Building Toward Major Policy Change: Congressional Action on Civil Rights, 1941–1950

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Introduction

The mid-1960s witnessed a landmark change in the area of civil rights policy in the United States. After a series of tortuous internal battles, with Southern legislators using all available procedural tools to maintain their states' discriminatory Jim Crow legal systems, the United States Congress adopted two statutes—the Civil Rights Act of 1964 and the Voting Rights Act of 1965—which insured civil and political equality for *all* Americans. The Acts of 1964 and 1965 were the culmination of a decade-long struggle by black Americans to secure the citizenship rights that had been denied to them for more than a half century.[1] Beginning

1. Civil and political (voting) rights for black Americans had emerged during Reconstruction (1867–1877). Once the South had been "redeemed"—or controlled once again by white-dominated state governments—black Americans saw the enforcement of their rights slowly vanish. Beginning in 1890, Southern states began systematically stripping black Americans of their voting rights, through constitutional (or statutory) alterations. Between 1890 and 1908, helped along by the *Plessy v. Ferguson* (1896) Supreme Court decision that permitted segregation of public facilities based on the "separate but equal" doctrine, all former Confederate states had established some form of racial caste (or Jim Crow) system. On disenfranchisement, see, for example, J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South*

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with the *Brown v. Board of Education* (1954) Supreme Court decision, the civil rights movement built momentum, as formal organizations like the National Association for the Advancement of Colored People (NAACP) grew in strength and informal (grass roots) organizations spread throughout the South and the Nation.[2] As national public opinion shifted increasingly toward providing new civil rights guarantees for blacks, Congress responded with new legislation: the Civil Rights Act of 1957 (the first civil rights law since 1875), the Civil Rights Act of 1960, and a legislative proposal to prohibit the poll tax in 1962 (which would be ratified by three-quarters of the states in 1964 and become the 24th Amendment to the United States Constitution).

It has been a common strategy for scholars working on the civil rights movement to start with the *Brown* decision and follow the course of political events through the Acts of 1964 and 1965 (and beyond). And this strategy has been reasonable, as obvious changes in the national political environment were occurring in the mid-1950s and building toward the end of the decade. However, like legal historians Risa Golubuff, Kenneth Mack, and others, we argue that establishing a baseline (or starting point) near 1954 obscures prior pertinent events that affected the types and trajectories of subsequent political actions.[3] Whereas legal historians highlight the important work of civil rights advocates in the years preceding *Brown*, we concentrate on the important legislative battles that took

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(New Haven: Yale University Press, 1974) and Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888–1908* (Chapel Hill: University of North Carolina Press, 2001); on civil-rights restrictions more generally, see C. Vann Woodward, *The Origins of the New South, 1877–1913* (Baton Rouge: Louisiana State University Press, 1951) and *The Strange Career of Jim Crow* (New York: Oxford University Press, 1955). For a comprehensive examination of black enfranchisement efforts across a century, from the 1860s through the 1960s, see Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004).

2. The literature on the civil rights movement is voluminous. Representative overviews include Anthony Lewis, *Portrait of a Decade: The Second American Revolution* (New York: Random House, 1964); and Taylor Branch, *Parting the Waters: America in the King Years, 1954–1963* (New York: Simon & Schuster, 1988).

3. Risa L. Goluboff, *The Lost Promise of Civil Rights* (Cambridge: Harvard University Press, 2007); Kenneth W. Mack, "Rethinking Civil Rights Lawyering and Politics in the Era Before *Brown*," *Yale Law Journal* 115 (2005): 256–354; Sophia Z. Lee, "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948–1964," *Law and History Review* 26 (2008): 327–78; Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *Journal of American History* 91 (2005): 1233–63; Reuel Schiller, "The Administrative State Front and Center: Studying Law and Administration in Postwar America," *Law and History Review* 26 (2008): 415–27; Gary Gerstle, "The Crucial Decade: The 1940s and Beyond," *Journal of American History* 92 (2006): 1292–99.

place during the 1940s, which presaged the legal victories of the late 1940s and early 1950s.

It is true that the events of the early 1950s reinvigorated the civil rights agenda and helped set the stage for the "classical" era of the 1960s, but concerns about race and black Americans' rights had not vanished entirely from the national agenda with the end of Reconstruction. The president and Congress were confronted with civil-rights-related issues at various points between 1891 and 1940,[4] and a series of consequential decisions were made that affected not only the course of civil rights in the nation but also the way the parties lined up on the issue and how black voters responded to the parties' positions.[5] Moreover, the following decade—the 1940s—was an especially crucial "bridge period" between the nascent civil rights era of the earlier half-century and the full-fledged civil rights movement of the 1950s and 1960s. Specifically, the 1940s represented a trial run for those who would continue to advocate for civil rights in subsequent decades.

In this article, we focus on two particularly important dynamics. First, we examine the process of partisan "sorting out" on civil rights issues that first began in the late 1930s.[6] Here we contribute to an ongoing debate over the timing of the Democratic Party's embrace of what would become

4. Although many historical works consider the formal end of Reconstruction to have occurred in 1877, when the last of the Southern state governments were "redeemed," for more than a decade key members of the Republican Party continued to hold out hope that some form of Southern Reconstruction could be reestablished. After the 1888 elections, the Republicans controlled the presidency and both chambers of Congress, and a move to adopt a new voting-rights enforcement policy was pursued. Specifically, a new Federal Elections Bill, sponsored by Representative Henry Cabot Lodge (R-MA), which would have placed national elections (specifically House elections) under *federal* control, was passed in the House in 1890 but failed in the Senate because of the concerted efforts of Democrats and a small group of western (silver) Republicans. The failed Lodge Bill is typically viewed by scholars of legislative history as the last gasp of Congress-led Reconstruction efforts. For coverage of the politics surrounding the Lodge Bill, see Richard E. Welch, Jr., "The Federal Elections Bill of 1890: Postscripts and Prelude," *The Journal of American History* 52 (1965): 511–26; Charles W. Calhoun, *Conceiving a New Republic: The Republican Party and the Southern Question, 1869–1900* (Lawrence: University Press of Kansas, 2006), 226–59; Richard M. Valelly, "Partisan Entrepreneurship and Policy Windows: George Frisbie Hoar and the 1890 Federal Elections Bill," in *Formative Acts: American Politics in the Making*, eds. Stephen Skowronek and Matthew Glassman (Philadelphia: University of Pennsylvania Press, 2007), 126–52.

5. Jeffery A. Jenkins, Justin Peck, and Vesla M. Weaver, "Between Reconstructions: Congressional Action on Civil Rights, 1891–1940," *Studies in American Political Development* 24 (2010): 57–89.

6. Jenkins, Peck, and Weaver, "Between Reconstructions."

known as the "civil rights agenda."[7] Like those legal historians who have noted the importance of legal decisions preceding *Brown*, we suggest that the partisan racial realignment took place long before the passage of landmark civil rights legislation in the 1960s.[8] Second, we argue that the record of legislative *defeats* during the 1940s helps to explain why civil rights advocates came to see the courts and executive branch agencies as the venues most likely to ensure continued progress in the cause of racial equality. In this way, therefore, we set the scene for the "turn" to the courts by demonstrating that the legal strategy emerged as a consequence of multiple failed efforts to pursue legislative remedies.

To investigate how the civil rights issue evolved during the 1940s, we choose Congress as our level (or focus) of analysis. We do so for reasons of both tractability and substance. Clearly the president and the courts played an important role in the civil rights debate during this decade. For example, Franklin Delano Roosevelt unilaterally instituted fair employment practices in the national defense industry (Executive Order 8802) in 1941,[9] the Supreme Court declared the white primary unconstitutional in 1944 (*Smith v. Allwright*),[10] and Harry Truman desegregated the federal

7. On partisan sorting out on civil rights in the 1940s, see David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009); Anthony Chen, *The Fifth Freedom: Jobs, Politics, and Civil Rights in the United States, 1941–1972* (Princeton: Princeton University Press, 2009); Brian D. Feinstein and Eric Schickler, "Platforms and Partners: The Civil Rights Realignment Reconsidered," *Studies in American Political Development* 22 (2008): 1–31; and Eric Schickler, Kathryn Pearson, and Brian D. Feinstein, "Congressional Parties and Civil Rights Politics from 1933 to 1972," *Journal of Politics* 72 (2010): 1–18.

8. The standard (or most widely accepted) account of partisan change is provided by Edward G. Carmines and James A. Stimson, *Issue Evolution: Race and the Transformation of American Politics* (Princeton: Princeton University Press, 1989). They point to a critical moment taking place in 1963–1964, revolving around choices made by Democratic President Lyndon Johnson and the Republican standard bearer, Barry Goldwater.

9. On Franklin Delano Roosevelt and fair employment, see Merl Elywn Reed, *Seedtime for the Modern Civil Rights Movement: The President's Committee on Fair Employment Practice, 1941–1946* (Baton Rouge: Louisiana State University Press, 1991); and William J. Collins, "Race, Roosevelt, and Wartime Production: Fair Employment in World War II Labor Markets," *American Economic Review* 91 (2001): 272–86.

10. On the Court and the white primary, see O. Douglas Weeks, "The White Primary: 1944–1948," *American Political Science Review* 42 (1948): 500–10; Thurgood Marshall, "The Rise and Collapse of the 'Democratic White Primary,'" *The Journal of Negro Education* 26 (1957): 249–54; Darlene Clark Hine, "Blacks and the Destruction of the Democratic White Primary 1935–1944," *The Journal of Negro History* 62 (1977): 43–59; and Robert W. Mickey, "The Beginning of the End for Authoritarian Rule in America: *Smith v. Allwright* and the Abolition of the White Primary in the Deep South, 1944–1948," *Studies in American Political Development* 22 (2008): 143–82.

work force (Executive Order 9980) and the armed services (Executive Order 9981) in 1948.[11] However, it is fair to say that the most lasting victories of the civil rights movement were *statutory*: the Acts of 1964 and 1965 (and their subsequent enforcements and extensions) swept Jim Crow style discrimination away once and for all. As such, charting the course to these victories is crucial for a full understanding of how the civil rights issue developed over time. Other actors, such as the president, enter the drama at various points—for example, on "fair employment," which will be covered in detail—and we will describe their contributions when appropriate. But to study statutory evolution on civil rights requires a concentrated focus on Congress.

This work builds on our earlier research, which examined the 1891–1940 era in detail.[12] As we documented, the last decade of the nineteenth century and the first two decades of the twentieth century saw little attention paid to civil rights, as black citizens were not in a position to be electorally pivotal and therefore were largely ignored by national politicians. In the 1920s and 1930s, following the first great migration, the growing black population in the North, led by emerging civil rights groups such as the NAACP, forced civil rights gradually back onto the national agenda. The focus during these decades was antilynching legislation. In the 1920s, the Republicans promoted the issue, but by the 1930s, the Democrats had become the chief sponsors. In each case, antilynching legislation was passed in the House (in 1922 under the Republicans; in 1937 and 1940 under the Democrats), only to run into a filibuster in the Senate led by Southern Democrats. Other interesting variation included: (1) a bare majority of *Northern* Democrats in the House supporting antilynching legislation as early as 1922, and (2) a significant majority of Republican senators twice opposing a cloture motion that would have forced the Senate to consider the House-passed antilynching legislation in 1938.

11. On Truman and desegregation of the federal work force and armed services, see William C. Berman, *The Politics of Civil Rights in the Truman Administration* (Columbus: Ohio State University Press, 1970); Donald R. McCoy and Richard T. Ruetten, *Quest and Response: Minority Rights and the Truman Administration* (Lawrence: University Press of Kansas, 1973); and Michael R. Gardner, *Harry Truman and Civil Rights: Moral Courage and Political Risks* (Carbondale: Southern Illinois University Press, 2002). Truman's executive orders were based on recommendations made by the President's Committee on Civil Rights, which Truman established by Executive Order 9808 in 1946. For the Committee's full set of recommendations, see President's Committee on Civil Rights, *To Secure These Rights: The Report of the President's Committee on Civil Rights* (Washington: U.S. Government Printing Office, 1947).

12. Jenkins, Peck, and Weaver, "Between Reconstructions."

Therefore, as the decade of the 1940s dawned, some political uncertainty existed in Congress. A partisan realignment on civil rights was well underway by the late 1930s, as Northern Democrats had become the champion of black interests,[13] even as the Party's Southern wing actively opposed such reform efforts. Republicans continued to *mostly* support civil rights initiatives through the 1930s, but solid support from the "Party of Lincoln" could no longer be taken for granted, as the cloture votes in 1938 indicated. This was important, as Republicans would often find themselves as the pivotal coalition in congressional voting on civil rights during the 1940s. With Northern and Southern Democrats lined up on opposite ends of the issue, Republicans were in a position to behave strategically—supporting or opposing civil rights legislation depending upon the electoral benefits/costs involved.

For a time, civil rights advocates hoped for the best from the Republican Party, and devised a legislative strategy around winning support from Republicans and Northern Democrats. With the continued emergence of a "conservative coalition" of Republicans and Southern Democrats, however, it became clear to civil rights advocates that a more diversified approach was needed.[14] As a result, they increasingly pursued their goals through the courts and the administrative state.

Our analysis focuses on the five Congresses that convened during the 1940s: the 77th (1941–1942), 78th (1943–1944), 79th (1945–1946), 80th (1947–1948), and 81st (1949–1951).[15] Whereas antilynching was the only meaningful civil rights issue on the congressional agenda in the 1920s and 1930s, a broader set of issues emerged in the 1940s. We look at the four sets of civil rights initiatives that were both debated on the floor and generated roll-call votes: (1) efforts to eliminate the poll tax in Southern elections; (2) attempts to federalize soldier voting during World War II, thereby threatening state-level electoral institutions; (3) attempts to institute fair employment practices (prohibit discrimination)

13. In addition, at the national level, a majority of black voters had moved into the Democratic column in 1936, during Roosevelt's first re-election campaign. See Nancy J. Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton: Princeton University Press, 1983).

