

**THE POLITICAL ECONOMY OF RACE AND THE ADOPTION OF  
FAIR EMPLOYMENT LAWS, 1940 – 1964**

by

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**Working Paper No. 01-W04**

February 2001

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[February 2001]

This paper is a substantially revised version of NBER Working Paper H0128. I thank Lee Alston, Jeremy Atack, Michael Edelstein, Al Finegan, Price Fishback, Claudia Goldin, Jim Heckman, Shawn Kantor, Jeff Kling, Randy Kroszner, Tom Lyons, Bob Margo, Charlie Mullin, Bill Shughart, Jeff Williamson, and Gavin Wright for helpful discussions on this topic, as well as participants in the World Cliometrics Congress (Montreal, 2000), the NBER Summer Institute (DAE Program, 2000), and seminars at the University of North Carolina, University of California at Berkeley, and Washington University, St. Louis. I also appreciate Claire Friedland's help in locating George Stigler's unpublished work on the topic. Kate Albers and David Rivers provided excellent research assistance.

## The Political Economy of Race and the Adoption of Fair Employment Laws, 1940-1964

Abstract: This paper explores the political economy of anti-discrimination legislation during the ascendancy of the Civil Rights Movement. It traces the diffusion of state-level fair employment legislation and evaluates the relative importance of various demographic, political, and economic factors in promoting such legislation. The empirics indicate that non-southern states with higher proportions of union members, Jews, Catholics, and NAACP members tended to adopt fair employment legislation earlier than other states. There is also some evidence that the likelihood of passage was higher in states with more competitive political systems and in states with neighbors which had already passed a law. Predicted times of fair employment policy adoption for the southern states underscore the importance of federal intervention.

By the time Congress passed the landmark Civil Rights Act of 1964, 22 states had already adopted administratively enforced “fair employment” legislation which prohibited labor market discrimination on the basis of “race, color, creed, and national origin.” These state laws covered 40 percent of the nation’s African-American population and nearly all African Americans residing outside the South. For the most part, however, the economics literature has neglected the laws in its assessment of the link between government policy and black economic progress. This is unfortunate for several reasons. First, the laws might have had direct and significant effects on African Americans’ well-being (Norgren and Hill 1964, Landes 1968, Heckman 1976). Second, between World War II and the Civil Rights Act of 1964, the state fair employment agencies had a profound influence on the course of antidiscrimination law and policy (Moreno 1997, p. 107). The state laws laid the institutional and political groundwork for the federal legislation that eventually followed. Third, and at the center of this paper, analysis of the timing of adoption of these state laws can provide important insights into the political economy of the Civil Rights Movement. By leaving aside careful consideration of the origins of anti-discrimination legislation and instead viewing changes in race-specific legislation as exogenous events, economists have foregone the study of an essential part of the story of black economic progress.

This paper traces the diffusion of fair employment legislation and evaluates the relative importance of various demographic, political, and economic factors in the promotion, or at least the acceptance, of the principle of government-enforced anti-discrimination policy. I begin by drawing on the existing historical, sociological, and political science literatures to form hypotheses about the factors that contributed to the Civil Rights Movement’s legislative successes and failures. Then, after assembling data on the timing of adoption and various state-level characteristics (including union membership, the religious and racial composition of each state’s population, NAACP membership, and the competitiveness of each state’s political system), I examine these hypotheses in a hazard model framework. Through most of the paper, the emphasis is on the non-southern states because that is where anti-discrimination legislation was actively debated and, in some cases, enacted. In a sense, and adopting the language of the hazard model literature,

the South was not “at risk” for adopting this legislation prior to 1964, a point that is resoundingly clear from the empirical work below. In any case, adding the southern states to the sample only tends to strengthen the empirical results.

Whether one views the process of policy formation in a simple median voter framework or in a more complex framework of competing special-interest groups, African-American efforts to secure anti-discrimination legislation surely would have benefitted from the support of other politically active groups. In fact, the cooperation of other groups appears to be central to explaining differences in the timing of adoption across states. Non-southern states with higher proportions of union members, Jews, and Catholics passed fair employment legislation earlier than other states. These findings are not driven by differences across states in average education levels, the size of the manufacturing sector, nor by unobserved differences between states that border the South and those that do not. Interestingly, after controlling for other factors, non-southern states with higher proportions of blacks were *not* more likely to enact fair employment legislation, but larger NAACP memberships do appear to have shortened the time to adoption. Finally, and most speculatively, the empirics suggest that most southern states would have adopted anti-discrimination laws long after the rest of the country, if ever, implying that federal intervention was crucial to the establishment of legal protection from labor market discrimination in the South. Donohue and Heckman may still be right to argue that “. . . in certain ways the South was ripe for change. There is evidence that some Southern employers were eager to employ blacks if given the proper excuse” (1991, p. 1639), but it is important to recognize that the “proper excuse” would *not* have been provided by southern state legislatures.

Of course, the Civil Rights Movement was fighting on more than just the fair employment front during the period under study. The dramatic Supreme Court victories, the efforts to end segregation in public accommodations, and the registration of black voters were all important elements of the Movement’s strategy and achievements. Moreover, legislative reform was pushed simultaneously at the local, state, and federal levels, and so the analysis of state legislation offered here cannot be viewed as (and does not purport

to be) a comprehensive evaluation of the political economy of the Civil Rights Movement. Nevertheless, the analysis does provide important clues about the nature and the strength of the forces that combined to push the Movement's legislative agenda forward.

### **A Brief History of Fair Employment**

The notion that the government itself should not discriminate in employment emerged long before the 1940s. The basis of this nondiscriminatory stance is found in most state constitutions where religious tests for public officials are banned. Over time, this view expanded to cover other government employees, as well as other forms of discrimination (see Bonfield 1967). The state-level fair employment legislation of the post-1940 period was revolutionary in that it applied broadly to private employment, even when there was no direct connection to government funds, and it was typically enforced by independent agencies with the power to issue cease and desist orders and with recourse to the courts to ensure compliance. Thus, both the scope of coverage and the method of enforcement of non-discrimination policy leapt forward in the post-war fair employment legislation.

Ironically, although many states adopted fair employment legislation before the federal government did, the prototype for the state anti-discrimination efforts was assembled at the federal level during World War II. Dissatisfied with discrimination in war-industry employment and with segregation in the military, A. Philip Randolph formed the March on Washington Movement and threatened to lead 100,000 blacks in a protest march in 1941.<sup>1</sup> In response, President Roosevelt agreed to issue an executive order that declared "there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin." The Fair Employment Practice Committee (FEPC) was established to enforce the executive order by fielding, investigating, and resolving complaints submitted by aggrieved workers. Although there were a few notable failures, the FEPC settled thousands of cases

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<sup>1</sup> A. Philip Randolph led the most influential black labor organization of the time, the Brotherhood of Sleeping Car Porters.

through consultation with and persuasion of discriminatory employers and unions (Ruchames 1953, Reed 1991, Kryder 2000), and cross-city empirical evidence supports the claim that the wartime FEPC opened a substantial number of jobs to black workers (Collins 2001).

Despite some vigorous efforts by congressional proponents of fair employment, the federal anti-discrimination measures were never passed into law during the war, and the Committee was dismantled at the war's end. Until the Civil Rights Act of 1964, congressional bills prohibiting discrimination in employment were routinely detained in committee, and on the few occasions when the bills made it to the floor for debate, they expired under the weight of Senate filibusters. When the 1964 Civil Rights Act finally passed, it was only after the Senate voted for cloture on the southern filibuster – that is, after a two-thirds majority vote was achieved to end the filibuster and to clear the way for a vote on the bill.<sup>2</sup>

During these two decades of legislative frustration at the federal level, states began crafting and implementing their own fair employment initiatives. New York led the way in 1945, and within two years was followed by New Jersey, Massachusetts, and Connecticut. Table 1 reports the timing of the adoption of state fair employment laws up to 1964, as well as administratively enforced public accommodation and private housing laws for the sake of comparison. Interestingly, aside from the obvious distinction of the South, the diffusion of the laws did not follow a simple geographic pattern from that initial cluster of northeastern states. For example, Pennsylvania passed its law ten years after New York; California passed its law ten years after Washington and Oregon; and Illinois passed its law six years after Michigan.

