Carton 11:37

THE BROTHERHOOD OF SLEEPING CAR PORTERS

"THE PARADOX OF EQUALITY: A STUDY OF THE CALIFORNIA FAIR EMPLOYMENT PRACTICE COMMISSION" BY CHARLES JEREMY WRIGHT

1976

2017/193
c

FEPC in practice
organizational dynamics

The Paradox of Equality: A Study of the California Fair Employment Practice Commission

By

Charles Jeremy Curtoys

B.S. (Utah State University) 1971
M.A. (University of California) 1973

DISSERTATION

Submitted in partial satisfaction of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

Political Science

in the

GRADUATE DIVISION

of the

UNIVERSITY OF CALIFORNIA, BERKELEY

Approved:

.....

.....

.....

Committee in Charge

DEGREE CONFERRED DECEMBER 11, 1976

.....

PREFACE

This study, like so many human endeavors, was the result of luck more than design. In 1972 I had the good luck to be selected for a one year traineeship funded by the National Institute of Mental Health and administered by the Center for the Study of Law and Society. The Center is one of those rare organizations with a loose enough structure to allow its members and associates the freedom to belong without confining them to a particular point of view or ideology, yet with the ability to direct their energy into productive areas of research. It was during this year that I first met the FEPC, and began to learn about its work. In order to fulfill my obligations to the Center, I wrote the first of several essays about the FEPC. Jan Vetter, Laura Nader, and Jerome Skolnick all read drafts of this essay and their comments and observations were to provide me with much inspiration in my subsequent investigations.

More than a year elapsed before I returned to the study. This time, under the watchful eye of William K. Muir, Jr., I began to conceive of the study in more general terms than previously. However, the idea that I sought to develop was sparked by a conversation, the details of which are long since forgotten, but the essence of which prompted me to examine the FEPC as a man in the middle beset by competing

points of view and doubtful even in his own mind as to the best course of action, but forced by circumstances to decide just the same. The spark was ignited by Linda Hungling Curtoys an extraordinary teacher, provider, and friend, who never doubted that this stage would be reached.

I was lucky in other ways too. The principal offices of the FEPC were situated across the bay in San Francisco, and this enabled me to make frequent visits there so that by the end of the study I was treated as part of the furniture and not as an intruder with no business in the organization. This helped me to understand the tensions and frustrations of the FEPC officials in a way that would not have been possible otherwise. If I have misrepresented their case it is because I was too obtuse to see it clearly, not because of any failure on their part to show it to me. I have been lucky too in my teachers, especially two of them. Todd La Porte, who first made organization theory comprehensible and later helped to make it fun to study, and Martin Landau, who knows the value of an idea and encouraged his students to develop one.

I should also like to thank all those who gave so freely of their time in numerous encounters and interviews. Their names, alas, must remain anonymous. Yet, without their help none of this would have happened. Finally, my thanks to Joan Wendell who typed the final draft of this essay.

TABLE OF CONTENTS

Dallums, 60

120

LIST OF TABLES

LIST OF ILLUSTRATIONS

CHAPTER I

INTRODUCTION: A PROBLEM

Can government increase equality? Can legislation make men more tolerant of one another and change the way they view their world?

To try to answer these big questions I examined over a period of years the work of a governmental agency in California, the State Fair Employment Practice Commission.* The FEPC is a statutory agency, a creature of the legislature. It was established in 1959 to reduce and, if possible, eliminate discrimination in employment in California. The assumption of this study was that in order to understand the problem posed in the above questions, one had to look at a small part of it. Has the FEPC increased equality in California? The answer depends on your point of view. Let us look, then at the

---

*The study began in November, 1972 and continued intermittently until June, 1976. The first phase involved conversations and informal interviews with FEPC personnel, employers, and civil rights leaders in the San Francisco Bay area, where the FEPC has its principal offices. During this time I observed three different FEPC consultants in their work of investigating complaints of discrimination over a period of several weeks. I also conducted a search of the complaint files in the Northern Area Office of the FEPC, selecting a random sample for further study and analysis. At the same time, I attended meetings and hearings before the commission, and staff meetings as well. The second and final phase began in September 1974, after a lapse of about one year. In this phase I updated my sample of complaints, adding some current ones, I continued to meet with FEPC personnel informally, and observe them in their work, and finally, I conducted a set of interviews with twenty-eight individuals, using a questionaire developed on the basis of my understanding of the FEPC environment.

responses of some typical protagonists in the FEPC case. I shall start with Margaret Stone.[1]

Mrs. Stone

Margaret Stone was an investigator of employment practices for the FEPC. She was, in FEPC terms, a consultant. I placed her in her late forties in age, though she might have been older, having served in the armed forces during World War II. Mrs. Stone was an attractive woman with a warm smile and a friendly manner that belied a strong will not far from the surface. She was from a puritan family, descendants of William Bradford, who still believed "the world was divided into classes, upper and lower." She remembered as a child being admonished not to associate with Jews and Italians as they were beneath her station. "Disgusting!" She said with feeling, "to hate a person because they were Italian." Mrs. Stone had, early in her life, reacted to the bigotry of her parents and, as we talked, it was clear that she saw this reaction as her primary motive for going into civil rights work. Her upbringing had made her conscious of the effect of discriminiation and inequality on the lives of people and she recalled "holding forth on the front porch of our house--we had a big home in a small town--trying to persuade all who would listen, friends and family alike, that they were wrong to look down on others not like themselves."

Those discussions were "rather raucous affairs," she admitted, "and I did not really enjoy them," but this did not

---

[1]Not her real name. Pseudonyms have been used throughout.

prevent her from initiating them. Evidently the habit persisted, for Mrs. Stone recounted with wry humor on occasion (one of many, apparently) when her children were subjected to the "spectacle of their mother giving a speech." The occasion was a visit to the United Nations Building in New York City. In the course of a tour of the building, the guide commented on the inherent weakness of the United Nations as an institution, lacking the power to impose its will on its membership. "We were with a group of farmers and their wives from Kansas," said Mrs. Stone. "So I said, 'aren't you prepared to give up a little nationalism to increase the power of the United Nations to solve world problems?' but none of those Kansas farmers were!"