14. On the conservative coalition in Congress, see James T. Patterson, "A Conservative Coalition Forms in Congress, 1933–1939," *Journal of American History* 52 (1966): 757–72; John Robert Moore, "The Conservative Coalition in the United States Senate," *Journal of Southern History* 33 (1967): 368–76; John F. Manley, "The Conservative Coalition in Congress," *American Behavioral Scientist* 17 (1973): 223–47; and Ira Katznelson, Kim Geiger, and Daniel Kryder, "Limiting Liberalism: The Southern Veto in Congress, 1933–1950," *Political Science Quarterly* 108 (1993): 283–306.

15. The 81st Congress did not officially adjourn (conclude) until January 2, 1951, as the lame-duck portion of the second session extended into the new year.

among private sector employers, labor unions, and agencies of the federal government; and (4) efforts to eliminate discrimination in public education, through conditional federal assistance for state-level school lunch programs.[16] These civil rights initiatives fell into two distinct categories: political equality (anti-poll tax and soldier voting) and economic equality (fair employment and school lunches). In this way, the legislative battles of the 1940s mirrored the legal battles that would emerge as the decade wound to a close.

In the following sections, we provide in-depth case studies of each of these four civil rights issues and discuss the congressional proceedings, individual roll-call votes, and eventual legislative outcomes. We focus first on the anti-poll tax, which was perhaps the major civil rights issue of the 1940s; it was regularly on the congressional agenda throughout the decade and it would continue to highlight (as did the antilynching bills of the prior two decades) the stark differences between the majoritarian House, which consistently supported such legislation, and the supermajoritarian Senate, led by Southerners, which consistently opposed such legislation.[17] We then turn to soldier voting, which was a more focused (and contextual) attempt to limit black voting rights, but also dealt with the larger issue of federal power versus states' rights; the battle over soldier voting also involved the poll tax as applied to servicemen, which makes it a natural follow-up to the anti-poll tax case. In the third and fourth case studies, we focus on civil rights legislation that extended beyond voting rights. We begin with the legislative effort to end employment discrimination, via the creation of a Fair Employment Practices Commission, which was designed to promote both racial and economic equality for black workers. We then take up the school lunch program, which represented a more targeted attempt to end discriminatory practices aimed at school-age children.

To summarize our results, we find that voting on anti-poll tax and school lunch legislation contrasts with voting on a federal soldier ballot and fair

16. Although the enactment of an antilynching law continued to be a major concern of the NAACP and other related organizations throughout the 1940s, there were no roll-calls votes on antilynching during these five Congresses.

17. Sources on congressional attempts to eliminate the poll tax include William M. Brewer, "The Poll Tax and Poll Taxes," *The Journal of Negro History* 29 (1944): 260–99; Joseph E. Kallenbach, "Constitutional Aspects of Federal Anti-Poll Tax Legislation," *Michigan Law Review* 45 (1947): 717–32; Frederic D. Ogden, *The Poll Tax in the South* (University, AL: University of Alabama Press, 1958), 241–69; Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944–1969* (New York: Columbia University Press, 1969), 53–85; and Keith M. Finley, *Delaying the Dream: Southern Senators and the Fight against Civil Rights, 1938–1965* (Baton Rouge: Louisiana State University Press, 2008), 56–78, 92–93, 96–103, 107–08.

employment legislation. In the former cases, Republicans consistently lined up with Northern Democrats against Southern Democrats. In the latter cases, Republicans sometimes joined with Southern Democrats in a conservative coalition against Northern Democrats. Thus, civil rights outcomes did not follow strictly from the political/economic basis of the legislation; rather, they were conditioned on the perceived case-by-case electoral advantage of the pivotal Republican bloc in Congress.

Anti-Poll Tax Legislation

As the decade of the 1940s opened, eight Southern states—Alabama, Arkansas, Georgia, Mississippi, South Carolina, Tennessee, Texas, and Virginia—maintained a state-level law requiring a fee (typically between $1 and $2) to vote; this constituted, in effect, a tax at the voting poll.[18] As another World War started to wage outside the borders of the United States, and denunciations of fascism abroad began to ring out throughout the country, political activists and leaders turned their attention to restrictions on civil rights and liberties at home. To maintain internal consistency, these individuals felt that domestic discriminatory practices needed to be addressed. Rather that revive antilynching, they focused on eliminating the poll tax as "a modest way of demonstrating the nation's adherence to the principle of liberty."[19]

An anti-poll tax movement (as compared with another antilynching campaign) was also an easier sell politically. Whereas lynching was a crime of violence mostly against blacks, the poll tax represented political repression mostly against whites—roughly 60% of those disenfranchised by the poll tax were estimated to be white.[20] And this was consistent with the historical design of the institution. That is, whereas the poll tax was often portrayed as a device to promote white solidarity, it was adopted by Southern state governments in the late nineteenth and early twentieth centuries as a way to repress not only the black population but also poor whites who could be swayed by populist arguments.[21] Stated simply, the

18. On poll taxes in the various states, see Brewer, "The Poll Tax and Poll Taxes"; V. O. Key, *Southern Politics in State and Nation* (Knoxville: University of Tennessee Press, 1949), 599–618; Ogden, *The Poll Tax in the South*, 32–76; and Kousser, *The Shaping of Southern Politics*, 62–83.

19. Finley, *Delaying the Dream*, 56.

20. See Brewer, "The Poll Tax and Poll Taxes," 264–65.

21. See Kimberley Johnson, *Reforming Jim Crow: Southern Politics and State in the Age before Brown* (Oxford: Oxford University Press, 2010), 94.

poll tax was a means for the white, economic elite to maintain power. Therefore, it had both race-based *and* class-based dimensions.

By the late 1930s, the various groups that made up the New Deal coalition took aim at the poll tax. First, President Roosevelt and leaders of the national Democratic Party saw an untapped political market in the blacks and whites disenfranchised by the poll tax. Moreover, their relationship with the Southern Democratic elite, which had been tenuous since the party was swept into power in 1932, grew icy later in the decade. The elimination of the two-thirds nomination rule at the National Convention in 1936, Roosevelt's failed Court-packing plan in 1937, and his failed purge of Southern Democrats in the 1938 congressional primaries, drove a wedge between the two regional coalitions of the party. As a result, national Democrats saw little cost in attempting to reform electoral institutions in the South. Second, the NAACP and a host of progressive organizations, such as the Southern Conference for Human Welfare (SCHW), the National Committee to Abolish the Poll Tax (NCAPT), the Southern Electoral League, and the Women's Committee of the national Democratic Party, came out strongly against the poll tax and highlighted its many corrupt and undemocratic features.[22] And again, such a coalition was easier to build because the victims of the poll tax included *both* blacks and whites.

In each of the five Congresses that convened in the 1940s, the 77th (1941–1942) through 81st (1949–1951), an anti-poll tax bill was passed in the House, and by large margins. Moreover, in the first three of these Congresses, the House discharged the anti-poll tax bill from the conservative-controlled Rules Committee, which had tried to bottle it up. However, none of these House-passed anti-poll tax bills became law, as each was blocked in the Senate. Three times cloture was invoked but failed, once a filibuster exhausted the anti-poll tax advocates, and once a bill died in committee without the need of a filibuster. Tables 1, 2, and 3 provide summary statistics of the key roll-call votes.[23] Apart from these unsuccessful attempts to roll back the poll tax generally, a more limited effort to exempt military servicemen during World War II was successful. This

22. Ogden, *The Poll Tax in the South*, 249–51; Johnson, *Reforming Jim Crow*, 92–94; Robert Z. Zangrando, *The NAACP Crusade Against Lynching, 1909–1950* (Philadelphia: Temple University Press, 1980), 167, 181, 189. Eleanor Roosevelt, the president's wife, was a vocal advocate of the anti-poll tax movement. The Communist and Socialist Parties were also active supporters; their advocacy was often used as a foil by Southern senators in floor speeches against anti-poll tax legislation.

23. Note that in reporting "Southern Democrats," we use the Inter-University Consortium for Political and Social Research (ICPSR) convention for categorizing Southern states: the eleven states of the former Confederacy plus Kentucky and Oklahoma.

Table 1. Final-Passage Votes on Anti-Poll Tax Bills in the House, 77th–81st Congresses.

Party	77th Cong. (H. R. 1024)		78th Cong. (H. R. 7)		79th Cong. (H. R. 7)		80th Cong. (H. R. 29)		81st Cong. (H.R. 3199)	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	111	4	85	3	106	4	64	1	136	2
Southern Democrat	13	76	7	90	12	82	9	97	14	90
Republican	126	4	169	17	131	19	216	14	121	24
Other	4	0	4	0	2	0	1	0	2	0
Total	254	84	265	110	251	105	290	112	273	116

Source: Congressional Record, 77th Congress, 2nd Session, (October 13, 1942), 8174; 78th Congress, 1st Session, (May 25, 1943), 4889; 79th Congress, 1st Session, (June 12, 1945), 6003; 80th Congress, 1st Session (July 21, 1947), 9551–52; 81st Congress, 1st Session, (July 26, 1949), 10248.

Table 2. Discharge Votes on Anti-Poll Tax Bills in the House, 77th–79th Congresses.

Party	77th Cong.		78th Cong.		79th Cong.	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	111	4	85	5	90	2
Southern Democrat	11	78	3	95	13	77
Republican	125	3	176	10	119	16
Progressive	4	0	4	0	2	0
Total	251	85	268	110	224	95

Source: Congressional Record, 77th Congress, 2nd Session, (October 12, 1942), 8079; 78th Congress, 1st Session, (May 24, 1943), 4812; 79th Congress, 1st Session, (June 11, 1945), 5895.

case will only be covered briefly, but will be examined in detail in the following section (Soldier Voting and the Federal Ballot). The remainder of this section will examine the more general anti-poll tax legislation in Congress.

The first anti-poll tax bill was introduced prior to the period examined here, in 1939 during the 76th Congress (1939–1941), by Representative Lee E. Geyer (D-CA). The bill was written by the SCHW, and Geyer agreed to sponsor it on their behalf.[24] The Geyer Bill (H.R. 7534),

24. Ogden, *The Poll Tax in the South*, 244.

Table 3. Cloture Votes on Anti-Poll Tax Legislation in the Senate, 77th–79th Congresses.

Party	77th Cong.		78th Cong.		79th Cong.	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	18	11	15	12	20	7
Southern Democrat	3	20	2	19	3	19
Republican	14	10	18	13	15	7
Progressive	2	0	1	0	1	0
Total	37	41	36	44	39	33

Source: Congressional Record, 77th Congress, 2nd Session, (November 23, 1942), 9065; 78th Congress, 2nd Session, (May 15, 1944), 4470; 79th Congress, 2nd Session, (July 31, 1946), 10512.

which was introduced as an amendment to the Hatch Act,[25] framed the anti-poll tax measure as an effort to eliminate corruption ("pernicious political activities") in the federal election process. The claim was that individuals with financial means often paid the poll tax of others, to secure their votes. Eliminating the poll tax would therefore clean up the federal electoral process. The measure was referred to the Judiciary Committee, and although subcommittee hearings were held, no additional progress on the bill was made before the Congress adjourned.

Representative Geyer introduced his bill (H.R. 1024) again in January 1941, on the first day of the 77th Congress,[26] and it was once again referred to the Judiciary Committee. Geyer then offered a resolution (H. Res. 110) to make H.R. 1024 a special order of business, which was sent to the Rules Committee.[27] Although the Judiciary Committee held extensive hearings on the legislation, it did not act further upon it. This led advocates of the bill to start a discharge petition;[28] for a time, few signatures were obtained, but with the passage of the Soldier Voting Act (the Ramsay Act) on September 15, 1942, which included a poll tax waiver for military servicemen, new momentum for a broader poll tax prohibition was created.[29] (The Soldier Voting Act will be considered at length in the next section.) On September 22, 1942, the discharge petition, complete with 218 signatures, was filed on H. Res. 110 and placed on the Discharge

25. *Congressional Record*, 76th Congress, 2nd Session, (August 5, 1939), 1229.

26. *Congressional Record*, 77th Congress, 1st Session, (January 3, 1941), 18.

27. *Congressional Record*, 77th Congress, 1st Session, (February 26, 1941), 1460.

28. Representative Geyer died on October 11, 1941. The advocacy of his bill in the House was then taken up by Representative Joseph Gavagan (D-NY).

29. See "House Will Vote on Poll-Tax Bill," *New York Times*, September, 23, 1942, 16.

Calendar.[30] The discharge petition against the Rules Committee was considered on October 12, and after a short debate, the motion to discharge H. Res. 110 from the Rules Committee passed 251 to 85.[31] The discharge roll call appears in Table 2. It was overwhelmingly sectional, with a near-unanimous majority of both Northern Democrats and Republicans (only seven defections total) supporting the measure against a large majority of Southern Democrats.

Once discharged, H. Res. 110 was considered and passed by the same 251 to 85 margin; it provided for floor consideration of H.R. 1024 (and therefore had the effect of discharging H.R. 1024 from the Judiciary Committee).[32] Debate on H.R. 1024 began immediately and bled into the next day. Southerners, led by Representative Hatton Sumners (D-TX), chairman of the Judiciary Committee, Representative Pete Jarman (D-AL), and Representative Sam Hobbs (D-AL), argued that the bill was unconstitutional and railed against the federal government's intrusion into state affairs. Representative William Colmer (D-MS) was more visceral in his assessment, stating that H.R. 1024 was a "force bill" whose sole aim was "to enfranchise the Negro in the South,"[33] whereupon Representative Arthur Mitchell (D-IL)—the single black member of the House—replied that "if the Negro is good enough to … shed blood for this country, then he is entitled to vote in peacetime as well as wartime."[34] Finally, after 4 hours of debate (as stipulated in the special order), H.R. 1024 was voted on and passed 254 to 84.[35] The roll call appears in Table 1 and follows the same basic pattern as the discharge roll call; all but eight members of the coalition of Northern Democrats and Republicans successfully opposed all but thirteen Southern Democrats.

The Geyer Bill (H.R. 1024) was then sent to the Senate, where it was referred to the Judiciary Committee. An amended bill was favorably reported out of committee on October 26; the amendment struck out the entirety of the original bill's text (except the enacting clause) and replaced

30. *Congressional Record*, 77th Congress, 2nd Session, (September 22, 1942), 7310–11.

