

The Party of Lincoln and the Politics of State Fair Employment Practices Legislation in the North, 1945–1964¹

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From 1945 to 1964, more than a score of northern states passed laws mandating nondiscrimination in employment. Why did some states pass such fair employment practice (FEP) laws much more slowly than other states? This article presents archival and statistical evidence that partisan control of policy-making institutions—namely, Republican control of “veto points” in the legislative process—is associated with a substantial reduction in the likelihood that a state would pass FEP legislation, even when controlling for potentially confounding variables. This finding casts doubt on the leading account of the electoral realignment that began in the mid-1960s and culminated in the Reagan-Bush years. Well before the advent of affirmative action, key numbers of GOP officeholders—allied with organized business and motivated by a free-market, antiregulatory ideology—worked successfully to block the adoption of *color-blind* laws mandating formal racial equality.

The history of civil rights in the United States is often seen as reaching a luminous summit with the enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. This

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triumvirate of legislation is undoubtedly a historic achievement. While the deepest hopes of their backers went unfulfilled and the darkest fears of their critics failed to materialize, civil rights bills of comparable breadth and import had not cleared Congress since Reconstruction (Klinkner and Smith 1999).

The legislative successes of the mid-1960s are worthy of the prominence given them, but they have had the effect of overshadowing the conflict over civil rights that began sweeping “northern” states at the close of the Second World War.² It is only vaguely remembered that more than 50 pieces of civil rights legislation mandating fair employment, open accommodations, and fair housing were passed by northern state legislatures from the 1940s to the 1960s (Lockard 1968). Of these, state fair employment practice (FEP) laws were the most significant, politically and economically.³ State FEP laws prohibited racial, religious, and national origin discrimination in public and private employment—that is, they mandated nondiscrimination in employment. For enforcement, most laws also created a new state agency, usually called a Fair Employment Practice Commission (FEPC). The first FEP law was passed by New York State in 1945 (Chen 2006). By 1964, when the operation of state FEP agencies was incorporated into Title VII of the Civil Rights Act, 28 states had passed FEP bills of one kind or another (Bureau of National Affairs 1964*a*, p. 57; 1964*b*, pp. 66–67, 93, 257; Lockard 1968, p. 24).

This 20-year burst of legislation gives credence to Justice Brandeis’s metaphor that the states are the laboratories of democracy, but if his metaphor remains felicitous, it is also clear that the laboratories of democracy were not all created equal. States varied considerably in the timing of their legislation. New Jersey passed an FEP law in 1945, following the lead of New York. By contrast, Ohio and California did not pass such legislation until 1959. Why were some states clearly more willing to experiment with civil rights than other states?

Almost any observer of contemporary American politics would think that partisanship must have played a critical role. Few things today continue to divide the parties more starkly than their racial politics (Brooks 2000). However, according to the prevailing theory of the electoral realignment that unfolded from the mid-1960s to the early 1980s, partisanship

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² I use the term “northern” to designate states outside the South, which I define, following V. O. Key (1949), as the 11 states belonging to the former Confederacy.

³ The impact of FEP laws on black labor market outcomes is the subject of much research. See Collins (2003*a*), Neumark and Stock (2001), and Landes (1967, 1968).

could not have been relevant in the 1940s and 1950s; civil rights was simply not a partisan issue in those earlier decades (Carmines and Stimson 1989; Edsall and Edsall 1991; Thernstrom and Thernstrom 1997). *Before* 1964, as this view goes, members of both parties were supportive of civil rights. For instance, Republicans and northern Democrats strongly endorsed congressional legislation against lynching and poll taxes. Civil rights became a defining axis of partisan conflict only *after* 1964, when the rise of color-conscious policies like affirmative action and busing precipitated a “backlash” that contributed to the eventual breakup of the New Deal coalition. Indeed, it was only with Barry Goldwater’s run for the presidency that Republicans began to oppose civil rights policies, largely on ideologically conservative grounds (i.e., government should have a limited role in regulating the behavior of private individuals). That same year, Democrats began to consistently embrace civil rights policies on ideologically liberal grounds (i.e., government should have a robust role in regulating the behavior of private individuals). Their strong support for civil rights alienated key members of their electoral coalition—southern whites and northern white ethnics—driving them once and for all into the welcoming arms of the GOP. The current configuration of the U.S. electoral system has thus stemmed from a *post-1964 polarization* of the parties on race and policy, and it makes little sense to ask whether legislative timing of state FEP laws during the 1940s and 1950s was related to the balance of partisan forces.

However, there are reasons to doubt this view. The results of previous research are far from conclusive. Moreover, there is considerable evidence in the primary sources to suggest that Republican officeholders—motivated by a mix of ideological and political considerations—proved far less supportive of state FEP laws than northern Democratic officeholders. Indeed, it appears that key numbers of Republicans opposed the passage of state FEP legislation, using their control of various “veto points” in the legislative process to defeat or delay the passage of such laws.

This article examines the role of partisanship in the politics of state FEP legislation in the postwar United States, drawing on both qualitative and quantitative evidence. It tests the hypothesis that Republican control over veto points slowed the adoption of FEP laws. This enterprise is more than a dry, historical exercise. Evidence on the negative effect of GOP control would bolster a theoretical tradition that identifies political parties as a major, independent force in the policy-making process (Huber, Ragin, and Stephens 1993; Amenta 1998). Furthermore, such evidence would also provide a compelling reason to rethink the fundamental causes of the electoral realignment in national politics that began in the 1960s. Republican opposition to “color-blind” laws like FEP would demonstrate that ideologically conservative objections to civil rights policy were a

significant component of GOP politics long before the “color-conscious” turn in public policy. This finding would, at minimum, run directly counter to the priors implied by the orthodox account. More provocatively, it would suggest that if affirmative action had not risen to political prominence in the late 1960s, Republican strategists would have simply sought out another racial wedge issue with which to split the New Deal coalition and build a new electoral majority. Indeed, it would strengthen Sugrue’s provocative suggestion—based on his study of Detroit—that the fall of the New Deal coalition and the “defection of whites from the Democratic ranks” stems from far deeper sources than the political overreach of the civil rights movement (Sugrue 1996, p. 267).

This article proceeds in five sections. The first section provides background on the origins and operation of state FEP laws. A second section outlines and assesses the dominant theory of electoral realignment. The third section draws on archival evidence to sketch out the politics of state FEP legislation as well as to motivate and formulate the hypothesis. A fourth section discusses the construction of the appropriate state-year data set and describes the event-history methods used in the empirical analysis. The fifth section presents the results of the empirical analysis. The results show that the passage of FEP laws varies inversely with Republican control of veto points—even when controlling for other variables commonly associated with policy innovation. Although unobserved heterogeneity and omitted variable bias cannot be conclusively ruled out, it appears that the results are robust to a variety of fairly stringent checks. The final section weighs the theoretical significance of the empirical evidence and suggests new directions for future research on American racial politics, electoral realignment, and the political sociology of policy making.

THE ORIGINS AND OPERATION OF STATE FEP LAWS

The political genesis of state laws against discrimination can actually be traced to federal action taken during the years of the Second World War. In 1941, President Franklin D. Roosevelt issued Executive Order 8802, prohibiting racial and religious discrimination in defense-related employment and establishing the Fair Employment Practice Committee (FEPC) to track compliance. Roosevelt’s order opened up a new chapter in the black freedom struggle. Not since Reconstruction had any branch of the federal government intervened so actively to protect the civil rights of African-Americans. Yet the president did not act out of moral conviction so much as a keen desire to halt the growing political threat posed by a surging wartime movement for black equality, known as the March on Washington Movement (MOWM). Led by black unionist A. Philip Ran-

dolph, MOWM had been demanding the racial integration of the entire national defense program, including military service and war production. Roosevelt categorically refused to integrate the military on the eve of war, worried that he would infuriate either his defense chiefs or powerful southern Congressmen. But he was less wary of integrating war jobs, and he sought to defuse Randolph's threat to march on the nation's capitol by creating the FEPC instead (Kesselman 1948; Ruchames 1953; Reed 1991; Garfinkel 1959; Klinkner and Smith 1999; Kryder 2000).

Although the wartime committee possessed scant enforcement authority, it nevertheless spawned a cloud of controversy from which it never fully escaped. The most venomous opprobrium surfaced in the rhetoric of southern demagogues like Theodore Bilbo (D-MI). But the committee also attracted the reproach of conservative Republicans like Robert A. Taft (R-OH), who considered it a dangerous aggrandizement of federal authority over private economic activity (Patterson 1972, p. 403; Chen 2002). In 1944, because of southern hostility, Roosevelt reconstituted the FEPC through a second executive order. By 1946, however, even the second FEPC had fallen. Congress had rejected legislation that would have given the FEPC a statutory basis, eventually leading it to close down operations (Kesselman 1948; Ruchames 1953; Reed 1991).

The FEPC barely outlived the war that had given rise to it, but the committee nonetheless had a lasting influence on the politics of civil rights. Its most direct consequence was to solidify the existence of a new bipartisan, interracial, interfaith bloc of liberals who worked through the normal channels of electoral politics to establish a new FEPC in the mold of the National Labor Relations Board (Graham 1990; Chen 2002). Beginning in 1944, liberals introduced scores of FEP bills into Congress. Leading the campaign were northern Democrats like Hubert Humphrey (D-MN) and liberal Republicans like Irving M. Ives (R-NY). Although they eventually achieved limited success with the Civil Rights Act of 1964, liberal aspirations for FEP legislation—particularly during the Truman years—were continually frustrated by a conservative coalition of Republicans and southern Democrats (Burstein 1985; Katznelson, Geiger, and Kryder 1993; Santoro 2002; Chen 2002).

In response, liberals turned to state legislatures, where they thought prospects for success were better. It would become clear over time that they had assessed their chances correctly. In 1945, 16 state legislatures wrestled with FEP proposals at various stages of the legislative process (American Council on Race Relations 1945, p. iii). That year, New York became the first state to adopt FEP legislation when Governor Thomas E. Dewey signed the Ives-Quinn Bill (Chen 2006). By 1964, when Congress began to seriously consider omnibus civil rights legislation, 28 states

had already passed FEP legislation of one type or another (Bureau of National Affairs 1964*a*, p. 57; 1964*b*; Lockard 1968).

The regulatory scope of such legislation was comparable. Most laws followed the New York model by declaring it unlawful for employers, employment agencies, or labor organizations to discriminate against a person in almost every phase of the employment relationship, from hiring and promotion to termination. Moreover, most laws prohibited discrimination on account of race, color, religion, national origin, or ancestry. Finally, most state FEP laws applied to discrimination in both public and private sectors of employment (Bureau of National Affairs 1964*a*, pp. 57–65; Lockard 1968).

Of the 28 states passing a fair employment law, only three passed voluntary laws that lacked enforcement provisions. The other 25 laws were at least nominally enforceable through civil proceedings or criminal penalties. Most laws relied on the NLRB-style framework of administrative regulation that Congress had repeatedly rejected (Graham 1990). This framework required individuals to take complaints of discrimination not to a court of law but rather to a state commission. Such commissions were typically given the authority to hold hearings, subpoena witnesses, compel testimony, and initiate conciliation proceedings if they made a determination that discrimination had occurred. If a commission could not elicit voluntary compliance with the law from the companies or unions involved, it had the authority to order the offending parties to cease and desist from their discriminatory practices and take “affirmative action” to compensate the victims of discrimination for the harms they had suffered. Any such orders were typically subject to judicial review (Bureau of National Affairs 1964*a*, pp. 57–65; Lockard 1968).

If their design was broadly similar, state FEP laws nevertheless varied in the timing of their passage. It is clear from table 1 that the laws did not pass in a steady progression. In the mid-1940s, northeastern states like New York, New Jersey, Massachusetts, and Connecticut were clear pioneers. Three western states—Oregon, Washington, and New Mexico—adopted FEP laws at the end of the 1940s. There followed a temporary lull, but the mid-1950s saw another acceleration of adoption, led by Michigan and Minnesota. A group of laggards, including California, Illinois, Ohio, and Missouri, finally passed FEP laws in the late 1950s and early 1960s. By 1964, considerably more than a majority of the states outside the South had passed enforceable FEP laws. This was a major historical achievement. But why had some states taken longer to pass FEP legislation than other states?

TABLE 1
THE PASSAGE OF STATE FEP LAWS IN NON-SOUTHERN STATES, 1945-64

Year	State(s)	Annual Frequency	Cumulative Frequency	Cumulative Percentage
1945	New York, New Jersey	2	2	5
1946	Massachusetts	1	3	8
1947	Connecticut	1	4	10
1948				
1949	New Mexico, Oregon, Rhode Island, Washington	4	8	21
1950				
1951				
1952				
1953	Alaska	1	9	23
1954				
1955	Michigan, Minnesota, Pennsylvania	3	12	31
1956				
1957	Wisconsin, ^a Colorado	2	14	36

TABLE 1 (*Continued*)

Year	State(s)	Annual Frequency	Cumulative Frequency	Cumulative Percentage
1958				
1959	California, Ohio	2	16	41
1960	Delaware ^b	1	17	44
1961	Idaho, ^b Illinois, Kansas, Missouri	4	21	54
1962				
1963	Vermont, ^b Indiana, ^a Iowa, ^b Hawaii	4	25	64
1964				
Total		25	25	64

SOURCES.—Bureau of National Affairs 1964a, p. 57; 1964b, pp. 66–67, 93, 257; Lockard 1968, p. 24.

NOTE.—Following V. O. Key (1949), I define the South as the 11 states once comprising the former Confederacy. States altogether failing to pass fair employment practice laws before congressional passage of the 1964 Civil Rights Act include Arizona, Kentucky, Louisiana, Maine, Maryland, Montana, Nebraska, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming. No southern state (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia) passed an FEP law. States passing nonenforceable FEP laws include Wisconsin in 1945, Indiana in 1961, Nevada in 1961, West Virginia in 1961, and Oklahoma in 1963.

^a Preexisting commission given administrative enforcement powers in the form of cease-and-desist authority.

^b Civil or penal enforcement.

RACE AND THE REALIGNMENT OF THE PARTY SYSTEM

A number of prominent studies in political sociology (Huber et al. 1993; Amenta 1998) would suggest that political parties were at least partly responsible for variation in the legislative timing of state FEP laws in the 1940s and 1950s. After all, few issues define the difference between the two major parties more clearly than their stance and behavior on civil rights (Brooks 2000).

Yet one of the most influential theories of race and the party system, which was formulated to explain the electoral realignment that began in the 1960s and came to full fruition in the Reagan-Bush years, would predict that partisanship was largely *unrelated* to the passage of state FEP legislation. This theory begins with the claim that the two parties did not differ starkly in their position-taking on civil rights in the 1940s and 1950s. As two of the most prominent scholars of realignment write, “issues of race were not partisan issues” before 1964 (Carmines and Stimson 1989, p. 184). The two sides of the debate were not Republican or Democratic. “Before 1964 the two sides of the racial debate were progressivism and racism” (Carmines and Stimson 1989, p. 190). Indeed, *both* Republicans and northern Democrats were clear adherents of progressivism, or racial liberalism, as Carmines and Stimson call it elsewhere in their seminal study. Racial liberals believed that government should play a substantial role in the protection of civil rights. For instance, Republicans and northern Democrats strongly supported Congressional legislation aimed at eradicating lynching and abolishing the poll tax. Their main opposition was southern Democrats, many of whom were motivated by segregationist or supremacist commitments. Hence racial politics bore no systematic relationship to partisanship. “Advocates of racial liberalism,” write Carmines and Stimson (1989, pp. 184–85), “were to be found equally among northern Democrats and Republicans. Hostility to the aspirations of black Americans was almost exclusively the province of the southern wing of the Democratic party.”

According to this orthodox view, it was *after* 1964 that civil rights developed into a touchstone of partisan identity. The standard argument is that key numbers of Republicans began to oppose civil rights only after Arizona senator Barry Goldwater shattered the old GOP mold in his unsuccessful bid for the presidency (Carmines and Stimson 1989, p. 190). Their opposition was grounded not in racial animus—as opposition to civil rights had been in the past—but rather in a revitalized commitment to free-market, antiregulatory ideology. According to Carmines and Stimson, “Barry Goldwater was not a racist, nor was his band of ideological followers.” Instead, he and his allies mounted a distinctively “ideological opposition” to the “new civil rights initiatives” of the era; they worried

that such initiatives “undermined free-market capitalism, constrained individual freedoms, and led to inefficient overpowerful government” (Carmines and Stimson 1989, p. 190). This newfound, ideological opposition to civil rights by Republicans would eventually “break the tie of southern whites to the Democratic party” by giving them a socially acceptable basis for rejecting the federal role in the protection and promotion of civil rights. In short, it would permit race and civil rights to become highly partisan issues (Carmines and Stimson 1989, p. 188). Goldwater’s ideologically inflected opposition to civil rights facilitated the exodus of white southerners from the Democratic Party, a development that would eventually make it into the party of racial liberalism. At the same time, it encouraged erstwhile Democrats to cast Republican ballots, transforming the GOP into the party of racial conservatism.⁴

If the ideological shift symbolized by Goldwater was a critical ingredient in party polarization, it was not enough by itself to make the change durable. The long-term realignment of race and the party system, according to the orthodox view, was decisively “reinforced by a change in the civil rights agenda itself,” which “shifted away from an initial, pre-1964 focus on government guarantees of fundamental citizenship rights (such as the right to vote and the right to equal opportunity), and shifted toward a post-1964 focus on broader goals emphasizing equal outcomes or results for blacks, often achieved through racial preferences” (Edsall and Edsall 1991, p. 7). The advent of racially attentive policies like affirmative action solidified the polarization of the parties on the issue of race and civil rights.⁵

Affirmative action is believed to have precipitated the transformation of the relationship between race and the party system in two specific

⁴ For the sake of analytical clarity, I should reiterate that I use “racial conservatism” and “racial liberalism” to distinguish two different sets of beliefs about the proper role of government in protecting civil rights. Generally speaking, racial liberals support some form of government involvement in the protection of civil rights. By contrast, racial conservatives prefer a limited role for government and instead advocate private or voluntary approaches to civil rights. Racial conservatives oppose government policy making on civil rights on the grounds that it represents unwarranted and inefficient government interference in the private marketplace. Again, racial conservatism should not be confused with—or be seen necessarily to stem from—racial animus or racism. My usage of these terms closely tracks the usage of Carmines and Stimson (1989, p. 190).

⁵ Edsall and Edsall (1991) are not alone in arguing that the mid-1960s marked a shift in the orientation of the civil rights movement and public policy. Authors of varying political commitments have made similar observations, including Sleeper (1990), Thernstrom and Thernstrom (1997, pp. 179–80), and Matusow (1984). Important accounts of affirmative action include Graham (1990), Quadagno (1994), Skrentny (1996), Pedriana and Stryker (1997), Sugrue (2004), Lieberman (2005), MacLean (2006), and Frymer (in press).

ways. Its embrace by the Democratic Party touched off a ferocious white backlash against civil rights that shattered the “New Deal Democratic ‘bottom-up’ coalition” of northern workers, African-Americans, and white southerners (Edsall and Edsall 1991, p. 5). Color-conscious policies toppled a New Deal coalition that was already stumbling badly. Just as important, affirmative action enabled Republican officeholders and candidates to justify their emerging opposition to civil rights without appearing manifestly bigoted. If the opposition of many southern Democrats once stemmed from a belief in black inferiority, then the advent of affirmative action made it easier for Republicans to cast their opposition in a fundamentally different and less offensive manner. In many ways, affirmative action made the ideal target for Goldwater’s criticism that civil rights policies represented unwarranted government interference in what were ultimately matters of the private marketplace (Carmines and Stimson 1989, pp. 44, 190). Over time, his formula proved immensely appealing to racially resentful whites in the North as well as the South. By 1980, Ronald Reagan had perfected the rhetorical maneuver, using a language of “conservative egalitarianism” to profess his commitment to racial equality—even as he castigated affirmative action as a blatant affront to color-blind, merit-based, market competition (Edsall and Edsall 1991, p. 178). Reagan’s triumph over Jimmy Carter and his landslide defeat of Walter Mondale in 1984 completed the fall of the “New Deal order” (Gerstle and Fraser 1989), and it heralded the rise of a new Republican majority that had been forged out of the broken shards of Roosevelt’s class-based coalition. Affirmative action was instrumental to the whole process.

This theory of electoral realignment has now become the conventional wisdom. It is difficult to carry on a discussion of recent American politics without encountering some variation on the theme that the Democratic endorsement and promotion of affirmative action contributed decisively to the emergence of a new party system—mainly by handing the GOP a golden opportunity to shatter the class basis of the New Deal coalition. “How did Mr. Reagan manage to pull off what many people regarded as impossible?” asked *The Economist* recently. “The underlying reason,” it stated crisply, “was the implosion of liberal America.” The periodical went on to imply that much of the blame for the implosion could be pinned on one factor in particular: “The Democratic Party’s embrace of affirmative action . . . [which] stirred up a mighty backlash among whites” (*The Economist*, June 12, 2004, p. 25).

The conventional wisdom is not entirely without the support of empirical evidence. Before 1964, Republicans *themselves* frequently accentuated their racially liberal position, hoping that it would make them more competitive for black ballots. In 1963, when it became clear that Kennedy’s civil rights proposal would receive serious consideration in

Congress, strategists at the Republican National Committee (RNC) advised GOP legislators to point out their historical role in the passage of state FEP legislation. RNC strategists noted that such law had passed more frequently under Republican than Democratic majorities; moreover, they pointed out that states which “pioneered” FEP laws in the late 1940s were more likely to have Republican rather than Democratic governors (Cellar 1963). Independent studies of race and the party system seem to confirm Republican professions at the time. A roll-call analysis of congressional votes on civil rights legislation before 1964 reveals that Republicans consistently scored higher on a scale of racial liberalism than Democrats (Carmines and Stimson 1989, pp. 63–64). Moreover, analysis of national party platforms for this period shows that GOP platforms contained more paragraphs on race and placed a greater priority on civil rights than Democratic ones (Carmines and Stimson 1989, pp. 55–56).

But there are nevertheless a number of *a priori* reasons to wonder whether partisan politics really had little to do with the passage of state FEP legislation. The most obvious reason is that it was strategically beneficial for the GOP to take racially liberal positions in *national* politics. By voting for civil rights proposals, especially those aimed strictly at the Jim Crow practices of the South, Republicans could drive a racial wedge between the northern and southern wings of the Democratic party at little or no electoral cost to themselves. But is it fair to simply presume that GOP officeholders took the same positions when it came to state civil rights legislation in “northern” states, where the absence of southern Democrats implied a starkly different political calculus? Republican support of antilynching or anti-poll tax legislation in Congress did not implicate any of their electoral constituencies, but can the same be said of state FEP laws? Second, comparing the pattern of party control at the time of legislative passage is a poor method for determining which party was more supportive of civil rights. It is more convincing to compare the number of times a party passed FEP legislation *relative* to the number of opportunities it had to do so. This, in fact, is the metric Erikson uses in an older study of party control and state civil rights legislation (including fair employment, fair housing, and open accommodation laws), and he finds statistical evidence that *Democratic* control of state legislatures was favorable for passage (Erikson 1971, p. 179). Lockard (1968, p. 55) also observes that Republicans were less enthusiastic about FEP legislation than Democrats, and Collins (2003*b*) finds that the presence of Democratic governors was positively correlated with the passage of such laws.

Hence the relationship between civil rights and partisanship *before 1964* remains a reasonably open question. Is there at least *prima facie* evidence that Republican officeholders opposed state FEP legislation? More im-

portant, did Republican influence over the legislative process actually appear to diminish the likelihood that a state would pass such legislation?

THE POLITICS OF STATE FEP LAWS

The history of state FEP laws, along with the larger history of the struggle for civil rights in the urban North and West, remains largely unwritten. But several published studies (Lockard 1968; Sugrue 1996; Fine 2000; Smith and Wolensky 2002; Biondi 2003; Sides 2003; Chen 2006), along with new archival evidence, some of which is presented here for the first time, provide sufficient material to form a composite picture of the politics underlying their passage.

Generally speaking, there were two primary sides to the battle in every state. On one side stood an interfaith, interracial bloc of liberals who fervently believed that government could and should ensure equal treatment in the labor market through legislative means; namely, enforceable FEP legislation (Chen 2002). As two leading liberals in the FEP movement explained, “prejudice, a state of mind, seems largely invulnerable to direct attack; discrimination, a form of conduct, can be regulated” (Maslow and Robison 1949, p. 6). But members of the liberal bloc were also bound together by a definite measure of self-interest. To some, FEP legislation promised vital protection in the labor market. Not surprisingly, core members of the liberal bloc included groups whose members had a clear social and economic stake in the passage and successful operation of an FEP law—groups such as the National Association for the Advancement of Colored People (NAACP) and the National Urban League (NUL), as well as religious organizations like the American Jewish Congress (AJC) and the Catholic Interracial Council (CIC) (Lockard 1968). The threads of self-interest were more difficult to discern but no less compelling in the case of the Congress of Industrial Organizations (CIO), which formed a vital source of people, ideas, connections, and money in the campaign for FEP laws (Lockard 1968; Zeitlin and Weyher 2001). In contrast to the craft-oriented unions associated with the American Federation of Labor (AFL), CIO-affiliated unions were based primarily in mass production industries and organized workers at every skill level (Quadagno 1992, pp. 621–22; 1994), including the racial, ethnic, and religious minorities who were to be found in the least skilled positions. Supporting the passage of FEP laws was hence a natural extension of industrial unions’ overall strategy for amassing power in the labor market.

Liberals often coordinated their lobbying in the states through a state-wide umbrella organization (Lockard 1968, p. 44). Notable examples include the California Committee for Fair Employment Practices or the

Minnesota Council for Fair Employment on Merit. The statewide committees did not all work with the same degree of effectiveness, and the composition and enthusiasm of their membership varied widely across states. But the statewide organization in Ohio may nevertheless be taken as typical. Named the Ohio Committee for Fair Employment Practices (OCFEP), it was founded in 1948 by local affiliates of the NAACP, NUL, Community Relations Board, National Council of Jewish Women, and other liberal groups. By the early 1950s, it was running a highly sophisticated lobbying operation under the leadership of Theodore M. Berry, Cincinnati city councilman and NAACP official. The OCFEP pursued a range of lobbying strategies to prime and solidify demand for FEP—developing informational pamphlets (OCFEP 1951*a*), distributing regular newsletters with updates on the latest legislative developments in Columbus (OCFEP 1951*b*), and encouraging sympathetic voters to contact their local representatives (OCFEP 1955). The prospect of winning votes was surely the correct carrot to dangle in front of legislators running in competitive districts, but the OCFEP also understood the value of the stick, waging aggressive campaigns to unseat legislators who had demonstrated hostility toward FEP proposals (OCFEP 1952, 1954).

But northern liberals did not have free rein to fashion FEP legislation according to their wishes. Standing staunchly against them was a bloc of racial conservatives who were committed in varying degrees to the principle of equal treatment but united in their antipathy to government intervention in social and economic life. At the forefront of opposition was organized business, which considered FEP legislation a rank infringement on traditional managerial prerogatives over hiring and promotion (Lockard 1968, p. 55; Sugrue 1996; Chen 2002; Biondi 2003; Chen 2006). Business opposition to state FEP laws was not fomented by a handful of ideological mavericks. Nor was it confined to any particular industry. It was broad based, and it invariably enjoyed the deliberate sanction of top leadership. The boards of various business groups voted repeatedly and often unanimously to oppose any FEP proposal that surfaced in the legislature. Whether it was the Associated Industries of New York State (AINYS) (AINYS 1944), Minnesota Employers' Association (MEA) (MACI 1947, 1948, 1949, 1952, 1953), California Chamber of Commerce (CCC) (CCC 1945, 1946, 1947, 1951, 1953), or Illinois Manufacturers' Association (IMA) (IMA 1945, 1947, 1949, 1953, 1957, 1959, 1961), business groups all across the North, Midwest, and West adopted a near-unified front against state FEP laws.

The business lobby pursued various strategies in the campaign to keep state FEP laws off the books. The most public approach involved speaking out strongly against them at legislative hearings (Stevenson 1949*b*; OCFEP 1951*b*, quoted in Chen 2006, p. 1261). While business spokesmen

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were quick to concede that it was “unfair to deny a man employment solely because of his race or religion” (Stevenson 1949*b*), they just as readily invoked a range of forceful arguments against FEP legislation, such as, “You cannot legislate good human relations” (Sugrue 1996, p. 173), that discrimination was not widespread (Stevenson 1949*b*; Christenson 1949, p. 7), that good progress was already being made in the absence of a law (Miller 1941, quoted in Chen 2006, p. 1243); that additional regulation would undermine the spirit of free enterprise (Stevenson 1949*b*), that FEP legislation would lead to capital flight (*New York Times*, February 12, 1945, p. 32), and that new laws would create new prejudices and antagonisms (Christenson 1949, p. 12). In their most desperate moments, however, organized business would turn to the inflammatory insinuation that FEP bills called for preferential treatment of minorities, notwithstanding the fact that FEP bills were facially race neutral and mandated strictly nondiscrimination. “The point is,” said one spokesman on behalf of Illinois business, “we are all Americans and should be treated equally and should not ask for special privilege because we are representatives or not representatives of any political party, class, religion, creed, race, or color” (Stevenson 1945, p. 11). Ray Suter of the Ohio Chamber of Commerce put the point even more bluntly, arguing forcefully that FEP legislation would inevitably lead to a “quota system” (OCFEP 1951*b*, quoted in Chen 2006, p. 1261).

Organized business just as frequently worked behind the scenes to influence key committee votes. In 1953, business lobbyists mounted a notably fierce campaign against FEP in Ohio. A longtime observer of Columbus politics expressed admiration for the sheer professionalism of the effort he had witnessed, though he was a supporter of FEP himself. On the night before a key vote in the lower house, “businessmen bombarded members of the committee, talking with them personally, urging their disapproval of all FEPC bills.” On the morning of the vote, they were there on the scene again, “working with the members of the committee, right up to the last minute.” It was one of the “most spectacular jobs” of lobbying he had “ever seen” (OCFEP 1953*a*, pp. 2–3), and it would ultimately pay off: Ohio liberals would have to wait until 1959 for their FEP law.

At the same time, however, business opposition to FEP reflected the views of ordinary employers and not merely the clever machinations of political elites. A vocal executive of a Los Angeles sign company was not the only businessman who feared that an FEP law would set up “another Government snooping bureau to force employers to hire a certain percentage of Negroes, Japs, Hindus, etc.” (Warren 1946). A resentful contractor in Chicago would later make the same argument to Adlai Stevenson in even more pointed terms: “Do you think that the employers of

Illinois will enjoy being told whom they must employ, that, for a certain number of employees they must employ, on a racial basis, 5 Negroes, 3 Jews and 1 Jap, and on a religious basis, 10 Protestants, 11 Catholics, 3 Jews, 1 Atheist, and 2 Agnostics?" It is important to point out that none of the proposals in Illinois—or elsewhere in the North—ever called for proportional representation or racial quotas. But many employers nonetheless shared the perception of the Chicago contractor, who saw FEP legislation as a thinly veiled "attempt of minorities to rule the majority" (Stevenson 1949a).

The political influence of organized business seemed decisive in a number of significant instances. In wartime New Jersey, for instance, former governor Charles Edison (Democrat) evidently made private overtures to the most important industrialists in the state, convincing them that discrimination was a severe drag on economic efficiency (Warren 1945, p. 4). The absence of employer opposition led New Jersey to the speedy passage of FEP legislation in 1945, making it only the second state (after New York) to do so. Events in Minnesota likewise illustrated the paramount importance of organized business. After several years of consistent opposition, public opinion in the state had finally begun to favor FEP in 1950 (*Minneapolis Sunday Tribune*, October 12, 1947; January 30, 1949; July 30, 1950; January 7, 1951; February 22, 1953; February 6, 1955). But racial liberals continued to prove unable to win the passage of a law. The main obstacle remained the MEA, which had skillfully and successfully blocked FEP proposals in numerous legislative sessions (MACI 1947, 1948, 1949, 1952, 1953). A critical change occurred in 1955, when it became publicly evident that the MEA had grown divided on the question of FEP legislation (MSCAD 1955c). There was no longer a clear consensus. Indeed, many members had come to the same belated realization as Judson Bemis, vice president of a Minneapolis-based bag manufacturing company and member of the MEA. After years of contemplating the issue, Bemis had finally concluded that cries of totalitarianism were overblown. Moreover, legislative "nudging" would not exacerbate the problem of discrimination. In his view, what would prove more damaging was the geopolitical message conveyed by the appearance of governmental indifference.⁶ "Can we afford to substantiate the Communist propaganda . . . that democracy and discrimination go hand in hand?" (MSCAD 1955a, 1955b; Langton 1955). With the membership of the MEA severely divided, business no longer spoke with a unified voice. That year, Minnesota finally passed an FEP law.

If the leaders of organized business were opposed to FEP legislation,

⁶ On the impact of the Cold War on civil rights struggles at home, see Plummer (1996), Skrentny (1998), Dudziak (2000), and Rosenberg (2006).

they understood American politics well enough to maintain the appearance of bipartisanship. But there is historical evidence that their strongest allies were Republicans (Lockard 1968, p. 55)—and that they turned to GOP officeholders at the most critical moments in the legislative process.⁷ When the Associated Industries of New York State belatedly realized that an FEP proposal in 1945 was politically viable, it tapped powerful Republican senator Frederic Coudert, Jr., for assistance. He proved a judicious choice. On behalf of seven prominent business groups, Coudert submitted a petition requesting a public hearing. The hearing was held, and it gave employers a chance to launch a broadside against the proposal (Chen 2006). Manufacturers were not the only ones who relied on GOP officeholders. In states like California, other business groups did as well. “The real powers in the Republican party,” observed the *California Eagle*, a statewide black newspaper, were not only the “big industrialists” but also the “large scale farmers.” Like most business groups across the North, both had lobbying arms that sought to exert “every possible pressure” on Republican legislators to keep FEP proposals “bottled up in committee” (*California Eagle*, May 23, 1957).

The responsiveness of Republican officeholders to the political demands of business interests is revealed most indelibly by Ohio’s experience in 1953. A committee in the upper house had voted 5–4 against reporting the bill to the floor, effectively ending any remaining chance it had of passing. All five votes in the majority came from Republicans (OCFEP 1953b). It was a puzzling moment for liberals, who had mobilized a major campaign. The only meaningful opposition to FEP legislation had come from the Ohio Chamber of Commerce and the Ohio Manufacturers Association. Why had liberals gone down to defeat again? After the legislative session, OCFEP officials met with the Republican leadership to discuss why the GOP had proven incapable of making good on its 1952 campaign pledge to support FEP. Liberals expressed the concern that Republican officeholders were simply doing the bidding of their business backers; it seemed clear that opponents of FEP “at the crucial moment, controlled the key legislators.” The conversation grew heated, and the GOP brass conceded under persistent questioning that liberal suspicions

⁷ Conventional theories of lobbying suggest that interest groups concentrate their attention and resources on critical legislators who are undecided, hoping to win their support; however, new theoretical and empirical work by Hall and Deardorff (2006) and Hall and Miller (1999) suggests that lobbyists are less involved in persuading the unpersuaded than in subsidizing the legislative costs of the already persuaded. This conclusion seems consistent with the archival records I have examined. Liberal interest groups tended to provide legislative analysis, bill drafting, and talking points for racially liberal legislators, while business groups tended to provide legislative analysis and talking points for racially conservative legislators.

were correct. "Gentlemen," said one of them, "you know who picks up the tab for our work, and those who pay the piper call the tune" (OCFEP 1953*c*, p. 7).

The politics of FEP legislation thus evinced distinct partisan dimensions, with Republican officeholders—partly motivated by the need to appear responsive to the political demands of organized business—displaying a far greater degree of racial conservatism than Democratic officeholders. But their opposition to state FEP laws derived from their own ideological commitments as well. Republican officeholders themselves were hardly shy about making their sentiments public, and their rhetoric bore striking resemblances to the discourse of "conservative egalitarianism" allegedly inaugurated by Goldwater and perfected by Reagan. Like their business allies, Republican officeholders professed their allegiance to the ideal of racial equality, and they passed up few opportunities to denounce the evil of racial discrimination. But their denunciations did not prevent many of them from opposing FEP in the name of merit-based competition in the marketplace. At a charged legislative hearing on the New York bill, Frederic Bontecou, Republican state senator from Poughkeepsie, approvingly read aloud a letter from Robert Moses condemning the proposal. Arguing that it would inevitably lead to "quotas," Moses minced no words: "It means the end of honest competition, and the death knell of selection and advancement on the basis of talent" (Moses 1945*a*, quoted in Chen 2006, p. 1238).⁸ Years later in California, Republican officeholders justified their opposition to FEP by claiming that it was "intended to take care of people who are not qualified" (*California Voice*, April 19, 1957). If such legislation passed, they concluded, it would lead employers to "discriminate in favor of members of . . . minority races" (*Los Angeles Examiner*, May 23, 1955). A young assemblyman from southern California, Casper Weinberger, voiced a commonly aired GOP complaint about FEP legislation. Though he would eventually support FEP legislation himself, he worried that it was a form of "compulsion," "state control," and "interference" that would simply exacerbate the problem at a moment when "progress is being made against discrimination" through private, voluntary action (Rumford, n.d.).

Of course, Republican officeholders did not monolithically oppose FEP. There is evidence, in fact, that the GOP was divided on the question (Lockard 1968, p. 46). In several instances, strong leadership from racially liberal Republicans led directly to the passage of FEP legislation. This outcome appeared most obviously in the case of New York State (Chen 2006). In 1945, New York became the first state to pass an FEP law,

⁸ The specific charge of "quotas" is briefly noted in Smith (1981, pp. 443–48) and Biondi (2003, pp. 19–20) and receives detailed treatment in Chen (2006).

partly because governor Thomas E. Dewey threw his political clout behind a prominent proposal in the statehouse. In doing so, he not only cast aside the publicly and privately stated preferences of organized business, but he also took on a rapidly growing insurgency among rank-and-file Republican legislators, who had begun to organize aggressively against the proposal. The insurgency had begun to gain momentum, but Dewey's strong public endorsement of the bill—combined with unprecedented liberal mobilization—dealt a fatal blow to the hopes of employers and Republican legislators alike. Shortly thereafter, New York passed an FEP law by a bipartisan vote. Yet there is evidence that the participation of many GOP officeholders in the final vote might have overstated their true enthusiasm. Privately, some powerful Republicans pointed out that substantial numbers of their copartisans actually detested the bill. "Man after man has told me that he is voting against his convictions," wrote Republican senator Coudert to Robert Moses (Moses 1945*b*, quoted in Chen 2006, p. 1261). Hence, even in New York—birthplace of Rockefeller Republicanism—many Republican officeholders were hostile to FEP legislation, despite the strong endorsement of Dewey and other liberals in their party leadership (Lockard 1968, p. 55).

Indeed, support for FEP legislation—much less a vocal public endorsement—was the exception to the rule among Republicans all across the country. Racially liberal Republicans were limited in number because they tended either to occupy or covet statewide office, which made it necessary for them (if they wished to win votes in urban areas) to assume the mantle of racial liberalism. The most consistently and thoroughly supportive partisans were not Republican but Democratic officeholders, who tended to represent urban districts. The rare Republican officeholder representing urban districts tended to reflexively reject FEP on ideological grounds, though at times he or she could be persuaded to change his or her mind in the face of a mobilized and informed electorate. The majority of GOP officeholders consistently and categorically rejected FEP, ensconced as they were in noncompetitive, rural (and, to a lesser extent, suburban) districts where few of their constituents would actually benefit or suffer from the passage of the law. Hence most Republican officeholders tended to oppose FEP legislation, and the overlap of their policy preferences diminished the need for strong mechanisms to enforce collective action.⁹

Not surprisingly, liberals were among the quickest to recognize the partisan dimensions of the fight. In 1953, editors of the *California Eagle* pointed correctly to the "rural-minded and Republican-controlled" Cali-

⁹ These features in the political geography of the opposition to FEP seemed obvious to liberals most familiar with the issue, such as California's Byron Rumford (Rumford 1973, p. 45). See also Lockard (1968).

for California Senate as one of the barriers to passage, calling for a "March on Sacramento" in protest (*California Eagle*, April 14, 1953). At a meeting of the OCFEP in 1955, much of the discussion focused on how to break the stranglehold of "rural Republican elements" on the state legislature. Indeed, liberals (while professing bipartisanship) saved their harshest bro-mides for Republican officeholders and their party leadership. In 1953, after the Commerce and Labor Committee had refused to recommend the bill to the Ohio Senate in a 5–4 vote, Theodore Berry roundly condemned the party of Lincoln. All five refusals had come from Republicans. Berry blasted the legislators as "little men" for their "obstruction" and charged the GOP with hypocrisy, pointing out how it had pledged in 1952 to support FEP (OCFEP 1953*d*). A press release from the OCFEP went even further, lambasting the "top leadership of the Republican party" for "carefully and deliberately" orchestrating a "political murder" of the bill. "We know the criminals," it concluded. "If no change occurs, we must plan together in the coming election to insure they do not go unpunished" (OCFEP 1953*b*).

The rural, agrarian locus of Republican opposition to FEP legislation should not be permitted to obscure the raw partisanship that defined the issue. To be sure, when compared to officeholders from urban districts, rural officeholders of both parties held more conservative positions on FEP and other social issues, reflecting the conservative preferences of their constituents. But partisanship mattered decisively, even in the most rural and underdeveloped areas. In 1957, when California's Senate Labor Committee voted 5–2 to table an FEP that the assembly had already passed, all five Republican on the committee voted in the affirmative. All of them represented primarily rural and agrarian counties: Sonoma, Orange, Tehama, Glenn, Colusa, Tulare, and Marin. But two Democrats representing similar counties—Nevada, Sierra, Placer, Kings—voted in the negative (*California Eagle*, May 16, 1957; California Legislature 1957*b*, p. 6). There is some reason to believe that rural, conservative Democrats may have personally disliked FEP legislation as much as their Republican counterparts did. "A lot of Democrats voted for it who didn't really want to," noted Assemblyman W. Byron Rumford, as he looked back broadly on the political history of California's FEP law (Rumford 1973, p. 49). But their personal preferences did not matter. On the specific question of fair employment, party affiliation—even in a state with as little party discipline as California (Lockard 1968, p. 33)—vastly outweighed other considerations.

But what were the specific mechanisms by which Republican officeholders translated their policy preferences into active and successful opposition? A preliminary consideration of the historical record yields qualitative evidence that it was GOP control over "veto points" in the

legislative process. In a striking inversion of the obstructionist pattern that prevailed in the congressional politics of civil rights, where *southern Democrats* wielded control over the powerful Rules Committee in the House and the threat of a filibuster in the Senate (Quadagno 1988), it was *Republican* control over veto points in state legislatures that seems to have delayed the passage of FEP laws.

A few clarifying and orienting remarks are in order. By the phrase “Republican control of veto points,” I do not mean to denote the ability of Republicans to guarantee the realization of their preferred outcomes in the legislative process. Nor do I wish to imply that GOP legislators always and everywhere achieved their “control” over veto points through a highly coordinated form of collective action. The level of coordination varied over time and space. In general, I use the phrase with Immergut (1990) to identify the moments or stages in the legislative process when a core of political representatives can potentially block the passage of legislation through the authority conferred to them by political institutions—particularly the formal constitutional rules that define the parameters of policy making. More specifically, I employ the phrase to identify moments when the *GOP* enjoyed either formal or informal authority over various stages of the legislative process when legislation could be potentially derailed—for example, when an FEP bill came before a chamber of the legislature in which the GOP held a majority.

My emphasis on the *partisan control of veto points* is somewhat distinctive in the sociological literature. While the idea of veto points is derived directly from Immergut (1990), it is worth pointing out that I use it more broadly to consider not only the formal but also the informal rules that shape the policy-making process (e.g., long-standing norms that governed the assignment of committee chairs in state legislatures). My usage is also broader in that I see a wider range of political actors as capable of leveraging veto points. Immergut develops and applies the concept in order to explain how the “ability of interest groups to influence legislative outcomes depends on their access to political representatives situated at the ‘weak links’ or veto points in this chain” (Immergut 1990, p. 396). I use the idea of veto points with a special emphasis on the role of *political parties*, not just interest groups or individual representatives. This emphasis on parties builds on insights about the importance of reform-oriented regimes (primarily Democratic regimes) in the development of state and federal policy (Amenta, Carruthers, and Zylan 1992; Amenta 1998; Amenta and Halfmann 2000; Zylan and Soule 2000; Soule and Earl 2001) as well as similar insights on the relevance of “left-led” parties to welfare-state effort among rich democracies (Huber et al. 1993). My conceptualization is nevertheless different in certain regards. I focus not only on how the presence or strength of a reform-oriented party in a polity affects

policy outcomes, but I also specify the institutional mechanism through which a party becomes relevant; specifically, whether it controls a veto point in the legislative process. A final difference is that I do not focus on the “number and location of opportunities for veto” in the chain of policy making (Immergut 1990, p. 396), which is generally how the idea of veto points has been operationalized in the empirical literature (Huber et al. 1993; Huber and Stephens 2000, 2001; Moller et al. 2003). I am not interested so much in the raw number of veto points but in which party controls any veto point—and particularly whether the GOP has control.

How a party might influence the policy-making process through control of veto points is best illustrated with reference to specific historical examples. In some cases, GOP control over veto points was quite literal. When governor Goodwin Knight of California threatened to exercise his constitutionally conferred gubernatorial veto over any FEP bill that passed the legislature during his tenure in the late 1950s (Pittman 1974, pp. 111–12), it could not but help to cloud the prospects for forward progress. Unenthusiastic or hesitant legislators could easily vote against any viable proposal and pass off the blame on Knight, explaining to interested onlookers that they were reluctant to waste their votes on a lost cause. In other cases, GOP control over veto points was less literal but no less effective, unfolding as it did through the committee system. Although the norms and rules governing committee assignments varied considerably across states, it was almost always true that the majority party in either house of the legislature enjoyed a commanding position in deciding the makeup and leadership of legislative committees. Hence the dominance of the GOP in postwar statehouses meant that the most powerful committees were often ruled by Republican majorities and chairmen. This combination worked to devastating effect. Once an FEP bill was introduced, usually in the lower chamber, it was invariably assigned to a Republican-controlled committee for initial analysis and consideration. Here the low political profile of most committees made it fairly simple for Republicans to work toward tabling the bill indefinitely, or schedule it for a public hearing late in the session, when the legislative agenda would surely be tied up with other urgent matters. Even if a public hearing was somehow held early, it was still relatively easy for Republicans to persuade the GOP majority on the committee to decline reporting the bill to the chamber as a whole. Such a vote in committee might anger liberal activists, but it would seldom make front-page news and result in damaging repercussions at the ballot box. If the initial committee actually reported an FEP proposal favorably, there were still additional opportunities for obstruction. Since the substance of most FEP proposals spanned the formal jurisdiction of several committees, it was unproblematic to refer any successful proposals to a second Republican-

controlled committee, where they would face similarly daunting obstacles. Not surprisingly, they often failed to emerge from the second committee. In the rare event that a bill was successfully reported to the floor of the lower chamber, it would have to garner enough votes to pass—and then it would go to the upper chamber, where it would have to navigate another set of analogous barriers before going to the governor for his signature. If the presence of multiple veto points in American statehouses presented a pervasive structural bias against the adoption of new legislation, Republican control of such veto points also made it easy for Republicans to purposefully throw up high barriers to the passage of FEP laws for much of the postwar period.

The importance of Republican control of legislative veto points was evident in almost all northern states (Lockard 1968; Sugrue 1996, p.173; Smith and Wolensky 2002; Fine 2000), but it was nowhere more dramatically visible than in California. Table 2 presents a selected timeline of events in the legislative history of California's FEP law. The first enforceable FEP proposal was introduced into the California Assembly by Democrat Augustus F. Hawkins (south-central Los Angeles) in 1945. For more than a decade afterward, Hawkins would take turns sponsoring FEP proposals with another black Democratic assemblyman, W. Byron Rumford (Berkeley-Oakland). Despite their best efforts, California would only pass an FEP law in 1959, mainly because of the difficulty that Hawkins and Rumford faced in extracting their proposals from Republican-controlled committees in the assembly. Through 1953, either the Committee on Governmental Efficiency and Economy (CGEE) or the Committee on Ways and Means (CWM) succeeded in stymieing every single FEP proposal that came before them, almost always by party-line votes. The lower house finally passed a bill in 1955 when it voted to withdraw the bill from the CWM. Tellingly, fewer than half of all participating Republicans voted for withdrawal, compared to the overwhelming majority of Democrats. But a new obstacle soon appeared in the form of the Senate Labor Committee, where a partisan vote doomed the proposal. That same committee also quashed the bill in 1957 in yet another party-line vote. Only in 1959, after Democrats won majorities in both houses and Democrat Edmund "Pat" Brown won the gubernatorial race, did FEP legislation finally pass. It was no accident that the year marked the first time that Democrats controlled both elective branches of state government in the postwar period, leaving the GOP without authority over a "veto point" for the first time since FEP surfaced on the legislative agenda.

Considered as a whole, evidence from the primary sources seems to sustain the argument that the politics of state FEP legislation sustained a deep partisan divide. The vast majority of Republican officeholders

TABLE 2
THE FATE OF SELECTED FEP BILLS IN THE CALIFORNIA LEGISLATURE, 1945–59

Year	Bill(s) and Outcome
1945	The Assembly Committee on Ways and Means (CWM) votes 13–7 to table A.B. 3. The CWM is controlled 17–8 by the GOP. A motion to consider the proposal without approval—requiring 60 votes—fails the assembly 48–29. Ninety-five percent of Democrats voted in favor of consideration, compared to 29% of Republicans.
1946	A.B. 11 fails to clear the Republican-controlled CGEE by a vote of 7–10, with four Democrats and three Republicans recommending the bill and ten Republicans opposing recommendation. It meets a similar fate in the CWM by a vote of 6–10. The GOP controls the CWM by a nine-member margin (17–8). The bill appears on the November ballot as Proposition 11, and it is defeated 29–71.
1947	A.B. 2211 is introduced, but no strong effort is mounted.
1949	A.B. 3027 fails to clear the CGEE by an 8–11 vote. The GOP controls the CGEE, 12–9. A lengthy battle to withdraw A.B. 3027 from committee ends unsuccessfully on June 16 by an assembly vote of 31–35. Seventy-four percent of the Democratic delegation votes for withdrawal, compared to only 11% percent of the GOP delegation.
1951	A.B. 251 fails by a vote of 3–15 in the CGEE, which is controlled 13–8 by the GOP.
1953	A.B. 900 dies by a vote of 6–7 in the CGEE, which is controlled 9–7 by the GOP.
1955	A.B. 971 passes the CGEE by a near party-line vote of 8–5. Only one Republican member votes for the bill. But the proposal is rejected by the CWM, which is controlled 17–10 by the GOP. A majority in the assembly votes 44–21 to withdraw the bill from the CWM and then approves it, 48–27. Ninety-one percent of the Democratic delegation votes for the bill, 41% percent of the GOP delegation against it. In a party-line vote, A.B. 971 dies in the Senate Labor Committee (SLC), controlled 5–2 by the GOP.
1957	A.B. 2000 clears the CGEE and the CWM; it then passes the assembly 61–15. Ninety-five percent of Democrats vote for the bill, as do 62% of Republicans. But the bill is tabled by the Republican-controlled SLC by a 4–2 vote.
1959	The governorship as well as both houses of the assembly pass into Democratic hands. A.B. 91 is approved 59–10 by the assembly. Eight of the ten nays are Republicans. S.B. 477 passes the Senate by a vote of 30–5. Four of the five of the nays are Republicans. Governor Edmund G. Brown signs California's FEP law on April 16.

SOURCES.—California Legislature 1945*a*, pp. 10–11, 32; 1945*b*, p. 4166; 1946, pp. 10–11, 28; 1949*a*, pp. 8–9, 42–43; 1949*b*, pp. 4581–82; 1951, pp. 8–9, 31; 1953, pp. 10–11, 29; 1955*a*, pp. 8–9, 29–30; 1955*b*, p. 4297; 1955*c*, pp. 6, 12; 1957*a*, p. 2885; 1957*b*, pp. 6, 14; 1959*a*, pp. 2299–30; 1959*b*, p. 1308; *California Eagle* May 24, 1945; January 24, 1946; June 2, 1955; April 25, 1957, p. 4; May 16, 1957, p. 2; *Los Angeles Times* June 14, 1945, p. 2; January 17, 1946, p. 2; February 16, 1946, p. 2; May 12, 1949, p. 8; May 10, 1951, p. 29; April 23, 1953, p. 10; April 21, 1955, p. 18; May 3, 1955, p. 18; April 9, 1957, p. 14; February 20, 1959, p. 1; April 9, 1959, p. 1; April 17, 1959, p. 1; Jordan 1946.

opposed FEP legislation, and their influence over the legislative process—that is, their control over various points at which it was possible to derail legislation—seems to have lowered the likelihood that a state would pass FEP legislation. But the qualitative evidence is admittedly piecemeal. Is there stronger and more systematic evidence that Republican control of veto points reduced the likelihood that a state would pass FEP legislation?

The theoretical importance of this question is worth underlining. The

question has obvious implications for assessing the significance of political parties in the policy-making process. But it also has crucial implications for clarifying the underlying sources of electoral realignment. If it appears that Republican elites supported state FEP legislation with equal vigor as did the Democrats, then the dominant account of electoral realignment would enjoy additional empirical support. This finding would strengthen the argument that policies like affirmative action and busing gave Republican officeholders the ideal wedge issue with which to strategically split the Democratic coalition. But if the GOP resisted “color-blind” state laws like FEP well before 1964, then it would appear that the opposition of Republican officeholders to civil rights initiatives *antedated* the “color-conscious” turn in public policy. This finding, in turn, would suggest that Republicans would have quickly found their way toward the same political and electoral strategy whether or not the regulatory framework governing job bias eventually came to include race-attentive policies such as affirmative action. In lieu of the chance to exploit affirmative action, Republicans would have fanned the flames of white resentment against civil rights using a different racial wedge issue—whether it involved a “color-conscious” policy like affirmative action, or a “color-blind” policy like FEP. This should encourage students of electoral realignment to refrain from ascribing too much causal significance to the “color-conscious turn” in public policy.

At least one previous researcher has published a systematic empirical analysis of the politics behind the passage of state FEP laws. In a groundbreaking study using continuous-time, event-history methods, Collins (2003*b*) finds that the mobilization of Jewish organizations, the NAACP, and CIO unions are the strongest predictors of passage, while unemployment, Catholic population, electoral competition, and Democratic governors are less important. However, as I discuss in greater detail below, his central measure of party control is conflated with a measure of electoral competition, making it impossible to separate the effect of one variable from the other. Hence the question remains largely unanswered.

This article thus adds to the literature by using a clear, time-varying measure of party control (one that is separate from electoral competition) to test a hypothesis uniquely motivated by qualitative evidence from archival sources; namely, that Republican control of “veto points” in the legislative process reduced the likelihood that a state would pass an FEP law.

MODEL, DATA, AND VARIABLES

Model

Based on the foregoing theoretical discussion, I estimate the impact of Republican control on the passage of FEP legislation using discrete-time event-history methods (Allison 1982; Peterson 1991; Yamaguchi 1991). Although others have employed continuous-time methods, I prefer discrete-time methods for the question at hand because they handle ties more easily and because the passage of legislation is fundamentally a discrete-time process. I specify the model as a logistic regression of the functional form:

$$\log[P_{it}/(1 - P_{it})] = \alpha + \beta_1 x_i + \beta_2 z_{it},$$

in which P_{it} is the probability that state i passes a fair employment law at time t provided that it has not yet done so, α is a constant, x_i is a time-constant vector of covariates for state i , z_{it} is a vector of time-varying covariates for state i at time t , and β_1 and β_2 are vectors of effects associated with x_i and z_{it} , respectively. Time itself is modeled as a linear trend that is included in the vector of covariates z_{it} .¹⁰

Data

Conducting a discrete-time event-history analysis of FEP legislation requires a data set on the social, political, economic, and institutional characteristics of 37 “northern” states during the period 1941–64.¹¹ I constructed such a data set from cross-sectional data on the states that I collected from a wide range of published and unpublished sources, including government reports, private publications, and archival records. Whenever possible, I sought annual data, which permitted me to construct time-varying variables. In some instances when annual data were not available, I collected as much data as possible and then generated time-varying variables through linear interpolation. In other instances, I used the data to generate time-constant variables. Appendix table A1 provides details on the characteristics of and sources for the main variables used in the analysis.

My data set is organized in the standard unit-time format required by discrete-time event-history models. Here the unit of observation is a state-

¹⁰ I do not report robust SEs clustered on the state level because states are clearly not independent of one another. See Berry and Berry (1992, 1990). But the estimates in table 4 and table 5 are highly comparable to those obtained with robust (but non-clustered) SEs. Results available upon request.

¹¹ I exclude 13 states altogether, 11 states from the South, as well as Alaska and Hawaii, following the convention in studies of state economic performance (e.g., Brace 1993).

year. The first year for which I record observations is 1941. I continue to record observations on all 37 states for each subsequent year in which their legislatures met in regular or special session, as reported by the *Book of the States* (Council of State Governments 1943, 1945, 1948, 1950, 1952, 1954, 1956, 1958, 1960, 1961, 1964).¹² Once a state passes FEP legislation, it is excluded from the data set. The last year for which I observe a state that has not yet passed an FEP law is 1964. This procedure translates into a data set or “risk set” of 502 state-year observations.

My periodization of the risk set rests on a straightforward rationale. I define 1941 as the first year in the risk set because states initially became at risk for passing FEP legislation as a result of Roosevelt’s wartime FEPC in 1941. Its establishment touched off a cascade of state-level political developments that culminated in formal campaigns for state FEP laws. The political landscape changed in 1964, when Congress passed the Civil Rights Act. Title VII essentially declared that states without FEP laws on the books would relinquish their right to first investigate complaints through a procedure of their design. This gave states that had not yet passed FEP legislation a strong incentive to do so. Thus I define 1964 as the final year in the risk set.

Variables

My dependent variable is the passage of a state FEP law. This time-varying indicator variable is set to 1 if a state adopted a nominally enforceable FEP law in a given year, and set to 0 if it did not.¹³ As table 1 indicates, 23 such laws, not including Alaska and Hawaii, passed in the period 1945–64.

My key independent variable is party control—more precisely, Republican control of legislative veto points.

Previous researchers, such as Collins (2003*b*, p. 36), have tended to rely on the Ranney index (1965) of interelectoral competition to measure party control. This index assigns each state a score 0–100. A score of 0 indicates

¹² The decision to include only years in which state legislatures met in regular or special session represents a compromise between two approaches of contrasting rigor. The least exacting approach, which would severely understate the hazard rate, would be to include all of the years in the period 1945–64. The most exacting (but prohibitively time-consuming) approach would be to include all of the years in which it is definitely known that a legislator introduced a fair employment bill.

¹³ Wisconsin and Indiana passed *nonenforceable* laws in 1945 and 1961, and enforceable laws in 1957 and 1963, respectively. I consider only the passage of enforceable laws; hence, I code Wisconsin and Indiana as having passed FEP laws in 1957 and 1963, respectively. To see if this affects the results, I estimate the trimmed models in table 4 excluding all observations from both Indiana and Wisconsin. The results, which are highly comparable, are available upon request.

complete Republican control and little electoral competition, while a score of 100 indicates complete Democratic control and little electoral competition. A score of 50 indicates a highly competitive political system in which neither Republicans nor Democrats held the upper hand. To construct his index, Ranney gathered data on state politics for the 1946–63 period and averaged four components for each state: the average percentage vote for Democratic gubernatorial candidates, the average percentage of seats held by Democrats in the upper house, the average percentage of seats held by Democrats in the lower house, and the percentage of all legislative sessions during the period in which Democrats held control over all three institutions. To capture any potential nonlinearities, Collins (2003*b*) includes a quadratic transformation of the index.

However, using the Ranney index to identify the impact of Republican control poses several problems for the present application. One concern is that the index is time constant for each state, rendering it unattractive for capturing change over time. A state that gradually shifted from moderate Republican control to marginal Democratic control would have a similar value on the index as a highly competitive state that consistently remained under slight Republican control. This problem is especially relevant because some states experienced precisely such patterns in party competition during the postwar period. Under these circumstances, it would not be possible to identify the effect of party control. A more serious problem is that the Ranney index does not distinguish the effect of party control from electoral competition. A government in which Democrats held the governorship and both houses of the legislature is obviously politically different than one in which a Democratic governor faced a divided legislature. Such differences might not be properly reflected in the Ranney index. Consider, for instance, two hypothetical states. In one, Republicans win the gubernatorial race but barely win control of the legislature. In the other, Republicans narrowly win the gubernatorial race, narrowly win the assembly, and lose the Senate. Using the Ranney index, both states are more or less observationally equivalent, even though one would exist under unified Republican control, while the other would exist under divided government. This situation was also not uncommon in the postwar period.

To avoid these problems, I specifically operationalize Republican control as a time-varying, binary variable indicating whether Republicans in a given state-year held control over a “veto point” in the legislative process—that is, a point at which it was possible for Republicans to block legislation. Several such points existed. As noted before, having a majority in either the lower or upper house of the legislature basically gave the majority party veto power. This is because committee chairs were almost always drawn from the majority party, and committee chairs enjoyed

considerable formal and informal power to bias the legislative process against legislation they opposed. Holding the governorship also conferred veto power, mainly because most governors possessed the constitutional authority to veto any piece of legislation (though legislatures could obviously override a gubernatorial veto if a supermajority existed). Given these considerations, I set the variable to 1 if Republicans in a given year held a majority of seats in the lower house, a majority of seats in the upper house, the governorship, or any combination of the three. The variable is set to 0 when Democrats in a given year held unified control (Council of State Governments 1943, pp. 136, 317; 1945, pp. 106, 560; 1948, p. 614; 1950, pp. 112, 625; 1952, pp. 96, 579; 1954, pp. 102, 500; 1956, pp. 100, 502; 1958, p. 519; 1960, p. 122; 1961; 1964, p. 152) of state government.¹⁴ If the estimated coefficient for the variable is both negative and statistically significant, it would indicate that Republican control depressed the likelihood of passage.

The passage of legislation is obviously correlated with a number of other factors, and I control for variables that have been demonstrated to influence either the adoption of state civil rights legislation or the pace of policy innovation more generally (see Besley and Case 2003).¹⁵

¹⁴ My coding scheme raises three potential concerns. First, it is possible to classify only state legislatures controlled by a Democratic supermajority (i.e., a veto-proof majority) as “Democratic control” (that is, set to 0). However, this circumstance was extremely rare outside the South. Moreover, I am not aware of any case in which a Democratic or Republican governor actually vetoed a FEP bill. Republican governors very occasionally threatened a veto, but these cases are correctly coded as Republican control. Second, using a dummy variable discards potentially valuable information about the magnitude of party control as well as information about various configurations of party control that add up to “Republican control of veto points.” This is true, but I am less interested in whether the passage of FEP laws is a continuous function of Republican strength and more interested in whether the passage of FEP legislation is a step function of Republican control—that is, I am more concerned about identifying the difference between a state where Republicans control a veto point and a state where they do not than I am in identifying the difference between a weakly Republican-controlled government and a strongly Republican-controlled government. To gauge the impact of an alternate coding of party control, I estimate the restricted specifications in table 4 with a more finely differentiated measure of party control; namely, six dummies indicating unified Republican control, Republican governor and divided legislature, Republican governor and Democratic legislature, Democratic governor and Republican legislature, Democratic governor and divided legislature, and unified Democratic control. I use unified Democratic control as the reference category. The results are substantially similar. Third, Minnesota and Nebraska hold nonpartisan elections for the legislature. For these states, I code Republican control based on the party of the governor. To determine if this decision drives the results, I reestimate the restricted models in table 4 excluding all observations from Minnesota and Nebraska. The coefficient for Republican control is robust to the exclusions.

¹⁵ I choose *not* to control for innovative propensity using Walker’s score, as other researchers have done for reasons that are sound to their purposes (e.g., Soule and

Some of the earliest studies show that economic modernization is very strongly correlated with policy innovation (Dye 1969; Walker 1969; Gray 1973), and the finding has held up over time. I control for economic modernization using three variables. The first is a time-varying variable for income, measured by a state's personal income per capita (U.S. Bureau of the Census 1956, p. 299; 1958, p. 311; 1960, p. 312; 1962, p. 319; 1964, p. 329; 1966, p. 464).¹⁶ The second is a time-varying variable for industrialization, measured by the value added in manufacturing per capita (U.S. Bureau of the Census 1950, p. 779; 1952, p. 782; 1955, p. 817; 1958, pp. 782–83; 1959, p. 189; 1961, p. 787; 1962, p. 781; 1963, p. 783; 1964, p. 779; 1966, p. 775; 1968, p. 727). Both amounts are adjusted for inflation using the Consumer Price Index for urban consumers (CPI-U).¹⁷ Urbanization is a third time-varying variable, which I measure as the percentage of individuals living in urban areas of the state (U.S. Bureau of the Census 1947, p. 11; 1952, p. 23; 1963, p. 23; 1973, p. 23).

Various aspects of electoral politics also matter. Among them, electoral competition is one of the most relevant (Walker 1969; Skocpol et al. 1993; Holbrook and Van Dunk 1993; Barrileaux, Holbrook, and Langer 2002). In an electorally competitive environment, where the electoral strength of the parties is comparable, partisan legislators make broader appeals than they would otherwise, thereby improving the chances of policy innovation. I control for electoral competition through a modified version of a time-varying measure initially developed by Skocpol et al. (1993, p. 699). This measure is constructed by averaging three fractions: the margin

Zylan 1997, p. 751; Zylan and Soule 2000, p. 638). Ranging 0–1, Walker's score is constructed from data on 88 different programs that had been enacted in at least 20 states by 1965 (Walker 1969, p. 882). The first state to enact a particular program is given a score of 0, while the last state to enact a program is given a 1. States enacting programs in the interim are given a score that corresponds to the proportion of time elapsed between the enactment of the first and last program. Scores for each program are then averaged by state. This score is the *dependent* variable in Walker's study, but it may be inappropriate for use as an *independent* variable in the present study. Not only does it use up a scarce degree of freedom, it is also unclear what the score measures. Using it would only tell us *that* innovative states tend to innovate—that they have a propensity to innovate—but not necessarily *why* they tend to innovate. In results available upon request, I estimate the restricted models in table 4 using Walker's score as an additional time-constant covariate. The coefficient for Republican control remains negative, large, and statistically significant in all specifications.

¹⁶ It is worth pointing out that Erikson, Wright, and McIver (1993, pp. 86–87) find evidence that income and other demographic variables influence policy primarily “because income is correlated with the degree of liberal sentiment of state public opinion.” Hence controlling for income partially controls for the ideological character of the state electorate.

¹⁷ U.S. Bureau of the Census (various years). For CPI-U figures, see the Bureau of Labor Statistics Web site (<ftp://ftp.bls.gov/pub/special.requests/cpi/cpi.ai.txt>, accessed November 9, 2006).

of victory for the sitting governor in the previous election expressed as a fraction of the total votes cast for governor, the seat margin of the majority party in the upper house expressed as a fraction of the total number of seats in the upper house, and the seat margin of the majority party in the lower house expressed as a fraction of the total number of seats in the lower house (Council of State Governments 1943, pp. 136, 317; 1945, pp. 106, 560; 1948, p. 614; 1950, pp. 112, 625; 1952, pp. 96, 579; 1954, pp. 102, 500; 1956, pp. 100, 502; 1958, p. 519; 1960, p. 122; 1961; 1964, p. 152; *Congressional Quarterly* 1994, pp. 667–716). I multiply the average of the three fractions by 100 and then subtract the resulting number from 100. This yields a variable for electoral competition that is measured independently of party control. A score of 100 indicates a highly competitive state, while a score of 0 indicates a grossly noncompetitive state.

In order to plausibly identify the effect of Republican control, it is essential to control for public opinion. Various studies indicate the importance of policy preferences on the part of the mass electorate. Paul Burstein (1985) finds that it was public opinion toward equal employment opportunity (EEO) that led Congress to act in various ways on EEO legislation. Examining racial attitudes in the postwar period, Taeku Lee (2002) argues that shifts in mass opinion—activated by grassroots protest—led political elites to push for policy changes in the area of civil rights. To be sure, parsing the precise causal links between public opinion, party organizations, and policy outcomes remains a much-debated area of research (Manza, Cook, and Page 2002). But there does seem to be a strong general correlation between public opinion and policy outcomes in the states (Erikson et al. 1989, 1993; Brace et al. 2002, p. 173). Indeed, some researchers have found evidence that “party control is not a particularly good indicator of state policy” (Erikson et al. 1989, p. 743)—primarily because the responsiveness of state parties to state opinion (which is typically more moderate than party positions) leads Democratic and Republican legislators to moderate their policy positions. Hence, failing to control for political opinion in the empirical analysis of policy outcomes can greatly exaggerate the role of party organizations (Burstein and Linton 2002; Burstein 1998).

While the general climate of public opinion appears relevant, it seems even more important to focus on the specific issue of state FEP laws because “mass belief systems show little internal consistency” (Converse 1964, cited in Brace et al. 2002, p. 174). This specific focus is all the more important because the most extensive studies of congressional action on EEO legislation suggest the importance of public attitudes regarding civil rights (Burstein 1985; Santoro 2002). I control for across-state differences in public opinion on state FEP laws by using data from a Gallup Poll

($N=1,581$) taken in 1945.¹⁸ From the raw Gallup Poll data I calculate the percentage of respondents in each state answering “yes” to the following question: “Do you favor or oppose a state law which would require employers to hire a person if he is qualified for the job, regardless of his race or color?” (Gallup Organization 1945, question 7, form K). This variable is admittedly measured with error since it disaggregates data from what is meant to be a nationally representative sample, but the results do have face validity, according with generally held conceptions of racial liberalism in the states. For instance, New York (75%) was among the most supportive of state FEP legislation, and Michigan (51%) was moderately supportive, while Missouri (21%) was least supportive. I retrieve this information by recoding it as a binary variable, which is coarse enough to ensure that a “favorable” state is not misclassified as “opposed,” and vice versa. I specify public opinion on FEP as a time-constant dummy variable set to 1 if the percentage of residents in a state expressing support for an FEP law is higher than the mean level of support for all 37 states in the risk set, and 0 if it is lower than the mean.¹⁹

¹⁸ I also control for public opinion using additional variables. In results available upon request, I use three different measures to control for the ideological character of mass opinion in the states. The first is a score of citizen ideology developed by Berry et al. (1998) from data on congressional roll call votes and other sources. Although scores are now available annually for the period 1960–2002, I use only the average of the scores from 1960 to 1964 as a time-constant covariate. The averaged score ranges from a low (conservative) of 28.83112 for Nebraska and a high (liberal) of 78.90062 for Rhode Island. When substituted for the main measure of public opinion, it does not yield a statistically significant coefficient in any of the relevant specifications reported in table 4. Nor does it affect the main result. The second variable is a survey-based, time-constant measure of state opinion developed by Wright, Erikson, and McIver (1985, pp. 476–79) from pooled (1974–82) CBS/*New York Times* surveys. I use the unweighted version of their measure, which is thought to reflect the distribution of opinion for the “active” electorate. The unweighted measure ranges from a low (liberal) of -.053 for Nevada to a high (conservative) of .333 for Utah. When substituted for the main measure of public opinion, it does not yield a statistically significant coefficient in any of the relevant specifications reported in table 4. Nor does it affect the main result. (The authors note that the weighted and unweighted measures are highly correlated and generally yield identical results.) Using a third time-constant variable developed by Brace et al. (2002) from pooled data (1974–98) in the General Social Survey, I control for mass opinion about racial integration. The variable ranges from a low of .5 for West Virginia to a high of .88 for Rhode Island. I used the sample mean (.75) to replace missing data for five states. When substituted for the main measure of public opinion, it does not yield a statistically significant coefficient in any of the relevant specifications reported in table 4. Nor does it affect the main result.

¹⁹ The distribution of the variable closely approximates the normal standard distribution. I used the sample mean of the 37 states to replace missing data that were not available for Oregon, New Mexico, Delaware, and North Dakota. This is admittedly a crude control, but it is the best one presently available, and it partially addresses the total absence of public opinion from prior models. I also tried using the raw state percentages from the Gallup poll. When substituted for the dummy variable, it does

The malapportionment of state legislatures—whereby rural areas enjoyed disproportionate representation relative to urban areas—has been shown to shape certain policy outcomes. Ansolabehere, Gerber, and Snyder (2000) find that malapportionment influences the distribution of public expenditures by state governments. Qualitative evidence presented earlier indicates that rural legislators were especially opposed to state FEP legislation. I control for malapportionment using the time-constant Right-to-Vote (RTV) Index developed by Ansolabehere et al. (2000, pp. 30–31). The index varies from 1.07 (New Hampshire) to 3.54 (California), where a score of 1 indicates a well-apportioned legislature in 1960 under the one-person, one-vote rule, and higher scores indicate overrepresentation.

Although the importance of interest groups to policy outcomes certainly varies, it is hard to dispute that policy is partially a function of the clash between groups with different political and economic interests. I therefore control for variation in the strength of interest groups involved in the battle over state FEP.

As the primary sources show, organized business mounted the most aggressive campaign against state FEP legislation. But organized business is also a group whose political strength is among the most difficult to measure. The records of organized business generally remain in private hands, so it is difficult to measure their strength by tallying up their membership, calculating their annual expenditure on political activities, or considering other direct indicators.²⁰ It is therefore necessary to gauge business power indirectly. One strategy is to use the passage of employer-friendly legislation as a proxy measure on the assumption that states with employer-friendly laws are also states with politically powerful and successful employers. This strategy admittedly warrants caution. Laws beneficial to employers may have passed for reasons that were unrelated to their political strength. Also, employers may view certain laws as serving (or not harming) their interests only *ex post*. Before such laws passed, employers may have opposed them. Thus, it is crucial to select laws that enjoyed clear, *ex ante* support from employers and whose passage appears to have been a consequence of employer mobilization.

Of the many possibilities, state “right-to-work” (RTW) laws, which

not yield a statistically significant coefficient in any of the relevant specifications reported in table 4. Nor does it affect the main result.

²⁰ The records of the Minnesota Manufacturers Association, CCC, and IMA are informative about their operation in a limited number of years. Few other business lobbies, however, have made their historical records publicly available. The records of the National Association of Manufacturers and U.S. Chamber of Commerce contain only limited amounts of relevant information on their respective state and local affiliates.

banned union shops, seem most attractive.²¹ RTW laws began spreading quickly across the states after 1947 (Jacobs and Dixon 2006), when Congress enacted the Taft-Hartley Act over President Truman's veto. Taft-Hartley outlawed the closed shop and gave states the authority to decide whether to outlaw the union shop (Labor-Management Relations Act 61 Stat. 136, 29 U.S.C. 141 [1947]). Many states chose to do so. By 1964, nearly two-thirds of the states had passed RTW laws prohibiting union shops. Few types of state legislation addressed employer interests more squarely or inspired their political involvement more effectively. After the Second World War, corporate and business leaders launched a counter-mobilization against liberalism, labor, and the New Deal (Fones-Wolf 1994), and securing RTW legislation was a major element of their political agenda in the states. In fact, many business groups fought for the passage of RTW laws at the same time as they opposed the passage of FEP laws. The connection between RTW and FEP legislation appeared nowhere more clearly than in California, where business leaders gathered in 1953 to formulate their legislative agenda. At a meeting sponsored by the Southern California Council of the CCC, more than 400 delegates of the business community adopted resolutions endorsing RTW legislation and opposing FEP legislation in the state. The committee that formulated the resolutions called RTW and FEP the "two most paramount issues before the legislature" (*Los Angeles Times*, March 26, 1953, p. A1).

For these reasons, state RTW laws are a useful, if limited, proxy for business political strength, or business power. I code the measure as a time-constant dummy variable coded 1 if a state passed an RTW law by 1964, and 0 if it did not.²² This measure is extremely coarse, and it measures business power with error. Nonetheless, it is broadly consistent with the assumption that states that had passed RTW laws by 1964 were states in which employers were politically powerful enough to secure and defend their passage.²³

²¹ A "closed shop" is a company that will employ only union workers. A "union shop" is a company that does not require union membership as a condition of hiring, but requires it for continued employment after a specific period of time. An "open shop" is a company that does not require union membership for either hiring or continued employment.

²² According to Lumsden and Peterson (1975, p. 1242), states that had passed an RTW law by 1964 include Arizona (1946), Nebraska (1946), South Dakota (1946), Iowa (1947), North Dakota (1947), Nevada (1951), Utah (1955), Indiana (1957), Kansas (1958), and Wyoming (1963). Indiana repealed its law in 1965.

²³ It might be tempting to view the successful adoption of an RTW law as proof that labor was unconcerned about the issue or failed to mobilize a counteroffensive. This does not seem historically justifiable, however. Many states that did pass RTW laws did so over the strenuous objections of organized labor. For instance, Indiana passed an RTW law in 1957, but not until after organized labor mounted a robust response,

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Organized business was obviously not the only interest group with a stake in fair employment legislation. Many others—including the NAACP, AJC, CIC, and a range of international and local unions—proved aggressive advocates as well (Lockard 1968, pp. 29–43).²⁴ In his study of state FEP legislation, Collins (2003*b*) finds that the strength of Jewish groups, civil rights organizations, and unions—as well as the size of the Catholic population—were positively related to passage. I control for the electoral and political significance of these groups by including measures of the percentage black, percentage Jewish, and percentage Catholic for each state-year (U.S. Bureau of the Census 1975; AJC 1941, p. 656; 1950, pp. 71–73; 1951, pp. 17–21; 1954, pp. 8–12; 1955, pp. 177–81; 1957, p. 82; 1958, p. 23; 1959, p. 18; 1960, pp. 9–10; 1961, p. 62; 1963, pp. 76, 145; 1964, p. 13; 1965, p. 147; *Official Catholic Directory* 1940, 1950, 1960, 1965).²⁵ I control for union strength by including a measure of the percentage of the nonagricultural workforce in a union in each state-year (Troy and Sheflin 1985, p. 7-3). I control for the strength of civil rights organizations by including a measure of the percentage of African-Americans with NAACP membership for each state-year (NAACP 1940–46, 1947, 1949, 1950, 1951, 1952, 1953–54, 1955, 1956, 1957, 1958, 1959, 1961, 1962, 1963, 1964).²⁶

A different theory predicts that the electoral importance of social groups standing to benefit from legislation might actually depress the likelihood

hosting dinners for undecided businessmen and distributing legislative advisories (*New York Times*, February 11, 1957, p. 29). When the law eventually passed, ten thousand angry union members—prominently among them the steelworkers of Hammond, Gary, and East Chicago—marched on the statehouse, demanding that governor Harold W. Handley repeal the bill (*New York Times*, March 3, 1957, p. 46; *Los Angeles Times*, March 3, 1957, p. 3).

²⁴ For empirical studies of how the civil rights movement shaped public policy, see Andrews (2001, 2002) and Button (1989).

²⁵ Data on Catholic residents by state was graciously provided by Mary Gautier at the Center for Applied Research in the Apostolate at Georgetown University.

²⁶ To identify potential nonlinear relationships, I substituted logged measures of the black, Jewish, and Catholic population, as well as NAACP membership in the full specification. The results differ slightly for the control variables. While the coefficients for Republican control, income, employer strength, and percentage of neighboring states with an FEP law remain similar, the coefficients for Jewish population (ln), Catholic population (ln), and NAACP membership (ln) become statistically significant, and the coefficient for black population (ln) becomes statistically insignificant. All of the logged variables are highly multicollinear, however. This is clear when the full specification with logged measures is estimated using OLS regression, and when a variance inflation factor (VIF) is calculated for each coefficient. Jewish population (ln), black population (ln), Catholic population (ln), and NAACP membership (ln) all exhibit high VIF scores. Since the main results do not change, and since the interpretation of the percentage measures is more straightforward, I retain use of the percentage measures.

of passage. Specifically, “racial competition” or “racial threat” theory (Olzak 1992; Behrens, Uggen, and Manza 2003) predicts that passage varies inversely with the size of the black, Jewish, and Catholic population. This is because racial, ethnic, and religious groups are thought to compete against one another for scarce economic resources, and white Protestants viewed blacks, Jews, and Catholics as a threat to their dominant position. Since theory gives contradictory predictions regarding the directionality of these three variables, I treat it as a strictly empirical question, following Collins (2003*b*).

Previous studies find a complex series of diffusion effects associated with policy innovation (Berry and Berry 1990, 1992; Strang and Tuma 1993; Zylan and Soule 2000). Analysts have posited a variety of different mechanisms through which the effect occurs, but the most robust and consistent finding is that the adoption of legislation in a neighboring state raises the likelihood that a nonadopter will pass similar legislation. I remain agnostic about the causal mechanisms underlying the finding, but I control for diffusion by including a variable that measures the percentage of neighboring states that have adopted FEP legislation.

EMPIRICAL ANALYSIS

Descriptive Statistics

Table 3 presents the FEP passage rate across all of the explanatory variables. The results offer preliminary support for the hypothesis that Republican control is inversely related to passage. Only 4.2% of the states (technically, state-years) under Republican control witnessed the passage of FEP legislation, compared to 6% of the states that were not. This constitutes a difference of 1.8 percentage points.

But further inspection of table 3 indicates that most of the control variables also exhibit a number of strong associations with legislative passage, raising the possibility that the bivariate results for Republican control are spurious. Income, industrialization, urbanization, electoral competition, employer strength, percentage of Jewish residents, percentage of Catholic residents, union density, NAACP membership, and the percentage of neighboring states with an FEP law all exhibit a positive (though not necessarily monotonic) relationship with the likelihood of adoption. Only public opinion, malapportionment, and percentage of black residents seem potentially unrelated to passage. This many associations calls for multivariate analysis. If Republican control remains negatively and significantly associated with the likelihood of passage—even after including the relevant control variables in a variety of model spec-

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TABLE 3
FEP PASSAGE RATES BY EXPLANATORY VARIABLES

	FOR BINARY VARIABLES			
	Yes		No	
Republican control of veto points	4.2		6.0	
Public opinion favorable	5.0		4.0	
Employer strength (RTW law)	1.9		5.8	
	FOR CONTINUOUS VARIABLES (By Quartiles)			
	(1)	(2)	(3)	(4)
Income (1964 dollars)	9.6	6.4	1.6	.8
Industrialization (1964 cents)	10.3	3.2	3.2	1.6
Urbanization	9.5	4.0	4.0	.8
Electoral competition	6.4	6.2	5.0	.8
Malapportionment (RTV index)	2.6	6.3	6.5	2.9
Percentage black	5.6	3.2	8.0	1.6
Percentage Jewish	7.9	4.0	3.0	3.2
Percentage Catholic	7.9	4.8	3.2	2.4
NAACP membership	6.3	6.5	5.6	.0
Union density	7.9	4.0	4.0	2.4
Neighboring states with FEP (%)	11.7	7.6	.5	.5

NOTE.— Each entry is the percentage of state-years in which an FEP law passed. $N = 502$. The raw passage rate is 5% (23 events/502 state-years). First quartiles are the highest quartiles, and fourth quartiles are the lowest quartiles. All monetary variables expressed in 1964 dollars or cents.

ifications—then there would be stronger evidence supporting the hypothesis.

Multivariate Findings

Table 4 reports the parameter estimates from the multivariate analysis. Model 1 is the full specification, which includes Republican control as well as all of the control variables. The results support the hypothesis. **The coefficient for Republican control is large, negative, and statistically significant.** In more substantive terms, Republican control of a veto point

TABLE 4
SELECTED EVENT-HISTORY MODELS OF STATE FEP LEGISLATION IN NON-SOUTHERN
STATES, 1945–64

	Model 1	Model 2	Model 3	Model 4	Model 5
Republican control of veto points	−2.443** (.864)	−2.718** (.836)	−2.706** (.838)	−2.186** (.791)	−2.099** (.744)
Income (1964 dollars) ....	.002 (.001)	.003** (.001)	.003** (.001)	.003** (.001)	.003** (.001)
Industrialization (1964 cents) .....	.006 (.011)				
Urbanization	−.001 (.038)				
Electoral competition ....	.038 (.023)	.036 (.020)			.045* (.019)
Public opinion (favora- ble = 1)	1.304 (.810)	1.404* (.693)	1.342* (.659)		
Malapportionment (RTV index)	−.603 (.587)				
Employer strength (RTW law = 1)	−1.795 (1.052)	−1.898* (.840)	−2.079* (.823)	−2.345** (.822)	−2.437** (.823)
Percentage black	−.245* (.124)	−.229* (.099)	−.266** (.097)	−.214* (.089)	−.173* (.084)
Percentage Jewish .....	.159 (.130)				
Percentage Catholic	−.032 (.046)				
NAACP membership ....	.125 (.094)				
Union density .....	.092* (.044)	.096* (.038)	.110** (.036)	.067* (.029)	
Neighboring states with FEP (%) .....	.052** (.014)	.051** (.012)	.049** (.012)	.048** (.012)	.043** (.011)
Time .....	.081 (.079)	.001 (.062)	.002 (.062)	−.002 (.063)	.015 (.059)
Constant	−12.466** (2.684)	−13.160** (2.387)	−11.578** (2.118)	−9.597** (1.705)	−10.610** (1.995)
Pseudo R^2 .....	.37	.34	.32	.30	.30
Model χ^2	68.86	63.97	60.29	56.02	56.65
df	15	9	8	7	7

NOTE.—Entries are logit coefficients with SEs in parentheses. $N = 502$.

* $P < .05$.

** $P < .01$.

reduces the likelihood of passage by roughly four percentage points, holding all other variables at their sample means.²⁷ This should be considered a large effect, since the average likelihood of passage ($23/502 = .05$) is 5%. Several control variables are also statistically significant. Union density and the percentage of neighboring states with an FEP law are positively related to passage, while percentage black is negatively related to passage. The remaining control variables do not appear to be significant, including income, industrialization, urbanization, electoral competition, malapportionment, employer strength, percentage Jewish, percentage Catholic, percentage NAACP membership, and public opinion. The model as a whole is significant ($\chi^2 = 68.86$; $df = 15$; $P < .00$), and it results in a pseudo R^2 of .37. A “jackknife” diagnostic indicates that the main result (Republican control) is not driven by any particular set of state or year observations, though percentage black and union density both exhibit sensitivity to outliers.²⁸ The overall results of model 1 provide initial evidence that the bivariate result for Republican control is not spurious to the multiple controls included in the initial, unrestricted specification.

But the results should be subjected to further scrutiny. While the estimated coefficients for some variables are not statistically significant at the conventional threshold ($P < .05$), they are reasonably close ($P \approx .10$). This requires special attention because the event-per-variable (EPV) ratio is extremely small (23 events/15 variables = EPV 1.5). In logistic regression models with small EPV ratios, estimated coefficients can be severely biased, and significance tests can be problematic (Peduzzi et al. 1996). It is hence imperative to trim the model to include only the best-fitting controls. While it is normally preferable to incorporate all theoretically relevant variables in the model specification, this approach is not advisable in this particular instance since there are only 23 events in the data set.²⁹

I estimate a trimmed specification by removing variables from model

²⁷ These and other predicted percentages in this article are based on predicted probabilities calculated using the SPost Suite (Long and Freese 2006).

²⁸ This procedure entails successively reestimating a model and systematically excluding a different state and year from the risk set each time. This essentially tests the robustness of coefficients to *sample variation*; that is, it helps to determine whether they are driven by observations for particular states or years. Since as many as 37 observations are excluded in a given estimation—more than 7% of the sample—it is obviously a more rigorous and informative test than simply excluding only one state-year observation at a time.

²⁹ Thanks to Yu Xie for pointing out to me the estimation problem posed by small EPV ratios. For a general discussion, see Hosmer and Lemeshow (2000, pp. 345–46). Using Monte Carlo simulations, one study of the EPV ratio in logistic regression finds that more than one-third of the estimated coefficients are severely biased (twice as large or half as small as the true value) at an EPV of two (Peduzzi et al. 1996).

1 that are not significant at the $P < .15$ level. The results continue to support the hypothesis. The resulting specification, model 2, is statistically significant as a whole ($\chi^2 = 63.97$; $df = 9$; $P < .00$), and it results in a pseudo R^2 comparable to model 1. The coefficient for Republican control remains large, negative, and statistically significant. Republican control reduces the chance that a state will pass FEP legislation by roughly five percentage points, holding all other variables at their sample means. The direction and magnitude of most coefficients associated with the retained controls from model 1 remain similar, but their statistical significance improves. Electoral competition is not significant at a conventional threshold ($P < .05$), but it comes very close to being significant ($P < .07$). A likelihood-ratio test between model 1 and model 2 ($\chi^2 = 4.89$; $df = 6$; $P < .60$) clearly indicates that the removed variables are not jointly significant. A “jack-knife” diagnostic again reveals that the result for Republican control is not driven by any particular set of state or year observations, though several control variables—and particularly public opinion—exhibit sensitivity.

To conserve a degree of freedom and probe the robustness of the main result, I estimate another restricted model. Model 3 contains eight covariates, one less than the previous model. It excludes electoral competition despite its strong theoretical relevance. (Recall that one of the potential contributions of this article is estimating the effect of Republican control separately from electoral competition.) The results nonetheless continue to yield strong and consistent support for the hypothesis. The coefficient associated with Republican control remains large, negative, and statistically significant. The model as a whole is significant ($\chi^2 = 60.29$; $df = 8$; $P < .00$), and the pseudo R^2 is comparable. A likelihood ratio test between model 2 and model 3 indicate that electoral competition hovers around the conventional threshold of statistical significance ($P = .055$), suggesting that it could possibly be nonzero. The control variables in model 3 remain statistically significant and roughly comparable in magnitude, but public opinion continues to be largely driven by specific states and years.

Further estimations indicate other restricted specifications of interest. If public opinion is removed from the previous specification, then the result is model 4, which contains seven covariates. The coefficient for Republican control remains large, negative, and statistically significant. The estimates for union density and percentage black are somewhat sensitive to sample variation, but the estimates for the other coefficients are once again robust. The model is significant ($\chi^2 = 56.02$; $df = 7$; $P < .00$), and it has a pseudo R^2 of .30. Model 5 contains a different mix of seven covariates. It is specified the same as model 4, except that it substitutes electoral competition (previously excluded but possibly significant) for

union density. Model 5 is significant overall ($\chi^2 = 56.65$; $df = 7$; $P < .00$), and it yields a proportional reduction in error of .30, highly comparable to more richly specified models. The effect of Republican control remains negative, though the coefficient itself becomes slightly smaller. All of the retained controls are significant, and most coefficient estimates are robust to the jackknife diagnostic. The estimate for electoral competition shows a slight sensitivity, while the estimate for percentage black is highly sensitive.

The results in table 4 offer strong and consistent support of the hypothesis. The parameter estimate for Republican control in all five specifications is routinely large, negative, and nonzero; it also shows impressive robustness to different specifications, control variables, and sample variations. But how robust are the findings to *unobserved* differences across the states? This is known as the problem of unobserved heterogeneity, or frailty, which can inflate negative duration dependence or deflate positive duration dependence (Peterson 1991; Powers and Xie 2000). More conventionally, unobserved heterogeneity can work as a form of omitted variable bias. For instance, if more “conservative” states are less likely to pass FEP legislation and tend to be more Republican than other states, it is possible that the negative effect of Republican control is smaller than actually estimated, since “conservatism” is not directly observed.

There are a number of potential ways to address the problem of unobserved heterogeneity. One popular approach is the estimation of random-effects models, but Peterson and Koput (1991, p. 408) as well as Powers and Xie (2000, p. 190) advise caution in their use.³⁰ This advice is even more pertinent given the sparseness of the data. A better option is perhaps a state fixed effects model, which would identify only within-state differences.³¹ This obviously disallows the inclusion of time-constant covariates such as employer strength, but time-varying covariates such as Republican control can be included. State fixed effects are not possible in a logistic-regression framework because the number of variables would exceed the number of events, but a linear probability model (OLS) does not impose similar constraints in this regard. The estimation of standard errors in a linear-probability model can be somewhat problematic, but the exercise can serve as a useful robustness check. The results from

³⁰ Parametric random-effects models can be sensitive to assumptions about the distribution of unobserved heterogeneity (Heckman and Singer 1984), while estimates from Heckman-Singer nonparametric models can be unstable (Hoem 1989, cited in Peterson and Koput 1991). I tried running several random-effects models with Gaussian frailty, but they proved incapable of detecting unobserved heterogeneity when covariates of known importance were excluded from the specification.

³¹ Thanks to Ken Chay for the suggestion.

several fixed-effects, linear-probability models (reported in app. table B1) confirm the logistic regression results.³²

How should these multivariate results be interpreted overall? It would be overreaching to claim that they are evidence of a “causal effect” in a strict sense. This would require random assignment of Republican control or employer strength, which is clearly impossible; or it would require some kind of instrument or exogenous shock whose existence is unlikely. The results of the fixed-effects models provide some reassurance against unobserved heterogeneity or omitted variable bias, but if one finds the use of such models unconvincing on technical grounds, then the results of the discrete-time models could be spurious. The possibility cannot be ruled out that there is some unmeasured characteristic among Republican-controlled states responsible for depressing the likelihood of passage.

Of special concern is whether the coefficient for Republican control identifies a “party control” effect (e.g., Amenta 1998; Huber and Stephens 2000) or whether it reflects the underlying preferences of the electorate, that is, a “public opinion” effect (e.g., Erikson et al. 1993; Burstein 1998). The latter idea has the virtue of being consistent with a straightforward and compelling interpretation of the empirical results. When and where voters opposed FEP legislation, they tended to elect Republicans to office in larger numbers, and Republicans blocked such legislation. When and where voters favored FEP legislation, they tended to elect Democrats to office in larger numbers, and Democrats promoted such legislation. In this interpretation, voters “elect policies” by putting into office partisan officials who hold fixed policy positions and deliver desired policy outcomes (Lee, Moretti, and Butler 2004, p. 814). Hence the interpretation of the results is essentially a story about selection bias. States with conservative electorates selected Republicans to derail FEP proposals, while states with liberal electorates selected Democrats to pass FEP proposals. The results presented so far do not provide any evidence on which to rule out such a view convincingly. The public opinion interpretation remains entirely plausible, as the measures of public opinion used in previous models are admittedly crude.

But how consistent is the public opinion interpretation with further analysis of the data? This question can be addressed under two different approaches. The first approach focuses on analyzing the effect of Republican control for states with highly competitive electoral environments—that is, where both parties hold nearly equivalent shares of the seats in

³² The estimated coefficient for Republican control is negative in all four specifications reported and statistically significant in all but one. Only the estimated coefficient in model B4, which includes both state- and time-fixed effects, is indistinguishable from zero at conventional thresholds; however, it is significant at the $P < .10$ level.

the state legislature as well as nearly equivalent shares of the votes cast in the previous gubernatorial election. Under the public opinion interpretation, such states would be ones in which the underlying distribution of public sentiment regarding FEP legislation is balanced. Hence, if a negative effect of Republican control persists (or even grows) among competitive states, it could not plausibly be attributed to differences in public sentiment. On the other hand, if the negative effect of Republican control vanishes among the most competitive states, it would bolster the claim that unobserved differences in public sentiment are actually driving key findings in table 4. It would imply that the effect of party control is the weakest among states where public sentiment toward FEP legislation is evenly distributed. At the same time, it would suggest that the party control effect is actually identifying partisan differences in the least competitive set of states, where public sentiment clearly supports or disfavors FEP legislation.³³



A naïve comparison of FEP passage rates by Republican control and electoral competition provides initial support for the party control interpretation. Recall that the measure for electoral competition does not distinguish which of the two parties is dominant; it merely measures the extent to which either of the two parties dominates elective office in a state. States with a single dominant party tend to score low on a scale of 0–100, while states with competitive parties score high. When electoral competition is partitioned into quartiles, it becomes apparent that the effect of Republican control is the strongest for state-years in the highest quartile of electoral competition. In this quartile, state-years in which Republicans control a veto point are 12 percentage points less likely to pass FEP legislation than state-years in which they do not. The gap shrinks to eight percentage points for state-years in the second most competitive quartile, and it essentially vanishes in the two least competitive quartiles.³⁴

This pattern can be seen in a multivariate context as well. By estimating models in which Republican control is interacted with electoral competition, it is possible to allow the effect of electoral competition to vary by party control. Here the coefficient of interest is associated with the interaction term. If the estimated coefficient is negative and nonzero, then it would confirm the naïve comparison and provide further support for

³³ This empirical strategy draws on the intuition (though not the specific technique) of DiNardo and Lee (2004) as well as Lee et al. (2004).

³⁴ The passage rate for “Republican” state-years is 1.11% for the fourth (least competitive) quartile, 5.56% for the third quartile, 5.26% for the second quartile, and 4.63% for the first (most competitive) quartile. The passage rate for “non-Republican” state-years is 0%, 3.23%, 13.33%, and 16.67%, respectively.

the party control interpretation, implying that the effect of Republican control cannot be attributed to underlying public sentiment regarding FEP, since it actually increases in state-years where public sentiment is presumably the most evenly distributed. Table 5 presents the estimated coefficients and standard errors from additional event-history models of state FEP legislation. Model 6 is a baseline specification that includes Republican control, income, employer strength, percentage of neighboring states with an FEP law, and electoral competition (entered in quartiles). The estimated coefficients are correctly signed and comparable to previous estimates. The negative coefficient for Republican control hovers just at the conventional threshold for statistical significance ($P \approx .05$). Model 7 includes an interaction term between Republican control and electoral competition. The results strongly support a party control interpretation. The interaction term is negative and statistically significant, indicating that Republican control has a greater negative effect on passage at high levels of electoral competition than it does at low levels of electoral competition, contrary to what is empirically implied by the public opinion interpretation. This is further evidence of a party control effect. When the distribution of public sentiment about FEP in states is most even, Republican control of veto points actually has the *greatest* effect in reducing the likelihood that a state would pass FEP legislation.

The results for model 6 and model 7 should be interpreted cautiously; they are not particularly robust. A variety of checks indicate that they are sensitive to model specification and sample variation. But it is highly informative that the interaction effect is evident at all. The data are sparse, making interaction effects particularly hard to detect in a multivariate setting. Too few events are spread across the relevant cells. Indeed, it is worth noting that there is other evidence pointing to the existence of an interaction effect as well. In addition to the naïve comparison, if one fits separate lines for “Republican control” states and “Democratic control” states to a plot of predicted probabilities derived from any of the specifications reported in table 4, it provides visual evidence of a definite (if somewhat nonlinear) interaction between Republican control and electoral competition (results available upon request). Hence the totality of the empirical evidence strongly suggests that the negative effect of Republican control is the largest at the highest levels of electoral competition, supporting the party control interpretation.

There is a second method of adjudicating between the party control and public opinion interpretation; it involves examining the effect of Republican control of veto points while controlling for the GOP share of elective offices in a state. If the effect of Republican control persists, then it would constitute further evidence against the public opinion interpretation. It would suggest that the Republican control depresses the like-

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TABLE 5
ADDITIONAL EVENT-HISTORY MODELS OF STATE FEP LEGISLATION, 1945-64

	Model 6	Model 7	Model 8	Model 9
Republican control	-1.273 [†] (.656)	2.098 (1.866)	-1.974* (.880)	-2.829** (.895)
Employer strength (RTW law = 1)	-1.548* (.696)	-1.807* (.739)	-1.472* (.677)	-2.058** (.782)
Income (1964 dollars) .....	.002* (.001)	.002** (.001)	.002** (.001)	.002** (.001)
Neighboring states with FEP (%) .....	.047** (.011)	.048** (.010)	.043** (.010)	.050** (.011)
Electoral competition (quartiles) .....	.563* (.248)	1.355** (.490)		
Time	-.001 (.061)	-.005 (.062)	-.007 (.060)	.009 (.061)
Interaction term		-1.173* (.567)		
Republican strength ....			.037 (.022)	.484** (.170)
Republican strength, squared				-.004** (.002)
Constant	-7.789** (1.420)	-10.554** (2.198)	-8.994** (1.965)	-18.964** (4.630)
Pseudo R^2 .....	.25	.28	.24	.30
Model χ^2	46.90	51.82	44.46	56.55
df	6	7	6	7

NOTE.—Entries are logit coefficients with SEs in parentheses. $N = 502$.

[†] $P \approx .05$.

* $P < .05$.

** $P < .01$.

likelihood of passage regardless of how public sentiment toward FEP legislation is distributed in a state. To implement this strategy, I create a new variable ("Republican strength") that averages the vote share of the Republican candidate in the previous gubernatorial election, the Republican share of seats the upper house, and the Republican share of seats in the lower house. This yields a number that (when multiplied by 100) varies between 0 and 100—where 0 indicates Republican weakness and 100 indicates Republican strength. This variable is included in two additional models presented in table 5. Model 8 is specified identically to model 6, except that Republican strength is substituted for the electoral competition. The results support the party control interpretation. The

coefficient for Republican control remains negative, large, and significant, despite the inclusion of Republican strength. A plot of predicted probabilities against Republican strength indicates the possibility that a quadratic transformation of the variable might provide a better fit. Model 9 presents the coefficients and standard errors from such a specification. The inclusion of a quadratic term does improve the fit of the model, as indicated by the increase in the pseudo R^2 . Republican strength and the quadratic term are both statistically significant. Yet the estimated negative coefficient for Republican control grows larger and becomes even more significant. The model as a whole is impressively robust to sample variation, and the main result holds even under different model specifications (results available upon request). These results also support the party control interpretation. Even when controlling for the electoral strength of the GOP (under the assumption that it is a proxy of public sentiment toward FEP laws), Republican control of veto points strongly reduces the likelihood of passage.

All of these results solidify the evidence in support of the case that Republican control lowers the likelihood of passage—independently of the underlying preferences of the electorate. But it is worth noting (in the alternative) that even if the public opinion interpretation were valid, it would necessarily imply that the voting public already perceived a partisan difference on the issue of FEP legislation. Voters wary of such laws were putting Republicans in office only because it was clear to them that GOP control of policy-making institutions would reduce the chance of getting an FEP law. This fact alone would still pose a key challenge to conventional views of electoral realignment.

Ultimately, it seems untenable to maintain that public opinion played no part in the passage of FEP laws. But it seems equally untenable to regard the effect of Republican control as epiphenomenal. The foregoing empirical analysis has yielded fairly robust evidence that the effect of Republican control is consistently large, negative, and nonzero. *Ceteris paribus*, whenever Republicans controlled a veto point in the legislative process, FEP legislation was less likely to pass. The direction, magnitude, and significance of the coefficient for Republican control persists across a broad range of model specifications, including models where mass opinion about state FEP laws is directly controlled. Similar results are obtained even if a more finely differentiated measure of Republican control is used. The coefficient would still constitute a large effect even if it were half the size estimated. It is robust to sample variation, and it remains even when sensitive controls are removed. In fact, it appears to grow larger and more significant as additional controls are added to the specification. Moreover, there is a variety of evidence to suggest that the negative effect is strongest at the highest levels of electoral competition, when underlying public

sentiment about FEP is distributed most evenly. Even when Republican electoral strength is directly controlled, there is evidence that the effect of Republican control persists. Ultimately, in the absence of exogenous variation in party control, it is not possible to conclusively rule out unobserved heterogeneity or omitted variable bias, but given the evidence amassed, it seems difficult to conclude that the effect of Republican control is artifactual or spurious.

DISCUSSION AND CONCLUSION

The electoral realignment that began in the mid-1960s is undoubtedly one of the most significant and durable developments in modern U.S. political history. The most influential accounts of realignment maintain that race and civil rights were simply not partisan issues before 1964 (Carmines and Stimson 1989; Sleeper 1990; Edsall and Edsall 1991; Thernstrom and Thernstrom 1997). This view, which has become the conventional wisdom, holds that racial liberalism was prevalent among Republicans and northern Democrats alike, who struggled to forge color-blind policies aimed at dismantling racial apartheid and eliminating racial discrimination. If their efforts proved largely unfruitful, it was primarily because of racist southern Democrats, who obstructed the passage of civil rights legislation and stoked the fires of massive resistance across the South.

According to the conventional wisdom, everything changed dramatically sometime after 1964 (Carmines and Stimson 1989; Edsall and Edsall 1991). The campaign to extend formal equality to African-Americans had already alarmed the southern wing of the Democratic party. When the civil rights movement and public policy took a decidedly color-conscious turn, political and electoral disaster followed. Policies such as affirmative action and busing fueled a white backlash against civil rights. This backlash swept across the entire country, and it eventually fractured the New Deal coalition, feeding southern alienation and setting northern working-class ethnics against African-Americans. In fact, affirmative action gave Republicans the perfect wedge issue. Its advent played right into their hands. The policy made an ideal target for their rhetoric about the overreach of the federal government. If “conservative egalitarianism” resonated with broad segments of the mass electorate, and particularly with disaffected members of the New Deal coalition, it was in large part because of color-conscious policies like affirmative action. Post hoc, ergo propter hoc: Democratic fortunes fell and Republican fortunes rose *after* affirmative action; therefore, Democratic fortunes fell and Republican fortunes rose *because of* affirmative action.

This article presents evidence that contradicts the empirical expectations implied by the conventional wisdom. Based on a review of available monographs, primary-source research in archival manuscript collections, and an event-history analysis of an original data set, I find strong evidence of significant partisan division in the politics of state FEP legislation. Long before Goldwater's seminal run for the presidency in the 1964, numerous Republican officeholders during the 1940s and 1950s mobilized to oppose civil rights legislation in statehouses outside of Dixie. Motivated by ideological and electoral considerations, they used their consistent control of veto points in the legislative process to block state FEP legislation. Even as their partisan counterparts on Capitol Hill earnestly pleaded their racial liberalism, statehouse Republicans stood consistently in the way of FEP legislation. Ironically, they made ample use of precisely the same obstructionist tools as southern Democrats did in the U.S. Congress.

The broader implications of these findings for accounts of electoral realignment are clear. Republican resistance to color-blind laws suggests that claims about the racial liberalism of the postwar GOP can and may be overstated. A substantial fraction of state-level GOP officeholders mounted an ideologically based opposition to color-blind civil rights legislation in the 1940s and 1950s. The findings also raise doubts, with Sugrue (1996, 2004), that color-conscious policies were uniquely responsible for fanning the flames of backlash and providing Republican elites with the ideal racial wedge issue. To be sure, strategists like Kevin Phillips (1969) correctly recognized the extent to which "backlash" had become a substantial force in national politics by the late 1960s. But GOP resistance to FEP laws in the North, Midwest, and West suggests that color-conscious policies bear no special blame for the demise of the New Deal coalition. As early the 1940s and 1950s, congressional Republicans were already using civil rights as a national wedge issue, and statehouse Republicans were fighting against state FEP legislation, casting their opposition in free-market, antiregulatory rhetoric. If Republican elites had not recognized the utility of affirmative action as a wedge issue when it burst into the spotlight in the late 1960s, they would have surely used a different civil rights policy—whether color conscious or color blind—to accomplish the same ends. New theories of electoral realignment should begin elsewhere.

The empirical findings also bolster a more general theoretical point that is relevant to the political sociology of policy making. Although one prominent vein of research emphasizes the overwhelming significance of public opinion in models of policy innovation (Wright et al. 1985; Erikson et al. 1989; Burstein and Linton 2002), I find statistical evidence that party control mattered quite independently of public opinion. What was especially important was whether the GOP possessed the institutional au-

thority to block legislation. **This finding builds on previous insights about the relevance of parties** (Huber et al. 1993; Amenta 1998; Amenta and Halfman 2000; Zylan and Soule 2000; Soule and Earl 2001) **and veto points** (Immergut 1992; Huber et al. 1993; Huber and Stephens 2000, 2001; Moller et al. 2003) in the legislative process. In a sense, it fuses the two insights; namely, **by showing how party control of veto points**—and partisan control of policy-making institutions more generally—**can vitally shape the tempo of policy innovation.**

Future researchers should continue to examine the civil rights struggles that took place outside the South before 1964. The history and sociology of civil rights is replete with dramatic tales of heroism and villainy in the South during the 1950s and 1960s. The field is also crowded with studies of white backlash in the North during the 1970s. Only recently have scholars begun to unravel the intertwined histories of race, politics, and inequality outside the South before the 1960s (Hirsch 1983; Sugrue 1996; Biondi 2003; Self 2003; Sides 2003; Rhomberg 2004; Countryman 2006). Further research would not only provide a stronger basis for understanding the historical roots of contemporary racial politics, but it would also prove fruitful for political sociologists searching out other empirical settings in which to explore their ideas about social movements, political processes, and policy outcomes.

For students of electoral realignment, legislative battles in the North, Midwest, and West would seem particularly rewarding. **Employment was only one area that generated demands for government action against discrimination.** It remains to be seen whether Republican officeholders opposed fair housing and open accommodations legislation with equal skill and determination.³⁵ Cities like Chicago, Cleveland, Detroit, and San Francisco were the focal point of significant campaigns to pass civil rights ordinances, fair employment practices among them. What was the role of Republican officeholders in these battles? Equally important, future researchers should follow the lead of Manza and Brooks (1999), Brooks (2000), and Lee (2002) in exploring racial liberalism and partisan identification in mass opinion. Is there evidence that racial liberalism was weaker not only among Republican elites but among Republican *masses* as well? Moreover, when faced with the possible extension of civil rights in their own villages, towns, and cities, what was the actual voting behavior of ordinary Republicans?³⁶ Did they consistently support civil

³⁵ See Collins (2006) for a systematic analysis of the politics of state fair housing legislation. Also see Chen and Phinney (2004).

³⁶ Chen, Mickey, and Van Houweling (2003) analyze the attitudes and behavior of Republican voters on the question of fair employment practices using precinct-level election returns from a 1946 referendum on FEP in California.

rights, or did they demonstrate as little fidelity to Lincoln's legacy as did their party leaders? Answering these questions will make it possible for scholars to clarify the sources of electoral realignment, distinguishing the truly novel aspects of racial politics from those that are essentially echoes of the past.

APPENDIX A

TABLE A1
DATA SOURCES FOR THE VARIABLES IN THE ANALYSIS

Variable	Time Varying	Interpolated	Sources
Pass	Yes	No	Bureau of National Affairs 1964 <i>a</i> , p. 57; 1964 <i>b</i> , pp. 66–67, 93, 257; Lockard 1968, p. 24
Republican control of veto points	Yes	No	Council of State Governments 1943, pp. 136, 317; 1945, pp. 106, 560; 1948, p. 614; 1950, pp. 112, 625; 1952, pp. 96, 579; 1954, pp. 102, 500; 1956, pp. 100, 502; 1958 p. 519; 1960, p. 122; 1961; 1964, p. 152
Income (1964 dollars)	Yes	Mostly	U.S. Bureau of the Census 1956, p. 299; 1958, p. 311; 1960, p. 312; 1962, p. 319; 1964, p. 329; 1966, p. 464
Industrialization (1964 cents)	Yes	Some	U.S. Bureau of the Census 1950, p. 779; 1952, p. 782; 1955, p. 817; 1958, pp. 782–83; 1959, p. 189; 1961, p. 787; 1962, p. 781; 1963, p. 783; 1964, p. 779; 1966, p. 775; 1968, p. 727
Urbanization (%)	Yes	Mostly	U.S. Bureau of the Census 1947, p. 11; 1952, p. 23; 1963, p. 23; 1973, p. 23
Electoral competition (%)	Yes	No	See entry for Republican control; <i>Congressional Quarterly</i> 1994, pp. 667–716
Public opinion	No	No	Gallup Organization 1945
Malapportionment (RTV)	No	No	Ansolahehere et al. 2000, pp. 30–31
Employer strength	No	No	Lumsden and Peterson 1975, p. 1242

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TABLE A1 (*Continued*)

Variable	Time Varying	Interpolated	Sources
Percentage black	Yes	Mostly	U.S. Bureau of the Census 1975, pp. 24–37
Percentage Jewish	Yes	Some	AJC 1941, p. 656; 1950, pp. 71–73; 1951, p. 17–21; 1954, pp. 8–12; 1955, pp. 177–81; 1957, p. 82; 1958, p. 23; 1959, p. 18; 1960, pp. 9–10; 1961, p. 62; 1962, p. 145; 1963, p. 76; 1964, p. 13; 1965, p. 147
Percentage Catholic	Yes	Mostly	<i>Official Catholic Directory</i> 1940, 1950, 1960, 1965
NAACP membership (%)	Yes	Some	NAACP 1940–46, 1947, 1949, 1950, 1951, 1952, 1953–54, 1955, 1956, 1957, 1958, 1959, 1961, 1962, 1963, 1964, 1965
Union density	Yes	Mostly	Troy and Sheflin 1985, p. 7–3, table 7.1
Adjacent states with FEP (%)	Yes	No	See entry for pass
Electoral competition (quartile)	Yes	No	See entry for electoral competition
Electoral competition × Republican control	Yes	No	See entry for electoral competition
Republican strength	Yes	No	See entry for electoral competition
Republican strength, squared	Yes	No	See entry for electoral competition

APPENDIX B

TABLE B1
 LINEAR PROBABILITY MODELS OF FEP LEGISLATION IN NON-SOUTHERN STATES, 1945–
 1964

	Model B1	Model B2	Model B3	Model B4
Republican control	-.128** (.047)	-.126* (.052)	-.113* (.049)	-.096 (.056)
Income (1964 dollars) .....		.000 (.000)		.000 (.000)
Industrialization (1964 cents)		-.002 (.002)		-.002 (.002)
Urbanization (%)		-.003 (.002)		-.005 (.003)
Electoral competition .....		.002* (.001)		.001 (.001)
Union density		-.004 (.004)		-.001 (.005)
Percentage black .....		.047 (.033)		.037 (.033)
Percentage Jewish		-.174** (.057)		-.201** (.062)
Percentage Catholic .....		.004 (.007)		.003 (.008)
NAACP membership (%) .....		.001 (.004)		-.000 (.005)
Neighboring states with FEP (%) .....		.004** (.001)		.003** (.001)
Time .....	.011** (.002)	.004 (.006)		
Constant	-.079** (.027)	.019 (.193)	-.072* (.033)	.037 (.206)
State-fixed effects	Yes	Yes	Yes	Yes
Time-fixed effects	No	No	Yes	Yes
R ² .....	.15	.25	.19	.29

NOTE.—Entries are OLS coefficients with SEs in parentheses. $N=502$. All models exclude time-constant covariates. Model B3 and model B4 exclude a linear time counter. Robust SEs calculated to adjust for heteroskedasticity.

* $P<.05$.

** $P<.01$.

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