This urge to take a stand and advocate a position rather than to stand back and observe the world from afar persuaded Mrs. Stone that the academic career she had first embarked upon was not for her. As a result she was one of the first to apply for the job of consultant when the FEPC opened its doors in 1960, foregoing her earlier goal of getting a Ph.D. in order to teach sociology. She felt that her career at the FEPC had been marred as her idealism had been squashed by events. Most notable of these in her mind was the election of Ronald Reagan as governor of the state and the resultant shift in policy that took place in the FEPC. By his appointments, Reagan initiated a new order. The law, felt Margaret Stone, was a good law, a strong law that should be well inforced, but had not been. This had been true even

in the days of Governor Brown. However, then at least there had been commissioners and staff supervisors who encouraged a consultant to "push [investigations] as strongly as possible." Under the Reagan appointees, new policies and procedures were initiated. "We [consultants] began to feel that if we went too far out on a limb it would get chopped off. Our new chief made it clear he was out to eliminate the civil rightniks, as he called us. Some of my colleagues quit, others who stayed on to fight were often compromised."

My observations of Mrs. Stone in the field investigating complaints and negotiating settlements, suggested that she was not easily compromised. Her colleagues, too, supported this conclusion, as did several of the organized petitioners[1] who knew her work, but otherwise had little reason to praise her or the FEPC. Without exception, it seemed, all who knew Margaret Stone regarded her as a courageous and tenacious woman, the champion of the underdog.

She regarded discrimination and inequality as institutional problems, ones that could only be rooted out by systemic means or not at all. She lamented that so few people understood this, least of all the complainants who came to the FEPC. Above all she lamented the fact the

---

[1] I use this term to denote those individuals and groups outside the FEPC with an interest in the work of the agency, who regularly petition the FEPC and the courts for redress of the grievances suffered by their clients and members of their group. Thus, organized petitioners include civil rights leaders and attorneys who regularly accept civil rights cases.

commissioners and staff of the FEPC were so insensitive to the class nature of discrimination and persisted in treating the problem as a personal one between individuals, rather than a class problem demanding class action tactics for its elimination. To underscore this point, Mrs. Stone pointed to the Supreme Court that had in effect said "thou shalt change all practices that have had or will have an adverse impact."[1] As far as Mrs. Stone was concerned, that was the end of the matter, or should have been.

> The first state fair employment practice act went into effect in 1945, right?[2] That is thirty years of talk. How long must we keep talking? We should be saying to employers who violate our statute, 'pay $500 for every violation. We warned you, you persisted, now this is the result!' Sometimes I get so impatient with people who will not listen, but what more can I say?

Nonetheless, in retrospect Mrs. Stone felt that discrimination against minorities was on the wane. Though still practiced covertly, she felt its days were numbered and might even

---

[1] Willie S. Griggs et. al. v. Duke Power Co., 401 U.S. 424 (March 8, 1971). The relevant paragrapn said. "Congress has now provided that tests or criteria for employment or promotion may not provide equality of opportunity only in the sense of the fabled offer of milk to the stork and the fox. On the contrary, Congress has now required that the posture and condition of the job seeker be taken into account. It has--to resort to the fable--provided that the vessel in which the milk is proffered be one that all seekers can use. The Act [Title VII of the Civil Rights Act of 1964] proscribes not only overt discrimination but also practices that are fair in form but discriminatory in action. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited."

[2] New York was the first state to pass an anti-discrimination statute following the demise of the federal government's wartime FEPC. See Morroe Berger, Equality by Statute (New York, 1952) for a discussion of this period and the policies and practices of the New York State Commission Against Discrimination.

disappear one day in America. Women were another matter. Of them she said,

> What we are working toward is more than equal pay for equal work, but equal pay for work of equal value. Who can say that a secretary is worth less than a janitor or a maintenance man? Clerical work is skilled work, but it is traditionally performed by women who are invariably paid less than they should be simply because they are women. I have been told that if the women of America were to be paid according to the value of their work, it would bankrupt the country. Well, doesn't that show you the extent of the discrimination involved?

Nonetheless, though the claims of women and minorities were just, Mrs. Stone was not in favor of taking matters in one's own hands. The government, in her view, held the key to eliminating discrimination.

> I am one of those who believes that government spending can do the job. I do feel there is a connection between the amount of money spent on a problem and the success of the solution. A revolt by blacks, chicanos, and women would be a disaster. Perhaps a better government would emerge, but in the interim the chaos would be awful.

Margaret Stone was a protagonist with a strong commitment to governmental intervention in the lives of individuals. She advocated this point of view on the basis of her personal predilection and her experience which suggested to her the only way to solve the ills of society was by exercising the power of government. The alternative was for people to take matters in their own hands, an outcome that she did not look forward to. This point of view was established during her childhood and nurtured through her studies in sociology after service in the army during the war. As she said during the course of our interview, the prejudices of her parents made no sense at the time, and even less the more she came to know

the world. If her parents judgement was correct, that only the good are rewarded with wealth and that to be poor is to be a sinner, then "they should have been able to prove it!" she said.

Linda Rivas

Mrs. Rivas was born poor, "very poor!" she had emphasized when we met. She went on to recount how her mother used to tell her she should not fight back if the rich kids tried to pick a fight with her. According to Mrs. Rivas her mother had the idea that if a person had more wealth than themselves it meant they were better people and should therefore be respected. "It is partly a cultural thing with us, that the lower classes should obey the higher classes as children should obey their parents. But I was always a rebel. I always fought back." Thus spoke Mrs. Rivas when I asked her what had first influenced her to think about discrimination.

Later she had come to the United States as an immigrant from her native Philippines. Mrs. Rivas concerns us in this essay because she represents the people but for whom there would be no FEPC. She was a complainant. A matronly woman in her late forties she had come to the San Francisco Bay Area in 1957 and has worked there since 1958. Mrs. Rivas was a registered nurse by profession and was licensed to underwrite medical insurance as well. When I met her she had foregone the benefits of a career in the medical insurance business and was working for a Philippino protective association in San Francisco, one of many national groups established to aid

the transition of immigrants into American life.

Mrs. Rivas liked her work. "I want to help my people," she said. "There is a lot of satisfaction it it, but also a lot of hard work. . . . I always wanted to help oppressed people. . . It makes me sick . . . somebody has to do something no matter how slow the progress." At the same time Mrs. Rivas felt the need for organizational support if the rights of an individual were to be recognized. This was her experience as a complainant before the FEPC, at least, and it colored her view of that institution. "For the individual it (fighting discrimination) is an uphill struggle. As an individual you have very little credibility and the FEPC does nothing for you."

When she elaborated further, it turned out the FEPC had done something to help Mrs. Rivas, but not enough. To Mrs. Rivas her case was simple. She was bucking the established order in the firm for which she had worked, and the FEPC did not want to go against the establishment. In the view of Mrs. Rivas discrimination was the result of the desire of capitalist entrepreneurs to grow and increase their wealth. One way in which this was achieved was by keeping costs to a minimum and discrimination was an effective means of keeping down labor costs. This was how it had worked in the case of Mrs. Rivas. She had been hired by this firm, and had worked hard, and just as she was getting to the point where some of the benefits of her labor would be realized, they began to harass her. In the end she had been fired on

the flimsiest of grounds, her accent interfered with her ability to communicate and there had been errors in her work as a result. She was vindicated in her complaint by a substantial settlement from the firm, but the example was one that was and is repeated constantly, in the view of Mrs. Rivas.[1] Many people had passed through her office since it opened, she said, all with similar stories of being forced to resign, or take a cut in pay, or move, or risk being dismissed. Such behavior which amounted to harassment was commonplace to ethnic minorities, particularly those who were recent immigrants.

On the other hand, said Mrs. Rivas, workers must understand the point of view of the capitalist (entrepreneur). The worker has an obligation to be qualified to do the job which he wants or to which he seeks promotion. It is the responsibility of workers to see they are qualified to meet the needs of employers. Thus, in the view of Mrs. Rivas, what was needed was a meeting of the two, capitalist and worker, half way. This was where the FEPC should fit in the picture, as a mediator between the two prodding the one and then the other in order to bring about a meeting of minds and end the present distrust that often existed between employer and employee.

Mrs. Rivas, like Mrs. Stone, was an advocate. She took a firm stand on the issues confronting her and made her

---

[1]The settlement resulted from a class action suit, and was not an FEPC induced result.

point persuasively. However, Mrs. Rivas' point of departure was not quite the same as that of Mrs. Stone. Where the latter favored direct intervention by government, through its agent the FEPC, Mrs. Rivas favored a less direct approach. The FEPC had only to show the way. Its greatest failure was in failing to define the problem of discrimination.

> I wish more effort was made (by the FEPC) to decide what discrimination is. It is never described in definite terms. When a person complains he is always told: 'this is not a case of discrimination!' The employer always talks about 'incompatibility,' and 'personality conflict,' and so forth. There should be a law or directive from the civil rights agencies and equal employment agencies like the FEPC laying down what is meant by discrimination, in definite terms, one-two-three-four, these acts are discriminatory. In that way there would not be the possibility of getting around discrimination that exists now. Too often employers discriminate by harassing an employee in such a way to effectively discriminate against him, but the employer gets away with it. There will probably always be some discrimination, but if there were a good definition of what is prohibited it would be easier to enforce the law.

If the FEPC would correct this failure, felt Mrs. Rivas, it could provide a substantial lead to entrepreneur and worker alike, showing each how close their interests were and reducing the incidence of discrimination along the way. If not, then the organizations such as the one Mrs. Rivas worked for would have to fact the "uphill fight alone."

Jan Herzog

Jan Herzog was an immigrant too, like Mrs. Rivas before him, but there all similarity ended. Herzog was also an employer though not an entrepreneur, but the employee of a nation wide corporation. When we met in his office, he was the comptroller for the west coast division of his

company in San Francisco. This division specialized in the restaurant business and ran a number of restaurants in San Francisco from a fast food outlet to an exclusive lounge and dining room atop one of the city skyscrapers. The corporation for which Herzog worked was also a government feeder. This is to say a supplier of food and food services to various federal agencies including the armed forces. The combination of recent immigrant status and working for a national corporation gave Herzog an interesting perspective on the issues that we discussed, and it is for this reason that he is introduced to you now.

Herzog was born in Germany where he grew up and was educated through high school. He recalled that if ever he returned from school with poor grades his parents would do something about it with the full cooperation of the school. Not so in America, or so it seemed to him, where "freedom of expression is valued over achievement." By this Herzog meant the following. As a federal contractor his firm was required to bring the ethnic and racial composition of its labor force into parity with the population prevailing in the various places where they conducted their business. As comptroller Herzog had been given the responsibility for achieving this goal in the San Francisco area. Thus, he set out to analyze the labor force under his control. He found the company was in compliance with the requirement at the lower levels of occupation in so far as Negroes and Orientals were concerned, but below parity with whites. On the other hand, at the

skilled and managerial levels there was an excess of whites and Orientals, the latter particularly on the job of cook and waiter, but blacks were under parity with their population in the city. His job, therefore, was to hire more blacks.

Herzog knew of various channels that might be used to achieve this end and selected a known community based group with federal funding to be his recruiting agent. The result, in his own words, was as follows.

> They [the recruiter] sent round some people. Two were white, two black, and one a Philipino. We hired the two whites and the Philipino, but I could not hire the blacks. The one seemed to lack comprehension. He was slow. The other could not read or write well, he had trouble filling out the application form. Now the job does not require much writing, but some. He would have had to fill out simple forms, matching columns of figures, and so on. I had to say, 'I'm sorry, but we cannot hire you!' This brings us back to the question of who is to blame. I blame the parents first, then I blame the lax school system. I have read that High School graduates cannot perform simple tasks like filling out application forms and making out a check. If this sort of thing continues, the gap between the educated and the un-educated will get wider. Yet it is often employers who are made to close the gap. This is what I do not like about organizations like the FEPC. They are not realistic. They are too idealistic.

Herzog himself was not educated to a very high level. He had attended college in the United States, but did not have a degree. However, the thoroughness of his elementary and high schooling was what mattered in his view. He had learned to read and write English in Germany better than many job applicants did in America whose native tongue was English, and his speech betrayed nothing of his origins except for a slightly guttural accent. Herzog was employed in a responsible position though he was still young, probably

in his early thirties, and regarded his success as the product of hard work, initiative, and the strong foundation of his education. With this background it is not surprising that Herzog took a pragmatic view of the issue of equal opportunity. As an employer with the authority to hire, fire, or promote several hundred employees Herzog saw his role as that of interpreter rather than advocate. By this I mean that he felt obliged to interpret the rules and regulations that government imposed on him in the light of his understanding of the nature of the problem of equal opportunity. It was not that he was intolerant of those less able than himself, for he made it clear he did not blame them for their lack of ability, but that as an employer it should not have been his responsibility to make up for this lack. Consequently he was resentful of the intervention of government because it placed the burden of increasing equality on the wrong shoulders.

There was another side to the matter as Herzog saw it. If discrimination was to be eliminated, then there had to be an incentive to do it. If the government were really interested in eliminating discrimination, and determined that the employer bear the burden, one of two things will happen, said Herzog. Either the employer will pass the cost of absorbing unskilled workers on to consumers in the form of higher prices for their product, or he will go out of business. There is no escaping this choice, however, because employers have to meet their payroll, pay off other expenses, and show a profit at the end, if they are to remain in business. What should

the government do in this case? Compensate the employer for his costs at the very least by direct subsidy or tax breaks, said Herzog, or else nothing much will change.

This perspective was echoed time and again during the course of interviews with employers. Incentives were the key, and this is hardly surprising for there is no doubt that employment must be paid for, and what is to be paid must be derived from the sale of a product.[1]

Earl Schuyler

Earl Schuyler was an anomaly. A labor leader turned management consultant, he was in a sense everyman. However, as I got to know him it became apparent that he was bound to no one but himself. The son of immigrant parents, "German and Irish, if you want to know about discrimination ask the Irish," Schuyler was a high school drop out. He had lived all his life in the shadow of the San Bruno hill overlooking the San Francisco Bay in a little town on the edge of that city. Despite humble beginnings, "we were a welfare family," he said matter of factly, Schuyler now enjoyed a high standard of living as he moved from one to another of the three houses

---

[1]For a more theoretical explanation of this fact see Chester I. Barnard, The Functions of the Executive (Cambridge, Mass: Harvard University Press, 1968), pp. 153-160, and Herbert A. Simon, Administrative Behavior (2nd ed. New York: The Free Press, 1957), pp. 16-18 and 110-122 in which he talks of this problem in terms of the "Equilibrium of the Organization." Note especially Simon's formulation of a business organization as made of three types of participant: entrepreneurs, employees and customers, where entrepreneurs control employees who contribute their "undifferentiated time and effort" to the organization in return for wages that are derived from the money contributed to the organization by its customers in return for its products.

that he owned. "I am the big provider for several communes," he said, "all of them in houses that I own. This is my game, being the big provider. For others it is serving, like Jolene, she is into serving at the moment. Then there is my old lady, she likes to cook and that is her game!" Thus did Earl Schuyler describe his present lifestyle supported by a substantial income derived from the fees of his lucrative business. How did it all begin?

Schuyler had gone to work in a department store after he quit school at sixteen. It was during the depression and he was lucky to get any kind of job at all. Then the war intervened and like many other young men he joined the air-force, becoming a pilot in due course. After the war he returned to his old job and soon became involved with the union, being elected general secretary of his local. This period as union leader colored his view of the world considerably. Of it he said: "I was a believer, until I got screwed by Sears (Roebuck). Then I learned to be more flexible in negotiating." After several years with the Retail Clerks Union, Schuyler went into business on his own. By then he had a thorough knowledge of the union side and from his many contacts with employers had a pretty fair idea "where employers were coming from." Labor-management consulting was, therefore, a logical choice. This lead to the need to study the rules and regulations issued by government for the conduct of business so as to be proficient in that area when asked by clients for his advice. "If you want to know the truth of it,"

he said, "I practice law without a license."

In Schuyler's view the main job of the businessman was keeping government out of his business as far as possible. To do this one had to be knowledgeable of the working of government and particularly the mass of rules and regulations issued by the agents of government, of which the FEPC was a small representative. Agencies like the FEPC were dangerous to the businessman because they were mostly staffed by "believers," as Schuyler called them. This created a problem for the businessman because you could never anticipate what a believer would do next. As the adviser of businessmen in retail trade, Schuyler recommended they handle discrimination charges on an ad hoc basis, keeping as many options open as possible.

"I used to play the prevention game," he said, and I lost. Redressing grievances in advance only leads to trouble." Schuyler then gave the example of a client of his, the personnel manager of an automobile parts distributor in the San Francisco Bay Area. The story was that this firm had tried to forestall the intervention of the government in their hiring practices by instituting an affirmative action plan. The plan included the use of minority newspapers for job advertisements and the active recruitment of applications from people not sought in the past. It happened that an application was received from an individual with a reputation in the trade for absenteeism and general malingering on the job. Accordingly, Schuyler advised his client to accept the application, but not to hire

him. The applicant, who was black, sued the company. The personnel manager then proceeded to document his actions in the case, after the fact, and the jury found for the plaintiff. The plaintiff was awarded a substantial settlement. In Schuyler's view the color of the plaintiff's skin had nothing to do with the issue at all. "He was a problem and everyone knew it. It is this kind of stuff that makes employers mad. Race was not the issue!"

Schuyler understood that a single case did not prove a general rule and agreed that discrimination had been rife in the retail trade, particularly against blacks. However, this was no longer true, mainly because retailers had awakened to the fact that many of their customers, in big cities especially, are themselves black. As he saw it the real problem was women. "They are the most discriminated against now." Why? "Partly because they do not work as hard as men!" he said. "Men are still on the big provider kick and will put up with more flack on the job than will women." An anecdote illustrated his point. "Take the small appliance business," he said. "I have this client who runs a chain of television set outlets whom I persuaded to hire some women sales clerks. He hired ten in all and within a few weeks everyone of them quit. The hours are terrible, you work late, and none of them would put up with it."

The biggest fault of the FEPC and government agencies like them was that they did not recognize these facts, said Schuyler. This was why he called them believers. Instead of

keeping options open and negotiating from a neutral position, the FEPC tends to approach business as though they are guilty of discrimination, whether they are or not. Speaking for himself, Schuyler said: "I've seen both sides in my time, labor and management, and I know where both sides are coming from. I am a good middle man because of this, but I admit that I do not know where minorities are coming from." The FEPC, on the other hand, which does, needs to learn the management point of view if it is to mediate effectively between the two.

In common with the employers whom he represented before the FEPC, Schuyler placed a high value on ability as the measure of opportunity in employment. Like Herzog he felt above all that ability had to count. Schuyler and Herzog were interpreters. In other words they viewed their world pragmatically, made calculations about it, and acted on the results of their findings. They had strong personal views, just like everyone else, but they were not likely to allow those views to interfere with the business of "meeting a payroll," if they could possibly avoid it. Above all they agreed that the less government interfered in the relations between employer and employee the better for both, although Schuyler more readily accepted a mediating role than did Herzog.

In contrast Mrs. Stone and Mrs. Rivas were advocates. Schuyler might have called them "believers." In other words their view of the world persuaded them that there were

injustices that had to be corrected if life were to become more tolerable for everyone. This obliged them to take a stand and advocate a position. They also felt that government through its agents like the FEPC was intended to intervene in the relations between employers and their employees. They did not see this intervention as a threat as did Herzog, or as a nuisance, as did Schuyler, but they welcomed it. In this regard Mrs. Stone was more positive than Mrs. Rivas, who wanted the support of the FEPC in particular cases like her own and those of persons similarly situated, whereas Mrs. Stone favored the FEPC taking a stand on the issue of equality generally, insisting on compliance, or else.

Mrs. Stone and Mrs. Rivas, Herzog and Schuyler, were men and women with different backgrounds, different responsibilities, and different publics. However, taken together their viewpoints may be summarized in terms of equality on the one hand, and of freedom of choice on the other. Under what circumstances might government strengthen one and weaken the other? By putting the question in this way, we can consider some of the political literature on the subject and identify at least two distinct points of view. These points of view will be described as the case for equality and the case for liberty. From the description of each will be derived two competing hypotheses, which form the skeleton on which this essay hangs.

The Case for Equality

In the introduction to his study of American democracy de Tocqueville wrote that no novelty struck him more vividly than the equality of conditions. These, he said, created opinions, gave birth to feelings, suggested customs, and modified what they did not create.[1] Indeed it was no longer a new notion to Americans brought up as they were on the basic precept of Jefferson's Declaration of Independence. When Jefferson proclaimed "that all men are created equal, that they are endowed by their Creator with certain inalienable Rights," he was not stating a hypothesis, a claim subject to falsification. Instead he was stating a belief that all men are equally human beings. That some men shared in the equality of freedom and others in the equality of slavery, troubled him. He was not, like Aristotle, a believer in the natural order in which "some men are by nature free, and others slaves, and that for these latter slavery is both expedient and right."[2] On the contrary, in an early draft of the Declaration of Independence, he charged George III with the responsibility for introducing slavery to the American continent. The phrase was dropped from the final draft of the Declaration out of deference to the wishes of North Carolina and Georgia, both

---

[1]Alexis de Tocqueville, Democracy in America, ed. by J.P. Mayer, trans. by George Lawrence, Anchor Books (Garden City, N.Y.: Doubleday and Company, Inc., 1969), p. 9.

[2]Aristotle, Works: Politica, trans. by Benjamin Jowett (Oxford: The Clarendon Press, 1921), 1255a.

"royal" as opposed to charter colonies.[1] As a result, slaves were not included among those men "created equal," and endowed with "certain inalienable Rights." Instead they were to remain for several generations the property or chattels, to use the old English word for cattle, of their masters. In spite of this omission, however, the Declaration of Independence was a radical document. The ideas that it advanced were the product of the eighteenth century, a century in which "Society, sick of itself, had turned to nature and the simple life." Rousseau was its prophet. "Rousseau taught court ladies to nurse their own infants and men to dream of natural rights. They put nature in the place of the Deity, and made it the test of what was right."[2]

When reaction set in, it did so with a vengeance. The constitution of the newly created United States of America was as conservative as the Declaration of Independence had been liberal.[3] It has often been noted that few of the signers of the latter took part in the formation of the former, and this helps to explain the differences between them. However, there is a more fundamental reason. The Constitution

---

[1]A.F. Pollard, Factors in American History (New York: The Macmillan Company, 1925), p. 156, citing Rhodes, History of the U.S.A., and Jefferson, Memoirs. The phrase was among those charging the King with "repeated injuries and usurpations."

[2]Ibid., pp. 214-5.

[3]Clinton Rossiter, Conservatism in America (2nd ed., revised; New York: Alfred A. Knopf, 1962). See particularly chapters 3 and 4 for a provocative discussion of the relationship between conservative and liberal thought in American politics.

was designed to bind together a weak confederation of autonomous states, one that was threatened by dissolution from within and without simultaneously. The aim of the Constitution was to create a nation, by definition a conservative entity. The Declaration of Independence, on the other hand, sought only to sever ties that had become confining. With the ratification of the Constitution America shed its "self consciousness in revolt [for] responsibility in self-governemnt," and responsibility became the anvil on which national unity was forged.

In this drive to create a new nation, the rights of individuals were submerged. However, it was not long before amendments were introduced and ratified that restored these rights or, at least, the opportunity of free men to exercise them. The Bill of Rights shows a popular distrust of government, just as the Constitution shows a distrust of the people by government. In due course, thanks largely to the expansion of the nation westward and the concomitant expansion in the franchise, the power of the people increased, and so did their demands. Among the earliest of these was for the continued expansion of the franchise, a demand that was fully met in theory with the ratification of the nineteenth amendment, but in practice not till more recent times. Today, all Americans are politically equal. They are equal to the extent that each has an equal right to vote and hold office, provided that they are citizens and meet certain general specifications such as a certain minimum age. Even so, the problem of equal

apportionment remains as populations shift within the states and between them. The responsibility for ensuring that one man's vote is worth no more nor less than another's rests with the state legislatures. They have not always met their responsibility, and the federal courts have had to intervene to force the states to do so, sometimes even taking over the job themselves. In spite of dire predictions to the contrary, the federal courts have been successful in this venture of reapportionment, so that Americans have come to share the status of equal citizenship with each other.

To be the equal of any and all others who are citizens of a state and nation is no small achievement. It carries with it legal as well as political significance, for equality of citizenship status implies equality of legal status as well. Indeed, Americans were equal before the law before they were politically equal, yet guaranteeing the former right has proved even more difficult than guaranteeing the latter. Even now it is apparent that the power of government is used unevenly, with the rich benefiting from the exercise of their rights, both legal and political, more than the poor. However, in one important respect all Americans are legally equal. They all possess the right to compel the government or another individual to answer for their actions in a court of law. In other words they have the right to expect others to meet their obligations, even to compel them to do so if necessary, which carries with it the burden of citizenship that requires citizens to meet their own obligations, or suffer the

consequences.[1] Thus legal equality is a prerequisite for economic equality and it is economic equality with which this essay is mainly concerned.

By economic equality I mean simply equal opportunity. The principle of equal opportunity is that no one should be denied an equal chance with anyone else to develop their talents, skills, virtues, and energy to the best of their ability and without abridgement on the basis of ascription. In other words equal opportunity proscribes discrimination on any basis other than ability. The purpose of equal opportunity is to allow anyone who is able, to pursue the career of their choice. Thus, the end of equal opportunity has generally meant a satisfactory job and the means the education and training with which to get it. Both aspects have received the attention of the Supreme Court in recent years.[2]

The case for equal educational opportunity was heard first. The now familiar doctrine of Brown v. Board of Education held that the separation of the races in educational facilities was detrimental to the minority group excluded

---

[1]See Thomas C. Schelling, The strategy of Conflict (Cambridge, Mass.: Harvard University Press, 1960), p. 43., who describes this right as "the right to be sued." "Who wants to be sued?" he asks. "The right to be sued is the power to make a promise: to borrow money, to enter a contract, to do business with someone who might be damaged. In short, the right to be sued is the power to accept a commitment."

[2]Thus confirming once more the aphorism that, "There is hardly a political question in the United States which does not sooner or later turn into a judicial one." See de Tocqueville, Democracy in America, p. 270.

from the majority group schools because it generated "a feeling of inferiority as to their status in the community."[1] This conclusion was found to be supported by the "modern authority," of some notable sociological and psychological research. One critic of the decision felt the court had "let go a splendid opportunity to" re-examine the constitutional basis of equality. In his view, the aim of the constitution builders had been to erect a system in which the distinction between public life and private life would remain inviolate. Their aim was that all people should be treated uniformly, which is to say equally, in their public relations, in order that they might preserve their individuality in their private relations. The idea was that public equality, or equality before the law, would guarantee the preservation of private inequalities, then regarded as the source of initiative and human progress.[2]

Schaar does not tell us how this approach, had it been adopted by the court in arriving at their decision, would have affected the opportunities of the black child to receive an equally good education as his white counterpart. However, it need not have altered the outcome of the Brown decision which was to integrate all schools with "all deliberate speed,"

---

[1]Brown et al. v. Board of Education of Topeka et al., 347 U.S. 483., 494.

[2]John H. Schaar, "Some Ways of Thinking About Equality," The Journal of Politics, XXVI (November, 1964), 867-895, see 884-892 for this constitutionalist approach to equality.

but only the rationale on which the order was based.[1] This rationale was to energize, first, the drive for equal opportunity in fact and not just the theoretical right to be treated equally, and more recently the demand for equal results. It is not hard to see why. The integration of the schools has not been followed by the attainment of equal education for everyone. Today's child, born to parents denied an equal education in the past, often gets less incentive from his parents in the present and, therefore, does not do as well in school or in life thereafter, as he might. Thus the demand of the have-nots and the have-less' of America is shifting from equal opportunity to equal results. This means that it is not enough for the government to ensure that everyone has an equal right to a sound education or a good job, but that they should see to it that everyone achieves these ends.[2]

---

[1]Brown et al. v. Board of Education of Topeka et al., 349 U.S. 294., 301. The method adopted was the now familiar program of busing. There is an irony in this decision not lost on Linda Brown, the little girl on whose behalf the original suit was filed. It was in order to compel the Board of Education of Topeka, Kansas, to allow his daughter to attend the school nearest her home, that the Reverend Oliver Brown first filed his suit. At the time Linda Brown was riding a bus twenty blocks across town to a "colored" school while denied access to the "white" school in her neighborhood. See Michael Putney, "Its Still a Fight Where it All Began," The National Observer, Week Ending May 18, 1974.

[2]Frank S. Levy, Arnold J. Meltsner, and Aaron Wildavsky, Urban Outcomes (Berkeley: University of California Press, 1974), pp. 242-3. However, see generally their chapter 4: "A Comparative Analysis of Outcomes," in which the shift is described as one from market equity through equal opportunity to equal results. By market equity they mean that citizens should receive benefits in direct proportion to their contributions. In the case of schooling, for example, this means that the bigger the contribution of a citizen in taxes the bigger should be his return in terms of the expenditures for education that

It would be unfair, not to mention inaccurate, to blame, or to praise the Supreme Court for bringing this trend about. It was in the making when the court ruled as they did in Brown that "Separate educational facilities are inherently unequal." However, what the court did was to legitimize the idea that equality should mean more than the theoretical right to opportunity, but also its realization, in this case through the achievement of an equal standard of education. Like so much else in human life, it is yet to be achieved. However, this does not prevent men and women from working for it.

More recently the attention of the court has been directed to the rights of workers to advance in their employment status. In the case of Griggs v. Duke Power Company the court did not seek a constitutional justification for their decision. Nor indeed did they look to sociological or psychological authorities for justification. Instead, the court took the "will of the people," embodied in an act of Congress, as their guide. Title VII of the Civil Rights Act of 1964

---

his child receives. Note also that the rich, now that market equity is no longer an acceptable standard for the allocation of resources, tend to invoke the principle of equal opportunity according to which the poor are better off than ever before, while the poor are now demanding equal results, because equal opportunity still leaves them far behind. In this vein see also Michael Young, The Rise of the Meritocracy 1870-2033 (London: Thames and Hudson, 1958), pp. 101-7. In this section, titled "The Fall of the Labor Movement," Young describes equal opportunity as the "Holy Grail of Socialism in the twentieth century." The problem, he wryly notes, is that equal opportunity in practice often means the "equality of opportunity to be unequal."

outlawed discrimination in employment on the basis of color, race, national origin, ancestry, religious creed or sex. The question the court asked was, what did Congress intend? Their conclusion was twofold. First, employers should not differentiate between their employees on the basis of ascriptive criteria. Second, employers as a class had an obligation to members of minority groups to correct those conditions of employment that had led to their discrimination and subsequent disadvantage in the first place. Thus, employers were instructed that any employment practice that adversely affects minorities and women as a class, whether intended to do so or not, was discriminatory on its face. This was the central finding of the court.

The original suit had been filed by thirteen black laborers against their employer, a utility company in North Carolina. The plaintiffs argued they had been denied an equal opportunity with white employees to advance in the company. They were all employed in the "labor department" of the Dan River Plant of the company, the lowest level of employment available, both in terms of income and prestige. All thirteen had requested transfers to "inside" jobs, such as the "coal handling department," where the pay was better. They had been denied their requests because of a company policy that all promotions were to be based on the possession of a high school diploma. The ostensible aim of this requirement was to "upgrade the quality of the labor force." Its effect, however, was to keep black workers down, since few of them, including

the plaintiffs, had high school diplomas. Then in 1965, after the Civil Rights Act of 1964 was passed, the company dropped the high school diploma as a condition for promotion, but replaced it with a series of tests. These the plaintiffs took, but did not pass them with the required minimum score. Accordingly, the court considered whether or not the tests used by the company were related to subsequent job performance or not. In other words, could the company predict from the performance of an applicant on a test how well he or she would perform on the job for which they were being tested. This the company could not do, and the court ruled that whenever an employment practice operates to exclude Negroes, and that practice cannot be shown to be related to job performance, it is prohibited. Thus the burden was laid on employers to purge from their organizations those procedures and practices that "operate as 'built in headwinds' for minority groups and are unrelated to measuring job capability."[1]

The decision was praised by civil rights leaders in particular, and with good reason. It offered, for the first time, an explicit rationale for examining the "adverse effects" of discrimination. The decision helped to transform the law of equal opportunity from being a protector of rights into an advancer of rights. In short, it legitimized the notion of affirmative action. Before Griggs, agencies like the FEPC tended to treat discrimination in employment as episodic and

---

[1]Willie S. Griggs et al. v. Duke Power Company, 401 U.S. 424.

idiosyncratic. Seldom did they look beyond the particular instance complained of or the particular individual filing the complaint. Since Griggs, however, agencies like the FEPC have been encouraged to take their investigations a stage further and ask whether or not a particular practice has had or will have an adverse effect on other members of the class to which the complainant belongs. Thus, the Griggs decision opens up the possibility for substituting equal results for equal opportunity as the principle for advancement in employment.

The case for equality, then, has been expressed in terms of four distinct types of equality. The first of these and the oldest is equal opportunity. It was equal opportunity that de Tocqueville recognized as the moving force in American life, the creator of opinions, feelings, customs, and the modifier of much that it did not create. It was the principle of equal opportunity that Jefferson invoked in the Declaration of Independence when he asserted that all men are created equal. Today he might have said: because all men are equally human they should all have an equal chance to fulfill their potential. Indeed, to the extent that all citizens, as bearers of rights, are able to exercize their rights and develop their potential, they possess equal opportunity. The problem is that the theoretical right to equal opportunity has not been followed by its practical application. As a result, other meanings of equality have come to the fore.

One of these was described as equal treatment. Exactly when equal treatment as a principle of equality first made its appearance is not clear. However, the case of Brown v. Board of Education did provide a focus for its use, a focus that was to sustain it for some time as the basis for the intervention of government in the social relations of its people. The aim was, as it still is, to make equal opportunity a reality in practice as well as in theory. It was this rationale, prompted by the discovery that black school children were performing poorly in school in comparison with white children, that gave rise to the decision to integrate the public schools of the country. Yet, this policy too has not been followed with the success that it promised and once again the emphasis has shifted in the direction of more affirmative means. Thus a third type of equality may be identified as affirmative equality, or affirmative action to use the every day phrase.

Affirmative action is another phrase of uncertain origin. However, there is no doubt what it means. It means, quite simply, that wherever persons are denied or have in the past been denied opportunities for advancement in employment they should be helped to overcome their disadvantage when it has been shown to result from past discrimination. This is reasonable enough, if one accepts the rationale that people should have a fair share of the opportunities available in society, but it also creates a problem in the case for equality. Affirmative action assumes that everyone is equally capable

of doing any job, provided that they have the necessary education and training to do it. I do not intend to discuss the pros and cons of this assumption in this essay, for it is a subject that deserves more time and space than I can give it here. I have raised it, however, because it helps us understand the call for equal results, also called fair share, that constitutes the fourth type of equality with which this essay is concerned.

Equal results means that people should not only have an equal opportunity one with another to succeed or fail, but they should actually realize that opportunity and be seen to realize it as well. This is a tall order. It is one based on the assumption that a country as rich as America should not tolerate poverty, want, or the unemployment and under-employment that is seen to be their cause. It also virtually demands governmental intervention. It is true that the role of government is defined as the facilitator of greater equality and not its mandator. In this regard it is notable that the court in Griggs emphasized the need of employers to correct the "adverse effect" of past practices rather than introducing new methods by which private and public employers should do business in the future. However, whether we like it or not, it must be recognized that there are those who would interpret the goal of equal results more specifically than at present, even calling for the use of quotas where they are judged to be necessary.

Until now I have described the case for equality as if it could be divided into four distinct types. I hope to

show, however, that the reality is not quite as it seems. My observations so far suggest that their relationship is better understood in terms of means and ends, with equal treatment expressed as a means to the end of equal opportunity and affirmative action as a means to the end of equal results.[1] Understood in this way one can see why the demand for equal results is accompanied by the demand for more intervention by government to increase equality. It is because only government can mandate the use of quotas (or the less stringent goals and timetables commonly used) and the rationale for intervention is self-fulfilling.

The Case for Liberty

Precisely, say the libertarians, and that is the problem. Only a free man can experiment and only an experimenter can separate that which works from that which does not.[2] Thus the libertarian point of view no less than the egalitarian is aimed at opening up opportunity. Where they differ is in the means to that end that is preferred.

To be free is to be free from unnecessary restraint. On the other hand, it is obvious that no one can be completely free from restraint and live in society. Not only is one limited by the constraints of social life, but by natural limitations as well. By virtue of being born human all people

---

[1] This relationship is further explored in Chapter 3, below.

[2] F.A. Hayek, The Constitution of Liberty (Chicago: University of Chicago Press, 1960), p. 29. See pp. 11-30 for an elaboration of this theme.

are restrained by the facts of their existence, which are shared by everyone equally. The need for food and clothing, shelter and security, rest and even recreation, are constants. They are the data of human existence. However, beyond these elementary needs, men and women are more or less free to the extent that they are allowed to determine the sort of life they want, and how they want to live it. This may be called the opportunity for self-fulfillment, and it is in this sense that social freedom is defined. Accordingly, one may say that the more opportunity an individual has to fulfill his best interests, as he sees them, the more free that individual is.[1]

If one considers the factors of social life that are most likely to restrain a person in the pursuit of his best interests, they can be reduced to two main ones. They are the other men and women among whom an individual lives, commonly referred to as society, and the government. Thus to be completely free one would have to live the life of a hermit or in a state of anarchy, neither of which are desired by the libertarian protagonists in this case. By the same token, the complete absence of freedom is tantamount to a condition of

---

[1]The equation of freedom and self-fulfillment is amply discussed in Ralf Dahrendorf, "Liberty and Equality," in Essays in the Theory of Society (Stanford: Stanford University Press, 1968), 178-214. Hayek's definitions are more expressly political but have the same effect. He says: "liberty is that condition of men in which coercion of some by others is reduced as much as possible in society." By defining freedom as the absence of coercion, however, he must also define coercion. Accordingly, coercion is "control of the environment or circumstances of a person by another [so] that, in order to avoid greater evil, he is forced to act not according to a coherent plan of his own but to serve the ends of another." It is on these notions that the following discussion is based.

slavery in relation to society and totalitarianism in relation to government. Our own situation lies somewhere between these two extremes, characterized by our status as citizens with the concomitant political, legal and economic rights that the status carries. Thus, to the extent that the members of a society share in the benefits of equal citizenship status, they are also free. To this extent liberty and equality are compatible.[1]

To be free as a citizen is to share the equality of citizenship status. This means to be free to move within certain limits. These limits are defined by rules that are abstract, generally known, and uniformly applied. However, such conditions, to the extent that they exist, do not guarantee freedom but only the opportunity to exercise it.[2] Freedom, in other words, means having a "private sphere" within which an individual may act without undue interference from government. This notion is practically identical to that proposed by the constitutional theorists of the eighteenth century who aimed to create and preserve public equality in order to guarantee private inequality. Impersonality is the key to freedom in this sense. As soon as people are judged publicly

---

[1]Indeed they are necessary to each other. Citizenship has no meaning unless all citizens share its benefits equally. See Dahrendorf, "Liberty and Equality," in Essays, p. 195f.

[2]There are many examples in life and the literature of sociology that belie the notion that society is ordered by rules that are generally known and uniformly enforced. See especially: Jerome H. Skolnick, Justice Without Trial (New York: John Wiley and Sons, Inc., 1966); James P. Spradley, You Owe Yourself a Drunk (Boston: Little, Brown, 1970); and H. Laurence Ross, Settled Out of Court (Chicago: Aldine Publication Co.,1970).

as unique individuals rather than as types "treated on the presumption that normal motives and deterrents will be effective, whether this is true in the particular instance or not," then freedom is replaced by tutelage and the individual loses the right to be himself.

The burden of this kind of freedom is enormous.[1] It is so great that many are seen to seek escape from it,[2] and to prefer the servitude of equality.[3] Indeed, Hayek recognized the burden of freedom when he said of it: "The necessity of finding a sphere of usefulness, an appropriate job, ourselves is the hardest discipline that a free society imposes on us."[4] Yet it is precisely this burden that focusses our attention on the work of the FEPC. How far should government go to guarantee equal opportunity for all? The answer depends on your point of view. However, the libertarian has no trouble in answering: only as far as is necessary to preserve the right of individuals to achieve all that they are capable of achieving.[5] In other words, to be free means to be free to

---

[1]Robert E. Lane, Political Ideology (New York: The Free Press of Glencoe, 1962). See especially pp. 24-40: "The Burden of Freedom."

[2]Erich Fromm, Escape From Freedom (New York:Rinehart,1941).

[3]de Tocqueville, Democracy in America, "But the human heart also nourishes a debased taste for equality,...which induces men to prefer equality in servitude to inequality in freedom." p. 57.

[4]Hayek, The Constitution of Liberty, p. 80

[5]In chapter 4 below I shall examine the responses of twenty-eight protagonists in the FEPC case who are confronted with this question in various ways and answer it from various points of view.

be free to succeed or fail.[1]

This is a harsh notion, one that does not sit well with us today, imbued as we are with the morality of democracy and the general welfare. Yet it is still important if only because it is subscribed to by some, and because it energizes much that is good in American life. The empirical foundation of this notion is best stated by the employer Herzog when he said, in effect: if government tells me to hire a man or woman who turns out to be unable to perform the job satisfactorily, everyone loses. The individual loses because he or she will compare unfavorably with his or her peers on the job and will be demoralized by his or her failure to measure up. At the same time, those who do perform successfully may also be demoralized by the imposition of a poor performer in their midst. We the employers lose, because we may end up with disatisfied customers. Finally, society as a whole loses because what we produce may be inferior.

---

[1]Louis Hartz, The Liberal Tradition in America (New York: Harcourt, Brace and World, 1955), p.224. For a helpful discussion on the ideology of success, failure, and guilt as the moving forces behind the "New Whiggery" of the "Democratic Capitalism: of the late nineteenth and early twentieth centuries in America, see pp. 203-7. Note also, Hartz' comment about the work of F.A. Hayek about whose writings he says: "America, a liberal community, found [them] usable, so that Hayek after the Second World War scored himself a vivid literary success. What they used to say about England, that it was the home of dead German philosophies, would have to be altered in this case to apply to America: it is the home of dead English philosophies retained by Austrian professors." p. 273. Dead or alive, the notion of success still permeates American thought and action, and liberty is valued almost as much as equality.

In answer to this notion an eloquent egalitarian once noted that, "freedom for the pike is death for the minnows."[1] However, there are risks in arguing for equality on the basis of this analogy. In the first place everyone is more or less the same in terms of physical attributes and it is not these that determine the inequalities of human beings in society. Unlike either the pike or the minnow, a human being is born into an infinite array of circumstances. These constitute what I shall refer to as the "accidents of birth," and it is these that offer the variety of opportunities that are available to all to some extent, and the cultivation of which are the prime movers of society. Accordingly, the libertarian might say: don't destroy the pike, but strengthen the minnows. Thus, what is of interest here are the circumstances under which opportunity is made available to all who would use it. The case for liberty is that it is desirable to preserve spheres of independent action, as far as possible, in which individuals may subsist and even prosper by making the best use of whatever attributes they have, while not tramping on the opportunities of others without cause. The rationale for this procedure is that civilization as we know it has resulted from individual initiative and experimentation. In other words, individuals should be allowed to make the best use of the circumstances in which they find themselves.

---

[1]Richard H. Tawney, Equality (London: George Allen and Unwin Ltd., 1931), p. 238.

To summarize, there are two sets of likely response to governmental efforts to increase equality. The one I have described as the case for equality. This may be expressed as a hypothesis which states: equality cannot be achieved except by governmental intervention. The second I have described as the case for liberty which may be expressed hypothetically as follows: governmental intervention will not increase equality but only reduce individual freedom and initiative. In the end, the task of this essay is to describe with as much precision as possible what it is that the FEPC does in the face of these competing points of view.