31. *Congressional Record*, 77th Congress, 2nd Session, (October 12, 1942): 8066–79. The text of H.R. 110 is found on page 8079.

32. *Congressional Record*, 77th Congress, 2nd Session, (October 12, 1942): 8080–81.

33. Steven F. Lawson supports the Colmer conclusion, writing "Representatives from constituencies with a significant black electorate announced their intention of supporting the bill in order to give disfranchised southern Negroes the vote." See Lawson, *Black Ballots*, 67.

34. Quoted in "House by 252 [*sic*] to 84 Votes to Outlaw Southern Poll Tax," *New York Times*, October 14, 1942, 1, 21.

35. For the full debate and resolution, see *Congressional Record*, 77th Congress, 2nd Session, (October 12, 1942), 8091–94, 8095–96, (13 Oct. 1942): 8120–75. The roll call appears on pages 8174–75.

it with the language of S. 1280, a bill proposed by Senator Claude Pepper (D-FL).[36] The Pepper Bill was also an anti-poll tax bill, but it dropped the corruption justification of the Geyer Bill and also sought to eliminate the poll tax requirement in primary as well as general elections (whereas the Geyer bill dealt strictly with the latter).

On November 13, after reconvening in a post-election lame-duck session, Senator Alben Barkley (D-KY), the majority leader, offered a motion that the chamber proceed to the consideration of the amended version of H.R. 1024.[37] Led by Senators Tom Connally (D-TX), Theodore Bilbo (D-MS), Richard Russell (D-GA), and Wall Doxey (D-MS), the Southerners began an extended filibuster against the motion, and for the next week they ground the Senate agenda to a halt using an assortment of dilatory tactics.[38] In terms of arguments raised during the filibuster, Connally stressed the unconstitutional nature of the bill, as it ran counter to Article I, Section 2, which (he believed) gave states the exclusive jurisdiction to determine voter qualifications in all elections (federal as well as state);[39] Bilbo and Doxey saw blatant opportunism in the bill, and believed that Northerners would happily trample on Southern rights in order to curry electoral favor with black voters; and Russell (as well as Bilbo) cautioned against the centralizing tendency in the bill and warned that it was merely the first step in the federal government's plan to control elections in the South.[40]

Eventually, on November 20, Connally forged an agreement with Barkley to bring the filibuster to an end and allow a cloture vote on the bill itself.[41] Per Senate Rule XXII (at the time), cloture only extended to measures, not motions; therefore, the Southerners had nothing to fear by continuing to filibuster. Their willingness to strike a deal was therefore

36. *Congressional Record*, 77th Congress, 2nd Session, (October 26, 1942), 8656–57.

37. *Congressional Record*, 77th Congress, 2nd Session, (November 13, 1942), 8814.

38. For a discussion of the various dilatory tactics, see Finley, *Delaying the Dream*, 63–65.

39. The clause in question was that "[House members] shall have the qualifications requisite for electors of the most numerous branch of the state legislature."

40. For a summary of these arguments, see Lawson, *Black Ballots*, 69–70; and Finley, *Delaying the Dream*, 62–67. Bilbo was the most direct in his assessment of the effect of successfully eradicating the poll tax: "if that is done, we will have no way of preventing the Negro from voting… Then, as the Negroes get their political power, they will demand social rights, economic rights, and other rights." *Congressional Record*, 77th Congress, 2nd Session, (November 19, 1942), 8958. A year later, Bilbo made his feelings even more clear in a letter to a constituent: "We are not going to bed with the African negro… We are not going to treat them as our social equals… we as a people are proud of our bloodstream and are thoroughly possessed with race consciousness." Quoted in Robert A. Garson, *The Democratic Party and the Politics of Sectionalism, 1941–1948* (Baton Rouge: Louisiana State University Press, 1974), 44.

41. *Congressional Record*, 77th Congress, 2nd Session, (November 20, 1942), 9033.

an indication of how confident they were in winning the eventual cloture vote. After a short debate on the bill, the Senate on November 23 sought to shut off debate (invoke cloture) on H.R. 1024, but the vote failed 37 to 41.[42] The anti-poll tax forces could not even muster a majority, let alone the two-thirds necessary, to invoke cloture. The breakdown appears in Table 3. A majority of both Northern Democrats and Republicans supported cloture, but there were considerable defections (21 in all), whereas Southern Democrats were strongly united (only 3 defections) in opposition. And per the stipulations of the "gentleman's agreement" between Connally and Barkley—which Senator Allen Ellender (D-LA) revealed after the vote—the anti-poll tax bill would not be considered again for the remainder of the session.[43]

The Southerners had emerged triumphant, which led Connally to remark: "Free debate, free speech, and the Constitution of the United States won a memorable victory."[44] Anti-poll tax advocates outside of Congress were disappointed and quickly weighed in. Walter White, executive secretary of the NAACP, called the outcome "a rebellion against constitutional government by a handful of outlaws," whereas the NCAPT opined that the cloture vote "dashed the hopes of 10,000,000 Negro and white voteless Americans for a share in our democracy," but vowed to continue the anti-poll tax fight in the next Congress.[45]

An anti-poll tax bill (H.R. 7), copying the Pepper language, was taken up again in the 78th Congress.[46] The House sponsor was Representative Vito Marcantonio (AL-NY),[47] a member of the American Labor Party (ALP).[48] Knowing that he faced hostile Judiciary and Rules

42. For the debate, see *Congressional Record*, 77th Congress, 2nd Session, (November 21, 1942), 9043–59; (November 23, 1942): 9060–65. For the vote, see *Congressional Record*, 77th Congress, 2nd Session, (November 23, 1942), 9065.

43. *Congressional Record*, 77th Congress, 2nd Session, (November 23, 1942), 9065.

44. Robert De Vore, "Cloture Defeat Spells Doom of Poll-Tax Foes," *Washington Post*, November 24, 1942, 1, 14.

45. White and NCAPT quotes taken from "Poll Tax Upheld as Senate Defeats Cloture, 41 to 37," *New York Times*, November 24, 1942, 1, 17. On NCAPT's regrouping, see Lawson, *Black Ballots*, 71.

46. *Congressional Record*, 78th Congress, 1st Session, (January 6, 1943), 18.

47. Marcantonio had taken the lead in acquiring the necessary signatures on the anti-poll tax discharge petition in the 77th Congress, after Lee Geyer had died. See Alan Schaffer, *Vito Marcantonio, Radical in Congress* (Syracuse, NY: Syracuse University Press, 1965), 118–19. The NCAPT was concerned about Marcantonio being the point person on the legislation, given his socialist ties. A delegation was dispatched to try to convince him to defer his leadership position on the bill, but he refused. Lawson, *Black Ballots*, 72.

48. The ALP was a Socialist offshoot modeled on the British Labour Party. For a detailed overview of the ALP, see Robert D. Parmet, *The Master of Seventh Avenue: David Dubinsky and the American Labor Movement* (New York: New York University Press, 2005).

Committees,[49] Marcantonio followed the same strategy laid out by Geyer in the prior Congress: he offered a resolution (H. Res. 131) to make H.R. 7 a special order of business, which was sent to the Rules Committee; he then started a discharge petition, and when the necessary 218 votes were reached more than 2 months later, he filed it and sought to discharge H. Res. 131 from the Rules Committee.[50] Debate on the discharge petition took place on May 24, 1943, and was relatively short, but caustic. Representative Edward Cox (D-GA) called the anti-poll tax effort a "sorry bid for the Negro vote," whereas Representative John Rankin (D-MS), noting Marcantonio's political heritage, charged that "communism … is responsible for bringing this measure to the floor of the House, when everyone knows it violates the Constitution of the United States."[51] These arguments aside, the motion to discharge passed, 268 to 110, as did the roll call on H. Res. 131 (265 to 105).[52] H.R. 7 was then considered the following day, and after limited debate it passed 265 to 110.[53] The roll calls on both discharge and final passage, which appear in Tables 1 and 2, reveal large majorities of Northern Democrats and Republicans opposing a large majority of Southern Democrats.

H.R. 7 was then sent to the Senate, where it stalled. Finally, after additional hearings, the bill was favorably reported out of the Judiciary Committee on November 12.[54] Before the Senate was ready to consider the legislation, however, two events occurred. First, in April 1944, a new Soldier Voting Act was adopted, which, although instituting a federal war ballot and maintaining a poll-tax exemption for servicemen, kept the power to determine eligibility requirements in state hands. (See the following section for a lengthy discussion.) Second, also in April 1944, the Supreme Court ruled on the legality of the white primary in *Smith v. Allwright* and judged it to be unconstitutional. Southerners interpreted these events as one victory and one defeat. Given the Court's ruling on

49. Prior to the 78th Congress, Marcantonio had been designated for a seat on Judiciary by the Democratic leadership. The Southern members reacted angrily to this possibility, and a bitter fight in caucus eventually led to Marcantonio being passed over. See Schaffer, *Vito Marcantonio, Radical in Congress*, 131–32.

50. *Congressional Record*, 78th Congress, 1st Session, (Febuary 23, 1943), 1244; (May 6, 1943), 4092–93.

51. *Congressional Record*, 78th Congress, 1st Session, (May 24, 1943), 4808. Representative Carter Manasco (D-AL) echoed Cox's argument generally saying "this measure would never have reached the floor of the House if it had not been for the two major political parties playing for votes." See *Congressional Record*, 78th Congress, 1st Session, (May 24, 1943), 4810.

52. Ibid., 4812–13.

53. Ibid., 4843–89. The roll call appears on page 4889.

54. *Congressional Record*, 78th Congress, 1st Session, (November 12, 1943), 9436.

the white primary, Southern senators now had extra incentive to protect their remaining set of Jim Crow institutions and form a united front against H.R. 7.[55]

Finally, on May 9, 1944, Senator Pat McCarran (D-NV), chairman of the Judiciary Committee, moved to consider the legislation.[56] His motion carried, as, according to Keith Finley, "southerners proved so confident that they could defeat a cloture bid and so sure that their Senate colleagues lacked the will for a fight that they did not resist the effort to take up the bill."[57] A filibuster against the bill then commenced, while Majority Leader Barkley worked with Southern senators to prepare a cloture petition.[58] A showdown vote was scheduled for May 15, and over the next few days, the debate raged, with Senator James O. Eastland (D-MS) now leading the Southern juggernaut against H.R. 7; arguments involved the now-ubiquitous unconstitutionality of the law as well as its connection to communism, which was first raised on the House side.[59] Finally, on May 15, the Senate moved to invoke cloture on H.R. 7, which failed 36 to 44.[60] As had occurred 2 years earlier, the anti-poll tax forces could not even manage a majority, let alone the two-thirds necessary, to shut off debate. The vote, which appears in Table 3, looks very similar to the roll call in 1942: a majority of both Northern Democrats and Republicans opposed a majority of Southern Democrats, but the anti-poll tax coalition suffered

55. In anticipation of the coming debate on H.R. 7, Allen Drury, a correspondent for the United Press who was assigned to cover the Senate proceedings during World War II, wrote the following "editorial" in his diary (April 9): "During the debate we shall hear two basic fallacies reiterated over and over again. The first will be offered by the anti-poll-tax forces, who will say that the bill is Constitutional; it is not, because it would set aside control of the voting qualifications specifically vested in the states. The second will be offered by the Southerners, who will say that the poll tax is humanly and morally defensible; it is not. If everybody would just admit those two things on the first day, there might not be any filibuster at all. There would certainly be no debate. There would just be a vote." Drury would later edit and publish his diary. For the above entry, see Allen Drury, *A Senate Journal 1943–1945* (New York: McGraw Hill, 1963), 133.

56. *Congressional Record*, 78th Congress, 2nd Session (May 9, 1944), 4172. Democratic leaders had been dragging their feet for some time, as they did not have the votes to invoke cloture against the certain Southern filibuster. But the NCAPT and other groups continued to push them forward. As Drury notes (in his April 28) entry, "the lobbyists have been relentless in their pressure." Drury, *A Senate Journal 1943–1945*, 152. On NCAPT specifically, see Lawson, *Black Ballots*, 74–75.

57. Finley, *Delaying the Dream*, 74.

58. "Cloture Move in Poll Tax Battle is Begun," *Washington Post*, May 9, 1944, 1–2.

59. *Congressional Record*, 78th Congress, 2nd Session (May 9, 1944), 4172–89; (May 10, 1944), 4244–64; (May 11, 1944), 4300–22; (May 12, 1944), 4385–405; 4405–25; 4425–29.

60. *Congressional Record*, 78th Congress, 2nd Session (May 15, 1944), 4169–70.

numerous defections (25 in total) whereas the Southerners remained strongly unified (only 2 defections). Speaking for the anti-poll tax forces outside of Congress, the NAACP's Walter White called the Senate's performance "a farce from start to finish."[61]

Undeterred by the prior year's outcome, Representative Marcantonio once again introduced his anti-poll tax bill (H.R. 7) on the first day of the 79th Congress, and the events played out *almost* exactly as in the previous Congress.[62] Marcantonio offered a resolution (H. Res. 139) to make H.R. 7 a special order of business, which was sent to the Rules Committee; he then started a discharge petition, and when the necessary 218 votes were reached more than 3 months later, he filed it and sought to discharge H. Res. 139 from the Rules Committee.[63] On June 10, 1945, the motion to discharge passed, 224 to 95, as did the roll call on H. Res. 139 (220 to 94).[64] H.R. 7 was then considered the following day, and after a short debate, it passed 251 to 105.[65] As in the prior Congress, the roll calls on both discharge and final passage, which appear in Tables 1 and 2, reveal large majorities of Northern Democrats and Republicans opposing a large majority of Southern Democrats.

The difference occurred in the Senate. On July 29, 1946, Majority Leader Barkley offered a motion that the Senate proceed to the consideration of H.R. 7, to which the chamber agreed, after which Barkley *immediately* moved to shut off debate.[66] Barkley and other party leaders were not optimistic about the cloture vote's chances—President Truman, for example, offered no meaningful support—but pressure from the NCAPT spurred him to make the effort.[67] What he did not want was to waste valuable floor time on debate, hence his quick procedural action. Barkley's cloture motion was considered on July 31, and it was defeated 39 to 33.[68] Although failing to garner the necessary two-thirds to end debate, the anti-poll tax forces finally managed a majority. As Table 3 indicates, fewer

61. Robert C. Albright, "Senate Balks at Cloture; Sidetracks Poll-Tax Bill," *Washington Post*, May 16, 1944, 1.

62. *Congressional Record*, 79th Congress, 1st Session, (January 3, 1945), 18. Alan Schaffer refers to the situation this way: "[It was] as if [Marcantonio] and his colleagues were following a well-rehearsed morality play." Schaffer, *Vito Marcantonio, Radical in Congress*, 150.

63. *Congressional Record*, 79th Congress, 1st Session, (Febuary 19, 1945), 1285; (May 29, 1945), 5290–91.

64. *Congressional Record*, 78th Congress, 1st Session, (June 11, 1945), 5895–96

65. *Congressional Record*, 79th Congress, 1st Session, (June 12, 1945), 5974–6003. The roll call appears on page 6003.

66. *Congressional Record*, 79th Congress, 2nd Session, (July 29, 1946), 10382–83.

67. Lawson, *Black Ballots*, 77–78.

68. *Congressional Record*, 79th Congress, 2nd Session, (July 31, 1946): 10511–12.

Northern Democratic and Republican defections were in evidence on the vote. Progress had been made. Comparing the three cloture votes in the table, a switch of 15 and 18 votes would have ended debate in the 77th and 78th Congresses, respectively, whereas a switch of only 8 votes would have ended debate in the 79th Congress.[69]

Anti-poll tax advocates were upbeat as the 80th Congress convened. The Republicans had taken control of both the House and Senate for the first time in almost two decades, and the relatively close cloture vote in 1946 suggested that better days were ahead. On January 3, 1947, the opening day of the Congress, Representative George H. Bender (R-OH) introduced the anti-poll tax bill (H.R. 29) for the new majority party,[70] after which it was referred to the Committee on House Administration.[71] As the Republicans controlled the committees, a discharge petition was not necessary; on July 16, the bill was reported favorably out of committee and back to the floor.[72] Five days later, Representative Ralph Gamble (R-NY) moved to suspend the rules and pass H.R. 29, and, after a short debate, the measure passed 290 to 112 (meeting the two-thirds requirement).[73] As the roll-call breakdown in Table 1 indicates, the majority coalition of Northern Democrats and Republicans experienced only 15 defections. H.R. 29 was then referred to the Senate Committee on Rules and Administration.

On April 30, 1948, H.R. 29 was reported favorably and without amendment out of committee and back to the Senate floor.[74] On July 29, Senator Kenneth Wherry (R-NE) offered a motion to proceed to the consideration of H.R. 29, and debate commenced and covered a couple of days, with most of the discussion centering on the bill's constitutionality. On August 2, Wherry sought to shut off debate on the motion and proceed to the consideration of H.R. 29.[75] After some procedural clarifications,

69. This "switching" analysis is also noted in Lawson, *Black Ballots*, 79–80, and Chen, *The Fifth Freedom*, 81 (Table 2–2). Chen also provides the number of vote switches needed for other civil-rights related cloture votes from 1938 through 1964 (although his "yeas shy" estimate for the January 27, 1938 antilynching bill is incorrect).

70. The Republican bill incorporated the same language as the Democratic-sponsored Pepper and Marcantonio bills.

71. *Congressional Record*, 80th Congress, 1st Session, (January 3, 1947), 42. In the Republican 80th Congress, the Administration Committee and not the Judiciary Committee handled all anti-poll tax matters in both chambers.

72. *Congressional Record*, 80th Congress, 1st Session, (July 16, 1947), 9115.

73. *Congressional Record*, 80th Congress, 1st Session, (July 21, 1947), 9522–52. The roll call appears on pages 9551–52.

74. *Congressional Record*, 80th Congress, 2nd Session, (April 30, 1948), 5091.

75. *Congressional Record*, 80th Congress, 2nd Session, (April 29, 1948), 9480, 9488–97; 9499–503; 9504–09; (April 30, 1948): 9554–69; (August 2, 1948), 9597–98. Wherry's cloture motion is found on page 9598.

Senator Richard Russell (D-GA) then submitted a point of order against Wherry's attempt to invoke cloture, stating that Rule XXII (the cloture rule) applied not to *motions* but only to *measures*, and that a "motion to proceed" was not in fact a "pending measure."[76] A short discussion followed on the meaning of the word "measure," before Senator Arthur Vandenberg (R-MI), the president pro tempore, reluctantly (as he was a supporter of the anti-poll tax legislation) sustained Russell's point of order.[77] Vandenberg used this as an opportunity to call for filibuster reform, which would be instituted less than a year later, but the short-term result was that the Southerners had triumphed. Led by Russell, they had taken advantage of Senate rules to stymie the anti-poll tax movement yet again. Senator Robert Taft (R-OH) appealed Vandenberg's ruling, but it too was subject to unlimited debate. As a result, the Republicans admitted defeat and moved on to other things.[78]

In the 81st Congress, the Democrats were back in control, having regained majorities in both chambers after the 1948 elections. But the anti-poll tax forces had one last battle left in them, and on March 3, 1949, Representative Mary T. Norton (D-NJ) introduced H.R. 3199, an anti-poll tax bill containing the same language as the Pepper Bill, and it was referred to the Committee on House Administration (where Norton was chair).[79] On June 24, it was favorably reported out of committee and referred to the Committee of the Whole.[80] On July 25, H.R. 3199 was made a special order—after the Rules Committee had failed to act on H. Res. 276, governing procedural consideration of H.R. 3199, for 21 days—which was

76. *Congressional Record*, 80th Congress, 2nd Session, (August 2, 1948), 9559–60.

77. Ibid., 9600–04. Vandenberg stated that "[t]he fact is that the existing Senate rules regarding cloture do not provide for conclusive cloture. They still leave the Senate, rightly or wrongly, at the mercy of unlimited debate ad infinitum" (9603). For newspaper coverage, see Philip Dodd, "Senate Ruling Blocks Move to End Filibuster," *Chicago Tribune*, August 3, 1948, 3; William S. White, "Republicans Fail to Kill Filibuster," *New York Times*, August 3, 1948, 1, 14. Floyd Riddick, the Senate Parliamentarian from 1964–1974, largely supports Vandenberg's ruling in his book on Senate procedure; Riddick's understanding was: "Until 1949 it was generally understood that cloture would apply to the pending measure, and not motions, although there had been some early cases of cloture being filed on some matter other than a bill, treaty, or resolution." See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices* (Washington, DC: U.S. Government Printing Office, 1992), 303.

78. For short overviews of this episode, see Susan M. Hartmann, *Truman and the 80th Congress* (Columbia: University of Missouri Press, 1971), 198–99; Lawon, *Black Ballots*, 81; and Finley, *Delaying the Dream*, 103.

79. *Congressional Record*, 81st Congress, 1st Session, (March 3, 1949), 1842.

80. *Congressional Record*, 81st Congress, 1st Session, (June 24, 1949), 8400.

adopted on a 265 to 100 roll call.[81] After a short debate, the bill passed 273 to 116.[82] The breakdown of this vote, which appears in Table 1, reveals again that a majority of Northern Democrats and Republicans opposed a majority of Southern Democrats (although the number of Republican defections increased somewhat). H.R. 3199 was then referred to the Senate Committee on Rules and Administration.

Once in the Senate, the bill languished in committee. In March 1949, a revision to the cloture rule in the Senate was completed; hearkening back to the 1947 anti-poll tax battle, the revision increased the threshold for shutting off debate from two-thirds of all members voting to two-thirds of the entire chamber (voting or not), but also extended the rule's provisions to include motions as well as measures.[83] (We cover this revision in more detail in the Fair Employment Practices Commission [FEPC] section.) Thus, while the "Russell Strategy" from 1947 would not work against H.R. 3199, achieving cloture was now more difficult as a higher bar was in place. As a result, according to Steven Lawson, "[Democratic leaders], wary of the increased difficulty in ending the filibuster, declined to call up the measure."[84] The anti-poll initiative would thus die an ignominious death.

Norton's initiative in the 81st Congress would be the last *statutory* attempt to eliminate the poll tax. Beginning in the mid-1940s, a movement to adopt a constitutional amendment was underway, and converts came from both parties.[85] Some of the strongest converts were in fact *Southern* Democrats. Most Southern leaders viewed the poll tax itself as an anachronism (and an embarrassment),[86] but wanted any state-level

81. *Congressional Record*, 81st Congress, 1st Session, (July 25. 1949): 10095–97. To bypass the Rules Committee, Representative Norton took advantage of the "21 Day Rule," which was in operation only in the 81st Congress. An examination of the fight over this rule will be covered in the FEPC section of this article.

82. *Congressional Record*, 81st Congress, 1st Session, (July 25, 1949), 10097–124; (July 26, 1949), 10220–48. The roll call appears on page 10248. On this occasion, a statement in favor of the bill by Tom C. Clark, the attorney general of the United States, was put into the record. See *Congressional Record*, 81st Congress, 1st Session, (July 25, 1949), 10098–100.

83. For a short discussion, see Finley, *Delaying the Dream*, 120–21.

84. Lawson, *Black Ballots*, 82. And although anti-poll tax advocates were still eager to fight for the bill, world events intruded. As Frederic Ogden notes: "The outbreak of fighting in Korea occurred about the time the Senate normally would have taken up the poll tax question. As a result of this crisis, few senators were interested in engaging in a futile debate over the poll tax."

85. Indeed, a plank in the 1944 Republican presidential platform called for a constitutional amendment to prohibit the poll tax.

86. Southern public opinion also steadily turned against the poll tax: 43% supported abolishment in April 1941, which increased to 48% in July 1948 and to 53% in April 1949. See Ogden, *The Poll Tax in the South*, 251–52.

repeals to be effected outside of federal authority. From their viewpoint, an act of Congress could potentially be the first gambit in a broader federal strategy to dismantle Jim Crow. A constitutional amendment, on the other hand, would eliminate the problem (the poll tax) but do it without federal interference (and all the subsequent problems that would entail). Therefore, led by Senator Spessard Holland (D-FL), a constitutional movement gained steam through the 1950s. Finally, a constitutional proposal banning the poll tax in national elections was passed in Congress in 1962 and ratified by a sufficient number (three-quarters) of states in 1964. This became the Twenty Fourth Amendment.[87]

Soldier Voting and the Federal Ballot

With the United States' entrance into World War II in December 1941, Congress was confronted with the civil rights issue in a new and different way. The war meant that a non-trivial number of United States citizens—American servicemen—would be abroad during the upcoming 1942 election cycle. As a result, in the early months of 1942, concerns were raised about how these members of the armed forces would be able to participate in the upcoming elections.

As a policy guide for soldier-voting advocates, the most recent comparable example was in 1918 during World War I, when more than 2,000,000 voters were abroad on Election Day.[88] In that case, only two half-hearted attempts were made in Congress to regulate or oversee the soldier-voting process. Neither was successful. Moreover, the War Department took a largely hands-off approach by agreeing to cooperate with state efforts to collect soldier votes (either through state commissions set up in Europe, or via state-level absent-voting laws) and initiating no separate electoral procedures of its own. Difficulties in setting up state election commissions in military camps and few established state-level absent-voter laws specifically for soldiers meant that only a small fraction of American servicemen participated in the 1918 congressional elections.[89] For soldier-voting advocates in 1942, a reprisal of the 1918 outcome was unacceptable, and they began pressuring Congress to take a stronger role in the process.

87. For a short summary of these events, see Finley, *Delaying the Dream*, 102. In addition, the Supreme Court in *Harper v. Virginia Board of Elections* (1966) extended the coverage of the 24th Amendment to state elections.

88. Thomas F. Logan, "Soldier Vote in War," *American Economist* 62 (1918): 122–23.

89. For a good overview of War Department policy and state-level voting institutions for servicemen during World War I, see Boyd A. Martin, "The Service Vote in the Elections of 1944," *American Political Science Review* 39 (1945): 720–32.

The early months of 1942 saw little action at the federal level, as Congress focused on building up a domestic production machine for the war effort. Finally, on July 20, 1942, Representative Richard Ramsay (D-WV) introduced H.R. 7416, a bill to provide a method of voting in federal elections for American servicemen serving abroad during time of war.[90] More specifically, the bill would permit all military personnel who were absent from their given state of residence, but registered and electorally qualified, to vote in elections for president, vice president, senators, and representatives. H.R. 7416 was sent to committee and reported back a day later without amendment.[91] Two days later, the House agreed to consider the Ramsay Bill under open rule, and debate began.[92] Southern Democrats, led by Representative John E. Rankin (D-MS), objected to the federal government's "intrusion" into elections, which they believed under the Constitution were the sole responsibility of the states. However, the Ramsay Bill, as written, would have placed control of the so-called "war ballots" in the hands of the states themselves.[93] This stipulation, once understood, largely mollified Southern representatives.[94] The one hitch occurred when Representative Estes Kefauver (D-TN) offered an amendment that would have eliminated any poll tax requirement for soldiers to vote. Kefauver argued that "if we feel that these boys are capable of serving on the battlefield to protect us and this country, we ought to feel that they are capable of voting in an election without registration and without a poll tax."[95] Despite his plea, the

90. *Congressional Record*, 77th Congress, 2nd Session, (July 20, 1942), 6423.

91. *Congressional Record*, 77th Congress, 2nd Session, (July 21, 1942), 6478.

92. The roll-call vote on H.R. 528 (to consider H.R. 7416 under open rule) was 202 to 33, with Northern Democrats voting 64 to 0, Southern Democrats 42 to 32, and Republicans 94 to 0. *Congressional Record*, 77th Congress, 2nd Session, (July 23, 1942), 6544–45. For coverage of the entire debate (including the bill's initial consideration), see Ibid., 6541–69.

93. The secretaries of war and the navy would handle the application process, issuing postcards to servicemen for acquisition of a war ballot. The preparation (construction) of the war ballot, however, was the sole purview of the secretary of state in each state. Once a secretary of state received a completed and signed application (with the signature verified by a commissioned officer), that person would issue a war ballot to the serviceman in question. A completed ballot would then be returned directly to the secretary of state for processing. See Martin, "The Service Vote in the Elections of 1944," 725.

94. Rankin, however, refused to buckle easily, and used his influence to stage a "single handed filibuster" that slowed the course of business and consumed most of the day. He claimed that the Ramsay bill was an "attempt to destroy the election laws of the states" and was the first step toward a complete federal seizure. Eventually Rankin relented and the legislation was dealt with. Quote taken from "House Passes Bill for Army Absentee Vote," *Chicago Tribune*, July 24, 1942. See also C. P. Trussell, "House Adopts Vote Bill for Soldiers' Vote," *New York Times*, July 24, 1942, 9.

95. *Congressional Record*, 77th Congress, 2nd Session, (July 23, 1942), 6553.

amendment failed on a 33 to 65 division vote.[96] After additional tinkering, the Ramsay Bill—largely and substantively unaltered—passed on a 134 to 19 division vote.[97] The bill was then referred to the Senate Committee on Privileges and Elections.

On August 17, the Ramsay Bill (H.R. 7416) was reported out of committee with amendments.[98] The chief amendment was a more explicit protection of states' rights, namely that requirements such as the poll tax would be left untouched. Once reported, a vigorous debate ensued with passionate arguments on both sides, ranging from the need to allow soldiers who were risking their lives for democracy to vote to the desire to uphold the sanctity of the Constitution and the rights of states.[99] On August 24, a critical point was reached when Senator C. Wayland Brooks (R-IL) offered an amendment to the committee bill that hearkened back to the failed Kefauver amendment in the House.[100] The text of the amendment read "No person in military service in time of war shall be required, as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, to pay any poll tax or other tax or make any payment to any State or political subdivision thereof."

In adopting the anti-poll tax language of the Kefauver Amendment, Brooks upped the ante and challenged the Southerners to risk the passage of the Ramsay Bill to protect their Jim Crow institutions. Majority Leader Barkley urged Brooks to withdraw his amendment, fearing that its inclusion could sink the entire bill,[101] but Brooks was unmoved.

The next day, August 25, voting was set to commence, when an additional amendment was offered by Senator John Danaher (R-CT),

96. *Congressional Record*, 77th Congress, 2nd Session, (July 23, 1942), 6561. Prior to the amendment's rejection, Representative John Vorys (R-OH) requested a teller vote, but only nine members expressed their support, so tellers were refused.

97. *Congressional Record*, 77th Congress, 2nd Session, (July 23, 1942), 6569.

98. *Congressional Record*, 77th Congress, 2nd Session, (August 17, 1942), 6858.

99. *Congressional Record*, 77th Congress, 2nd Session, (August 17, 1942), 6858–65; (August 20, 1942), 6882, 6895; (August 24, 1942), 6923–38, 6939–41; (August 25, 1942), 6952.

100. *Congressional Record*, 77th Congress, 2nd Session, (August 24, 1942), 6930. Brooks' amendment caused a bit of stir, as Senator Claude Pepper (D-FL) claimed that he had submitted an amendment with nearly identical language. Pepper's contention is verified in the *Congressional Record*, 77th Congress, 2nd Session, (July 27, 1942), 6633; (August 20, 1942), 6882. As a result, Pepper charged Brooks with "legislative plagiarism or hijacking." See Edward Ryan, "Senate Passes Soldier Vote Bill, 47 to 5," *Washington Post*, August 26, 1942, 1, 6. Additional remarks by Pepper on the Brooks Amendment appear in the *Congressional Record*, 77th Congress, 2nd Session, (August 24, 1942), 6930–31.

101. See "Poll Tax Delays Soldier Vote Bill," *New York Times*, August 25, 1942, 13.

who sought to extend soldier voting rights to "primary elections, nominating conventions, and caucuses," as the generic language of "elections" in the underlying bill was believed to refer only to general elections.[102] Although this served as another threat to Jim Crow, as primaries were the true locus of electoral power in the South at the time, Keith Finley notes that Southern Democrats realized that "the bill would not become law until after the southern states held their primaries that year," which meant that they would not need to worry about the potential law's effect on primary elections for another 2 years, by which time, many felt, the war would be over.[103] The proximate threat, as Barkley had warned, was the anti-poll tax amendment, as it would affect general elections in November.

Faced with a threat to their Jim Crow system, Southern Democrats considered using a filibuster, the same device they had used effectively in 1938 to shut down the attempt to pass antilynching legislation.[104] Instead, they allowed the measure to come to a vote. They did this, according to Finley, because "a filibuster against a bill providing absentee ballots to servicemen would appear unpatriotic and could alienate northern colleagues."[105] Southerners realized that they would need to be strategic in their opposition to civil rights and allow certain limited initiatives to come to a vote, so as to reserve their serious stonewalling tactics for cases of broader concern, such as more general anti-poll tax bills (which would cover *all* citizens in peace as well as war) and fair employment legislation, which would more directly threaten Jim Crow.

On August 25, the Danaher Amendment was considered first, and it passed 28 to 25; the Brooks Amendment then came to a vote, and it passed 33 to 20; and finally the amended Ramsay Bill was considered and it passed 47 to 5.[106] The partisan breakdown of these 3 votes appears in Table 4. Northern and Southern Democrats largely voted together to oppose extending soldier voting rights to primary elections, but enough Northern Democrats defected and joined with the unified group of Republicans (and independents) to pass the Danaher Amendment. A majority of Northern Democrats then joined with the Republicans, against

102. *Congressional Record*, 77th Congress, 2nd Session, (August 25, 1942), 6954. The day before, Danaher debated the meaning of the term "elections" on the Senate floor with Barkley and Senator Theodore Francis Green (D-RI). See *Congressional Record*, 77th Congress, 2nd Session, (August 24, 1942), 6926–28.

103. Finley, *Delaying the Dream*, 60

104. See Jenkins, Peck, and Weaver, "Between Reconstructions."

105. Finley, *Delaying the Dream*, 60. See also Lawson, *Black Ballots*, 66.

106. *Congressional Record*, 77th Congress, 2nd Session, (August 25, 1942), 6962, 6971–72.

Table 4. Congressional Roll Calls on Soldier Voting (Ramsay Bill), 77th Congress.

Party	Senate						House	
	Danaher Amendment		Brooks Amendment		Final Passage		Final Passage (Conf. Report)	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	11	16	15	12	26	1	96	2
Southern Democrat	2	9	3	8	7	4	23	50
Republican	13	0	13	0	12	0	125	1
Other	2	0	2	0	2	0	3	0
Total	28	25	33	20	47	5	247	53

Source: Congressional Record, 77th Congress, 2nd Session, (August 25, 1942), 6962, 6971, 6972; (September 9, 1942): 7079.

a majority of Southern Democrats, to adopt Brooks' anti-poll tax amendment. With both amendments in place, Southern Democrats largely gave up their opposition, and a majority joined with the nearly-unified coalition of Northern Democrats and Republicans to pass the amended Ramsay Bill.

The Senate then insisted that its changes be adopted and requested a conference with the House, to which the House agreed.[107] On September 9, the House considered the conference report, which in the end was the same as the Senate version of the bill (as the House conferees agreed to the Senate amendments).[108] After a reprise of the chamber's earlier debate, the House passed the conference bill, 247 to 53.[109] As Table 4 indicates, a nearly unified group of Northern Democrats and Republicans opposed a majority of Southern Democrats in adopting the conference report. Three days later, the Senate briefly discussed the matter before agreeing to the conference report without a recorded vote.[110] The bill was then presented to President Roosevelt, who signed it into law (Public Law 712) on September 15.[111] The Ramsay Act (or Soldier Voting Act of 1942)

107. *Congressional Record*, 77th Congress, 2nd Session, (August 25, 1942), 6972; (August 31, 1942), 7008.

108. The House had initially disagreed to the Senate amendments, which necessitated the subsequent conference. *Congressional Record*, 77th Congress, 2nd Session, (August 31, 1942), 7008.

109. *Congressional Record*, 77th Congress, 2nd Session, (September 9, 1942), 7063–79. The roll call appears on page 7079.

110. *Congressional Record*, 77th Congress, 2nd Session, (September 12, 1942), 7086–97.

111. *Congressional Record*, 77th Congress, 2nd Session, (October 12, 1942), 8065. For full text of Public Law 712, see 56 *Statutes at Large* 753–57.

would thus govern soldier voting in the November 1942 midterm elections, which were less than 2 months away.

Republican strategy on soldier voting in 1942, especially with regard to the anti-poll tax provision, was designed by Representative Joe Martin (R-MA), who in his role as national committee chairman sought to reach out to black voters and make the Party competitive once again in the black community.[112] Martin believed that representing blacks' interests and exposing the Democrats' regional rift on civil rights could only help Republicans at the polls. And a general uptick in the black vote for the Republicans did occur in the 1942 midterm elections. This was the result, according to NAACP Director Walter White, of the positive stances taken by Republicans on black issues relative to the many negative stances taken by Southern Democrats; he also warned, however, that future black support for the Republican Party could not be taken for granted, in part because he believed that a regular alliance between "reactionary" Republicans and Southern Democrats was emerging.[113] White would prove to be prescient.

The subsequent public assessment of the Ramsay Act would be largely negative. The cumbersome institutional design (and admittedly short period of implementation) would result in minimal participation by servicemen in the 1942 elections. Only 137,686 applications for war ballots were received by the War Department, and only 28,051 soldiers submitted their war ballots in accord with their respective state laws.[114] Given that there were between 4,000,000 and 5,000,000 American servicemen abroad, this incredibly low level of soldier participation was considered unacceptable, especially at the highest levels of the federal government.[115] As Robert A. Garson notes: "The president was embarrassed at this denial of suffrage and accordingly urged Congress to pass a new bill that would avoid these pitfalls."[116]

A new Soldier Voting Act would be adopted in 1944, replacing the 1942 Act, but the design of the legislation would stray considerably from the preferences of President Roosevelt and his Northern

112. James J. Kenneally, "Black Republicans During the New Deal: The Role of Joseph W. Martin, Jr.," *The Review of Politics* 55 (1993): 117–39.

113. Ibid., 138–39.

114. *Hearings on Soldier Voting*, 78th Congress, House of Representatives, 1st Session (October 19, 1943), 27. The figures were part of a report entitled, "The Soldier Vote in 1942," which was inserted in the record by Representative Adolph Sabath (D-IL).

115. Some portion of this group of servicemen voted using state absent-voting laws that were in place at the time. The number is unknown, but as Boyd Martin recounts "all incomplete reports would indicate that it was very small." Martin, "The Service Vote in the Elections of 1944," 726.

116. Garson, *The Democratic Party and the Politics of Sectionalism*, 44.

Democratic allies.[117] The guiding force for the new legislation would be the Republicans, who now viewed a coalition with the Southern Democrats as a better vehicle for serving their interests. Roland Young summarizes the strategic positions of the three groups in Congress, as they looked ahead to the next round of legislative wrangling over the soldier vote. "The Northern Democrats wanted a federal ballot, which would make it easy for soldiers to vote for the presidential candidate. The Republicans wanted a State ballot, which would give the soldiers greater opportunity to vote for State officials as well as the presidential candidate. The Southern Democrats also wanted a State ballot, so that the States would continue to regulate the standards of residence, registration, and voter eligibility."[118]

In addition, according to Young, the Republicans were "less willing [than in 1942] to waive state regulations if the results would make it easier for a Democrat to be elected president."[119] Republican leaders, such as Senator Robert Taft (OH), knew that President Roosevelt would likely benefit from easier federal soldier voting rules, as servicemen by late-1943 tilted toward Roosevelt and the Democratic Party.[120] Therefore, for Taft, stipulations that would dampen the soldier vote, especially as Republicans sought to pick up seats in Congress and vie

117. Although neither Soldier Voting Act has been the focus of much scholarly research, the 1944 Act has received considerably more attention. Examples include Martin, "The Service Vote in the Elections of 1944"; John Jamieson, "Censorship and the Soldier," *The Public Opinion Quarterly* 11 (1947): 367–84; Roland Young, *Congressional Politics in the Second World War* (New York: Columbia University Press, 1956), 83–89; Drury, *A Senate Journal*, 56–84, 98–112; Phillip Allen Rosen, "Patriotism and Partisanship: The Soldier Vote Controversy in Virginia, 1944–1945" (MA thesis, University of Virginia, 1972); Garson, The *Democratic Party and the Politics of Sectionalism*, 44–52; Theodore Penton, "The United States War Ballot Commission" (MA thesis, Auburn University, 2002); and Ira Katznelson, *Fear Itself: New Deal Democracy in a Southern Cage* (New York: Norton, 2013). Indeed, the general belief is that the 1944 Act was more important than the 1942 Act. The 1944 Act, for example, is classified as a "landmark law": legislation that has "so dramatically altered the perception of the role of government" that it can be deemed "of enduring importance." See Stephen W. Stathis, *Landmark Legislation, 1774–2002: Major U.S. Acts and Treaties* (Washington: CQ Press, 2003), v, 224. The best overview of the 1942 Act, and the issue of soldier voting more generally during World War II, is Katznelson, *Fear Itself*.

118. Young, *Congressional Politics in the Second World War*, 83.

119. Ibid., 84.

120. For example, a Gallup Poll on December 3, 1943 reported American servicemen favoring Democrats over Republicans by a 61% to 39% rate. See George Gallup, "Vote of Soldiers Could Decide '44 Election, Gallup Poll Finds," *New York Times*, December 5, 1943, 48. Gallup also held, based on his figures, that "if the serviceman's vote is no larger in 1944 than it was in 1942, the [presidential] election outcome today looks like a tossup."

for the presidency in 1944, made sense and were worth the potential costs.[121]

A drive to amend the Ramsay Act began to gain momentum in late 1943, during the first session of the 78th Congress. The House and Senate held hearings in October and November,[122] and an initial showdown was set up before the Christmas break. The stakes were considered to be high. Correspondent Allen Drury, covering the Senate drama for the United Press, was told by a more seasoned news reporter that "the fight boils down to the fact that the Democrats think they can win the coming Presidential election if they have the soldier vote and the Republicans think they can win if they can manage to cut it off."[123]

The leaders of the new federal soldier voting legislation—and therefore the standard-bearers for Roosevelt and his administration—were Theodore Francis Green (D-RI) and Scott Lucas (D-IL) in the Senate and Francis E. Worley (D-TX) in the House. Senators Green and Lucas would move first by introducing their bill on June 29, 1943.[124] Favorably reported out of committee on November 15, the Green–Lucas bill (S. 1285) proposed to amend the Ramsay Act by inserting sweeping new federal provisions into the voting process for servicemen.[125] At the heart of the bill was the creation of a five man War Ballot Commission to manage and administer the new voting system, with four members appointed by the president (and constrained to be two Democrats and two Republicans) and the fifth member being the Chief Justice of the Supreme Court. This War Ballot Commission would distribute federal ballots in advance of

121. In reference to the dangers of coming out against a federal ballot, Taft replied: "Even if the President makes an issue of Republican opposition to the federal ballot, the votes to be lost on that issue are negligible compared to the number of real votes the President will get if the federal ballot is adopted." Quoted in James T. Patterson, *Mr. Republican: A Biography of Robert A. Taft* (Boston: Houghton Mifflin, 1972), 264.

122. *Hearings on Soldier Voting*, 78th Congress, House of Representatives. 1st Session. Hearing dates included October 19, 21, 26, and 27, 1943, and November 3, 9, 16, 1943. *Hearings on Voting in Time of War by Members of the Land and Naval Forces*, 78th Congress, Senate, 1st Session. Hearing dates included October 29, 1943, and November 5, 1943.

123. Drury, *A Senate Journal*, 11.

124. *Congressional Record*, 78th Congress, 1st Session, (June 29, 1943), 6690.

125. *Congressional Record*, 78th Congress, 1st Session, (November 15, 1943), 9486–87. The committee vote was 12 to 2. The Green–Lucas Bill would *not* have prohibited individuals from using the absent-voter laws available in their respective states. Rather, it was best thought of as a set of federal voting procedures overlaid on existing state level voting procedures. The bill's provisions can be found in *Hearings on Voting in Time of War by Members of the Land and Naval Forces*, 78th Congress, Senate, 1st Session (October 29, 1943), 1–7.

presidential, House, and Senate elections,[126] and all members of the armed services, as well as merchant marines and United States civilians working overseas,[127] would be *instantly* eligible (that is, they would not first be required to apply to their state's secretary of state for an absentee ballot). In addition, potential voters from states with a poll tax requirement would have said requirement waived (in keeping with the stipulation in the original Ramsay Act). Finally, completed ballots (which would be double-sealed to preserve secrecy) would be returned to the War Ballot Commission, which would organize and deliver them to the appropriate states.

Debate commenced on November 22, and lasted on and off for almost 2 weeks.[128] Southern Democrats were outraged by the Green–Lucas bill, and led by Senators James O. Eastland (MS) and "Cotton Ed" Smith (SC), they denounced their Northern wing's attempt to "federalize" the election process. Although occasional racial demagoguery seeped into the debate, Southern orators structured their arguments on constitutional grounds, by claiming that Congress was usurping the states' rights (as laid out in Article I, Section 2) to determine voter qualifications. Beneath these constitutional arguments, however, lurked a baser concern. As Boyd A. Martin states: "Once the authority of Congress was extended to determine suffrage qualifications, on lines of the state poll-tax features of the Green–Lucas bill, the states would lose their power to prevent universal suffrage."[129] Southerners reacted as if their entire Jim Crow system was under assault, even as most objective observers felt that the bill's main effect would be to remove bureaucratic impediments to soldier voting rather than broaden the base of the Southern electorate. For Eastland, Smith, and other Southern senators, however, the Green–Lucas bill represented the first domino, as "even a slight change in the election laws could pave the way for the eventual enfranchisement of the Negro."[130]

Rather than resort solely to a negative, Constitution-based argument, Southerners went on the offensive. Led by Senators Eastland, John L. McClellan (D-AR), and Kenneth McKellar (D-TN), a substitute

126. There was no stipulation in the Green–Lucas bill for extending the federal ballot to primary elections.

127. The Worley bill in the House (H.R. 3982) was almost identical to the Green–Lucas bill, except that it included only servicemen (and thus excluded merchant marines and United States citizens working abroad).

128. See *Congressional Record*, 78th Congress, 1st Session, (November 22, 1943), 9790–800, 9812–18; (November 29, 1943), 10057–83, 10109–18; (November 30, 1943), 10119–27, 10128–33; (December 1, 1943), 10165–75, 10177–87; (December 2, 1943), 10197–201, 10204–06, 10220–28; (December 3, 1943), 10268–90.

129. Martin, "The Service Vote in the Elections of 1944," 727.

130. Garson, *The Democratic Party and the Politics of Sectionalism*, 45.

amendment to the Green–Lucas bill was offered on December 1.[131] The Eastland–McClellan–McKellar substitute was a pure states' right alternative to Green–Lucas. Individual states, not the federal government, would be wholly responsible for all aspects of elections. The states would be encouraged to revise their election laws to enable citizens to vote in both federal and state elections. The states would also be responsible for printing postcards that servicemen could use to acquire absentee ballots; said postcards would be sent directly to the Secretaries of War and the Navy for distribution to their respective military units. Servicemen would then request an absentee ballot from their particular state by filling out and mailing back the postcard (free of charge); ballots would then be processed by state election officials.

Apart from placing all election authority in the hands of the states, the Eastland–McClellan–McKellar substitute had a practical limitation (or benefit, from Southerners' perspective). State legislatures were afforded little time to alter their election laws and institute the necessary ballot structure. And only nine state legislatures were scheduled to convene in 1944. Special sessions would need to be organized quickly, and many states would in all likelihood forego such attempts. Therefore, the Eastland–McClellan–McKellar substitute, if adopted, could greatly reduce the soldier vote in 1944. For Southern senators, this was a small price to pay to maintain firm control over their electoral institutions.[132]

After nearly 2 days of contentious debate, the Eastland–McClellan–McKellar substitute was considered and passed on a 42 to 37 vote.[133] The partisan breakdown of the vote appears in Table 5. Unlike 1942, a majority of Southern Democrats joined a majority of Republicans in opposing a majority of Northern Democrats. A "conservative coalition" had formed for disparate reasons; Republicans sought to limit national Democratic electoral power, whereas Southern Democrats endeavored to maintain Jim Crow and restrict black voting rights. S. 1285, now embodying the language of the Eastland–McClellan–McKellar substitute, was then sent to the House and referred to committee.

On January 17, a slightly revised version of S. 1285—dubbed the "Rankin Bill," for Representative John Rankin (D-MS), who would shepherd the bill through the House—was reported out of committee, and on

131. *Congressional Record*, 78th Congress, 1st Session, (December 1, 1943), 10165. Eastland first introduced his amendment (on behalf of McClellan and McKellar) on November 22, which he requested "be read, printed, and lie on the table." His request was granted. See *Congressional Record*, 78th Congress, 1st Session, (November 22, 1943), 9812.

132. Garson, *The Democratic Party and the Politics of Sectionalism*, 46.

133. *Congressional Record*, 78th Congress, 1st Session, (December 3, 1943), 10290.

Table 5. Congressional Roll Calls on Soldier Voting (S. 1285), 78th Congress.

Senate						
Party	Eastland Substitute		Barkley Amendment		Final Passage (Conf. Report)	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	7	22	27	1	8	20
Southern Democrat	17	3	8	16	15	4
Republican	18	12	10	23	24	6
Other	0	0	1	0	0	1
Total	42	37	46	40	47	31

Source: Congressional Record, 78th Congress, 1st Session, (December 3, 1943), 10290; 2nd Session (February 8, 1944), 1397–98; (March 14, 1944), 2573.

House						
Party	Worley Substitute		Rankin Bill		Final Passage (Conf. Report)	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	87	4	30	62	11	78
Southern Democrat	60	44	104	3	86	18
Republican	18	175	191	3	175	12
Other	3	1	3	1	1	3
Total	168	224	328	69	273	111

Source: Congressional Record, 78th Congress, 2nd Session, (February 3, 1944), 1228–30; (March 15, 1944), 2639.

February 1, 1944, the House took up the legislation.[134] Rankin announced that debate time would be split evenly between advocates of S. 1285 and advocates of H.R. 3982, the Worley Bill (and House analogue of the Green–Lucas Federal Soldier Voting Bill). Debate commenced and concluded on February 3,[135] when the Worley Bill was offered as a substitute to the Rankin Bill. The Worley substitute failed 168 to 224, after which the Rankin Bill passed 328 to 69.[136] The partisan breakdowns appear in Table 5. A majority of *both* Northern and Southern Democrats voted in

134. *Congressional Record*, 78th Congress, 2nd Session, (January 17, 1943), 296; (February 1, 1944), 1014.

135. *Congressional Record*, 78th Congress, 2nd Session, (February 1, 1944), 1014–34; (February 2, 1944), 1082–125; (February 3, 1944), 1168–228.

136. *Congressional Record*, 78th Congress, 2nd Session, (February 3, 1944), 1228–30.

favor of the Worley substitute, against a nearly unanimous majority of Republicans. But enough Southern Democrats withheld their support to sink the bill. When the chamber turned to the Rankin Bill, the predicted conservative coalition formed, and a near-unanimous majority of Southern Democrats joined with a large majority of Republicans to defeat a majority of Northern Democrats. In the end, the Rankin Bill's alterations to the original S. 1285 were minimal, and did little more than offer "recommendations" to the states about their electoral machinery and adopt timing deadlines for postcard applications.[137]

The slight majority of Southern Democrats in *favor* of creating a federal soldier voting law—that is, in support of the Worley Bill—may have been the result of presidential pressure. A little more than a week earlier, on January 26, Roosevelt communicated his displeasure to Congress about the course of soldier voting legislation. The president called the Senate measure (the Eastland–McClellan–McKellar substitute, now embodied in S. 1285) "a fraud on the soldiers and sailors and marines … [in that] it would not enable any soldier to vote with any greater facility than was provided by Public Law 712 (the 1942 Act) under which only a negligible number of soldiers' votes were cast."[138] He also used the opportunity to lobby on behalf of the Worley Bill and a "new" Green–Lucas bill (S. 1612) in the Senate, which incorporated many of the same tenets as the original version. Whereas Roosevelt's "going public" ploy failed to swing enough votes behind the Worley Bill, positive momentum for federal soldier voting legislation was building in the Senate. On February 7, the House revision of S. 1285 (the Rankin Bill) was sent back to the Senate and considered on the floor the following day.[139] Amid debate, attempts to re-inject federal provisions were made. Chief among them was Majority Leader Barkley's amendment that federal ballots be provided to servicemen, merchant marines, and United States citizens working abroad if state ballots were not available to them (either because of state law or tardiness of delivery). Barkley's amendment was viewed as a "modified" Green–Lucas bill, and with President Roosevelt's tongue-

137. See Young, *Congressional Politics in the Second World War*, 86; Laurence Burd, "O.K. State Soldier Ballots," *Chicago Tribune*, February 4, 1944, 1–2; and "House Adopts States' Plan Soldier Vote," *Los Angeles Times*, February 4, 1944, 1–2.

138. For the entirety of the president's message, see "Text of Roosevelt's Soldier Vote Message," *Washington Post*, January 27, 1944, 9. For an overview of the politics surrounding the president's message, see C. P. Trussell, "President Calls Vote Bill 'Fraud'; 'Insult' Says Taft," *New York Times*, January 27, 1944, 1, 13; and William Moore, "Senators Rebuke FDR for 'Slur'," *Chicago Tribune*, January 27, 1944, 1–2.

139. *Congressional Record*, 78th Congress, 2nd Session, (February 7, 1944), 1291–99; (February 8, 1944), 1383–1404.

lashing still fresh in senators' minds, it passed 46 to 40.[140] The breakdown appears in Table 5. This was another conservative coalition vote, as a majority of Northern Democrats opposed a majority of both Republicans and Southern Democrats. The amendment passed because of the near-perfect unity among Northern Democrats and a scattering of support from Southern Democrats and Republicans.[141]

The House was unwilling to accept the Barkley Amendment to S. 1285 and asked for a conference, to which the Senate agreed.[142] And after disputes about whether committee seniority or subcommittee membership should be the primary criterion for selection, ten conferees were chosen, five from each chamber: Worley, Rankin, Herbert Bonner (D-NC), Karl LeCompte (R-IA), and Mathew Ellsworth (R-OH) from the House, and Green, Tom Connally (D-TX), Carl Hatch (D-NM), Warren Austin (R-VT), and Hugh Butler (R-NE) from the Senate.[143] This conference slate—believed to be evenly split between pro- and anti-federal ballot members—was viewed by many as a blow to those who hoped to obtain a federal ballot with "teeth," and Rankin announced his belief that such a plan was unlikely.[144]

On March 9, the conference report was submitted to the Senate.[145] It was viewed as a federal–state compromise that favored the states. A federal ballot would be created, which would cover servicemen, merchant marines, and United States citizens working overseas, for general as well as primary

140. *Congressional Record*, 78th Congress, 2nd Session, (February 8, 1944), 1397–98.

141. Moments later, the new Green–Lucas bill (S. 1612) came to a vote and passed 47 to 38. The vote breakdown was almost identical to the Barkley amendment vote: Northern Democrats: 27 to 1, Southern Democrats: 9 to 15, Republicans: 10 to 22, and Progressives: 1 to 0. *Congressional Record*, 78th Congress, 2nd Session, (February 8, 1944), 1406. As the chambers were likely to go to conference on S. 1285, the Senate's adoption of S. 1612 (especially as it was being sent to a committee controlled by states' rights advocates) was seen mostly as an effort to appease President Roosevelt, who demanded passage of Green–Lucas. See William Moore, "Senate Passes Conglomerate Army Vote Bill," *Chicago Tribune*, February 9, 1944, 7; and Robert C. Albright, "Federal Ballot Plan Tied to State Soldier Voting Bill by Senate," *Washington Post*, February 9, 1944, 1–2.

142. *Congressional Record*, 78th Congress, 2nd Session, (February 9, 1944), 1484–85; (February 10, 1944), 1517–22.

143. *Congressional Record*, 78th Congress, 2nd Session, (February 9, 1944), 1485; (February 10, 1944), 1522.

144. Young, *Congressional Politics in the Second World War*, 87; William Moore, "Soldier Ballot Conference Has 5 on Each Side," *Chicago Tribune*, February 11, 1944, 15; and "Army Vote Conference Threatens Stalemate," *Washington Post*, February 11, 1944, 1.

145. *Congressional Record*, 78th Congress, 2nd Session, (March 9, 1944), 2404–08. For the behind-the-scenes politicking in conference, prior to the release of the report, see Drury, *A Senate Journal*, 98–106.

and special elections. But its opportunity for use was considerably limited. In order for an individual to receive a federal ballot, two conditions were necessary: (1) the governor in the respective state would need to certify by July 15 that a federal ballot was authorized for use in the state's elections, and (2) said individual would need to apply for a state absentee ballot by September 1 and attest to have not received said ballot by October 1. The biggest sticking point was the first condition, as state governments could prohibit the use of federal ballots in their states by simply not adopting the necessary enabling legislation. Southerners would thus be able to protect and maintain their state electoral institutions.

After some often heated debate, on March 14, the Senate adopted the conference report on S. 1285 on a 47 to 31 roll call.[146] The breakdown of the vote appears in Table 5. A conservative coalition appeared once again, as a majority of both Southern Democrats and Republicans opposed and defeated a majority of Northern Democrats. The House, after some perfunctory debate, adopted the conference report the follow day by a sizeable margin, 273 to 111.[147] The same conservative coalition was in evidence on this vote. The enrolled conference bill was then presented to the president on March 21, but after conferring with state governors about the likelihood that federal ballot confirmation could be achieved by July 15 (and receiving a majority of "negative" replies), Roosevelt opted to allow the bill to become law without his signature.[148] Thus, S. 1285 became Public Law 227 on April 1, 1944.[149]

Public Law 227 had the effect of amending Public Law 712 (the Ramsay Act), by striking out Sections 3–15 and replacing them with the text of the conference report on S. 1285. Sections 1 and 2 of Public Law 712 were left intact, and Section 2 included the anti-poll tax stipulation that had so irritated Southern Democrats. And although they believed (and continued to argue) that the Section 2 stipulations were unconstitutional, Southern politicians felt it would be prudent to sidestep any potential constitutional challenges for the immediate period. Therefore, the Southern states that still used a poll tax adopted legislation or state constitutional amendments to exempt military servicemen.[150] Other Jim Crow restrictions such as

146. *Congressional Record*, 78th Congress, 2nd Session, (March 14, 1944), 2573. For the full debate, see *Congressional Record*, 78th Congress, 2nd Session, (March 13, 1944), 2494–516; (March 14, 1944); 2562, 2564–69, 2569–73.

147. *Congressional Record*, 78th Congress, 2nd Session, (March 15, 1944), 2639. For the full debate, see ibid., 2610–39.

148. Garson, *The Democratic Party and the Politics of Sectionalism*, 51–52.

149. *Congressional Record*, 78th Congress, 2nd Session, (April 1, 1944), 3357. For full text of Public Law 227, see 58 *Statutes at Large* 136–49.

150. Kallenbach, "Constitutional Aspects of the Federal Anti-Poll Tax Legislation," 719.

literacy/comprehension tests and residency/record-keeping requirements, as well as more blatant acts such as failing to mail/distribute the state absentee ballots, could still be used in the interim.

In the end, only twenty of the forty-eight states certified the federal war ballot, and only a handful of these were Southern states.[151] The availability of the federal ballot also had little effect on the 1944 election. As Theodore Penton notes, servicemen returned 2,793,203 absentee ballots (after receiving 4,110,767) but only 108,692 federal ballots, which meant that the federal ballot represented less than 4 percent of all military ballots cast.[152] And, finally, the two bedfellows in the fight against the federal war ballot fared differently in the aftermath. The Southern Democrats received immediate gratification and trumpeted Public Law 227 as a victory for white supremacy,[153] whereas the Republicans lost their gamble, as Roosevelt was reelected and the Democrats picked up a number of seats in Congress. Moreover, by entering into a coalition with Southern Democrats to limit black voting rights, the Republicans stepped away from the careful cultivation of black voters that Joe Martin had pursued in the early 1940s. The black press and black interest groups reacted angrily toward the Republicans, and party leaders, such as Robert Taft, attempted to assuage them.[154] In many ways, however, irreparable damage had been done.

The Fair Employment Practices Commission (FEPC)

At the same time Congress was struggling with questions of political equality for blacks, domestic labor unrest brought the issue of economic equality to the forefront and opened up a "second front" in the campaign for black civil rights. In early 1941, A. Philip Randolph, president of the Brotherhood of Sleep Car Porters, threatened to organize 100,000 black citizens for a march on Washington to protest discrimination in employment and the armed forces.[155] The war in Europe loomed large in the administration's

151. See Martin, "The Service Vote in the Elections of 1944," 730–31. The Southern states were Florida, Georgia, North Carolina, Oklahoma, and Texas.

152. Penton, "The United States War Ballot Commission," 69. Penton's numbers come from a Department of Commerce Bureau of the Census (DOC) press release and a United States War Ballot Commission memorandum.

153. Lawson, *Black Ballots*, 74.

154. One example is a letter by Taft, dated April 14, 1944, entitled "Statement to the Negro Press of Ohio." See Clarence E. Wunderlin, Jr., *The Papers of Robert A. Taft: Volume 2, 1939–1944* (Kent, OH: The Kent State University Press, 2001), 545–47.

155. Daniel Kryder, *Divided Arsenal: Race and the American State During World War II* (New York: Cambridge University Press, 2000); Louis Ruchames, *Race, Jobs, and Politics: The Story of the FEPC* (Westport, CT: Negro Universities Press, 1971), 19–21; Will Maslow

reaction to Randolph, as advisers warned President Roosevelt that such a large protest would highlight domestic troubles "at a time when a semblance of unity was most essential to national prestige."[156] Additionally, a protest of this size, when combined with pre-existing racial instability in the nation's capital, threatened to generate violence and mass disorder.[157]

In response, on June 25, 1941, President Roosevelt issued Executive Order 8802 to formally prohibit "discriminatory employment practices because of race, color, creed or national origin in government service, defense industries, and by trade unions."[158] The order declared it "the duty of employers and of labor organizations. . .to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed color, or national origins."[159] To administer this prohibition, E.O. 8802 created the non-salaried, five-man FEPC, located within the Office of Production Management, and authorized it to "receive and investigate complaints of discrimination" and to "take appropriate steps to redress valid grievances."[160]

The issuance of E.O. 8802 by Roosevelt was monumental, as Robert A. Garson notes: "For the first time since Reconstruction, a president had made open cause with civil rights groups."[161] That said, Roosevelt acted strategically, issuing the order only after Randolph's threat. More specifically, E. O. 8802 was meant to ameliorate black citizens (as a tool to "reduce, deflect, and absorb discontent") rather than to serve as an actual policy solution to the problem of employment discrimination; it was also intended simply to be a war order, and therefore its provisions would only persist through the conclusion of hostilities.[162] As a consequence, the FEPC proved institutionally weak, and by 1945 Southern Democrats who viewed job segregation as the "linchpin of racial apartheid in the South" successfully defunded it.[163]

This was not the end of the story, however, as E.O. 8802 initiated an important policy feedback loop. Specifically, Roosevelt's order led to the

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and Joseph B. Robison, "Civil Rights Legislation and the Fight for Equality, 1862–1952," *University of Chicago Law Review* 20 (1953): 363–413; Garson, *The Democratic Party and the Politics of Sectionalism*, 20–21; and Kenneth M. Schultz, "The FEPC and the Legacy of the Labor-Based Civil Rights Movement of the 1940s," *Labor History* 49 (2008): 71–92.

156. Ruchames, *Race, Jobs, and Politics*, 17.

157. Kryder, *Divided Arsenal*, 66.

158. Maslow and Robison, "Civil Rights Legislation and the Fight for Equality," 394.

159. Quoted in Ruchames, *Race, Jobs, and Politics*, 22.

160. Will Maslow, "FEPC: A Case History in Parliamentary Maneuver," *University of Chicago Law Review* 13 (1946): 407–44, 408.

161. Garson, *The Democratic Party and the Politics of Sectionalism*, 22.

162. Ibid., 22–23.

163. Chen, *The Fifth Freedom*, 39.

"formation of a new, sprawling bloc of liberal interest groups that campaigned to resuscitate the FEPC."[164] By 1944, for example, four members of Congress—three Democrats and one Republican—introduced legislation to create a *permanent* FEPC.[165] The NAACP, the National Urban League, a variety of Jewish and Christian organizations, and labor unions such as the Congress of Industrial Organizations (CIO) were also involved in the push for new fair employment legislation and a permanent FEPC.[166] Moreover, whereas Roosevelt's "temporary" FEPC did not have formal powers to punish those guilty of discrimination, it performed a series of well-publicized investigations into discriminatory employment practices. This publicity, according to Louis Ruchames, led some employers to abandon their discriminatory practices, while mobilizing black voters who had faith "in the eventual realization of the [FEPC's] main objective."[167] Thus, the FEPC, although provisional in scope, helped create through its own actions a demand for a permanent charter.

With supporters of fair employment inside Congress and an active constituency outside Congress, FEPC advocates instigated two periods of intense wrangling (in 1945–1946 and 1949–1950) over legislation that would have created a permanent FEPC with stronger enforcement powers than the one initiated by E.O. 8802. During each episode, Southern Democrats used filibusters and other dilatory tactics to prevent the bill from passing, whereas Republicans sought to signal their support for civil rights by backing measures that would have reformed the parliamentary tactics used so skillfully by the Southern Democrats, even as they voted against the Northern Democrats' FEPC measures.[168] The political struggle over FEPC legislation, therefore, provides insights into the continuing process of partisan realignment driven by debates over civil rights.

FEPC Episode 1: 1945–1946

By 1945, members of both parties who supported the FEPC recognized the need for legislation that would make the body permanent. Within a month

164. Ibid., 41. For an overview of Southerners' attempts during the war years to disable (or eliminate) the FEPC, see Finley, *Delaying the Dream*, 78–83.

165. H.R. 3986 introduced by Thomas Scanlon (D-PA); H.R. 4004 introduced by William Dawson (D-IL); H.R. 4005 introduced by Charles M. La Follette (R-IN); S. 2048 introduced by Dennis Chavez (D-NM).

166. Chen, *The Fifth Freedom*, 41–43.

167. Ruchames, *Race, Jobs, and Politics*, 45.

168. Chen, *The Fifth Freedom*, 81. Chen shows that had Northern Democrats and Republicans voted together on a number of crucial roll calls, a majority existed that could have pushed FEPC legislation through both chambers.

of the beginning of the 79th Congress, five Republicans and six Democrats had individually introduced FEPC legislation,[169] with party affiliation having no impact on the language of the policy proposed. As Representative Mary Norton (D-NJ), chair of the House Labor Committee, argued in the Committee report, "the provisions of ten of these bills are identical. . .[and] the bill. . .introduced by the chairman was based very largely on the provisions of the above identical bills."[170] On February 16, 1945, Representative Norton introduced one piece of FEPC legislation (H.R. 2232) that combined aspects of each of these bills.[171] The "Norton Bill" outlawed discrimination in employment "by private employers, labor unions, and agencies of the federal government" and created a five-member "quasi-judicial agency" empowered to issue cease-and-desist orders to those practicing employment discrimination, to subpoena those suspected of discrimination, and to "issue regulations necessary to carry out the provisions of the act."[172]

In working to bring H.R. 2232 to the floor for a vote, Representative Norton was eventually stymied by the Southern-controlled Rules Committee. Undeterred, Norton attempted to force the bill out of committee with a discharge petition, which was filed on April 27, 1945.[173] By December, however, Norton's petition had gathered only 157 signatures, and Representative Al Gore (D-TN) blamed its stalled progress on the Republican Party, noting that only 50 of the signatures were Republican even though there were 190 Republicans in the House.[174] In response, Minority Leader Joseph Martin (R-MA) cited the unanimous Republican support within the Rules Committee for a special rule, but offered neither an explanation for the 140 missing signatures nor an argument on behalf of the Norton Bill.[175]

169. H.R. 481 introduced by Charles M. LaFollette (R-IN); H.R. 679 introduced by Joseph C. Baldwin (R-NY); H.R. 700 introduced by William Dawson (D-IL); H.R. 1370 introduced by Frank Hook (D-MI); H.R. 1575 introduced by Everett Dirksen (R-IL); H.R. 1743 introduced by Adam Clayton Powell (D-NY); H.R. 1762 introduced by George Bender (R-OH); H.R. 1806 introduced by Helen Gahagan Douglas (D-CA); H.R. 1815 introduced by Charles Clason (R-MA); H.R. 1894 introduced by Clyde Doyle (D-CA); and S. 101 introduced by Dennis Chavez (D-NM).

170. "The Fair Employment Practice Act," Report No. 187 to accompany H.R. 2232, 79th Congress, 1st Session, 2.

171. *Congressional Record*, 79th Congress, 1st Session, (February 16, 1945), 1207.

172. "The Fair Employment Practice Act," Report No. 187, 2–4.

173. Maslow, "FEPC," 420.

174. *Congressional Record*, 79th Congress, 1st Session, (December 10, 1945), 11778–80.

175. Ibid., 11780. On June 12, 1945, a vote was taken within Rules on the question of issuing a special rule, but the committee deadlocked 6 to 6. Maslow, "FEPC," 420. Martin noted in his floor remarks that four of the six votes for issuing the rule came from

At approximately the same time, Southern Democrats in the Senate won enough Republican support to attach anti-FEPC amendments to H.R. 3368 (the 1945 War Agencies Appropriations Bill). On June 30, debate commenced on an amendment offered by Majority Leader Barkley (D-KY) to cut FEPC appropriations for 1946 from $446,000 to $250,000. As Barkley made clear, this amendment served as a compromise to both fund the FEPC and avoid a protracted debate that threatened to leave important war-related agencies without funding.[176] Senator Dennis Chavez (D-NM), the FEPC's chief advocate in the Senate, did not prevent a vote on the Barkley compromise, and it passed 42 to 26.[177] As Table 6 documents, the amendment garnered broad support from Northern Democrats and Republicans, whereas Southern Democrats who sought to liquidate the FEPC opposed the compromise measure.

After successfully slashing FEPC funds, House opponents then moved to kill the Commission entirely. In July 1945, Representative Francis Case (R-SD) offered an amendment to the same War Appropriations Bill to prohibit any money from being spent on the FEPC after June 1946 unless Congress passed legislation making the body permanent. This amendment passed 142 to 116.[178] Soon thereafter, the Senate approved H.R. 3368 with the House language, and on July 15, 1945, the measure became law. By December, all but three of the FEPC's field offices had closed and most of its staff had left.[179]

When Congress reconvened in 1946, Senator Chavez renewed the FEPC debate with a "surprise move that some senators called trickery."[180] On January 17, 1946, after the Senate dispensed with morning business, Chavez was recognized and requested that the Senate move to consideration of S. 101, his FEPC proposal. The Chavez Bill, like Norton's proposal in the House, would have gone beyond E.O. 8802 by prohibiting discrimination in private firms and labor unions and by imbuing the

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Republicans (the entirety of the Party's membership on the Committee). He did not mention, however, that "on more than one occasion when a Southern Democrat was absent [during committee deliberations] the Republicans engaged in dilatory tactics to delay the vote." Maslow, "FEPC," 419.

176. *Congressional Record*, 79th Congress, 1st Session, (June 20, 1945), 7064; and Garson, *The Democratic Party and the Politics of Sectionalism*, 139–40.

177. *Congressional Record*, 79th Congress, 1st Session, (June 20, 1945), 7065; and Chen, *The Fifth Freedom*, 40.

178. *Congressional Record*, 79th Congress, 1st Session, (July 12, 1945), 7489. This was an amendment vote in the Committee of the Whole; therefore, individual vote data were not recorded.

179. Maslow, "FEPC," 433.

180. William Moore, "Senators Vote to Act on FEPC; Rebuke Truman," *Chicago Tribune*, January 18, 1946, 2.

Table 6. Senate Vote on Compromise FEPC Funding Measure, 79th Congress.

Party	Yea	Nay
Northern Democrat	21	0
Southern Democrat	1	19
Republican	19	7
Progressive	1	0
Total	42	26

Source: Congressional Record, 79th Congress, 1st Session, (June 20, 1945), 7065.

FEPC with strong investigatory and enforcement powers.[181] To force debate, Chavez utilized a "little-used rule" that stipulated that "motions for consideration made before 2 p.m. are not debatable," and therefore not susceptible to a filibuster.[182] Southerners protested angrily and claimed that Majority Leader Barkley had promised them that no controversial matter would be presented during the first months of the new session.[183] Chavez's motion was affirmed on a 49 to 17 roll call; as the vote breakdown in Table 7 indicates, all Northern Democrats and all but two Republicans joined to force a debate on FEPC legislation.[184]

Almost immediately, Southern Democrats made clear their intent to filibuster the measure, led by Senators James Eastland (D-MS), John Bankhead (D-AL), and Theodore Bilbo (D-MS) who announced that they would speak for "30 days at a time."[185] During the debate itself, Southern Democrats attacked the FEPC with arguments similar to those used against other civil rights initiatives (such as anti-poll tax legislation). Eastland invoked the threat posed by a large central government and argued that "under the bill, all industry in this country will be nationalized, and we will have bureaucratic control of the whole economic life of the United States."[186] Senator Pappy O'Daniel (D-TX) characterized the FEPC bill as a "nefarious, communistic, brain abscess," and stated that the FEPC represented "a fight between the Republicans of the North and the northern Democrats who wish to get themselves reelected, reelected, and reelected by virtue of the minority votes which come from the

181. Sean Farhang and Ira Katznelson, "The Southern Imposition: Congress and Labor in the New Deal and Fair Deal," *Studies in American Political Development* 19 (2005): 1–30.

182. Maslow, "FEPC," 434; and Finley, *Delaying the Dream*, 84.

183. "Senators Vote to Act on FEPC; Rebuke Truman," *Chicago Tribune*, January 18, 1946.

184. *Congressional Record*, 79th Congress, 2nd Session, (January 17, 1946), 81.

185. Jack Bell, "Introduction of FEPC Bill Throws Senate Into Full-Scale Filibuster," *Washington Post*, January 18, 1946, 5.

186. *Congressional Record*, 79th Congress, 2nd Session, (February 4, 1946), 806.

Table 7. Senate Vote on Motion to Proceed to Chavez Bill, 79th Congress

Party	Yea	Nay
Northern Democrat	20	0
Southern Democrat	2	15
Republican	26	2
Other	2	0
Total	49	17

Source: Congressional Record, 79th Congress, 2nd Session, (January 17, 1946), 81.

members of the Negro race."[187] Senator John Overton (D-LA) echoed O'Daniel's claim and characterized the bill as a malicious attempt to "enable the National Democratic administration to hold within its ranks Negro votes from pivotal states." He went on to argue that black voters would be forever loyal to the Republican Party because of a collective "sense of gratitude" for its antislavery efforts; therefore, the Democrats were wrong to court them. And he closed by proclaiming, "we do not want the Negroes in the party. They do not belong in the Democratic Party."[188]

In response to Overton, Senator Homer Capehart (R-IN) replied that "we in the Republican Party want the votes of the Negroes of America because they are Americans."[189] Overton's claim also led Senator James Mead (D-NY) to articulate why black voters had found a home in the Democratic Party. "In New York," Mead argued, "the Negro supported the successive administrations of Franklin Delano Roosevelt because he realized that in his day, President Roosevelt had the well-being of the Negro at heart, just as did Lincoln when he was alive."[190]

This very explicit debate regarding the FEPC and the representation of black interests suggests that while the historic linkage between black voters and the Republican Party no longer existed, it had *not* been replaced by a durable, inter-racial Democratic coalition. Republicans took steps in the early 1940s to signal their support for civil rights issues; Joe Martin's efforts as national chairman have already been mentioned (in the prior section). In addition, the Republican Party in 1944 added a plank to its platform calling for "the establishment by Federal legislation of a permanent Fair Employment Practice Commission." The Democratic Party platform made no mention of the FEPC and remained vague on civil rights generally

187. *Congressional Record*, 79th Congress, 2nd Session, (February 1, 1946), 700.
188. *Congressional Record*, 79th Congress, 2nd Session, (February 4, 1946), 814.
189. Ibid.
190. Ibid., 815.

by stating "racial and religious minorities have the right to live, develop and vote equally with all citizens and share the rights that are guaranteed by our Constitution. Congress should exert its full constitutional powers to protect those rights."[191] The Republican's platform change followed Republican gains in the 1942 election—forty-four House seats and seven Senate seats—which some attributed to the newfound support of black voters unhappy with the Democrats' inability to pass civil rights legislation.[192] Although the NAACP warned Republican leaders that the 1942 elections did not signal a durable shift toward their party, some political observers believed otherwise and predicted "a reversion of the Negro vote to the Republican column."[193]

It is important, therefore, to view the Republican Party's legislative strategy on the FEPC with this coalitional dynamic in mind. Republican Steering Committee Chair Robert Taft's (R-OH) position-taking on the FEPC is particularly illustrative of party efforts to cautiously reach out to black voters while attempting to adhere to conservative doctrine. Taft, along with 25 fellow Republicans, supported Chavez's parliamentary maneuver to begin debate on the FEPC bill in January 1946.[194] In response to the Southern Democrats' filibuster, Taft pushed for cloture. His reasons, however, did not grow out of his support for the underlying bill. Instead, Taft said, "I will always vote for cloture on any bill, whether I approve of it or no, when I feel that the debate has been sufficiently long to enable both sides to fully present their views. . .I say that because I am convinced that when two-thirds of the membership of the Senate favors a certain measure, if one-third can block a vote on the measure the Senate will render itself completely futile, and in the end will discredit Congress."[195]

Six days later, Taft voiced support for the *intent* of the FEPC by noting that "in most cities the average income of the Negroes is considerably lower than the average income of white people," and that "discrimination in employment makes it very difficult for colored people to make their living in honest ways."[196]

191. The Republican Party Platform is available at http://www.presidency.ucsb.edu/ws/index.php?pid=25835; the Democratic Party Platform is available at http://www.presidency.ucsb.edu/ws/index.php?pid=29598

192. Kenneally, "Black Republicans During the New Deal," 138–139

193. Ibid., 139; and Felix Belair, Jr., "Assert Negro Vote Will Swing To GOP," *New York Times*, October 18, 1946, 13.

194. "Senate's Vote for Action on Fair Employment Bill," *New York Times*, January 18, 1946, 4.

195. *Congressional Record*, 79th Congress, 2nd Session, (February 1, 1946), 722.

196. *Congressional Record*, 79th Congress, 2nd Session, (February 7, 1946), 1059.

Despite his positions on cloture and the social costs of discrimination, Taft did not support the Chavez Bill. Instead, he used floor speeches such as those cited previously to highlight the plight of black citizens and to call for a *voluntary* FEPC without enforcement power. Explaining his position, Taft argued that the Chavez bill violated "every principle that I had declared as a Republican. . .on the general subject of the regulation of business and the extension of the arbitrary power of the government," but that his substitute amendment to create a voluntary commission avoided these problems.[197] Other Republican senators adopted a similar approach.[198]

In the end, Southern Democrats marshaled the support needed to sustain the filibuster. On February 9, 1946, a cloture motion was defeated 48 to 36.[199] As Table 8 illustrates, a majority of both Northern Democrats and Republicans opposed nearly all Southern Democrats (only 2 defections). Eight Republicans, however, voted with the Southern Democrats to oppose cloture. This is important, as these 8 Republicans were *pivotal* to the outcome.[200] If they had instead supported cloture, the motion would have achieved the necessary two-thirds (and passed with 56 votes). This suggests strategic action on the part of Republicans. That is, although an overwhelming number supported cloture, thereby allowing them to credibly claim that they wanted a debate on the FEPC, they simultaneously provided just enough support to Southern Democrats to prevent consideration of the Chavez measure.

FEPC Episode 2: 1949–1950

After the prolonged debate over the FEPC in 1945–1946 no new legislation made it beyond the committee stage until 1949–1950. President Truman used his State of the Union Address in 1949 to direct Congress to pass his civil rights program—which included a permanent FEPC.[201] Following Truman's appeal, Senator J. Howard McGrath (D-RI) and Representative Adam Clayton Powell (D-NY) each introduced legislation (S. 1728 and H.R. 4453) identical to the bills debated during the 1945–1946

197. *Congressional Record*, 79th Congress, 2nd Session, (February 9, 1946), 1193–96.

198. Minority Whip Kenneth Wherry (R-NE), for example, noted that his support for cloture was contingent upon his being able to offer amendments to the underlying bill. See *Congressional Record*, 79th Congress, 2nd Session, (February 5, 1946), 898.

199. *Congressional Record*, 79th Congress, 2nd Session, (February 9, 1946), 1219.

200. Chen, *The Fifth Freedom*, 81–82

201. "President Defies Southerners By Full Civil Rights Demand," *Washington Post*, January 6, 1949, 3.

Table 8. Cloture Votes on FEPC Bills in the Senate, 79th and 81st Congresses.

Party	79th Cong.		81st Cong. (Vote 1)		81st Cong. (Vote 2)	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	20	9	19	4	21	4
Southern Democrat	2	19	0	22	1	23
Republican	25	8	33	6	33	6
Progressive	1	0	–	–	–	–
Total	48	36	52	32	55	33

Source: Congressional Record, 79th Congress, 2nd Session, (February 9, 1946), 1219; *Congressional Record*, 81st Congress, 2nd Session, (May 19, 1950), 7299; (July 12, 1950), 9982.

episode.[202] Before Congress proceeded to consider these proposals, however, members in both chambers sought to amend chamber rules in ways that would prevent civil rights legislation from being stalled procedurally; specifically, filibuster reform was initiated in the Senate, and a new 21-day rule was adopted in the House. As both measures are directly related to the FEPC fight, we will briefly consider them before examining the debate on the bills themselves.

On January 5, 1949, during the first week of the 81st Congress, Senator Wayne Morse (R-OR) introduced S.J. Res. 12 and Senators Leverett Saltonstall (R-MA), William Knowland (R-CA), and Homer Ferguson (R-MI) introduced S.J. Res. 13, each of which aimed to reform the Senate's filibuster rules by extending them to "any matter pending before the Senate." The primary distinction between these proposals centered on the requirement for cloture. Whereas the Morse resolution called for a simple majority vote to invoke cloture, the Saltonstall–Knowland–Ferguson resolution called for a two-thirds majority.[203] Despite these differences, Morse explained that there existed "no division [among Republicans] as to the desirability and necessity…of having an antifilibuster resolution adopted at the earliest possible date." Instead it was the Democrats, he argued, who constructed the "barriers and blocks which have been thrown in the way of an antifilibuster resolution."[204] Echoing Morse, Knowland stated that "on this side of the aisle…[we] came out with the unanimous opinion that it should be Republican policy to take steps necessary to try to force action on an antifilibuster

202. Chen, *The Fifth Freedom*, 54–55.
203. *Congressional Record*, 81st Congress, 1st Session, (January 5, 1949), 58.
204. *Congressional Record*, 81st Congress, 1st Session, (January 10, 1949), 130.

resolution."[205] These remarks put Democrat Alben Barkley (KY), the vice-president elect, on the defensive, and he replied by indicating his own desire for filibuster reform and noting that he had spoken to members of the Rules Committee about bringing this up for a vote "as soon as possible."[206]

Through January and February, Republicans, backed by civil rights groups, continued to insist on filibuster reform, to no avail.[207] