groups were well protected by law in the City of Chicago. Actually, conditions do not seem to be so good as one might except. The Chicago ordinance is one without enforcement powers; Its weakness was well illustrated by information brought out in the hearing before the House of Representatives Subcommittee of the

committee on Education and Labor in 1950, on the proposal for Federal legislation of this general character. The Illinois Interracial Commission made a survey of the effectiveness of these protective measures, reporting that 85 per cent of the firms which have contracts with the city were found to be using discriminatory application forms. The commission concluded that with few exceptions the firms violated their signed pledges to adhere to fair employment practices.

Milwaukee, Wisconsin was quick to follow the lead of Chicago. Its Council passed a Fair Employment Practice Ordinance on May 13, 1945. Other than this for Milwaukee, there seems to be little to report. The original Fair Employment Practice ordinance has not been amended, nor has the Mayor's Commission on Civil Rights, charged with its enforcement, issued any information concerning it.

The Milwaukee Ordinance like the Chicago Ordinance leave enforcement to the injured individual or to the city's authorities and like State Civil Rights law with similar provisions, have proved relatively ineffective.

Minneapolis was the third city in the nation following Chicago and Milwaukee, to establish and FEPC on October 29, 1943, and the first to provide funds and an administrative agency to carry out the policy. The five member commission helps to solve the problems involved in individual complaints, but more than that, its very existence, plus the possibility of a public hearing on infractions of the ordinance--it's asserted--tend to focus
attention of major employers and union leaders on employment policies. Cases involve Negroes, Jews, Indians, and Japanese-Americans, in that order. The activities of the Minneapolis Commission have been better reported and better publicized than those of other cities, though the kinds of things reported are more or less standardized.

For example, one of the City's largest department stores employed no Negroes prior to the passage of the ordinance. But it quickly revised its policy to take them on in some capacities and finally, to admit them to sales positions.1 Much of the hesitancy employers have to a complete elimination of racial consideration in hiring and placing personnel arises from apprehension on their part regarding the reaction of the public. Hence, firms which were willing to employ members of minority groups in some resist employing them as receptionists or sales people, where they have to meet the public. Actually, experience shows that few members of the public do complain, and even these complaints may be minimized in number and in strength through education. Minneapolis set up a Joint Commission on Employment Opportunity composed of forty-three local consumer organization—highly respected groups in the community—which worked with department store executives in a effort to convince them that a majority of the buying public favored the observance of fair employment practices as outlined in the city ordinance.

1 Christian Science Monitor, December 17, 1948.
Philadelphia was the next to adopt a Fair Employment Practice Ordinance. The Common Council passed the ordinance on March 12, 1948 and it was approved by the Mayor on the same day. This ordinance was amended by the Mayor of Philadelphia on March 29, 1951. The ordinance applies to all employers with the exception of religious, charitable, and educational organizations, to all labor unions and employment officers and agencies.

Four and a half years ago many employers were apprehensive of customers and employee reaction to the introduction of minority group employment. Today this fear is diminishing. Inertia is the block in some firms that have not yet integrated minority workers.

Cleveland came next. After an eventful two years of discussion, debate and experimentation, the Cleveland City Council in January 31, 1950 adopted an ordinance that has been introduced two years earlier. The Chamber of Commerce vigorously opposed any legislation of this type—Federal, State, or Municipal. In addition, there seemed at the time to be a strong probability that the State might adopt such legislation, in which case a city ordinance would be unnecessary. When the State Act failed to materialize, and the city council seemed ready to act, the Chamber of Commerce gave strong backing to a proposal for a voluntary program, which was adopted.

A Committee on Employment Practice was set up with sixteen members, eight from the Chamber, eight appointed by the Mayor. The venture was financed by the Chamber. Although serious effort was made to carry on an effective program, the results were not at all satisfactory in the judgement of the supporters of F.E.P.C. It was reported, for instance:
In its final survey, the committee received from 37 per cent of the firms sent questionnaires, 33 per cent said they had adopted the Committee's suggestions. 7 per cent said they had not, the others did not answer that question at all. Among the firms replying, the ratio of Negroes employed averaged 10 per cent.

Proponents of the compulsory legislation said the voluntary program was a valuable educational effort and fine as far as it went, but they contended it did not go far enough.

Charles P. Lucas, Executive Secretary of the Cleveland branch of the National Association for the advancement of Colored People, commented that the voluntary program had exhausted all avenues of approach. But it still could do nothing, he said about the many employers—among them industrial firms, department stores, banks and insurance companies—who do not cooperate. He pointed out that the voluntary plan made no provision for handling individual cases or grievances.1

Frank V. Baldau, Director of the City's Community Relations Board, said the voluntary plan won the cooperation of only a minority of employers. He said retail stores had not been cooperative about hiring members of racial minorities. He agreed that the educational effects of the program were good.2


The press seemed to concur in this point of view. The Cleveland Press in an editorial on January 31, 1950, commented on how fortunate the city was that the Chamber of Commerce "set up and operated a thorough conscientious and spirited voluntary FEPC", but concluded that "we learned that a voluntary FEPC, no matter how diligently and sincerely run, is almost valueless." The importance of this is that Cleveland has legislated with courage against racial and religious discrimination in employing its citizens.1

Similar ordinances have been introduced in the following municipalities: Youngstown, Ohio approved May 16, 1950 by the Mayor with the consent of the Common Council; Gary, Indiana passed the Common Council's ordinance, and approved it November 29, 1950 by the Mayor; Monessen, Pennsylvania passed by the Common Council and approved by the Mayor of December 31, 1950; Sharon, Pennsylvania approved by the Mayor on February 19, 1951; Newark, New Jersey approved by the Mayor on October 16, 1951; Farrell, Pennsylvania, approved by the Mayor on June 1, 1951; East Chicago, Indiana, approved by the Mayor on March 15, 1951 and amended July 15, 1942; Pontiac, Michigan, approved by the Mayor on November 18, 1952; River Rouge, Michigan approved on November 4, 1952; Duluth, Minnesota, approved on June 6, 1952 and Erie, Pennsylvania approved on March 21, 1954; Pittsburgh, Pennsylvania approved on January 1, 1953.

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1 The Cleveland Press, January 31, 1950.
Since 1945 over thirty-one Municipalities with a combined population of sixty million persons, have passed laws against discrimination in employment and management generally has responded favorably.

Heartening as these gains are when measured against the task, the question is raised whether they are being made fast enough. In a world that is about sixty-five per cent non-white the communist charge of racial exploitation in America reverberate with a crushing emphasis. Thus it is not the fact of progress but its pace that becomes a crucial problem. So antidiscrimination ordinances ranging from mere declaration of public policy as in Akron, to comprehensive laws establishing administrative bodies and providing penalties for violation, as in Minneapolis, Philadelphia, and Cleveland.¹

CHAPTER II

JURISDICTION OF THE COMMISSIONS

We Americans believe that biblical emphasis on the dignity of the individual is a part of the basic thinking of the American people. In this country, we believe that men and women have the right to grow to their fullest development. The American creed, fundamentally, is this belief that all men are created equal. Equality can not be legislated, but equality of opportunity can be.¹

Mysdal, in the American Dilemma,² found that social scientists in the country have developed a defeatist attitude towards the possibility of inducing social change by means of legislation. Whenever there is a legislative milestone of this kind, it takes calm adjustment, careful planning, and conscientious effort to put the new law into effect. It takes also thorough understanding of the law by the citizens of the state, and a determination on the part of the people to support fair administration of the law.³

¹ Caroline K. Simon, Legal Sanction against Job Discrimination, Mental Hygiene p., 617.
² New York; Harper and Brothers., 1944.
³ Carolina K. Simon, Legal Sanctions against Job Discrimination, Mental Hygiene, p., 618.
The law against discrimination is not retroactive. To give the commission jurisdiction over an employer, and employment agency, or a labor organization chargeable with unlawful employment practices, the discriminatory act must have occurred subsequent to July 1, 1945. Furthermore, this commission has no jurisdiction over federal agencies, clubs exclusively social or fraternal, charitable, educational or religious associations or corporations not organized for private profit, nor does it include an employer with fewer than six persons in his employment or domestic service.

The phase of law relating to compliance is limited specifically to discrimination in employment. The law authorized as part of its educational program, the study of discrimination in all of or specific fields of human relationship or in specific instances of discrimination because of race, creed, color, or national origin. The commission also is authorized to foster through community council, goodwill, cooperation, and conciliation among the groups and elements of the population of the cities.¹

There are five distinct groups or definitions of unlawful employment practices, first as it relates to the employer, the refusal to hire or to employ or to bar or to discharge from employment an individual or to discriminate against him in compensation or in terms, conditions, or privileges of employment because of his race, creed, color, or national origin.

¹ Caroline K. Simon, Legal Sanction against Job Discrimination, Mental Hygiene, p., 23.
The second definition relates to labor organizations and specifically provides that a labor organization may not bar from membership or expel from membership an individual or discriminate against him in any way because of his race, creed, color, or national origin.

The third relates to the procedure of employment. It is addressed both to and employer and an employment agency and provides that inquiries with respect to prospective employment may not be made with express, directly or indirectly, any limitation, specification, or discrimination with respect to race, creed, color, or national origin.

The fourth provision makes it unlawful employment practice for an employer to discharge, expel, or otherwise discriminate against a person because he has opposed any of these practices which are forbidden under the act.

Finally—and this is a very broad section—for any person whether an employer or employee or any other persons to aid, abet, incite, compel, or coerce the doing of any if these acts which are forbidden under the act. Those are the unlawful employment practices as defined in the act.

The enforcement procedure is instigated by the filing of a verified complaint, sworn to by the person affected or by his duly authorized attorney. The complaint may not in the first instance be filed or made by an organization or group. The complaint according to procedure, sets forth a succinct statement of the alleged act of discrimination defined as to date,
time, place, and such specification as may be necessary to set forth a simple cause of action.

The complaint comes to the desk of the chairman in every instance. If a jurisdictional question arises, the chairman usually disposes of it on the spot. If there is anything more to it than a jurisdictional question, it is assigned to the commissioner. The complaint, therefore, is in information, really, rather than a complaint, because from that moment on the particular commissioner to whom the case has been assigned is charged with the duty of investigating the facts. Is he shall determine after a conversation with the complainant or his witness that there is nothing to the complaint, it is his privilege and his duty to dismiss it forthwith, and under the procedure set up there is no appeal from the action of the commissioner.

If on the face of it and after conversation with the complainant it appears that there is reasonable ground to believe that, unless a case has been made out, he will then approach the employer for his side of the story and investigate the facts within the place of employment. Such investigation is not made until the employer has been advised of the fact that a complaint has been filed against him. The statute contains a specific provision that, during this entire period of investigation and the ensuing period of conference and conciliation, the transactions of the commission shall be disclosed. They are not public. The names of the parties are not given out, nor the facts published.
If, as a result of the conversation with both sides and the demonstration of fact, the commissioner is of the opinion that there is nothing to the case, again the commissioner may dismiss the complaint and there is no appeal from the action of the commissioner.

On the other hand, if the commissioner has determined from the investigation that there is probable cause to credit the charge of discrimination, it is then his duty by conference, conciliation, and persuasion to try to bring the parties together and to eradicate the act of discrimination. If all conciliation efforts have failed, the commissioner or his motion then serves notice of hearing before the board.

The case is then tried, the complainant, the initial complainant, may be represented by counsel. Otherwise the case is presented by the attorney for the commission. The respondent may be represented by counsel.

The matter proceeds as in the case of any other hearing, testimony being taken, findings are made, and an order issued, either dismissing the complaint for lack of merit of directing the respondent to cease and desist from his discriminatory practices and even going as far as to provide for affirmative relief.

The commission is without power to enforce the provisions of its order. Failure to obey the order, however, will result in an application made to the Supreme Court of the state for an order directing compliance with the order.
The case is not re-opened, not retried; but on the record the Supreme Court will determine whether or not a legal case of discrimination has been made out; and, if so, its order is issued. Failure to obey the order of the Supreme Court may be punished by fine and imprisonment.

The writer will now discuss some of the more significant Fair Employment Practice laws of the cities. Since Chicago was the first to adopt a municipal fair employment practice ordinance, it will be the first city discussed.

A. THE CHICAGO ORDINANCE

The Chicago ordinance has not been effective. Few know about it, few employers pay any attention to it. There has been only one court action and that did not go to decision.¹ Soon after the passage of the Chicago Ordinance its constitutionality was attacked by a private law firm, which rendered an opinion on the measure at the request of the Chicago Association of Commerce.² This opinion held the ordinance valid in seeking to regulate the Civil Service employment of the city, but invalid and beyond the power of the city to enact as applied to the practice of contractors, and employees generally. No court decision as to the constitutionality of this enactment

has yet been reported, but in the first case concerning violation of this ordinance the defendant, at the suggestion of the Judge, agreed to employ the plaintiff on the same basis as other employees. Chicago also created a Civil Rights unit in the law department, with the duty of enforcing the ordinance.

There is serious doubt that the City of Chicago Council has the authority to enact the key section of the ordinance—that is the section treating of the practice of private employers. Because the municipal corporations in Illinois are creatures of the General Assembly, they do not have inherent powers. There must be a delegation of authority from the state in order to justify any ordinance. But the legislature itself must have power to regulate before it can pass on the power to a municipality.

All legislative power is vested in the State Assembly by Illinois constitution. There is a state law which provides that no person may be refused employment or be discriminated against because of race, creed, color, religion, national origin, or ancestry, in the course of any employment, work, or service performed for the state or a political subdivision thereof.

1 Barnet Hodes, Chicago's Law Year, 1946, pp. 26-126

2 James B. O'Shaughnessy and John R. Jozwiak, Chicago's Fair Employment Practice Ordinance, City of Bloomington v. Warrich, 381 Ill., 347 (1942).

3 Constitution of 1870 Article 1, Section, 1.
The provisions of the statute automatically became a part of any contract or agreement to perform public work. The penalties are rather severe; for each calendar day of discrimination and for each person discriminated against the state or the political subdivision concerned must subtract five ($5.00) dollars from the amount due to contractor. At the time, the injured party may file a civil suit for damages against the persons who took part in the discrimination. For each act of discrimination, damages may be from one ($100.00) dollars to five ($500.00) dollars. Like fines may be imposed as a result of criminal proceedings, besides imprisonment from thirty (30) days to ninety (90) days or both fine and imprisonment. Other measures prohibit discrimination in work on relief projects or in employment under any corporation organized under the State Housing Act or any contractor employed by it.1

It would thus appear that members of minority groups were well protected by law in the City of Chicago. Actually, conditions do not seem to be so good as one might expect. The Chicago ordinance is one without enforcement powers. Its weakness was well illustrated by information brought out in the hearings before the House of Representatives Subcommittee of the Committee on Education and Labor in 1950, on the proposal for Federal Legislation of this general character. The Illinois Interracial Commission made a survey of the effectiveness of these protective measures, reporting that eighty-five per cent of the firms which have contracts with the city were found to be using discriminatory application forms. The Commission concluded

Public Affairs Bulletin Number 93, April 1951.
that with few exceptions the firms violated their signed pledges to adhere to fair employment practices.¹

B. THE CLEVELAND ORDINANCE

The January 31, 1950 ordinance took the form of adding another function to the Community Relations Board—the function of administering a fair employment practice program.

An analysis of the Cleveland Fair Employment Ordinance may be divided into three parts. The title of the act as "The Fair Employment Practice Ordinance." The first function is the duty imposed upon the Commission to study the matter of discrimination in its various phases as it affects the life of the community to collect such data as may be available and to arrange it, and to arrive at certain conclusions and make recommendations to the community at large or to the several government agencies.

Second is the field of education, the commission is charged with the specific duty of bringing to the people of the City of Cleveland, through established local councils of the Commission, through established educational systems, and, in any other legitimate manner of publicity or propaganda,

a knowledge of the problem of discrimination and how they may be dealt with and endeavor through these medias to break those prejudices which tend to divide the population and to create instead an attitude of working goodwill among the various elements of the population.

The third function is the function of enforcement of the law against unlawful employment practices as they are defined in the statute. The Cleveland law sets up a fifteen man board to administer the non-discrimination hiring law. The board will use "education, persuasion, conciliation, and conference" on each complaint it receives, but if unable to reach an amicable agreement with an employer, a public hearing may be called.

When violations do occur, the injured party is instructed to file a complaint:

1. The board will determine the facts from all parties involved.
2. The board will then seek to adjust the complaint through conference, conciliation, persuasion and other educational methods.
3. If the above educational methods are not effective, the board can order a public hearing.
4. If in the public hearing an adjustment is not effected, the case can be referred to the Director of Law for prosecution.
As in most legislation of this type, it is unlawful for employers, employment agencies, and labor unions to ask questions about race, religion, national origin, or ancestry of applicants. The ordinance does not, however, prevent an employer from setting his own standards for the job or for promotion. When this is done, through, every qualified applicant, regardless of race, religion, creed, or national origin, is to receive an equal chance to get the job or promotion. The ordinance applies to labor unions as well as to employers.

C. THE MINNEAPOLIS ORDINANCE

An analysis of the accomplishments of the Minneapolis Fair Employment Practice Ordinance, approved January 31, 1947, proves that legislation against discrimination in employment is an effective instrument. Minneapolis has taken the lead among American Communities in acting on the conviction that governing boards have a positive responsibility to assure equality of opportunity for employment to citizens of all races, religions, and national origins.

The ordinance has produced positive results in providing employment opportunities for Negroes. Minneapolis Fair Employment Practice Ordinance has done an excellent job in seeing to it that the qualified workers were hired on the basis of their skill and without any regards to their race, religion, or national origin, and this practice provided positive benefits to the employers, as well as the unions, and certainly provided positive
benefits to minority workers and the community as a whole.

Minneapolis has not had a single court case under the Fair Employment Practice Commission Ordinance, which has enforcement powers and enforcement teeth. Yet Minneapolis has had an amazing increase in employment opportunities for Negro workers.
CHAPTER III

DIFFERENCE OF STRUCTURE AND PROCEDURE IN THE COMMISSIONS

Municipalities have undertaken to deal with the problem of discrimination in employment in a number of different ways. Some have established goodwill commissions to combat prejudice and to make such improvements in conditions as are possible through methods of education. Others have enacted fair employment practice ordinances whose application has been limited to firms under contract with the cities adopting them. Chicago and Milwaukee can be classified under this heading, because their ordinances applied only to the city agencies and firms under contract with the city.

By the close of 1950, there were three other cities that had adopted a third alternative, namely ordinances prohibiting discrimination in employment, and providing for an enforcement agency, usually in the form of a fair employment practice commission. These cities are Minneapolis, Cleveland, and Philadelphia. These cities are the guinea pigs; they are the places where the clinical demonstration must take place. Upon the administration of this law in these cities will depend in a large measure the reaction of those legislative committees and legislative bodies in other municipalities.
Ordinances of limited application have appeared in a number of municipalities—New York City in 1942, the City of Cincinnati, in 1946. Whereas the major ordinances applied to all employers, both public and private, the New York and Cincinnati ordinance and others in Phoenix, Arizona and Richmond, California apply only to the city and to agencies contracting therewith. The Richmond ordinance forbids discrimination on account or race, creed, or color in hiring by the city or its contract and franchise holders.

Chicago is omitted because its laws has been virtually a dead letter because of doubt as to its constitutionality and the failure to establish an agency to administer it. In the following discussion the writer shall be concerned with the administration of the ordinances in cities that have proven that legislation against discrimination in employment is an effective instrument. Indeed, the reader should bear in mind that while fair employment practices legislation had already proved its efficacy in general, it is a relatively new technique, still in its early stages of development.

The fair employment practice laws which apply modern administrative techniques have essentially the same features. They prohibit discrimination by employers in hiring, firing, compensation, or promotion; by labor unions in membership policies or in relations with employers of non-union workers; by employment agencies in classifying or referring employees, or in obtaining information from prospective employees. Individuals who believe them—

selves to be victims of illegal discrimination may file a complaint with
a designated city agency which investigates the matter. If it finds
the complaint to be without merit, the government agency dismisses it but it
may nevertheless examine the employers' general employment patterns and
seek to eliminate such discrimination as it may find.

If it finds merit in the individuals complaint the administrative
agency seeks to adjust it by conciliation to the satisfaction of both the
complainant and the respondent. If it is unable to secure what it consid-
ers a satisfactory settlement by conciliation, the agency may hold a hearing
of the case. If, after the hearing, the agency finds that the law has been
violated, it may order the respondent to cease and desist from the unlawful
practice and to make amends to the complaint by hiring, reinstating or up-
grading him or by other affirmative action. This cease and desist order is
enforceable in the courts. A respondent may also appeal to the courts to
review and order by the administrative agency.

The work of the enforcement agencies is not limited to the handling of
individual complaints of discrimination. The fair employment practices
agencies prohibit questions on job application forms which call for informa-
tion that may be used to discriminate on the basis of race, labor, creed, or
national origin. They also conduct educational programs as an important
part of their duties under the law, and have succeeded in reducing or elimi-
nating discriminatory employment advertisements in the news papers.
The chamber of Commerce, although an opponent of F.E.P.C., have given it a kind unwilling acceptance and approval. The Chamber of Commerce states in a recent booklet:

Experience in other cities demonstrates that customer reaction to employment or minority groups has been generally favorable, and there is no noticeable decline in business.¹ The Cleveland Chamber of Commerce goes on to re-assure its readers that the integration of minority groups will not result in a decline of health standards, that misgivings as to mixed employment are "largely theoretical and disappear as minority group employees come to be recognized as individuals", and that apprehension about the use of common sanitary and eating facilities "is imaginative rather than real".

The City of Cleveland adopted a fair employment practice ordinance of its own. Apparently the people of Cleveland, and their elected representatives concluded that expressed fears regarding the ultimate effect of fair employment laws is imaginative rather than real.

For Milwaukee also, there seems to be little to report. The original fair employment practice ordinance has not been amended, nor has the Mayor's Commission on Civil Rights, charges with its enforcement, issued any information concerning it. The commission is an enormous body, thirty-eight

Quoted in U. S. Congress, Senate Report No. 1539 (81st. Congress, 2d. sess., 1950)
members of which are listed at the bottom of the letterheads. There are seven committees, dealing respectively with civil and religious rights, fact finding, fair employment practice, housing, legislation, planning and program, and public relations.

The only action taken by the commission appears to have been in the form of a request directed to the State Industrial Commission, that a release be issued to all employment agencies in the City of Milwaukee, reminding them of the city ordinance and its effect on employment agencies, and suggesting that they are expected to comply with it in full.

A. THE PHILADELPHIA ORDINANCE

The Philadelphia ordinance on the other hand, and the regulations for the enforcement thereof contain the usual restrictions relating to employment agencies, employers, labor organizations, and labor unions. It calls for the establishment of a five member commission which serves without pay. Three members are appointed by the Mayor and two by the President of the City Council—each for a three year term. "And until his successor is duly appointed and certified".

The principal duties of the commission are:

1. Formulation and execution of a "comprehensive educational program designed to eliminate and prevent prejudice and discrimination".

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2. Investigation and adjustment of complaints of unfair employment practices as defined by the ordinance, provided the complaint is made to the FEPC within sixty days of the alleged incident.

The ordinance applies to all employers with the exception of religious, charitable and educational organizations, to all labor unions and to all employment officers and agencies. In considering the complaint from whatever source, the commission is authorized to hold public hearings and render decisions. Notice of disregard of orders to be given to the City Solicitor, "who shall invoke the aid and appropriate court to impose the penalties provided" i.e. $100.00 fine or thirty days imprisonment if the fine is not paid within ten days.

The executive director of the commission has undertaken to interpret the regulations as follows:¹

1. Avoid inquiry into the place of birth of an applicant, the place of birth or residence of his parents, spouse or other close relatives. This precludes asking for birth or baptismal certificates, in lieu of which the applicant may be required to submit proof of age in the form of an employment certificate issued by the school authorities or affidavits of next of kin or similar proof.

2. Do not ask questions concerning applicants lineage, descent, national origin or ancestry nor require presentation of naturalization papers.

¹ Loescher, Frank S. A Step Toward Fair Employment The Shingle. (Philadelphia, December 1949)
3. It is lawful to ask applicant "are you a citizen of the United States?" but do not ask whether he is a naturalized or a native born citizen nor whether he has taken out naturalization papers.

4. Do not ask questions concerning applicant's religious affiliations, church, parish, pastor, or religious holidays observed.

5. In inquiry is made into organizations of which an applicant is a member, it should be made clear that the applicant shall exclude organizations, the name or character of which indicates the race, color, religion, national origin or ancestry of its members.

6. Do not ask the original name of an applicant where said name has been changed whether by the court or otherwise, except by marriage. An applicant or Polish descent whose original name was Pulaski and who has changed his name to Post, would disclose his national origin in answering a question concerning change of name.

7. It is lawful to ask the maiden name of a married female applicant. Do not ask the maiden name of a wife or a male applicant. Do not ask the maiden name of the mother of any applicant.
B. THE YOUNGSTOWN ORDINANCE

The technique outlined in the ordinance for Youngstown is worth noting. If the committee find that the respondent has engaged in unfair employment practice, the committee shall state its findings of fact and shall certify its entire records of its proceedings to the law director of the city of Youngstown for legal action.

3. Whenever the committee finds any official, agent or employee of the city engaged in any unfair employment practice, it shall recommend appropriate action to the Mayor.

4. Whenever the committee finds any person operating an enterprise which solicits or accepts the custom of the public generally and which is operated under a privilege granted by the city—has engaged or is engaging in any unfair employment with respect to employment with in such enterprise, it shall report to the agency which granted such privilege—which agency may suspend said privilege for not more than ten (10) days. When the committee finds that such person has committed further unfair employment practices subsequent to such findings, it shall report the same and second violation shall constitute a grounds for such agency to revoke such privilege for not to exceed one (1) year.

5. Every contract herein after awarded by this city shall contain a provision obligating the contractor not to engage in any conduct defined as unfair employment practice. Breach of this covenant
may be regarded as a material breach of the contract.

The Youngstown Fair Employment Practice Committee consists of seven (7) electors of the City of Youngstown, to be appointed by the Mayor. The members of the Committee shall serve without compensation but shall be reimbursed for all necessary expenses. Each shall serve for a period of three years until his successor is duly appointed and qualified; provided, however, that two (2) of the original seven (7) members shall be appointed for a term of two years. Any member of the committee may be removed by the Mayor upon notice, for negligence of duty or malfeasance of office, but for no other cause. All vacancies shall be filled by appointment by the Mayor for the unexpired term. The committee shall elect its own officers and adopt such regulations as may be necessary to carry out the functions of the Committee and effectuate the purposes and provisions of the ordinance.

(3) The Committee may use the services and facilities of the City and State agencies as may be made available and such voluntary and uncompensated services and facilities as may from time to time be needed and offered. The Law Director shall act as legal advisor of the Committee.

(2) City Council, shall provide personnel as may be necessary and required for the enforcement of all provisions of this ordinance and whatsoever facilities, services and supplies may be necessary to the Committee for carrying out its duties and functions.
Section 3-B Duties of the Committee;

The committee is hereby authorized to and shall; (1) receive, investigate and seek to adjust all complaints of unfair employment practices forbidden by the ordinance. (2) Make appropriate findings as a result of its investigations. (3) Study the problem of discrimination in employment because of race, color, religion, ancestry, or national origin, foster through Community effort or otherwise, goodwill, cooperation and conciliation among the groups of the population and formulate and carry out a comprehensive and educational program designed to eliminate and prevent prejudice and discrimination based upon race, color, religion, ancestry or national origin.

Section 3-C. Investigations, Hearings and enforcements. The Committee or any member thereof is authorized to make such investigations as it deems necessary and proper to examine any person, under oath or otherwise, to inspect all books, records or memoranda pertinent to the investigation—to summons all persons, whether parties or witnesses, to testify before the committee or any member thereof. A failure or refusal to comply with such subpoena shall constitute a violation of this ordinance and shall be punishable by a fine of not to exceed one hundred ($100.00) dollars.

(2) Whenever the Committee has reason to believe that any person is engaging in unfair employment practice—any member may make investigations as is deemed proper and may issue a complaint stating the charges—and con-
taining a notice of hearing before the Committee or a member thereof. The respondent shall have a right to file an answer to the complaint and to appear at such hearings in persons, by attorney, or otherwise, to examine and cross-examine witnesses.

C. THE GARY ORDINANCE

Gary, Indiana, a highly industrial community, has its Fair Employment Practice Ordinance which was passed by the Common Council and approved by the Mayor of Gary, Indiana on November 20, 1950.¹

The ordinance is divided into ten sections. The first contains the title. Section 2 is the declaration of policy, declared to be the policy of the city in the exercise of its police power for the protection of the public welfare, health, safety and peace of the city and the inhabitants, to prohibit unfair employment practice, and to establish the Gary Fair Employment Commission as an administrative agency charged with the duty of executing the provisions and purposes of the ordinance.

The Gary Fair Employment Practice Commission consists of five members, three of whom are appointed by the Mayor and two by the Common Council. Any three members of the commission shall constitute a quorum. They serve without compensation, but are reimbursed for all expenses necessarily incurred.

Gary Fair Employment Practice Ordinance, Section 25, Chapter 13, Gary Municipal Code.
while in office. Their term of membership is for a period of four years. Any member of the commission appointed by the Mayor may be removed by him. Also any member of the commission named by the Common Council may be removed by the Common Council. The first function is the duty imposed upon the Commission to receive and investigate and seek to adjust all complaints of unfair employment practices that is forbidden by the ordinance. The Commission shall also formulate and carry out a comprehensive educational program that will eliminate and prevent prejudice and discrimination.

The Commission shall make and publish their findings as a result of their investigations and adopt such rules and regulations that will be necessary to carry out the functions of the Commission and effectuate the purpose of the ordinance. Through its own initiative or whenever a charge has been made either by an aggrieved individual or by an organization which has as one of its purposes the combating of discrimination or of promoting full, free or equal employment opportunities; show that any person has engaged or is engaging in unfair employment practice, the Commission shall have the power to issue and cause to be served on such person a complaint stating the charges in that respect and containing a notice of public hearing before the commission at a place therein fixed, to be held not less than ten days after respondent shall have the right to file an answer to the complaint and to appear at such hearing in person or by attorney or otherwise to examine and cross-examine witnesses.
The Commission shall determine from testimony taken that the respondent has engaged or is engaging in an unfair employment practice; the commission shall state its findings of the case and shall render such decision or enter such order as the facts warrant. In the event the respondent refuses or fails to comply with any such order issued by the Commission, the commission shall certify the case and the entire record of its proceedings to the City Attorney, who shall invoke the aid and appropriate court to impose the penalties provided in Section 8 of this ordinance.

When ever the commission finds that an official agent or employee of this city or any contractor or sub-contractor doing work for this city has engaged in any unfair employment practice, it shall make a report thereof to the mayor for appropriate action.

Any person whom violates any of the provisions of the ordinance or any of the rules or regulations, shall be subject to each violation to a fine not exceeding three ($300.00) hundred dollars, provided that prosecution under this ordinance shall be brought only by the City Attorney, and such prosecution shall be brought only after certification as a case to him by the commission.

D. THE QUESTION OF ENFORCEABILITY

The enforceability of FEPC ordinances therefore, differ somewhat, but all of them share a basic pattern. The main characteristic is that they are not criminal laws, but administrative laws, strengthened by court intervention as a last resort. There appears to be a little doubt, however of the
constitutionality of such a law. The United States Supreme Court has said; Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union application (New Negro Alliance v. Sanitary Grocery Company, 303 United States 552, 561; 1938).\(^1\) And the Supreme Court has upheld the National Labor Relations Act which prohibits discrimination for union activity. Through recognition of the right to work without discrimination inroads the right to employ and to contract, freedom of contract is not absolute (Nebbia v. New York; 291 U. S. 502, 527; 1934).\(^2\)

Criticism of such legislation has been based on the claim that entrenched viewpoints and customs cannot be eliminated by law and that effective administration and enforcement would be impossible. Opponents have expressed the opinion that business enterprise would be adversely affected if an employer were forced to hire employers with whom he prefers not to deal. They claim that public moral and minority groups would suffer rather than benefit from attempt to substitute legislation for education. Tentative answers refuting these arguments may be found in examining the experiences of those cities having anti-discrimination laws since some of them have been in effect for more than four years.\(^3\)

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2 Ibid. p. 339.

It has been proven that a law on fair employment practice is effective because it places community sanctions squarely behind a right. An FEPC law does not deal with prejudice, which is a personal concern, but with discrimination, which affects the rights of others.

In the face of these inherent difficulties in evaluating the laws and their administration, the enforcing agencies have unfortunately not done all they might to facilitate evaluation. The writer has already stated that they do not reveal the terms upon which they settle cases of discrimination by informal conciliation. Nor do most of them reveal enough about their work to enable the public to learn what proportion of individual complaints is upheld. One reason for these deficiencies of reporting research, and self-analysis is, of course the limitation of budget. The Philadelphia Fair Employment Practice Commission has a budget of about $75,000.00 in 1950, but it was far from able to apply much of this amount to reporting and research.

This review of the fair employment practice laws of the cities has shown that these laws have undoubtedly reduced discriminatory practices, but that the evaluation of their more profound effects is as yet not possible because they have been in effect for only a few years and because the enforcing agencies do not make public as much information as they are permitted to by law. The courts have thus far upheld the powers and the conduct of the enforcing agencies. Administration of the law has been cautious and slow moving, but the enforcing agencies have moved ahead in their work.
CHAPTER IV

THE EFFECTIVENESS OF THE COMMISSIONS

Since the enactment of the New York State law against discrimination on March 12, 1945, many state and municipalities have followed suit. Not all of the state laws and municipal ordinances are the same, nor have they all had the same degree of success. There is, however, evidence that these laws have reduced discrimination in employment and have opened up opportunities to minorities previously barred from certain jobs, firms, and industries. At the present it is estimated that enforceable F.E.P. laws are in operation in areas that include about a third of the nation’s total population, about an eighth of the non-white and more than two-thirds of the Jews in this country.¹

Examination of the reports of the agencies administering FEP legislation indicates that this type of legislation has succeeded in varying degrees in reducing employment discrimination. It is difficult, however, to estimate precisely to what extent it has been successful. For example none of the agencies has reported the number of jobs obtained by complainants; the exact number of employment opportunities the law or ordinance has opened up for groups previously barred from certain jobs, firms and industries; the number of members of disadvantaged groups who have been employed before and

¹ Phillips Bradley et. al. editor, Fair Employment Legislation in New York State. (Albany, 1946, pp., 8-9.)
after the passage of the legislation at certain levels of skill and in certain industries.

Although the administering agencies have not gathered complete data, they have made public various kinds of information that bear directly upon the question of the effectiveness of this kind of legislation.

The problem of measuring the effects of F.E.P. legislation is simple if one is interested only in gaining a general view. Once a more precise measurement is sought, however, the problem becomes complicated. For example, as the New York State Commission Against Discrimination has pointed out, the significance of a single case may sometimes extend to thousands of employees in the same firm and may affect even the employment pattern in a whole industry.¹ For reasons, too, the full effect of an F.E.P. law cannot be gauged merely by the number of complaints the administrative agency received. How is one to discover, for example, the number of employers (and the job opportunities they control,) who altered discrimination practices merely because the law was enacted or when they learned of the Commissions' work. And how many employers have voluntarily gone far beyond the laws actual requirements. These are questions that are relevant but data on which to base answers are not available. It is possible, therefore, to give only

a general picture of the effectiveness of F.E.P. laws and ordinances in reducing discrimination.

A. EFFECTIVENESS OF STATE LAWS

Some data indicative of the effectiveness of these laws can be cited. For example, in New York State, up to and including December 5, 1946, 522 formal complaints had been filed with the New York commission and 173 informal investigations had been made as a result of studies and information received: a total of 695.

Of the 522 complaints filed, 71 had been dismissed because of the lack of jurisdiction, 15 were withdrawn and 126 had been disposed of on the merits. According to the chairman Turner, "of this number (126) approximately one-fourth have shown that while the particular complaint must be dismissed, a discriminatory pattern was disclosed from the investigation which has been rectified as a result of conference and persuasion on the part of the commission". In only 182 cases the evidence demonstrated probable ground to believe that there has been discrimination, but these cases were closed as a result of conference and conciliation, 128 cases were still in the open file in process of investigation or conciliation. Thus far no


2 Ibid., 24 pp.
formal hearings have been held and no formal orders have been issued.

Of the 173 informal investigations, 61 were dismissed and in 72 cases discrimination was found to exist. In each of these cases compliance was effected through conciliation. 37 cases remained in the open file.

The following table gives a breakdown showing types of discrimination charged:

**Types of Complaints or Investigations -- New York**

<table>
<thead>
<tr>
<th></th>
<th>All Cases</th>
<th>Creed</th>
<th>Color</th>
<th>National Origin</th>
<th>Misc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>695</td>
<td>162</td>
<td>407</td>
<td>109</td>
<td>18</td>
</tr>
<tr>
<td>Formal</td>
<td>522</td>
<td>122</td>
<td>318</td>
<td>68</td>
<td>14</td>
</tr>
<tr>
<td>Informal</td>
<td>173</td>
<td>40</td>
<td>88</td>
<td>41</td>
<td>4</td>
</tr>
</tbody>
</table>

Of the 695 total cases, 85 per cent involved employers, 6 per cent involved labor organizations, 4 per cent involved employment agencies and 5 per cent may be classified as miscellaneous.

The 162 complaints and investigations on account of creed breakdown as follows: Jewish, 120; Quaker, 1; Protestant, 3; Catholic, 5; 33 were the
result of the question "what is your religion,"

In the 406 complaints and investigations based on color originated as follows: Negroes, 391; Whites, 11; and 4 were based on inquiry as to color on an application form.\(^2\)

National origin complaints were well scattered, including American, German, Spanish, Russian, Bulgarian, Italian, British, Japanese, Swedish, Puerto Rican, Czech and French.\(^3\)

New York Under Governor Herbert Lehman, set up committees against discrimination under the State War Council. These committees were emergency inventions, with ill-defined power of enforcing their decisions. The New York Committee, however, by the developing and efficient field service, was able to promote the employment of hitherto excluded groups, by persuasion and conciliation.

But at best the New York committee could cover only a minor part of the field, and only with limited effectiveness. As the was was drawing toward its close the committee was plainly destined to disappear with the War Council, leaving the problem of discrimination in employment just where it has been before the out break of war.


\(^{2}\)Idid., 24 pp.

\(^{3}\)Idid., 24 pp.
The commission has enlarged its sphere of action by starting investigations on the basis of information, supported by some evidence, about unfair employment practices but without specific complaints by aggrieved persons, even though in such cases it has no power of enforcement.

Complaints embraced occupational categories and more than 100 separate occupations in all major divisions of industry, communications, transportation, and other utilities, banking and insurance, building construction, retail and wholesale distributors, pharmaceutical and chemical industry, electronics, baking industry, hotel and restaurants and so on. The companies involved ranged from those with six employees to a very large plant.

The New Jersey law is basically the same as the New York law, but administration is on the hands of the assistant commissioner of Education, who is assigned to a new Division Against Discrimination. The New Jersey law was passed in April 1945, but has been in operation only since July 1, 1945.1

As of December 1, 1946, approximately 225 complaints had been received by the division. Of these, 35 cases were still open and the remaining 190 had been disposed of through conference and persuasion. No statistics are available as to types of discrimination charged, since it is the position

of the Division Against Discrimination that its records are confidential and that such information ought not to be made public.\(^1\)

An F.E.P.C. law in Massachusetts was approved May 23, 1946. It is also very much like the New York and New Jersey laws, except for two additions: (1) Section 7 provides that every employer, employment agency and labor union subject to the act, "shall paste in a conspicuous place on his premises a notice to be prepared or approved by the commission which set forth excerpts of this chapter and such other relevant information as the commission deems necessary to explain the act." Violation of this provision is punishable by a fine of not less than ten (\$10.00) dollars nor more then one hundred (\$100.00) dollars. (2) There is an additional provision in the Massachusetts Act which provides that those "who shall willfully file a false complaint" shall be subject to the penalties imposed under Section 8, along with employers or others who may interfere with the commission or willfully violate a final order of the commission.

As of December 19, 1946, the Massachusetts Fair Employment Practice Commission reports it has 96 complaints under investigation which had been called the attention of the commission by interested organizations. No case was investigated until October 10, 1946, so these statistics really cover a two-month period. In addition to the number of complaints then under

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\(^1\)Letter from Joseph L. Bustard, Assistant Commissioner of Education State of New Jersey.
investigation, the commission had conciliated eleven cases and had dismissed four for lack of probable cause.¹

B. ENFORCEMENT IN MUNICIPALITIES

The most imposing and precise fact about the reduction of discrimination is that in the two municipalities in which enforceable F.E.P. legislation has been in operation, some form of discrimination has been found and eliminated.

The 1952 report of the Minneapolis Fair Employment Practice Commission states that the ordinance has opened job opportunities for minorities in city government agencies (skilled work, the professions, and teaching), retail sales, banking, and insurance companies, and at higher levels than before in manufacturing and industrial employment.²

The Philadelphia Commission on Human Relations, (formerly Fair Employment Practice Commission) reports that, judging from its own records and those of public and private employment agencies, employment discrimination

¹ Annual Report of Massachusetts Fair Employment Practice Commission, August 26, to December 10, 1946.

has diminished. In the three years from 1947 to 1950, the commission reports, opportunities have opened in manufacturing and construction; wholesale and retail trade, transportation, communications, and public utilities; public service, finance, insurance, and real estate. Firms in these industries have given the following kinds of employment to persons previously barred on account of race, color, religion, or national origin; skilled and semiskilled; sales, office work, managerial and supervisory, and professional.¹

Most of the municipal F.E.P. ordinances cover both public and private employment and grant the administering agency enforcement powers. In addition, most of them have been enacted since 1950, and have therefore, been in effect only a short time. Among the large cities, only Minneapolis and Philadelphia have enforceable ordinances that has been in effect for more than two years. The Minneapolis law became effective in 1947, the Philadelphia law in 1948.²

The experience of the Philadelphia Commission has been paralleled with that in other jurisdictions; it has never, for instance, had to subject any respondent to a public hearing or to court action. A fact which has led many people to be skeptical of the whole program. The Commission insists,

²Ibid., p. 2.
however, that its educational work and its policy of "conference conciliation and persuasion" make it unnecessary to use the enforcement powers of the ordinance. It believes, moreover, that many employers are finding it "sound economics to employ and upgrade persons of experience and ability without discrimination."

The educational program of the Philadelphia Commission had been broadly conceived, to utilize all the usual media for gaining public attention, and others not so usual. In the first year and a half of the commission's existence, more than 200 talks were given before organizations of various types, providing ready-made audiences. Large quantities of literature were printed and distributed, direct mail advertising was used to reach 10,000 businessmen and other community leaders, while lots of literature were sent to all party leaders, committeemen, Republican and Democrat, for dissemination among their "constituents". Blotters and penny post cards were printed and distributed. Two thousand five hundred car cards, displayed in subways, trolleys, buses, and suburban railroad trains, informed many workers for the first time of the existence of the commission. One hundred civic organizations also distributed and posted the car cards in their offices.

An F.E.P.C. imprint service was set up offering the City Departments, Civic Agencies, business houses, and large unions, rubber stamps, die cuts for postage meter machines, electro-plates and stickers carrying the legend, "Americans Ask: Is he a Good Worker? Not What Is His Race or Religion? Support Fair Employment Practices". Literally millions of letters have been
mailed with this imprint on the envelope. Other devices include casual exhibits at various institutions and meetings; A Fair Employment Week in March of each year, including sixteen radio programs and concluding with an FEPC Sabbath in churches and synagogues throughout the city. A booth was maintained at the Union Industries Show which was attended by more than half million people.

In November 1950 the chairman of the commission addressed a letter to some 42,000 Philadelphia employers, pointing out various reasons why many employers have been successful in inducing minority groups without discrimination: (1) a top management decision paves the way for acceptance of minority hirings; (2) announcement of the policy goes straight down the line and opportunity is given for two-way communication; (3) adverse employee reaction is never as great as anticipated; (4) careful selection confirms to already established employment standards. In general it may be said that the coupling of the regulatory educational provisions of the Philadelphia Fair Employment ordinance has been a strong factor in arresting job discrimination based on race, color, religion or ancestry. It has been a link in developing community attitudes favorable to providing equal employment opportunity for all.

Two and a half years ago many employers were apprehensive of customer and employee reaction to the introduction of a minority group employees.
Today this fear is diminishing. Inertia is the block in some firms that have not yet integrated minority workers.

The City of Minneapolis had never had a Negro as a clerk or a retail supervisor, but within a period of six months after the passage of the employment practice ordinance 75 department stores in Minneapolis and Saint Paul (without an ordinance in St. Paul) were hiring qualified members of the Negro Community, qualified members of minority groups, to work on the floor as clarks and supervisors, to work in accounting offices, to do any work for which they are qualified.

There was not one word of protest from the community. The fears that people had that something would go wrong, that they would lose business, or that there would be disturbances amongst the employees, just never materialized. In fact, great opportunity was opened for hundreds of people. Minneapolis has benefited economically, socially and morally through the adoption of FEPC legislation.

As a result of this legislation, Minneapolis has a very considerable number of people of different groups who have the opportunity and incentive to develop and to utilize their full skills for the community welfare. Another benefit will be the increased market for the production of other workers and of other business concerns in the community because of the increased buying power which minority workers will gain, and have gained.
A third economic benefit is a higher standard of living enjoyed by
minority workers and their families. There are few, if any, whose real
interests are served by maintaining discriminatory practices in employment.
Our task on behalf of the Fair Employment Practice legislation is not only
to combat the self-interest of any group, but to combat ignorance and apathy,
and to combat the failure to see that the true self-interest of the entire
community is served by using the productivity of all its human resources
without discrimination.

In 1949 the Minneapolis commission reported the following data about
the seventy-five cases it handled during its first two years of operation:

Eight were dismissed because of the commission's lack of
jurisdiction and seventeen because no discrimination was found.
Six were settled by some method satisfactory to the person
who complained—either he got the job or was satisfied with a pledge
that no discrimination policy would be followed in the future by the
agency complained against.

Twenty-eight were settled by a commitment by the alleged viola-
tor that he would follow a no discrimination policy in the future.
Action is still pending on sixteen.

Of the seventy-five cases, fifty-one were started because of
alleged discrimination against a Negro, three against an American
Indian, seventeen against a person of Jewish faith, one against a
Japanese-American, and one each because the applicant for work was
not a Lutheran, a Jew, or a Catholic.
Sixty-two of the charges were against private employers, ten against government agencies, two against labor unions, and one against an employment agency.

These cases usually are handled by an informal discussion with all five commissioners and the employer taking part. Where initial efforts at conciliation fail, the question of public hearing, as provided in the ordinance, is raised.

The prospect of such a hearing has proved to be a powerful instrument through which persuade the party charged to take the step necessary to satisfactorily adjust the complaint. The commission has not yet found it necessary to hold a single public hearing or to refer any case to the City Attorney.

It is the judgement of the Commission that the threat of a public hearing is a more powerful enforcement weapon than are the penalties of fine and imprisonment which could be applied through court action. However, these penalties are essential in order to make sure that the party charged will give serious attention to the complaint.

At the end of this two year period, the commission asked for an increased budget, looking toward an increased case load, and to broadening its program of public relations to acquaint the community more widely with its works. The greater case load was anticipated because the availability of the commission and its services were becoming better known, and because
of expected uncertainties regarding the employment situation. Instances of discrimination or attempted discrimination are naturally less numerous in a tight labor market. The specific proposal which the commission made for its 1950 program were:

1. Periodic follow-up of each respondent to offer the commission's assistance in maintaining a fair employment policy.

2. Arrange a comprehensive series of conferences with all employment agencies and labor unions, and with major employers, to develop positive programs for the employment of qualified minority workers.

3. Hold several briefing sessions with the Industry and Labor Committee of the Community self-survey to inform the members as to the operating experience of the Commission and to enlist their help in getting full acceptance and application of the practice of employment on merit.

4. With the help of this committee, cover the meetings of every civic, business, and labor group in Minneapolis with a discussion of the commission's work.

5. Encourage every employer, employment agency and labor union in Minneapolis to post a notice proclaiming its adoption of the policy of hiring on merit and without discrimination.

6. Prepare and distribute more broadly informational material on the Commission's services and on methods of successfully employing all qualified workers.
7. Continually study the results of the Commission's work so as to improve its procedures and make its work more effective.

Fair Employment Practice agencies established in Pittsburgh, Penn. in January 1, 1953, and Duluth, Minn. in June 19, 1953 some of the problems involved in making themselves known in the community, establishing relations with employers and unions, surveying prevailing practices, and enlisting the aid of interested organizations in the community.

The Pittsburgh Fair Employment Practice Commission issued a fifty (50) page report discussing these problems and also taking up the disposition of seventy-five complaints received in the period from March 1, 1953, to February 28, 1954.¹

The Duluth Job Discrimination Committee reported that it has not received a specific complaint alleging discrimination since its establishment in the summer of 1953.

Under the Duluth Ordinance and Discrimination Committee can receive and adjust complaints by informal methods but has no power to hold hearings or to issue orders.

As one of its initial tasks, the Committee studied employment application forms used by practically every major industrial and commercial employer in the city. Of sixty (60) firms that submitted forms, eleven (11) were found to be using questions that might indicate discrimination. In every case by the followup system the Committee brought favorable action by

the company in eliminating such questions. Operators of employment agencies in the city assured the committee that they follow a policy of placing qualified applicants regardless of race or religion.

In a summary comment the committee noted the indication of the absence of a discriminatory policy on the part of Duluth employers, but also pointed out that a "casual observer" might be aware that the Negroes only rarely were employed as sales clerks in large retail stores, in white collar jobs, in business offices, as drivers, salesmen, as drivers of common carriers, or private buses, and in licensed business trades. The Committee concluded that it needed more time to make its existence and purposes known to the public and to test its machinery in actual complaint cases.

The Pittsburgh ordinance, effective on January 1, 1953, is as comprehensive in its prohibitions and as detailed in its procedures as any of the state laws of the enforceable type. The Commission has the authority to hold public hearings and issue cease and desist orders if it is unable to adjust a complaint by means of conciliation or informal discussions. The Commission's orders are subject to enforcement by the City Solicitor.

In analyzing the seventy-five complaints received during the year, the commission stated that it was "an interesting fact" that a single complaint was brought against a manufacturing company employing more than one hundred employees. Nine complaints were filed against manufacturers employing less than one hundred workers. The Commission stated that the complaints and the
ensuing investigations indicated that "the most critical occupational area" in terms of alleged discrimination is that of white collar employment.

Refusal to hire constituted the alleged violation charges in seventy-two per cent of the complaints. Four complaints alleged refusal of union membership and refusal of referral for a job by a union.

The disposition of the complaints was as follows; complaints not justified and no other discriminatory practices or policies found, eleven probable causes and complaints not justified and no other discrimination practices or policies found, thirty-nine, no probable causes as to specified complaints but other discrimination practices or policies found, fourteen lacked jurisdiction, three complaints failed to proceed in the action, seven pending investigation.¹

C. REPORTS OF SPECIAL STUDIES

In recent years several compilations of evidence of employment discrimination have been made in connection with efforts to secure enactment of Fair Employment Practice Legislation. Such compilations of evidence for San Francisco and for Detroit are presented. Both cities have large populations among whom there are a considerable proportion of the groups that are frequently the object of job discrimination.

1. San Francisco, California, in January 1950, from the recommendations of the committee of the San Francisco Board of Supervisors, one of the members of the committee submitted the following evidence of discrimination in that city.¹

(a) The records of the San Francisco offices of the State employment service for the week of September 20–24, 1948, showed that 768 job orders were received of these 324, or nearly forty per cent, explicitly excluded one or more racial or ethnic groups. State officials expressed their belief that, on the basis of actual referrals and not merely the specifications given in job orders, ninety per cent of the jobs available would be found closed to Negroes and seventy-five per cent to orientals. (On October 3, 1951 the California Department of Employment ruled it would no longer accept discriminatory job orders.)²

(b) The Council for Civic Unity of San Francisco made two studies. In the first, it found that the thirty-seven private commercial employment agencies, seventeen refused to accept applications from Negroes for clerical jobs, and six said they had no such openings for Negroes. In the second study the council examined thirty-nine

¹ Memorandum to San Francisco Board of Supervisors from Marvin E. Lewis, January 21, 1950.
application forms used by banks, insurance companies, and manufacturers, and found that all of them included at least one question on race or color, nationality, religion, and parents' ancestry. The same was true of all eight of the private commercial employment agencies whose application forms the council examined.

(c) A sociology class of the San Francisco State College found in 1949 that of forty private vocational training schools, sixteen refused to admit Negroes. Two had Negroes enrolled, and the twenty-two others made no statement of policy. All the schools refusing or discouraging admission of Negroes stated that they did so because of the difficulty in placing Negroes in jobs.

(d) Data from the San Francisco Urban League showed in 1949 that Negroes in that city find few jobs even in such unskilled occupations as janitor, porter, elevator operator, charwoman, waiter, bellman, and cook. Despite continued effort, the league reported, it had failed to secure jobs for Negroes in department stores, banks, and insurance firms.

2. Detroit, Michigan, The Mayor's Interracial Committee of Detroit presented, in December 1951, a report summarizing evidence of employment discrimination.2

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City of Detroit, Mayor's Interracial Committee, Racial Discrimination in Employment and Proposed Fair Employment Measures, A Report to the Common Council, Dec. 7, 1951
(a) In April 1951, the Michigan State Employment service reported several facts:

(1) In one of its branches, in November 1951, forty-eight per cent of the registrants were non-whites, but only fifteen per cent of the jobs listed with the State Agency were opened to non-whites expressly.

(2) In the same month, in one branch, non-whites comprised thirty-eight per cent of the applicants for skilled jobs, but only seven per cent of such jobs were open to them; non-whites forty-five per cent of the applicants for semi-skilled jobs, but only eleven per cent of such jobs were open to them; non-whites comprised sixty-three per cent of the applicants for unskilled jobs, but only twenty-two per cent of these jobs were open to them.

(3) A review of 2,265 job orders received in three offices showed fifty-five per cent had written specifications excluding non-whites.

(4) All professional, managerial, clerical, and sales jobs were closed to non-whites, except in government, minority group agencies, and a few places of employment.

(b) The Urban League of Detroit reported on November 30, 1951, that in its files were more than 1,300 applications from persons having better than high school education, few of them had been placed on jobs requiring any where near their full skill.
(c) The boards in front of private commercial employment agencies show many listings with "colored" or "white" clearly marked on them.

(d) An employee of the Mayor's Interracial Committee called twelve Detroit private employment agencies specializing in supplying workers. She asked of positions were open and if she was told there were, she asked if she would be considered if she were a Negro. Of the twelve agencies called, ten said they had positions open and all ten either said that they would not accept an application from a Negro or that they had no openings for Negroes.

These forms of discrimination reported to be so prevalent in San Francisco in 1949 and Detroit in 1951 thus include:

(a) Exclusion of Negroes from jobs for which they are qualified by education and training.

(b) Exclusionary practices by private vocational schools.

(c) Discriminatory advertisements.

The above practices result in discriminatory orders being filed with private and public employment services. Lacking any legal bases for action these agencies were thus faced with serious difficulties in trying to avoid discrimination in making referrals.

Where legislation covers them, such practices have been eliminated or reduced in the two cities with enforceable F.E.P. laws and ordinances.
whose operation has just been reviewed. 1

Philadelphia appropriation and staff strength are greater than those of all the other agencies except New York. Philadelphia has received or initiated 877 cases from 1948 to the end of 1951. Minneapolis 178 from 1947 to the end of 1951. Philadelphia has found discrimination in fewer than half of the cases they have settled.

The large percentage of complaints, 73 per cent, charged discrimination on the basis of race or color—that is primarily against Negroes. Here the range is 64 per cent for Philadelphia. Discrimination on the basis of religion, that is primarily against Jews and Catholics—is most serious in New York and Minneapolis, where this type of illegal practice accounted for 17 or 18 percent of the total cases.

Only five agencies give data on the exact form that discriminatory acts have taken according to the charges made. The most frequent charge is refusal to hire, accounting for eleven per cent of the cases in Philadelphia. Dismissal is next in frequency.

The Philadelphia Commission on Human Relations (formerly the Fair Employment Practice Commission) has published a four year report in which


2State and Municipal Fair Employment Legislation, p. 13.
presents employers statement that their experience in fair employment practice has led to no difficulties and has actually benefited them.¹

The Minneapolis Fair Employment Practice Commission has also published some employers' opinions of the ordinance. The leading officers of five important companies (including General Mills and coast to coast stores) testify that the ordinance has had a beneficial affect in Minneapolis. Other company officials point out that their policy of fair employment has worked well.²

This study by the recipient of the Burton French Scholarship in industrial relations examines the role of unions as proponents and, occasionally opponents of fair employment practice legislation at the federal, state and municipal levels of government, and the effect of state and local fair employment practices laws upon labor union membership policies and practices.

The study indicates that the economic self-interest of industrial unions has induced them to keep their ranks open to all workers in their respective industries and has, therefore, promoted them to support fair employment practices legislation. The majority of craft unions, on the


other hand, have regarded closed memberships to be conducive to their self-interest and consequently many of them have, avertly or covertly opposed the enactment of anti-discrimination laws. The study indicates that there was a sharp upswing in craft union support for fair employment legislation after 1947, as illustrated by the American Federation of Labor's shift, between 1946 and 1948, from a dubious supporter to an avowed advocate of fair employment practices legislation. This is traced to the Labor Management relations (Taft-Hartley) act of 1947 which prohibited closed shop contracts, destroyed the virtual labor monopolies previously enjoyed by many craft unions, and divested their closed membership policies of their former economic value.¹

CHAPTER V

PROGNOSTICATION OF FAIR EMPLOYMENT PRACTICE LEGISLATION

Experience during the war years pointed to several steps necessary to facilitate the full and non-discriminatory employment of the so-called "Minority groups" into American industry, with the maximum harmony and the least disruption of production. The numerous experiments to be followed by more general practice, indicate that it is possible to maintain employment patterns without paying unfair regard to race, religion, color or nationality background. These steps are:

1. Self-education and self conviction on the part of management and policy making the policy enforcing officials. Unless management has examined the pros and cons and convinced itself of the soundness of the position it has taken, its next steps will be half-hearted, unsure, stupid, or trouble instigating. The employer, it is assumed, has put himself through something like a course of reading conferences, round-table discussions, and inspection trips, and of course has not forgotten that he needs workers. When it reaches a favorable decision, and the policy is no longer a matter for discussion but one to be put into effect.¹

¹ The Annals of the American Academy, Personnel Practices and Wartime Changes, p. 53.
2. The taking of a firm position by management once it has decided to adopt the new policy. This is a very important one and becomes increasingly so, as management proceeds to win support for the new program. Experience has shown, for instance that nearly every strike by white workers against the introduction of Negroes may be traced to the lack of a firm stand by the employer or, even worse hints by responsible management representatives that management itself was not "solid" behind the new program.¹

3. Informing, and seeking the cooperation of the labor organization with which the company has an agreement. By not taking the union by surprise, management is able to count on the support of the union officers and those to whom rank and file workers will turn to ascertain whether the new program is "on the up and up" or whether it is anti-union. If a union is friendly to fair employment, this step will be most fruitful; if it is not, counseling early with it will at least save management from being accused of "springing" something on the union. In many places the first suggestion to employ without discrimination has come from the unions.²

4. A program of education for workers, especially for supervisory staff, and of assurance for all workers. All workers want to know, first of all, whether or not the new policy or new practice will affect their pay, their


working hours, their status, and their security. They are suspicious of what ever may look like "speed up" or "Union-breaking" and are likely to distrust what is new or altruistic when introduced by management. Accordingly the plan should not be overdone, and it should flow through the usual channels of workers education, appealing to the best motives stressing the positive. It cannot take the place of all other steps. It is only one of them. 1

5. Careful selection first of minority group workers and careful selection then, of the department to which they are sent and the foreman or supervisors to whom they are assigned. Acceptability is a matter of joint acquiescence, both on the part of those who are to accept and those to be accepted. The education of workers is not enough without the proper orientation of the new workers, both to their occupational responsibility and to the tradition habits, and personality factors which must be met and overcome and over come in such a way as to help the general objective of fair employment.

6. Careful follow-up and fullest integration. Modern industry involves more than going to work benches and going home at the end of the day. It includes everything from lavatories to rest rooms, from music at lunch time to an all-round schedule of athletics and games. The new worker should be made to feel he "belongs" to the full activities of the firm, and

1 The Annals: Personnel Practice and Wartime Changes. p. 53.
the old workers should be led to see, as part of the education program, that all privileges and opportunities are open to all. Attempts to block or cause confusion in new policy of the company should be watched for and dealt with firmly and without compromise. Such straight forward actions prevents many later headaches. 1

These six steps—suggested by actual experiment in industry plants, are offered on one condition only, as a starting point for an adequate program for the future. That one condition is that many more employers and employees than at present accept their individual accountability for their relations with their fellow man, their creator, that condition holds further that the true yard stick of such accountability is the principle that the creator through His Divine Son Jesus Christ has made all men essentially equal and that He intended them to live together, to work together and to deal with one another as equals. It is submitted that this principle—assuming to be sure the widest possible play for non-super natural man-to-man fairness and allied factors—is the only sure ground on which the stand to eliminate discrimination in industry as well as outside of it, and to establish a commonwealth of genuine democracy. 2

1 The Annals, Personnel Practice and Wartime Changes, p. 53.

2 Ibid, p. 54
ANALYSIS OF EXISTING FAIR EMPLOYMENT PRACTICE ORDINANCES

DECLARATION OF POLICY

Chicago, Illinois
Opportunity to obtain employment without discrimination because of race, creed, or color. The City of Chicago to co-operate with the United States Government.

Gary, Indiana
In the exercise of its police power for protection of Public Welfare, health, safety and peace of the city and inhabitants thereof.

Minneapolis, Minn.
Opportunity to obtain employment without discrimination because of race, creed, color or national origin declared to be a civil right.

Cleveland, Ohio
The use of police power to promote the general welfare and good orders of the city.

Youngstown, Ohio
Right to obtain employment declared to be right for all the people of the city.

Philadelphia, Penn.
Opportunity to obtain employment through the use of its police power for the protection of the public health, safety, and peace.

Pittsburgh, Penn.
The same as Philadelphia through the use of police power.

Milwaukee, Wis.
The same as Chicago, Illinois.

River Rouge, Mich.
It shall be the policy of this city to promote the general welfare and protect the health, safety and peace of the city and its inhabitants to prohibit unfair employment practices as defined by this ordinance.
Farrall, Penn.
It shall be the policy in exercise of its police power for protection of public welfare, health, safety and peace of the city to prohibit unfair employment.

East Chicago, Ind.
Prohibiting discrimination because or race, color, religion or creed.

Sharon, Penn.
By use of its police power for the welfare and safety of the city to protect unfair employment.

Monessen, Penn.
By use of its police power to protect the safety, health and public welfare of the city.

Warren, Ohio
For a board to study the problems of various races.

Pontiac, Mich.
By use of the city police power for the protection of public welfare, health, and safety and peace, to prohibit unfair employment.

Newark, N. J.
The policy of the city to enact a fair employment practice.

Erie, Penn.
For the health and safety of the city.

Duluth, Minn.
Opportunity to obtain employment without discrimination because of race, creed, and color.

PERSONS AND ORGANIZATIONS TO WHICH ACTS APPLY

Chicago, Illinois
Department of the City of Chicago, City Officials, his agents or employee. All contracting agencies of the City of Chicago.

Gary, Indiana
Labor Unions, or associations, individual, partnership or cooperations and employment agency.
Minneapolis, Minn.
Employers of two or more employees within the City of Minneapolis, labor unions, or private employers.

Cleveland, Ohio.
All persons except religious, domestic or institutions limited to single religious faith.

Youngstown, Ohio.
Partnerships, cooperations and one or more legal representatives and labor organizations.

Philadelphia, Penn.
Unions, organizations, corporations, and employment agencies.

Pittsburgh, Penn.
Labor organizations, employment agencies.

Milwaukee, Wis.
Same as Chicago, Ill.

River Rouge, Mich.
Labor organizations, employment agencies, city contractors or department employers.

Farrell, Penn.
Employers, employment, labor organizations.

East Chicago, Ind.
Labor unions, employment agencies.

Sharon, Penn.
Labor organizations, employment agencies.

Monessen, Penn.
Labor organizations, employers and employment agencies.

Warren, Ohio.
Labor organizations, employers.

Pontiac, Mich.
Employers, employment agencies and labor organizations.

Newark, N. J.
Labor organizations.
Erie, Penn.
Labor organizations, employment agencies and employers.

Duluth, Minn.
Labor unions, employment agencies and department of city.

**ADMINISTRATIVE OR ENFORCEMENT AGENCY**

Chicago, Ill.
None.

Gary, Ind.
Gary F.E.P.C. with five members, three appointed by the Mayor and two by the Common Council.

Minneapolis, Minn.
A commission on job discrimination. A chairman and four others appointed by the Mayor and confirmed by the City Council.

Cleveland, Ohio
Community Relations Board.

Youngstown, Ohio.
Committee of seven electors of City, appointed by the Mayor.

Philadelphia, Penn.
Philadelphia F.E.P.C. five members. Three appointed by the Mayor and two by the President of the Council.

Pittsburgh, Penn.
F.E.P.C. Commission of five members appointed by the Mayor.

Milwaukee, Wis.
None.

Council of the City or River Rough, Mich.

Farrell, Penn.
Farrell Fair Employment Practice Commission.

East Chicago, Ind.
Fair Employment Practice Commission.
DUTIES OF ADMINISTRATIVE AGENCY

Chicago, Ill.
None.

Gary, Ind.
Receive, investigate and seek to adjust.

Minneapolis, Minn.
Receive, investigate, conduct studies and surveys.

Cleveland, Ohio.
To hear complaints, attempt to adjust, persuasion conciliation, and conference.

Youngstown, Ohio.
Receive, investigate, seek to adjust all complaints by good-will and education.

Philadelphia, Penn.
Receive, investigate, seek to adjust all complaints. Carry out an educational program.
Pittsburgh, Penn.
Initiate or receive and investigate complaints.

Milwaukee, Wis.
Receive and investigate.

River Rouge, Mich.
Enforcement of all provisions of this ordinance shall be in compliance with regulations relating to trial and appeal as provided in the Charter of the City.

Farrell, Penn.
Receive and investigate.

East Chicago, Ind.
Formulate a plan of education, make studies and conference.

Sharon, Penn.
Receive and investigate, carry out an educational program.

Monessen, Penn.
Receive and investigate, publish findings, carry out an educational program.

Warren, Ohio.
Receive and investigate.

Pontiac, Mich.
Receive and adjust all complaints.

Newark, N. J.
Receive, adjust and foster mutual understanding and report.

Erie, Penn.
Receive and investigate and seek to adjust all complaints.

Duluth, Minn.
Receive and investigate all complaints conduct studies, surveys and projects.

EMPLOYMENT PRACTICE DEFINED AS UNLAWFUL OR SUBJECT TO INVESTIGATION

Chicago, Ill.
With respect to hiring, applications for employment, tenure, terms or conditions of employment.

Gary, Ind.
Refuse to hire or discriminate with respect to hire, tenure, or promotions.
Minneapolis, Minn.
To prohibit discrimination practice in employment and membership in unions.

Cleveland, Ohio.
To prohibit discrimination in employment.

Youngstown, Ohio.
To prohibit discrimination in employment.

Philadelphia, Penn.
Whenever a charge has been made by an aggrieved individual or organization.

Pittsburgh, Penn.
Refuse to hire because of race or color.

Milwaukee, Wis.
With respect to hiring.

River Rouge, Mich.
Refuse to hire because of race, color, religion or sect, labor organization, or employment agencies denying membership on quota system.

Farrell, Penn.
Refuse to hire or discriminate with respect to hire, tenure, promotion, terms, conditions, or privileges.

East Chicago, Ind.
Refuse to hire, denying membership in unions.

Sharon, Penn.
Refuse to hire or make an inquiry concerning race or color.

Monessen, Penn.
Refuse to hire or make inquiry concerning race of color.

Warren, Ohio.
Refuse to hire because of race.

Pontiac, Mich.
Any employer because of race, creed, color, religion, national origin, or ancestry.

Newark, N. J.
With respect to hiring, applications for employment, tenure, terms or conditions of employment.
Erie, Penn.
Refuse to hire or make inquiry concerning race or color.

Duluth, Minn.
To prohibit discrimination in employment and membership in unions.

DIRECT ENFORCEMENT

Chicago, Ill.
None.

Gary, Ind.
None.

Minneapolis, Minn.
Yes, the commission shall hear all complaints and recommend a municipal court prosecution.

Cleveland, Ohio.
None.

Youngstown, Ohio.
None.

Philadelphia, Penn.
Yes.

Pittsburgh, Penn.
None.

Milwaukee, Wis.
None.

River Rouge, Mich.
None.

Farrell, Penn.
None.

East Chicago, Ind.
None.

Sharon, Penn.
None.

Monessen, Penn.
None.
Warren, Ohio. None.

Pontiac, Mich. None.

Newark, N. J. None.

Duluth, Minn. None.

Erie, Penn. None.

**RIGHT TO ACT**

**Chicago, Illinois.**
No power to act.

**Gary, Ind.**
City Attorney shall invoke the aid of the court.

**Minneapolis, Minn.**
The Commission has the right to act.

**Cleveland, Ohio.**
The right to act through education and persuasion.

**Youngstown, Ohio.**
The right to act through persuasion.

**Philadelphia, Penn.**
Right to act through legislative power.

**Pittsburgh, Penn.**
Right to act through conciliation and persuasion.

**Milwaukee, Wis.**
No right to act.

**River Rouge, Mich.**
Right to act through provisions of the City Charter.

**Farrell, Penn.**
Right to act through police power.
East Chicago, Ind.
Right to act through persuasion and conciliation.

Sharon, Penn.
Right to act through persuasion.

Monessen, Penn.
Right to act through education and persuasion.

Warren, Ohio.
Right to act through conciliation and persuasion.

Pontiac, Mich.
Right to act through conciliation.

Newark, N. J.
Right to act through persuasion and education.

Erie, Penn.
Right to act through persuasion and education.

Duluth, Minn.
Right to act through conciliation.

EXCLUDED FROM ACT

Chicago, Ill.
Applies to city officials only.

Gary, Ind.
None.

Minneapolis, Minn.
Less than two employees, domestic service or religious or institutions limited to religious faith.

Cleveland, Ohio.
Religious organizations, domestic service, or less than three employees.

Youngstown, Ohio.
Religious organizations, domestic service, employers with less than twelve.
Philadelphia, Penn.
Religious organizations, domestic service and charitable organizations.

Pittsburgh, Penn.
Domestic service, religious organization.

Milwaukee, Wis.
Religious and charitable organizations.

River Rouge, Mich.
Religious, charitable and predominantly fraternal organizations.

Farrell, Penn.
Religious organizations and charitable organizations.

East Chicago, Ind.
Less than eight persons employed, or religious organizations.

Sharon, Penn.
Religious organizations or domestic service.

Monessen, Penn.
Sectarian, charitable or religious organizations.

Warren, Ohio.
Employers with less than twelve persons, or religious organizations.

Pontiac, Mich.
Religious organizations, any employer with less than twelve persons.

Newark, N. J.
Religious organizations, domestic service.

Erie, Penn.
Religious organizations and charitable organization.

Duluth, Minn.
Domestic service and religious organizations.

ILLIGAL PRACTICE

Chicago, Ill.
None.

Gary, Ind.
For any organization to discriminate because of race, color or creed.
Minneapolis, Minn.
For any organization to discriminate because of race, color or creed.

Cleveland, Ohio.
For any organization to refuse to hire or admit to labor unions.

Youngstown, Ohio.
For any organization to refuse to hire or admit to labor unions.

Philadelphia, Penn.
For any organization to discriminate because of race, color or creed.

Pittsburgh, Penn.
For any organization to discriminate because of race, creed or color.

Milwaukee, Wis.
Any employment agency operating in Milwaukee.

River Rouge, Mich.
For any organization to refuse to hire or admit to labor unions.

Farrell, Penn.
For any organization to refuse to hire because of race or religion.

East Chicago, Ind.
For any employer to refuse to hire because of race, creed or color.

Sharon, Penn.
For any labor organization or employment agency to discriminate.

Moenosan, Penn.
For any employer to refuse to hire or discriminate because of race, creed or color.

Warren, Penn.
To discriminate against any person with regard to hire.

Pontiac, Mich.
For any employment agency or employer to discriminate.

Newark, N. J.
For any organization to discriminate because of race, creed or color.

Erie, Penn.
To make inquiry concerning race, color or religion.
Duluth, Minn.
For a person to discriminate against any other person by reason of race, color, religious with respect to hiring.

MAXIMUM PENALTY FOR VIOLATIONS

Chicago, Ill.
A fine in any sum not exceeding two hundred dollars.

Gary, Ind.
Fine not to exceed three hundred dollars.

Minneapolis, Minn.
Fine of one hundred dollars or imprisonment for a period of ninety days.

Cleveland, Ohio.
One hundred dollars fine or imprisonment for ten days.

Youngstown, Ohio.
One hundred dollars fine.

Philadelphia, Penn.
One hundred dollars fine or thirty days in jail.

Pittsburgh, Penn.
One hundred dollars fine or thirty days in jail.

Milwaukee, Wis.
Ten dollars or imprisonment in the house of correction for ten days.

River Rouge, Mich.
A fine not to exceed two hundred dollars or sixty days in jail.

Farrell, Penn.
One hundred dollars fine or thirty days imprisonment.

East Chicago, Ind.
Three hundred dollars fine.

Sharon, Penn.
One hundred dollars fine or thirty days in jail.

Monessen, Penn.
One hundred dollars fine or thirty days in jail.
Warren, Ohio.
One hundred dollars fine or twenty days in jail.

Pontiac, Mich.
Not less than fifty dollars or more than one hundred dollars.

Newark, N. J.
One hundred dollars or thirty days in jail.

Erie, Penn.
One hundred dollars fine or thirty days in jail.

Duluth, Minn.
One hundred dollars fine or thirty days in jail.

APPOINTED BY

Chicago, Ill.
None.

Gary, Ind.
Three by the Mayor and two by the Common Council.

Minneapolis, Minn.
By the Mayor, confirmed by the City Council.

Cleveland, Ohio.
By the Mayor.

Youngstown, Ohio.
By the Mayor.

Philadelphia, Penn.
Mayor and President of Council.

Pittsburgh, Penn.
By the Mayor.

Milwaukee, Wis.
By the Mayor.

River Rouge, Mich.
By the Mayor.
Farrell, Penn.
By the City Council.

East Chicago, Ind.
By the Mayor.

Sharon, Penn.
By the City Council.

Monessen, Penn.
By City Council.

Warren, Ohio.
By the Mayor.

Pontiac, Mich.
By the City Manager.

Newark, N. J.
By the Mayor.

Erie, Penn.
By the Mayor.

Duluth, Minn.
By the Mayor.

SALARY PER MEMBER

Chicago, Ill.
None.

Gary, Ind.
None.

Minneapolis, Minn.
None.

Cleveland, Ohio.
None.

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POWER OF COMMISSION

Chicago, Ill.
None.

Gary, Ind.
Receive and investigate and seek to adjust, to carry out educational program.

Minneapolis, Minn.
Receive and investigate and refer to the Municipal Court.

Cleveland, Ohio.
Receive and investigate and refer to the Municipal Court.

Youngstown, Ohio.
Receive and investigate.

Philadelphia, Penn.
Receive and investigate.

Pittsburgh, Penn.
Receive and investigate and hear complaints.

Milwaukee, Wis.
None.

River Rouge, Mich.
Investigate cases.

Farrell, Penn.
Adopt and regulate.

East Chicago, Ind.
Receive, investigate and seek to adjust all complaints.

Sharon, Penn.
Receive and investigate.

Monessen, Penn.
Investigate and seek to adjust all complaints.
Warren, Ohio.
Investigation.

Pontiac, Mich.
Receive and investigate.

Newark, N. J.
Receive and investigate.

Erie, Penn.
Receive and investigate.

Duluth, Minn.
Receive and investigate.

REVIEW AND ENFORCEMENT

Chicago, Ill.
None.

Gary, Ind.
Review by City Attorney and Courts.

Minneapolis, Minn.
By the Fair Employment Practice Commission or Minneapolis.

Cleveland, Ohio.
Public hearing by Community Relations.

Youngstown, Ohio.
None.

Philadelphia, Penn.
By the City Solicitor.

Pittsburgh, Penn.
By the City Solicitor.

Milwaukee, Wis.
None.
River Rouge, Mich.
None other than described in the City Charter.

Farrell, Penn.
By the City Solicitor.

Sharon, Penn.
By the City Solicitor.

Monessen, Penn.
By the City Solicitor.

Warren, Ohio.
By the City Solicitor.

Pontiac, Mich.
By the City Solicitor.

East Chicago, Ind.
By the use of education and persuasion and conciliation.

Newark, N. J.
By the City Solicitor.

Erie, Penn.
By the City Solicitor.

Duluth, Mich.
By the City Solicitor.

APPROPRIATIONS

Chicago, Ill.
None.

Gary, Ind.
None.

Minneapolis, Minn.
None.

Cleveland, Ohio.
None.
Youngstown, Ohio.
None.

Philadelphia, Penn.
None.

Pittsburgh, Penn.
None.

Milwaukee, Wis.
None.

River Rouge, Mich.
None.

Farrell, Penn.
None.

East Chicago, Ind.
None.

Sharon, Penn.
None.

Monessen, Penn.
None.

Warren, Ohio.
Provided by the City.

Pontiac, Mich.
None.

Newark, N. J.
None.

Erie, Penn.
None.

Duluth, Mich.
None.
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PERIODICALS


LEGISLATION FOR FAIR EMPLOYMENT PRACTICES


