

WSM
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Good morning friends. The cloud of the FEPC bill has hung ^{heavily} over this session of Congress influencing in one way or another the proceedings of nearly every day of Congress. Everyone knew that sooner or later the issue must be joined, the battle must be fought. Finally it came on last Wednesday and raged throughout the day, throughout the night, ^{and the next day} finally coming to a decision in the middle of the afternoon ^{Thursday} ~~of the next day~~. The result, as you know, was a smashing victory for the southerners and the moderates on the question. If a vote could have been taken at the time the bill was taken up I believe it would have passed by a 40-50 vote majority. But by using every parliamentary maneuver available ^{to us} the vote was delayed and debate continued. Like chipping small flakes from a large stone we, the opponents of the bill set out to strip from the bill all its fancy raiment and leave its fallacies exposed for all to see. I believe all were surprised at the defects in the bill which came to light. I believe, too, that all members were surprised at the temperate and deliberate manner in which the battle, furious though it was, was waged. Only a very few members either lost their tempers or their sense of values and balance. Yes, I think it was a compliment to the House of Representatives and also an attestation to the gravity of the issue that the debate was conducted in a calm and deliberate manner. ~~I said~~ ^{The} issue was and is a grave one. There is no denying that serious discriminations are practiced against some of our minority racial groups. Nor are these discriminations confined to the South. Of course, very, very rapid strides in the direction of understanding,

tolerance and Christian brotherhood have been made in recent years and
*This process will continue unless interrupted
by some unwise attempt to force the issue
too rapidly.*
are in ~~rapid~~ rapid progress now. ~~but~~ It is my own opinion that all of us

as individual citizens, that we as communities and as a Nation must examine
this problem, truly
our own hearts and as a result of this introspection approach, one of the *most*
troublesome ~~problems~~ of our day, with compassion, understanding and *christian*
tolerance. This method is the surest means of protecting *+ widening* the area of
development of
freedom and economic equality. This method of education and *social* consciousness,
~~however,~~ would have been largely ignored by the FEPC proposal that was brought
before the Congress. It would have substituted instead the force of the
Federal government. It would have undertaken to make one man more free
by making another less free. It proposed to outlaw the *human* ~~economic~~ equation,
to nullify the individual differences of human beings, their likes and
dislikes. I do not believe this problem can be solved by such force bill
methods. ~~Of course, the name of the bill "Fair Employment Practices"~~
~~has an appeal.~~

Mr. Speaker:

I am opposed to the FEPC. It is impossible to make one person more free by making another less free.

It is also impossible to nullify by law the human equation - the individual differences, likes and dislikes of human beings.

~~The proposed FEPC, if adopted,~~ ^{it} would prove to be a cruel delusion and a snare for ~~a large group of~~ ^{the very people it proposes to help. They are a} our fellow citizens ^{are,} ~~who,~~ in my opinion, ~~are~~ ^{and are} entitled to more sympathetic ^{something better than} treatment and tolerance. ~~It is a political trick. - nothing more, nothing less. That is the purpose of this proposal. That will be the result of this effort.~~

Bereft of its political appeal, the FEPC proposal stands naked and ugly as a proposal to force individual American citizens into courses of action not only detrimental to their economic welfare but actions which, ~~by reason of this force bill,~~ would operate as a despotic infringement upon the liberty of the whole people.

Flaw after flaw in the bill was revealed. Impracticality became stamped upon the measure in the minds of a majority of members of the House. It was along near midnight that the cumulative force of this policy of disrobing and exposure of the shortcomings of the bill, this policy of taking it apart piece by piece for examination began to tell. We began to pick up votes in ones and twos on both the Democratic and Republic^{an} side and finally even before the vote upon substitution of a milder measure came it was apparent to all that the drastic provisions of the Administration bill had no chance of passage, and so it was that a mild bill setting up an advisory and consultatory fair employment commission was substituted for the drastic bill which would have imposed severe fines and jail ^{sentences} ~~penalties on employers for infringements~~ of the ^{admin} ~~provisions of the~~ stringent bill. The issue now goes to the United States Senate where a long fight and filibuster is in prospect.

Mr. WHITTINGTON. Mr. Chairman, the provisions of the pending bill are substantially the same as those of H. R. 2232, Seventy-ninth Congress, first session, reported by the Committee on Labor but never passed by the House. I submitted the best arguments that I could in opposition to that and similar bills on July 5, 1945, and on July 12, 1945, as I had previously submitted the best arguments that I could on May 26, 1944, against similar legislation.

THE NAME

There is something in a name with which to conjure. It sounds all right to provide for fair-employment practice. All citizens want to be fair, but a name may be deceptive. The proposal is by regulation and by statute to require all employers with 50 or more employees and all Federal departments and agencies to eliminate discrimination in regard to hiring, and terms, or conditions of employment because of race, color, religion, ancestry or national origin. The proposal sounds well, but a name may be misleading. The important matter is not the name but the purpose behind the name. The bill might better be called "Unfair Employment Practice Act."

THE PURPOSE

The purpose is to prohibit discrimination because of race or color. There are prejudices against creeds and there are prejudices against races. These prejudices are not created by law and they cannot be changed by law. The relation between employer and employee, like the relation between master and servant under the common law, is intimate. We like to select our associates. We like to employ those who are congenial. We want to know about their fitness. We are to be the judges. The liberty of choosing employees is a part of free enterprise. It is a liberty protected by the Constitution. Under the fifth amendment, a citizen cannot be deprived of his life, liberty, or property without due process of law.

TWO APPROACHES

There are two approaches to the difficult problem of employment. One is voluntary, is by mediation, is by education, and is by tolerance. The other, and that is the matter that is pending now, is rather in the nature of compulsion.

RACIAL AND RELIGIOUS PREJUDICES

I oppose religious prejudices. I oppose racial prejudices. I believe, however, in the freedom of religion. I believe in fairness for all races. Force and compulsion are the wrong way to correct. They will stir up racial and religious prejudices. The proposal strikes at the fundamentals of liberty and of free enterprise. Racial feeling will be accentuated. The proposal is social and political dynamite. We are throwing the experience of the ages to the winds. The proposal plays into the hands of those who would remake and reform our institutions and our economy to conform to their social views. The purpose, to eliminate discrimination, can best be achieved by cooperation.

Through the ages, moral and ethical values have not been frozen at a new

level by the passage of laws. The proposal will set the clock back and will hurt the people it is intended to help. It will make the life of every employer miserable. It will result in unhappy, if not violent disturbances everywhere.

History and experience prove that you cannot legislate tolerance and morals into people. Compulsion injures the cause to eliminate discrimination. Force will retard the educational progress now being made. Man has always responded more willingly to a plea than to a command. I know of no better ethics than the Sermon on the Mount. I know of no fairer philosophy than the Golden Rule. But I am not a Socialist. If a citizen believes in the principles of the Socialist Party, I accord to him the freedom of his conviction. I think it would be a mistake to force any creed, any ethics, or any philosophy on any people. The better way is freedom of choice and the tolerance of views.

Burning resentment from forced employment will furnish fuel for racial disturbances and will foment rather than eliminate racial prejudices.

BIG BUSINESS AND SMALL BUSINESS

Generally the large business firm is able to take care of itself. They are familiar with labor problems. They have their lawyers. But the small-business man has trouble enough with bureaucracy now. The pending legislation will further harass him. He already has to comply with too many rules and regulations. There are too many investigators. The crux of the pending bill is that it will absolutely paralyze small business.

HYPOCRISY

The argument that the bill implements fair-labor practices is pure hypocrisy. The bill takes away the right that every American enjoys of choosing his own employees. It subjects the employer to the charge of prejudice and discrimination every time he hires and discharges, but that is not all. The bill makes the charge a criminal offense and at the same time deprives the citizen the right of trial by jury. No bill ought to deprive the citizen of his right to trial by jury in a criminal prosecution.

PRIVATE ENTERPRISE

The bill is applicable to all employers, including merchants. It strikes a fatal blow at free enterprise. A man's success or failure in business and in farming depends upon his employees, upon a merchant's or a farmer's ability to select dependable, loyal, industrious employees to assist him in the operation of his business or his farm or his enterprise. Under the terms of the bill the commission could say: "You must hire this man. You must fire that man. You must promote the other man."

COMMUNISM AND SOCIALISM

Communists and many Socialists advocate compulsory Federal laws to compel men to associate, whether in work or play, with persons with whom they are unwilling to work or play. Communism thrives on strife and disorder. The Communists know that the pending bill will promote disorder. They know that it will foment strife. I am unable to see how those who favor the private en-

terprise or capitalistic system can support compulsory employment. Through the ages the moral right of free men to choose companions is so clear and the moral wrong of compelling him to accept an offensive companion is so apparent that it is difficult to conclude that those who believe in free enterprise can support the pending bill or similar legislation.

PROVISIONS

I shall not discuss in detail the provisions of the bill. I believe it to be thoroughly unconstitutional. I refer to only a few provisions of the bill. The proposed Judicial Review is a misnomer. I have always opposed the refusal of a trial by jury for a criminal offense. The Federal agents are both jurors and prosecutors. The citizen is denied, I repeat to emphasize, the right to trial. He may be in contempt for failure to pay back wages.

UNENFORCEABLE

A moment's reflection will convince a thoughtful man that the bill is unenforceable. How can a commission in Washington regulate and provide employees for all of the employers in the 48 States of the Union? It would be the super-duper bureaucracy of the age.

RACKETEERS

The enactment of the bill would provide a fertile field for racketeers, blackmailers, and shysters. Merchants and farmers would be subjected to harassment by troublemakers and disgruntled job seekers. The small-business man, rather than hire a lawyer, rather than go to court, rather than take up the matter with Washington, might choose to pay the disgruntled employee rather than be supervised by the Commission.

CONSTITUTIONALITY

There are grave constitutional objections. The bill declares that the right to work without discrimination is an immunity. The immunity and privileges of citizens can only be provided by the Constitution. They cannot be provided by statute. While the bill undertakes to relate employment to commerce, this is not the final hurdle. The fifth amendment to the Constitution still obtains. The right to employ, I assert, is a liberty within the meaning of the fifth amendment.

CONCLUSION

The bill will not provide a single job. There is no occasion for the legislation. The remedy is good will. The remedy is voluntary, not compulsory. All Americans believe in the Constitution. That Constitution protects the privileges and immunities of all citizens regardless of race, creed, or color. Any statute that undertakes to restrict or deprive a citizen of such privileges or immunities would be in violation of the Constitution.

Legislation regulating employment is for the State. Congress is without authority to regulate employment. The bill undertakes to implement employment with interstate commerce. I do not believe, however, the implementation will make the legislation constitutional. New York, New Jersey, Massachusetts, Connecticut, and Rhode Island, as I understand, have adopted so-called fair-employment acts. California, Ohio,

Pennsylvania, and other States have declined to pass such acts. The jurisdiction is for the State and not for the Federal Government.

The bill, if passed, would do more harm than good. It would hurt business. It would be unfair to employers. It would not help employees. In fact, it would do employees a distinct disservice.

It is said that the pending bill will be of benefit to Negroes. The vast majority of Negroes live in the South. There is no material demand from the South, either from the white or Negro race for the passage of the pending bill. We know that all of the legislation conceived by man, implemented by police force and courts, cannot change man's thoughts, if he is not willing for that thought to be changed. We know that making laws is not enough. We know that there must be understanding. There must be tolerance. There must be cooperation. And in the South today there is understanding and cooperation between the white people and the colored people of the South. I emphasize that the pending bill would do the Negro race vastly more harm than good.

Under labor legislation it is a discrimination to refuse to employ a person because he is a member of a union. Why not extend and make it unlawful to refuse to employ a person merely because he is not a member of a union?

Commissions and associations whose aim is to prevent discrimination by cooperation is one thing, but commissions and associations to force employment and by compulsion to prevent discrimination is another thing. The pending bill is not only unconstitutional but it is unworkable. It would hurt the people it is intended to help. It is destructive to the American way of life and to the American system of free enterprise. It is destructive to American business. It is un-American and ought not to be passed.

Mr. GRANT. Mr. Chairman, here on Washington's birthday, we, of all times, are considering the notorious FEPC bill. I am sure that all of us listened intently to the reading of George Washington's Farewell Address. We find many warnings that should be heeded.

From the time of Washington down to this good hour, this Nation has been able to prosper and to become the envy of the world. This has been possible because of a minimum of Federal regulation. The more we regulate the individual citizen, the further we go along the road to socialism. There has been much said the past several years by employees of the State Department to the effect that we must have this type of legislation in order to show the rest of the world that we believe in civil rights. I note that this declaration is written into the present bill under discussion. It does not seem sufficient for this Nation to burden future generations with a huge tax burden and deplete our national resources in keeping up the rest of the world, but now, in addition thereto, and in an effort to get the rest of the world to accept our benevolence, we must pass such legislation.

In other words, we must copy the totalitarian government's philosophy in or-

der to combat communism. This is the wrong approach. No nation on earth today allows as much freedom of employment as ours. When our Government tells an employer just who he can employ and who he cannot employ, we are then following the nations whose philosophy we claim to be fighting.

I appreciate the fact that it is claimed in this legislation that it makes for security of the employee, but, as General Eisenhower correctly stated some months ago, if that is all we want, "security can be secured by going to jail." During the war, by Presidential order, a so-called FEPC was set up, something of a volunteer system. No one made any serious objections at that time, as there was a war to win. However, after the war, it was the same old story. A bureau had been built up and instead of folding up, as everyone expected, they began an agitation to build up a big organization and it was hard to kill them off, although there was no legislation by Congress establishing such agency.

This is dangerous legislation. I have heard some express themselves to the effect that it would be a good thing to pass this legislation and then let the country see just what shape it would place us in. I want to warn you right now against any such idea, for once you set up this measure it will grow by leaps and bounds, and it will be hard for us to get rid of it, no matter how bad it becomes, for once the people give up their liberties it is hard to get them back again.

This legislation is unconstitutional. However, I know how futile it is to argue this point today. I am not one to charge the proponents of this bill as being Communists. I yield to them that degree of sincerity that I know they yield to me. The tragedy of the whole thing is that the Nation is looking in the main to southern Representatives to defeat this legislation. I say this is tragic, because I believe that it is a great national question and not a sectional one. I know that the great majority of the southern Members of Congress are interested in the people that they serve, without regard to race, color, or creed. The best friend that the Negro has in the South is the white man. The destiny of each race is indelibly linked with that of the other. If one race makes progress so does the other. The Negro race has held down the South because of his economic status. We of the South have been intelligently attempting to raise the economic status of the Negro. We have been making progress in this effort. We need the help and cooperation of other sections of the country and not so-called do gooders, who cannot separate social equality from economic equality. What chance does a Negro have to be a bellboy or waiter in the clubs and hotels of the North? I recall that when war was declared upon Germany, Italy, and their allies, that many of the waiters here in Washington had to be interned because they were aliens. Some of the proponents of this legislation will turn down a good Negro and then give a job to some alien who cannot speak English very well. Then they jump on the South for the treatment that we give the Negroes.

Economic opportunities to the Negro in the South are opening faster and faster. They are employed in places in the South where you would not employ them in many other sections of the country. So do not criticize southern Congressmen for objecting to this bill. It will not help the Negro. I wonder what is behind it anyway when you provide that an employer shall not discriminate against anyone because of national origin? Does this mean that a foreigner can come to the shores of this country and stand on the same footing as an American citizen? This seems to be the intent of the legislation. This one thing alone should defeat the bill.

The enactment of this legislation would do more harm to the Negroes of the South than anything else. It is unfortunate that the South must bear the burden of opposition to the bill. A majority of the people of all other sections of the country are against this legislation. In many States where a referendum has been held similar to that in California, the people overwhelmingly voted against it. This bill makes many pious statements which are not based upon facts. What does it provide? First, it shall be an unlawful employment practice for an employer to refuse to hire, discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, color, religion, ancestry, or national origin. Now, let us see what happens. The person who claims that he was aggrieved can file a charge, or someone else can file it on his behalf, or a charge can be filed by a member of the Commission. Now, that is taking in a lot of territory. You will note that it is not limited to the aggrieved person, but to any outsider who is interested in fomenting and stirring up race hatred. Not only that, but it provides that any member of the Commission, and for the purpose of this legislation, the term "Commission" means any employee or agent of the Commission, can file charges. This means that there would be thousands upon thousands of meddlers and agents continually stirring up trouble. It could become worse than the Gestapo. It could drive honest people out of business. It is cruel and despicable legislation.

Talk to me about civil rights, what civil rights does an employer have under this legislation? Absolutely none. Let us go a step further. When this charge has been filed, the Commission investigates and, after such preliminary investigation if it finds the proper cause exists for such charge, it shall endeavor to eliminate any unlawful employment by informal conferences, and so forth. If this does not secure the results required by the Commission, then the employer is given notice to appear before the Commission or an agent of the Commission for trial. Now, let us see where the trial is to be held. Is it in the county where the employer lives? Is it in the State in which he resides, or somewhere else? The employer can be hauled before an agent or the Commission at any place that it designates—in Washington, D. C., Los Angeles, California, or Port-