The details of the laws' provisions varied somewhat from state to state, but the prohibitions and means of enforcement were rather uniform because they were typically based on the original New York law. In general, it became unlawful for employers, unions, or employment agencies to discriminate on the basis of race, religion, or national origin in decisions concerning employment, discharge, referral,

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<sup>2</sup> Prior to the cloture vote in 1964, there had been 11 consecutive failed cloture attempts on bills related to civil rights, beginning with proposed anti-lynching legislation in 1938. See the Congressional Quarterly Almanac of 1964 for a brief legislative history of civil rights bills.

compensation, or other conditions and privileges of employment.<sup>3</sup> The “standard package” of enforcement powers included the power to receive and investigate complaints of discrimination, to eliminate any unlawful discrimination by conference and persuasion, and to issue cease-and-desist orders (backed by state courts) to non-compliant parties (Norgren and Hill 1964, pp. 94-98).

The composition of the committees formed to oversee the enforcement of the state fair employment laws was also quite similar across states. Nearly all state fair employment committees included black and Jewish members. Clergymen (from a variety of sects) were often included, as were union officials and business executives (Lockard 1968, p. 96-97). Thus, the committees represented the groups who perceived the greatest degree of discrimination, pushed for the committee’s creation, and felt entitled to a voice in its operation. At the same time, by ensuring representation for unions and business leaders, the committees could maintain an air of impartiality and could more effectively persuade discriminatory unions and employers to change their employment practices.<sup>4</sup>

In sum, the Civil Rights Movement’s campaign against labor market discrimination followed a circular route from the federal government’s first effort to enforce a wide-ranging anti-discrimination policy (during World War II) to the federal government’s more famous and lasting effort to do so again (after the 1964 Civil Rights Act). That route ran through the houses of the state legislatures, and the next section describes some features of the political landscape that unfolded along the way.

### **The Political Economy of Fair Employment**

The political economy literature has provided a better sense of how economic interests are translated into policy outcomes by the intervening political institutions. However, relatively few studies in economics have explicitly examined race-specific government policy formation (Roback 1986, Margo

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<sup>3</sup> The New York law excluded social and fraternal clubs, charitable, educational, and religious non-profit associations, and establishments with less than six employees from coverage (Bonfield, p. 1072).

<sup>4</sup> For example, having relatively high ranking union officials on the committee helped reconcile the common gap between stated union policy and actual union practice.



1990, Anderson and Halcoussis 1996, Alston and Ferrie 1999, Wright 1999). Of the economics studies which have done so, most have focused on the South in the early twentieth century, leaving the non-South and the postwar period underexplored. Empirical studies in the political science and sociology literatures have investigated postwar race-specific policy formation, but the overwhelming emphasis has been on the federal legislation (Black 1979, Burstein 1985, Whitby and Gilliam 1991); and when the state legislation has been studied, explicit consideration of underlying economic motives has been sidelined (e.g., Erikson 1971, Gray 1973). Finally, although Stigler (1973) and Heckman (1976) have given some thought to the origins of state fair employment laws, their empirical work was generally inconclusive, leading Heckman to recommend that “Much further work needs to be done on the sources of legislation” (1976, p. 265). This paper picks up the line of inquiry and builds on the previous work by paying closer attention to the history of the state campaigns for fair employment legislation, by drawing on previously neglected sources of data, and by exploring the timing of the legislation’s adoption across states using duration models.

One can surmise from the laws’ language which groups might expect to benefit from fair employment: African Americans, Asians, and perhaps Hispanics would be protected under the “race” and “color” panels of the fair employment umbrella; Jews, Catholics, and other religious minorities would be protected under the “creed” panel; and the foreign-born would be protected under the “national origin” panel. Thus, even though discrimination against blacks was at the center of the discussion of fair employment laws, the extension of coverage to other minority groups could have widened the base of legislative support.<sup>5</sup>

From an economic standpoint, however, it is not clear *a priori* that non-black minority groups would have favored such legislation. For example, if blacks and other minority groups were close substitutes in labor markets, and if other minorities perceived relatively weak discrimination against themselves but strong discrimination against blacks, then they might have opposed fair employment

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<sup>5</sup> Here, for the sake of brevity and tractability, I discuss “groups” as if there is a great deal of homogeneity within each group. I am aware that there is room for considerable disagreement and conflicting interests within groups.

legislation even if they were covered by it. Essentially then, the political position of a non-black minority group would hinge on whether the expected gains from supporting the legislation exceeded the expected losses from increased labor market competition with blacks. Or thinking more broadly, the position would depend on whether the expected utility from supporting the legislation (perhaps including utility derived from acting out of a sense of fairness) exceeded the expected disutility of more labor market competition and of expending some political effort.

As the group experiencing the most intense degree of discrimination, it is likely that black workers stood to gain the most from effective state fair employment legislation, but it does not follow that blacks were necessarily the most powerful proponents of the legislation. First, and focusing on the non-southern states, the proportion of each state's population that was black was relatively small. Second, although the geographic clustering of blacks in central cities ought to have facilitated some political representation of their interests, urban residents were often under-represented in state legislatures (David and Eisenberg 1961). Third, during this period in the non-southern states, African Americans were a relatively poor group, comprised largely of fairly recent migrants from the South. In sum, mustering effective legislative power from such a weak economic and political base may have been quite difficult. Accordingly, Duane Lockard has argued that African Americans were not a strong force in state politics early in the period under study, and that for the most part, the initiative for legislation came from other pro-fair employment groups (1968, p. 29). This situation changed somewhat over the course of the 1950s as more blacks moved into positions of political leadership, as church-based activism intensified, and as the broader Civil Rights Movement gathered momentum.<sup>6</sup> Nevertheless, it appears that cooperation and support from non-African-American groups played an important role in the successful drives for state fair employment legislation, a hypothesis that will be explored empirically below.

Religious organizations, particularly those whose members were or had been subject to substantial

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<sup>6</sup> Myrdal noted that "the Negro church is, on the whole, passive in the field of intercaste power relations" (1944, p. 873). This passivity was shed over time, especially after the establishment of the Southern Christian Leadership Conference in 1957, led by Martin Luther King, Jr.

degrees of discrimination and persecution, often supported the anti-discrimination legislation. First and foremost, the American Jewish Congress and other Jewish groups were strong, early, and effective proponents of anti-discrimination legislation. According to Lockard, “In every state there is evidence of some major contribution from Jewish groups: money to finance campaigns, staff to coordinate and direct activities, lobbying and intralegislative assistance, substantial legal advice and assistance in the drafting and in the defense of civil rights laws” (1968, p. 41).<sup>7</sup> Indeed, in 1946 a Massachusetts state legislator derisively identified the fair employment bill under consideration as “of Jewish origin” (Lockard 1968, p. 42). During World War II, Jews filed the second largest number of complaints of discrimination with the federal FEPC (after blacks), an indication that Jews perceived a high and costly degree of labor market discrimination (FEPC 1945, p. 119). Thus, the substantial efforts of Jewish organizations to promote fair employment policies after the war is not surprising.

White Christian groups, on the other hand, were much more ambivalent in their stance (Findlay 1990). In the 1940s, although there were some outspoken Catholic and Protestant clergymen, support for civil rights legislation was uneven both across and within sects. The most active pro-fair employment Protestant group, the Federal Council of Churches of Christ in America (FCCCA), was composed of several independent denominations, some of which were quite large. But Robert Booth Fowler (1985) has argued that there was a large gap between the liberal Protestant clergy and the laity on matters of civil rights and on the proper role of the church in promoting the civil rights agenda. Accordingly, when Lockard composed his account of the various groups that effectively promoted state-level fair employment legislation, the FCCCA was omitted.

Responding to encouragement from the Vatican in the early 1940s, the Catholic hierarchy in the United States issued a statement that explicitly advocated racial equality in political, economic and educational opportunities (Kesselman 1948, p. 139). More concretely, Monsignor Francis J. Haas, the Dean of Social Sciences at Catholic University, served briefly as the chairman of Roosevelt’s federal FEPC

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<sup>7</sup> Also see Kesselman (1948, pp. 101-109).

in 1943, and several church leaders publicly advocated permanent federal fair employment legislation in the 1940s. Still, Goldstein pointed out that not all Catholic leaders were enthusiastic in their support of fair employment (1950, p. 17). At the grass-roots level, some support for the principle of nondiscrimination might have derived from American Catholics' own experiences with discrimination. Nevertheless, to the extent that working-class Catholics viewed blacks as potential competitors in markets for jobs and housing, their support for anti-discrimination legislation could have been substantially dampened.<sup>8</sup> Despite the historical literature's emphasis on the role of religious groups in promoting state-level fair employment legislation, no previous work has assessed their influence empirically.

In the period under study, unions were key players in the arena of work-related legislation, but it is not clear in theory whether (and which) unions should have supported fair employment legislation. Ashenfelter (1972) developed a conceptual framework to describe the formation of union policy on racial issues, and within that framework, a substantial distinction emerges between the expected policy positions of industrial and craft unions. Because blacks were relatively unskilled on average, they were likely to form a larger proportion of the actual and potential constituents of industrial unions than of craft unions. Moreover, as evidenced by the history of strikebreaking practices, blacks formed a large pool of potential labor market competitors for unskilled whites.<sup>9</sup> Following Ashenfelter's logic, excluding a large group of potential competitors from the union would diminish the effectiveness of industrial strikes (or the threat of such strikes), and consequently, industrial unions may have had an incentive to absorb the potential competitors and represent their interests. Skilled craftsmen, however, did not rely primarily on the threat of strikes to extract rents, but rather on control of entry into the craft, often through apprenticeships. Ultimately, industrial unions would be expected to pursue more inclusive and egalitarian racial policies both internally and in their legislative agendas, a hypothesis that is consistent with the histories of CIO (primarily industrial unions) and AFL (primarily craft unions) policy positions (Northrup 1944). The

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<sup>8</sup> McGreevy (1996) discusses the race-related policy dilemmas of urban Catholic parishes, especially in response to housing issues.

<sup>9</sup> See Whatley (1993) on African-American strikebreaking.

hypothesis is also supported by historical accounts of which organizations spoke in favor of fair employment legislation at the state level.<sup>10</sup> However, assuming a considerable degree of substitutability between unskilled blacks and unskilled whites, a plausible alternative course of action would have been for white-dominated industrial unions to resist fair employment initiatives. The next section will attempt to observe empirically whether the public support that unions often voiced for fair employment policies actually translated into effective legislative action.

Conceptualizing the role of political parties in the passage of fair employment legislation is complicated by the endogeneity of party strength. In a sense, state population characteristics are more primitive variables than state political characteristics because the population's preferences should underpin political outcomes. At the same time, however, the relative strength of political parties may have been determined by issues and events that were exogenous from the standpoint of the fair employment issue – that is, fair employment might be considered a small issue in a big political pond. If so, then relative party strength, as manifested in the closeness of competition between the parties, might have had an independent influence on the likelihood of fair employment's passage.

For the sake of a simple example, suppose that black voters care primarily about establishing government-enforced anti-discrimination policies, but that white voters are relatively apathetic about such policies and are roughly evenly split between two parties on the basis of other issues. Then politicians could take the positions of white voters as given, and could court the black vote by promising fair employment legislation. In this scenario, the closeness of the competition between the parties raises the likelihood of fair employment's passage. The outcome when a single party dominates, however, is less clear. Given dominance, there is no incentive to court the minority vote by promising or passing fair employment legislation if there is any real cost to doing so. Nonetheless, if a dominant state party is responsive to cues from the national party organization on racial issues, then it might establish fair

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<sup>10</sup> For example, Gray notes that the CIO devoted more money and lobbying effort to the State Council for a Pennsylvania Fair Employment Practice Commission than any other group (1970, p. 64).

employment legislation even in a non-competitive political environment. The empirics that follow will incorporate a measure of inter-party competition to shed light on these hypotheses.

Identifying groups opposed to fair employment legislation is somewhat more difficult than identifying the advocates. The opposition seems to have been rather diffuse, becoming more so as time passed. Early in the period, however, state business and employer groups were often actively opposed to the bills, generally on the grounds that the government should not be allowed to interfere with a private employer's hiring, firing, training, or promotion decisions. Lockard specifically cites displays of employer opposition in New York, Pennsylvania, Ohio, and California (1968, p. 62); Kesselman additionally mentions such opposition in Illinois, Michigan, and Massachusetts (1948, p. 171 footnote). For the sake of empirical analysis below, the strength of sentiment against government intervention in the economy is likely to be reflected by the strength of the Republican Party in these non-southern states.<sup>11</sup>

Finally, returning to the issue of substitutability among black and white unskilled laborers, perhaps white workers with relatively low levels of education or skill felt most threatened by labor market competition from blacks and were able to exercise political influence that delayed fair employment legislation. I explore this hypothesis using measures of educational attainment for each state. It is interesting to note at the outset, however, that in 1945 a nationwide Gallup poll found that 52 percent of manual workers favored a state fair employment law compared to only 43 percent of business and professional workers (1972, p. 528).<sup>12</sup>

## **Empirical Framework and Data**

The paper's basic empirical strategy is to use differences across states in the timing of fair

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<sup>11</sup> This connection between business opposition to fair employment and the Republican Party is not far-fetched. In his detailed account of the politics of fair employment legislation in Pennsylvania, Gray reports that the Pennsylvania Manufacturers Association (and several others business associations) effectively exercised their opposition to fair employment through the state's Republican Party (1970, pp. 129-130).

<sup>12</sup> Unfortunately, the poll's results are reported in a fairly aggregate form, so it is not possible to separate white from black manual workers.

employment adoption to identify the relative importance of various economic, demographic, and political characteristics in facilitating the legislation's passage. I begin with a simple framework that assumes that the characteristics are exogenous and fixed over the period of study. Generally, I use mid-period (around 1950) measures of the variables of interest, and when possible I test the sensitivity of the findings to this choice. Then, I allow for two potentially important time-varying characteristics: the size of the black population, which in some states changed substantially during the 1940-1964 period, and the influence of changes in policy in neighboring states, essentially a geographic spillover effect.<sup>13</sup>

The simplest way to proceed is to estimate a probit regression where the dependent variable equals one if the state passed a law prior to some year and zero otherwise. The real shortcoming of such an approach is that a great deal of useful information is discarded when the timing of passage is collapsed into the dichotomous dependent variable. For example, in a probit, the legislative outcome in New York may be observationally identical to the outcome in California even though New York passed its law fourteen years earlier. Hazard models, on the other hand, do exploit information on the timing of adoption, and they will form the basis of this paper's empirical exploration.<sup>14</sup>

Briefly (and roughly), the hazard rate at a particular time is the rate at which spells of something end, conditional on their having lasted until that time. In this case, the spell is the time between 1940 and the time of fair employment adoption.<sup>15</sup> Empirically, interest lies in how a vector of state characteristics,  $X$ , affects the hazard function,  $h(t)$ . Letting  $h(t) = h_0(t)e^{X\beta}$ ,  $h_0(t)$  is the baseline hazard function which is

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<sup>13</sup> Given the data that exist, entering all of the variables in time-varying form is infeasible.

<sup>14</sup> See Fishback and Kantor (1996) or Pavalko (1989) for applications of hazard models to the timing of the passage of workers' compensation laws across states. See Kroszner and Strahan (1999) for an application to changes in banking laws.

<sup>15</sup> The idea for fair employment legislation clearly existed by 1941 when the wartime FEPC was established, and in 1945 at least 20 state legislatures considered fair employment laws. As early as 1932, something quite similar to a fair employment bill was proposed to New York's legislature (Bonfield 1967, p. 1068 footnote). Ultimately, the choice of starting date does not matter in Cox estimates, and the Weibull coefficients in this paper are rather insensitive to changes in the starting date.

proportionally scaled by the  $e^{x\beta}$  term.<sup>16</sup> In this paper, the focus is on the estimated  $\beta$  parameters which indicate whether or not the state characteristics affect the “risk” or the timing of adoption, but the shape of the baseline hazard is also of interest because it may reflect the increasing momentum of the broader Civil Rights Movement. In economic applications of duration models, it is often supposed that  $h(t) = pt^{p-1}e^{x\beta}$ , a Weibull model, where parameters  $p$  and  $\beta$  are estimated by maximum likelihood. If  $p > 1$ , then the hazard rate tends to rise over time. Alternatively, one can avoid making assumptions about the form of  $h_0(t)$  and still estimate the  $\beta$  parameters by using a Cox model which relies on the order of adoptions to identify the coefficients of interest. I estimate and report both Weibull and Cox specifications, and the results are usually quite similar.

The data come from a variety of sources. The year of passage of fair employment laws is reported in Landes (1968). In the probit model, the dependent variable takes on a value of one if the state has passed an enforceable law before 1960, where “enforceable” implies the existence of an administrative agency to pursue investigations and settle complaints. In the language of hazard models, the date of passage marks the timing of the “failure,” and the states that had not passed laws before the 1964 Civil Rights Act are treated as censored observations.

I used the Integrated Public Use Microdata Series (IPUMS, Ruggles and Sobek 1997) to calculate the average adult education level (by race) and the proportion of each state’s adult population that was black. *Ceteris paribus*, a larger black population ought to translate into more political influence either through sheer voting power or through the generation of a greater pool of economic and political resources. At the same time, however, the presence of a large (or a quickly growing) black population might be viewed as a threat by white workers who are insulated from competition by discriminatory employment practices. Consequently, whether or not a large black population accelerated the adoption of legislation is essentially an empirical issue.

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<sup>16</sup> Proportional hazard models assume that the  $\beta$  parameters do not change over time. This assumption can be tested by inspecting residuals from the Cox model for a time trend. In this paper’s data, the null hypothesis of the proportional hazard specification is not rejected.



The inclusion of the average white education level follows Heckman's (1976) suggestion that skilled whites and unskilled blacks might be complementary factors of production, and that therefore states with more educated whites might have been more likely to pass fair employment legislation. Alternatively, the measure could simply reflect any attitudes toward race which were correlated with years of schooling. The flip-side of Heckman's complementarity suggestion is that unskilled whites might have viewed blacks as substitutes, and so states with lower average levels of education might have been less likely to pass anti-discrimination laws. Later in the paper, I will also incorporate a measure of the average black education level while exploring the connection between the black population and likelihood of fair employment adoption.

Leo Troy (1957) provides union membership levels for each state in 1953. On the basis of Troy's figures, I calculated the proportion of each state's population that belonged to the AFL and the CIO separately.<sup>17</sup> Next, I constructed state-level measures of the proportions of the population that were Jewish and Catholic in 1952 from the National Council of Churches' survey of Churches and Church Membership in the United States. For the sake of comparison and confirmation, I also constructed estimates using the United States Census of Religious Bodies taken in 1936. For both Jews and Catholics, the correlation between the 1936 estimates and the 1952 estimates for the non-southern states is a reassuringly high 0.98.

Finally, using state government data covering the 1946-1963 period, Austin Ranney (1965) calculated an index of inter-party competition for each state. Ranney's index is formed by a simple average of four components: the average percent of the popular vote won by Democratic gubernatorial candidates, the average percent of seats in the state senate held by Democrats, the average percent of seats held in the state house of representatives held by Democrats, and the percent of all terms for governor, senate, and house in which Democrats had control. The index runs from 0 (complete Republican control) to 100 (complete Democratic control), with index values in the middle range representing the most competitive

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<sup>17</sup> It is possible that the merger of the AFL and CIO in 1955 will make it difficult to distinguish empirically between the groups' activities, but it appears that the constituent unions retained a substantial degree of independence after the merger (Lester 1964, p. 108).

party system. Reflecting the discussion of party power in the previous section, this variable is entered into the models as a quadratic. This form allows the variable's effect to increase as the index becomes more competitive, and, if dictated by the data, fall as the index value moves away from the competitive range.<sup>18</sup>

## **Empirical Results**

As discussed earlier, the empirics rely primarily on the experience of the non-southern states. Including the southern states, none of which adopted fair employment laws before 1964, strengthens the results, and the results' implications for the South will be taken up later in the paper. Table 2 reports summary statistics for the full 32 non-southern state sample, as well as separate statistics for the states that passed fair employment laws by 1964 and those that did not. Clearly, the states that passed laws were different in many dimensions from those that did not. It is less clear, however, which differences actually influenced the timing of adoption and the extent to which they mattered. After estimating probit and hazard models, I explore some counterfactual scenarios to provide perspective on the magnitude and implications of the coefficients.

The results from three different econometric approaches are presented in Table 3. In column 1, I report the results from a simple probit estimation.<sup>19</sup> The coefficients in column 1 represent the slope of the cumulative density function ( $dF/dX$ ) at the sample means. Roughly, each coefficient may be interpreted as the estimated change in the probability of having a law by 1960 associated with a unit increase in the independent variable's value, where a unit is usually a percentage point.

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<sup>18</sup> Unfortunately, it is not possible, short of re-creating the data set, to disaggregate Ranney's index into its constituent parts for the entire period, let alone for each year. Given the sample size and the distribution of the political competition variable, it is difficult to identify a more flexible functional form, though I have experimented with a series of dummy variables; the story does not change.

<sup>19</sup> Heckman (1976) estimated a probit for adoption prior to 1959. Like Heckman, I examine whether union membership and white education levels influenced the likelihood of passage. Unlike Heckman, I include variables for the black, Jewish, and Catholic proportions of the population, separate the union variable into AFL and CIO components, exclude the South, characterize inter-party competition, assemble NAACP membership data, and go on to estimate the hazard models and form counterfactual scenarios on their basis.

Union membership, particularly CIO membership, has a statistically significant impact on the likelihood of adoption. A one percentage point increase in CIO membership as a proportion of the population raises the probability of adoption by approximately 18 percent. I find a negative correlation between the average level of white education and likelihood of passage. This is inconsistent with the notion that more educated whites viewed blacks as complementary factors of production or that educated whites simply had more liberal attitudes towards race. A larger Jewish population tended to increase the likelihood of passage, and the probit coefficient is large, but so is the standard error. The proportion of the population that was Catholic had no discernable effect in the probit estimation.

Somewhat surprisingly, conditional on the other variables, a larger black population tended to lower the probability of passage, a correlation that is not dispelled by adding a dummy variable for states bordering the South (results not shown). This is consistent with the hypothesis that whites were more resistant to fair employment in places where more blacks lived, perhaps because blacks were perceived to be a more substantial source of potential labor market competition. However, the finding is also consistent with the hypothesis that non-southern blacks tended to choose to reside in states that were less discriminatory to begin with, and that therefore, blacks perceived less need for fair employment laws in those states. Though not a direct test, a simple regression of the black proportion of each non-southern state's population (in 1960) on the proportion of the state's voters who voted for George Wallace (the former governor of Alabama with a strong segregationist history) in 1968's presidential election returns a positive and statistically significant correlation.<sup>20</sup> This finding runs counter the notion that non-southern blacks chose to reside in less discriminatory states and therefore had relatively low demand for anti-discrimination laws.

As noted already, the probit approach to studying the factors that facilitated passage discards useful information about the timing of adoption. The hazard models in columns 2 through 9 exploit that

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<sup>20</sup> Voting statistics are from The World Almanac and Book of Facts (1970, p. 365). Regressing the black proportion of the population on the proportion of voters voting for Wallace yields a coefficient of 0.52 (t-stat = 3.25).

information to provide a richer assessment of which factors sped or delayed adoption, and by how much. Columns 2 to 5 assume that the hazard function can be characterized by a Weibull specification, whereas columns 6 to 9 make no such assumption about the form of the baseline hazard in estimating a Cox specification. For the most part, the results from the two techniques are quite similar. The reported coefficients in panel A of Table 3 are hazard ratios: they represent the effect of a unit increase in the independent variable on the hazard rate. In other words, recalling that a proportional hazard model is simply  $h(t) = h_0(t)e^{X\beta}$ , where  $\beta$  is a vector of coefficient estimates, the hazard ratio for each variable in Table 3 is then  $e^b$ , where  $b$  is an element of  $\beta$ . A hazard ratio greater than 1 implies that an increase in that variable's value led to faster adoption (scaling up the hazard function); for example, a hazard ratio of 2 implies that a unit increase in that variable doubles the hazard rate.

Alternatively, Weibull specifications (but not Cox) can be transformed and interpreted in an accelerated failure time form where  $\ln T_j = \alpha + X_j \lambda + u_j$ . In this case,  $T$  is the time of failure (or censoring),  $u$  has an extreme-value distribution, and each element of  $\lambda$  equals  $-b/p$  from the hazard ratio form and is interpreted as the effect of a unit increase in some characteristic's value on the log time of adoption. The coefficients corresponding to columns 2 to 5 are reported in accelerated failure time form in panel B of Table 3. This interpretation of the data is helpful when assembling counterfactual times of adoption below.

Columns 2 and 6 of Table 3 both find substantial effects for the Jewish, Catholic, and CIO membership variables, as well as a positive but less statistically significant effect for AFL membership. I do not include a separate measure for the foreign-born population in Table 3's specifications for two reasons. First, the historical literature emphasizes the importance of the religious organizations of the foreign-born (and their descendants) in promoting fair employment, but not organizations of the foreign born per se. Second, empirically, the foreign-born measure is highly correlated with the Catholic and the Jewish proportion of the population. When I have included the variable, the coefficient suggests that *ceteris paribus* a higher proportion of (presumably non-Catholic, non-Jewish) foreign born delayed

adoption, but the result is statistically insignificant. At the same time, its inclusion tends to increase the size of the Catholic and Jewish coefficients without compromising their statistical significance. Likewise, adding a variable for the proportion of the labor force in manufacturing to the hazard models does not dispel the effect of union membership on the timing of passage, and the manufacturing coefficient itself is statistically insignificant.

The inter-party competition coefficients are weak from a statistical standpoint. Nonetheless, it is worth noting that the coefficients generally imply a maximum impact at an index value around 60, consistent with the hypothesis that legislation was most likely to be passed in states with relatively competitive political systems. The coefficients also suggest that Republican Party-dominated states were somewhat less likely to pass fair employment legislation than Democratic Party-dominated states (outside the South).

Columns 3 and 7 include the average white education level and the border state dummy variable. Neither variable is close to statistical significance, but *ceteris paribus* it appears that states bordering the South were more likely to adopt the legislation than others. As in the probit model, higher white education levels seem to lengthen the time until adoption. In results that are not shown, I tested whether the white unemployment rate (in 1950) affected the timing of adoption. When added to column 2 or 6, a higher white unemployment rate appeared to slow adoption, but in the other specifications, the effect was negligible.

Again, a larger black population did not increase the likelihood that a state would adopt fair employment legislation, a finding that requires some further exploration. Because political effectiveness might be a function of organizational capability rather than simply population size, I collected NAACP membership data from the 1951 NAACP Annual Report. Precise membership figures are reported for the largest branches (more than 2,000 members), and categorical indications are given for smaller branches (e.g., Boston had between 1,000 and 2,000 members). I formed state-level estimates by assigning branches with categorical indicators the midpoint value of that category's range and then adding those figures to the more precise figures for larger branches in the state. Scaled by state population, I entered this variable into

the hazard models in columns 4 and 8.<sup>21</sup> The NAACP appears to have had a strong independent influence on the timing of legislative adoption, but two caveats should be noted. First, the NAACP membership figures may be a proxy for the strength of black political organizations in general rather than a precise measure of a NAACP effect. Second, NAACP membership might not be exogenous to a state's unobserved level of discrimination, and in theory, it is possible that membership is both positively and negatively affected by a discriminatory environment.<sup>22</sup> A full exploration of the determination of organizational density is well beyond the bounds of this paper. Nonetheless, I have found that including the "votes-for-Wallace" variable as a proxy for discriminatory environment does not diminish the strong NAACP result.

One might also imagine that black migration to these non-southern states between 1940 and 1960 had an influence on the political process which is not picked up by the 1950 black proportion variable. Immigration could have increased blacks' political power over time, or alternatively, it could have provoked an adverse political response from people already residing in the state. I have examined this issue from two approaches. First, I simply added a variable measuring the change in the black proportion of the adult population between 1940 and 1960 to the specifications of column 2 and column 6. Doing so yields an estimated hazard ratio of 0.49 (Weibull, z-statistic = 1.38) or 0.50 (Cox, z-statistic = 1.46), suggesting that high rates of black immigration slowed the adoption of fair employment, *ceteris paribus*. For the second approach, I allowed the black proportion of the population to change over time (based on interpolation between census dates) in a time-varying covariate version of the model. Doing so had a small impact on the black population coefficient.

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<sup>21</sup> Using the nonwhite rather than the black proportion has little discernible impact on the econometric results. Branches with fewer than 500 members are not reported at all, and so they cannot be incorporated into the state-level estimates. Note that the NAACP variable is (10,000\*membership/population). This scaling is chosen simply to make the coefficient's magnitude easier to interpret.

<sup>22</sup> Blacks might have had a greater incentive to form political organizations in more discriminatory environments, but at the same time they might have encountered higher costs (potential violence, loss of employment, and other forms of intimidation) in forming those organizations.

Incorporating a variable to account for differences in adult blacks' average education level across states suggests that states with more highly educated blacks adopted laws earlier, though the coefficient estimates are fairly imprecise from a statistical viewpoint. For example, adding the black education measure to the specifications in columns 3 and 7 of Table 3 yields hazard ratio estimates of 1.98 (Weibull,  $z$ -statistic = 1.16) and 1.64 (Cox,  $z$ -statistic = 1.04). These results make sense for at least two reasons. A report on discrimination by firms in Pennsylvania found that the frequency of discrimination increased as the inquiry moved from lower to higher rungs on the occupational ladder (Governor's Commission 1953), implying that better educated blacks might have had more to gain than lesser educated blacks from anti-discrimination legislation. Furthermore, better-educated blacks might have been more politically engaged, and had more resources to devote to that engagement, than lesser-educated blacks.

Columns 5 and 9 of Table 3 report results from a time-varying covariate hazard model in which a "contagion" variable switches from 0 to 1 when a geographically contiguous state adopts a fair employment law, thereby allowing for geographic spillovers of legislation. If campaigns promoting a piece of legislation spillover from state to state, or if one state learns from a neighbor's experience, then the adoption of legislation in one state may influence the timing of passage in nearby states. For example, New Jersey Governor Walter E. Edge wrote that "While [fair employment] was a subject which I would have preferred to give greater study, politically it could not be postponed because New York had passed a similar measure and delay would be construed as a mere political expedient" (Edge 1948, p. 292; quoted in Lockard 1968, p. 21). New Jersey quickly followed New York's legislative lead in 1945. Accordingly, columns 5 and 9 show that the estimated "contagion" effect on the hazard rate is large, more than doubling the rate in both specifications, *ceteris paribus*.

If one could perfectly model a process, then the Weibull  $p$  parameter would equal 1. In other words, the passage of time *per se* would play no role in explaining the timing of events. Clearly, a perfect empirical representation of the dynamics of the Civil Rights Movement is beyond the reach of this (and perhaps any) paper. Nonetheless, this paper can gauge the rising tide of support for Civil Rights through

the Weibull  $p$  parameter, and thereby open a window between the broader Movement and the passage of state-level anti-discrimination legislation. All of the Weibull  $p$  estimates are significantly greater than 1 (despite the usual “duration dependence” concerns about a downward bias to the parameter estimate), implying that as the broader Civil Rights Movement gained momentum, the likelihood of fair employment passage increased substantially.<sup>23</sup> This is true even when the specification allows the size of the black population to rise over time or allows for potential geographic spillovers to occur. The  $p$  parameters are, of course, only approximate, one-dimensional indicators of a very complex social movement, but they do suggest a rough way to track the progress of a large social movement by mapping and analyzing its smaller legislative landmarks.

### **Predicted Times of Adoption and Counterfactual Implications**

In this section, I assemble a few counterfactuals to provide some perspective on the economic significance of the hazard model estimates in Table 3. In particular, by resetting the value of some state characteristic while taking the coefficient estimates as given, I can estimate a counterfactual year of adoption.<sup>24</sup> Suppose, for example, that binding federal immigration restrictions had been adopted in the 1890s rather than in the 1920s, a plausible policy outcome and an interesting political economy story in its own right (Goldin 1994). Because so many Jewish immigrants arrived relatively late in the Age of Mass Migration, these restrictions would have resulted in New York’s having a much smaller Jewish population. The American Jewish Yearbook 1899-1900 estimates that 400,000 Jews resided in the United States in

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<sup>23</sup> In general, inferences about duration dependence (whether the baseline hazard rate rises or falls over time) are confounded by unobserved heterogeneity in the underlying sample (Kiefer 1988, p. 672). In the context of this paper, the concern would be that the composition of the “at risk” pool of states changes over time because the more “liberal” states adopt the laws early, tending to cause a downward bias in the estimate of the baseline hazard’s trend.

<sup>24</sup> The counterfactuals are constructed using an accelerated failure time interpretation of the Weibull model. Mechanically, the estimates are made as follows: 1) multiply the relevant  $\gamma$  coefficient by the difference between the actual and counterfactual characteristic values  $[\gamma(x_{\text{actual}} - x_{\text{cf}})]$ ; 2) subtract that product from the log of the actual time (T) of adoption (where 1940 is time = 0), that is  $\{\ln T - [\gamma(x_{\text{actual}} - x_{\text{cf}})]\}$ ; 3) to get the counterfactual time of adoption, raise  $e$  to the power  $\{\ln T - [\gamma(x_{\text{actual}} - x_{\text{cf}})]\}$ ; 4) add 1940 to get the counterfactual calendar year.



1888 (p. 283). For an upper bound estimate of New York's Jewish proportion of population, I simply suppose that all 400,000 resided in New York and then divide by the state's total population from the 1890 Census; doing so yields an estimate of 6.7 percent. If this proportion had remained constant over time, the coefficients underlying column 2 of Table 3 then suggest that New York would have adopted fair employment legislation in 1955 rather than in 1945.

This counterfactual is important for at least two reasons. First, historically New York was the leading state on anti-discrimination legislation; the timing and form of legislation in New York was crucial to the timing and form of legislation pursued elsewhere. But in this counterfactual New York with many fewer immigrants, the empirics suggest that the state would have waited at least another ten years before enacting anti-discrimination legislation. This estimate does not even attempt to factor in the effect of earlier immigration restrictions on the size of the Catholic population. Second, this finding provides an important counterweight to the notion that mass European immigration hindered black economic progress. Collins (1997) found that prior to restrictions, the high rates of European immigration may have crowded potential black southern migrants out of northern urban labor markets. In this paper, it appears that these same immigrants and their descendants contributed meaningfully to the successful adoption of anti-discrimination legislation.

Unions, and craft unions (primarily AFL) in particular, earned a reputation for obstructing black economic progress over the course of the twentieth century (Northrup 1944). However, the results here provide some qualification to the notion that unions in general have inhibited black progress. In particular, it looks as though the CIO played a substantial role in promoting fair employment legislation. It is reasonable to suppose that union membership and political influence would have been much weaker in the period under study were it not for the passage of the Wagner (National Labor Relations) Act in 1935, which protected workers' right to organize, and the emergence and rapid ascendance of the CIO from a

split within the labor movement in 1935 (Lester 1964, pp. 98-103).<sup>25</sup> In a counterfactual world without the CIO, the empirics suggest that fair employment legislation would have been greatly delayed in many states. For example, setting the CIO membership variable to zero in Pennsylvania, where the prominent role of the CIO in promoting fair employment is well documented (Gray 1970), suggests that Pennsylvania would have adopted fair employment legislation in 1970 rather than in 1955.

Perhaps the most interesting, and most speculative, counterfactual attempts to determine when (or if) the southern states would have adopted fair employment legislation in the absence of the federal Civil Rights Act of 1964. The characteristics that seem to have catalyzed movements for state fair employment laws outside the South were notably absent in the South: there were relatively few Jews, Catholics, and union members in the South; interparty political competition was weak; the black population was large; and the region, especially the deep South, was insulated from geographic policy spillovers. Nonetheless, Donohue and Heckman argue that “. . . in certain ways the South was ripe for change. There is evidence that some Southern employers were eager to employ blacks if given the proper excuse” (1991, p. 1639).

Fortunately for African Americans residing the South, the federal government provided that excuse in 1964. But what if the federal government had not? Would southern state legislatures have done so? Table 4 offers four different counterfactual calculations on the basis of accelerated failure time interpretations of Weibull models, all of which assume for simplicity that the state characteristics would have stayed fixed over time. First, I take the parameter estimates reported in column 2 of Table 3 (based on non-southern states) and simply apply them to the southern state characteristics to generate predicted times of adoption (reported in column 2 of Table 4). Then, I re-estimate column 2's specification including observations for the southern states, and I use those parameters to estimate times of adoption (reported in column 3 of Table 4). In these first two exercises, the predicted length of time until adoption is driven

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<sup>25</sup> The proportion of nonagricultural employment that was unionized rose from 13.4 percent in 1935 to 34.1 percent by 1944. From 1944 to 1961 the non-farm unionization rate varied between 31 and 36 percent (Lester 1964, p. 99). The Taft-Hartley Act of 1947, however, might have inhibited union growth by encouraging “right to work” laws, thereby diminishing the potential political power of unions and slowing the passage of fair employment legislation.

largely, but certainly not entirely, by the size of the South's black population. So, just for the sake of perspective, I re-estimate column 2's specification without the black population variable, both without and with the southern states included, and then generate predicted times of adoption in columns 4 and 5 of Table 4. However I go about generating the counterfactual times of adoption, during the period under study, it appears that most southern states were very, very far from adopting state-level anti-discrimination legislation.

Of course, these predicted times of adoption should not be taken too literally. Relaxing either of the two assumptions underpinning the predictions (fixed characteristics and fixed coefficients) could change the predicted times substantially. First, one might argue that as the southern economy developed over time, the state characteristics would have changed in a way that would have hastened the adoption of anti-discrimination laws. On the other hand, it is not clear that in the absence of the 1964 Civil Rights Act and additional federal intervention, that the Jewish, Catholic, and union proportions of the southern population would have risen by much or that meaningful interparty political competition would have emerged. In other words, the course of southern economic and political development since 1964 has not been independent of the Civil Rights legislation.

Second, it is certainly possible that the mounting pressure of the Civil Rights Movement would have changed the model's coefficient values at some point. *Ex post*, it is difficult to imagine that the South's large and increasingly politically involved black population could have been denied legal protection from political and economic discrimination for much longer. Perhaps, in a model like the one constructed by Acemoglu and Robinson (2000), the threat of a revolution would have forced the southern elite to extend more rights (and income) to blacks. But again, it is not clear what path the Civil Rights Movement would have taken in the South if for some reason federal intervention had not been a possibility. That is, if we rule out the possibility of federal intervention as the basis of the counterfactual, perhaps the Civil Rights Movement would have taken a different, or weaker, or later form in the South.

In sum, this is an extremely difficult counterfactual scenario to evaluate because it is so difficult to

impose a set of *ceteris paribus* assumptions on the South in the 1960s and later. What is clear, however, is that given their demographic, economic, and political characteristics, and given how those characteristics were correlated with the timing of adoption elsewhere in the country up to 1964, the southern states were nowhere close to passing anti-discrimination legislation prior to the federal government's intervention. This finding does not contradict Donohue and Heckman's (1991) claim that some employers were eager to hire blacks once given an excuse to do so; it does underscore how crucial federal intervention was to providing that excuse.

## **Conclusions**

This paper exploits differences in the timing of the adoption of fair employment laws across states to learn about the combination of factors that helped propel the legislative agenda of the Civil Rights Movement. The empirics indicate that non-southern states with higher proportions of union members, Jews, Catholics, and NAACP members tended to adopt fair employment legislation sooner than other states. There is weaker statistical evidence that, after controlling for other characteristics, the likelihood of passage was higher in states with more competitive political systems and higher in states whose neighbors had already passed a fair employment law. As time passed, the estimated hazard rate increased, reflecting the inroads that the broader Civil Rights Movement was making on Americans' views on race and discrimination. Nevertheless, the southern states appear to have been very far from passing fair employment legislation prior to the federal Civil Rights Act of 1964.

Economists have argued that anti-discrimination legislation, first at the state level and later at the federal level, had a significant impact on African Americans' economic well-being, but few economists have explicitly considered the origins of such legislation. This paper takes a step in that direction, and I hope to pursue several extensions in future work. In this paper I have not attempted to integrate consideration of the state legislation with consideration of city-level ordinances or federal legislative processes. Essentially, I have ignored potentially important interactions between levels of government in

order to keep the scope of the paper reasonably focused. At the state level, I have not attempted to scrutinize voting patterns in state legislatures in search of direct connections between legislators' voting behavior and the interests of their local constituents. Such detailed study of state legislative processes could shed more light on the local-level political economy of civil rights legislation. Finally, a great deal of the action in the Civil Rights Movement took place behind the scenes or outside the bounds of this paper: the courtroom battles, the voter registration drives, the integration of schools and places of public accommodation, and so on. This story offers a connection between the state legislative outcomes and the larger story of the Civil Rights Movement, but a more complete effort to bind together the stories of the sub-federal legislation and the broader Movement could enrich our understanding of the Civil Rights Movement's origins and consequences.

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Table 1: State Anti-Discrimination Legislation, 1940-1964

	Fair Employment	Public Accommodations	Private Housing
1945	NY, NJ		
1946	MA		
1947	CT		
1948			
1949	NM, OR, RI, WA	CT, NJ	
1950			
1951			
1952		NY, RI	
1953		MA, OR	
1954			
1955	MI, MN, PA		
1956			
1957	WI, CO	WA, CO	
1958			
1959	CA, OH		MA, CT, CO, OR
1960	DE		
1961	IL, KS, MO	OH, PA	NJ, MN, NY, PA
1962			
1963	AK, IN, HI	AK, IN, KS, MI	AK, CA, MI
1964		DE, MD	

Note: Lockard credits Delaware with an enforceable fair employment law in 1960 whereas Landes (1968) does not. In the econometric analysis and in Tables 2 and 3, I treat Delaware the way Landes does; I also omit Hawaii and Alaska because of missing data.

Source: Lockard (1966, p. 24).

Table 2: Unweighted Summary Statistics for Non-Southern States

	All States		With FE Law by 1964		Without FE Law by 1964	
	Mean	Standard Deviation	Mean	Standard Deviation	Mean	Standard Deviation
Black	2.70	2.80	4.01	2.85	0.78	1.16
Jewish	1.91	3.18	2.93	3.82	0.42	0.39
Catholic	23.46	12.42	26.25	13.88	19.37	8.90
CIO	2.54	2.34	3.54	2.49	1.07	0.95
AFL	6.70	3.11	7.94	2.75	4.90	2.78
Political competition	40.56	14.56	43.73	12.74	35.92	16.27
White education	9.85	0.39	9.76	0.37	9.98	0.38
States	32	32	19	19	13	13

Notes: States that had laws prior to 1964 include: California, Colorado, Connecticut, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, and Wisconsin. States that did not pass laws prior to 1964 include: Arizona, Idaho, Iowa, Maine, Montana, Nebraska, Nevada, New Hampshire, North Dakota, South Dakota, Utah, Vermont, and Wyoming. Hawaii and Alaska are omitted due to missing data.

Sources: The black proportion of the adult population and average years of education for adult whites are calculated using a sample drawn from the 1950 IPUMS which includes everyone over 20 years of age. The Jewish and Catholic populations in 1952 are calculated using the National Council of Churches' survey "Churches and Church Membership in the United States." AFL and CIO membership for 1953 are from Troy (1957). The religion and union variables are scaled by state population in 1950 from Eldridge and Thomas (1964). The political competition index is from Ranney (1965).

Table 3: The Timing of Fair Employment Law Adoption, 1940-64

	1	2	3	4	5	6	7	8	9
Panel A	Probit dF/dX	Weibull hazard ratio	Weibull hazard ratio	Weibull hazard ratio	Weibull hazard ratio	Cox hazard ratio	Cox hazard ratio	Cox hazard ratio	Cox hazard ratio
Black	-0.1867 (2.32)	0.7535 (1.09)	0.6409 (1.72)	0.4761 (1.76)	0.4606 (1.97)	0.8127 (1.07)	0.7167 (1.61)	0.5317 (1.94)	0.4877 (2.17)
NAACP	-----	-----	-----	1.2342 (2.48)	1.2509 (2.45)	-----	-----	1.2555 (2.54)	1.3130 (2.42)
Jewish	0.2321 (1.57)	1.4485 (3.21)	1.5170 (3.41)	1.6485 (3.00)	1.6344 (2.94)	1.3636 (2.32)	1.4041 (2.21)	1.5028 (2.27)	1.4729 (2.49)
Catholic	0.0067 (0.34)	1.0474 (1.93)	1.0355 (1.56)	1.0588 (2.66)	1.0384 (1.40)	1.0305 (1.40)	1.0170 (0.76)	1.0426 (2.30)	1.0203 (0.87)
CIO	0.1847 (2.69)	1.6289 (1.72)	1.7120 (1.85)	1.6976 (1.37)	1.7018 (1.48)	1.4850 (2.01)	1.5155 (2.17)	1.4718 (1.60)	1.4665 (1.54)
AFL	0.1136 (2.80)	1.2753 (0.88)	1.3373 (1.07)	1.4655 (1.13)	1.5488 (1.40)	1.2149 (1.18)	1.2646 (1.62)	1.3812 (1.67)	1.5227 (2.05)
Political Competition	-----	1.1869 (0.96)	1.2328 (1.07)	1.1685 (0.71)	1.1723 (0.90)	1.1512 (1.03)	1.2051 (1.21)	1.1788 (1.00)	1.1409 (0.91)
Political Competition <sup>2</sup>	-----	0.9987 (0.75)	0.9983 (0.85)	0.9988 (0.51)	0.9988 (0.67)	0.9988 (0.87)	0.9984 (1.06)	0.9985 (0.88)	0.9988 (0.78)
White Education	-0.4682 (1.42)	-----	0.4167 (0.97)	0.5410 (0.63)	0.2997 (1.91)	-----	0.3811 (1.24)	0.4569 (1.00)	0.2536 (2.12)
Border state	-----	-----	2.4412 (1.23)	3.4780 (1.61)	2.9003 (1.84)	-----	1.8675 (0.91)	2.7097 (1.46)	2.6539 (1.53)
Contagion	-----	-----	-----	-----	2.0547 (1.39)	-----	-----	-----	3.2122 (2.01)
Weibull <i>p</i>	-----	3.5388 (5.30)	3.5978 (5.30)	3.9033 (4.98)	3.5667 (4.35)	-----	-----	-----	-----
States	32	32	32	32	32	32	32	32	32
States with laws	15	19	19	19	19	19	19	19	19
Panel B		Weibull AFT	Weibull AFT	Weibull AFT	Weibull AFT				
Black	-----	0.0800 (1.18)	0.1237 (1.71)	0.1901 (1.81)	0.2174 (1.45)	-----	-----	-----	-----
NAACP	-----	-----	-----	-0.0539 (2.30)	-0.0628 (1.48)	-----	-----	-----	-----
Jewish	-----	-0.1047 (7.91)	-0.1158 (6.42)	-0.1281 (5.80)	-0.1377 (3.89)	-----	-----	-----	-----
Catholic	-----	-0.0131 (1.91)	-0.0097 (1.57)	-0.0146 (2.76)	-0.0106 (1.27)	-----	-----	-----	-----
CIO	-----	-0.1379 (1.74)	-0.1494 (1.81)	-0.1356 (1.41)	-0.1491 (1.27)	-----	-----	-----	-----
AFL	-----	-0.0687 (0.82)	-0.0808 (0.98)	-0.0979 (1.03)	0.1227 (0.91)	-----	-----	-----	-----
Political Competition	-----	-0.0484 (1.04)	-0.0582 (1.15)	-0.0399 (0.74)	-0.0446 (1.00)	-----	-----	-----	-----
Political Competition <sup>2</sup>	-----	0.0004 (0.79)	0.0005 (0.89)	0.0003 (0.52)	0.0003 (0.72)	-----	-----	-----	-----
White Education	-----	-----	0.2433 (0.93)	0.1574 (0.62)	0.3379 (0.89)	-----	-----	-----	-----
Border state	-----	-----	-0.2481 (1.13)	-0.3193 (1.44)	-0.2985 (1.40)	-----	-----	-----	-----
Contagion	-----	-----	-----	-----	-0.2019 (0.51)	-----	-----	-----	-----

Constant	-----	5.5081	3.3497	3.9828	2.5628	-----	-----	-----	-----
		(4.91)	(1.50)	(1.89)	(1.11)				

Notes: The probit coefficients can be interpreted roughly as the change in probability of having a law by 1960 associated with a unit increase in the independent variable. If  $h(t) = h_0(t)e^{X\beta}$ , then each hazard ratio reported above equals  $e^b$  where  $b$  is an element of  $\beta$ . 1940 is taken as the starting year (time 0). z-statistics are in parentheses and indicate whether the  $\beta$  parameters are statistically different from zero (i.e., that the hazard ratios are different from 1). Weibull models assume that the hazard takes the form:  $h(t) = pt^{p-1}e^{X\beta}$ , and so if  $p > 1$  the hazard rate tends to rise over time. The z-statistic on the Weibull  $p$  tests whether  $p$  is different from 1. "AFT" stands for "accelerated failure time", and each element of  $\lambda$  (the vector of AFT coefficients) represents the effect of a unit change in the independent variable on the log time of adoption; each element of  $\lambda = -b/p$ . The underlying likelihood functions are exactly the same in the Weibull hazard ratio and AFT cases, though the z-statistics differ somewhat. Cox models cannot be translated into an AFT form. The non-southern states counted as bordering the census South include: Colorado, Illinois, Indiana, Kansas, Missouri, New Mexico, and Ohio. Removing Colorado from the list tends to lower the border coefficient somewhat but otherwise has little impact on the results.

Sources: Black proportion of the adult population and average years of education for adult whites are calculated using a sample drawn from the 1950 IPUMS including all those over 20 years of age. NAACP membership is estimated from the NAACP's Annual Report for 1951. Jewish and Catholic population in 1952 are from the National Council of Churches' survey "Churches and Church Membership in the United States." AFL and CIO membership for 1953 are from Troy (1957). The Jewish, Catholic, CIO, and AFL variables are expressed as percentages of state population in 1950 (members\*100/population). The NAACP variable is similarly expressed but is scaled upward by an additional factor of 100 (members\*10,000/population). State population in 1950 is from Eldridge and Thomas (1964). The political competition index is from Ranney (1965).

Table 4: Actual and Predicted Times of Fair Employment Adoption

	1	2	3	4	5
	Actual Time of Adoption	Predicted Time, Exclude South from Regression	Predicted Time, Include South in Regression	Predicted Time, Exclude South and Black Var.	Predicted Time, Include South, Exclude Black Var.
Northeast					
Connecticut	1947	1948	1948	1949	1949
Maine	----	1973	1974	1974	1975
Massachusetts	1946	1947	1947	1947	1947
New Hampshire	----	1960	1961	1962	1961
New Jersey	1945	1952	1953	1950	1949
New York	1945	1944	1944	1944	1945
Pennsylvania	1955	1954	1954	1952	1952
Rhode Island	1949	1947	1947	1947	1947
Vermont	----	1984	1984	1983	1984
Midwest					
Illinois	1961	1955	1955	1953	1951
Indiana	1963	1959	1958	1961	1962
Iowa	----	1982	1983	1981	1986
Kansas	1961	1997	1999	1988	1992
Michigan	1955	1951	1951	1951	1952
Minnesota	1955	1954	1954	1957	1957
Missouri	1961	1960	1961	1958	1962
Nebraska	----	1973	1975	1967	1972
North Dakota	----	2002	2004	1995	2000
Ohio	1959	1957	1957	1956	1956
South Dakota	----	1996	1998	1989	1995
Wisconsin	1957	1957	1956	1961	1958
South					
Alabama	----	2459	2642	2020	2122
Arkansas	----	2220	2294	2022	2127
Delaware	----	1990	1997	1959	1965
Florida	----	2113	2155	1994	2055
Georgia	----	2564	2786	2044	2192
Kentucky	----	1990	1995	1975	1998
Louisiana	----	2380	2540	1995	2045
Maryland	----	1988	1997	1955	1963
Mississippi	----	4099	5274	2042	2189
North Carolina	----	2363	2504	2004	2079
Oklahoma	----	1999	2006	1986	2028
South Carolina	----	3247	3842	2056	2233
Tennessee	----	2071	2097	1995	2050
Texas	----	2033	2047	1999	2061
Virginia	----	2190	2259	1996	2055
West Virginia	----	1983	1987	1972	1993
West					
Arizona	----	1962	1963	1962	1971
California	1959	1955	1955	1955	1954
Colorado	1957	1961	1961	1960	1963
Idaho	----	1979	1980	1976	1985
Montana	----	1959	1959	1961	1961
Nevada	----	1959	1959	1960	1960
New Mexico	1949	1962	1963	1957	1961
Oregon	1949	1961	1961	1970	1969
Utah	----	1967	1967	1968	1976
Washington	1949	1953	1952	1961	1961
Wyoming	----	1971	1971	1970	1973

Notes: The predicted times of adoption are calculated as described in the text. Because the state characteristics and the model coefficients are fixed, the predicted figures should not be taken as viable estimates of when the southern

states would have adopted fair employment laws. The predicted figures do indicate how far some southern states were from passing anti-discrimination laws based on their characteristics and the correlation between those characteristics and fair employment adoption between 1940 and 1964. The predicted log failure times include an estimate of the expected value of the error term (which is non-zero in Weibull models).

Sources: See Table 3.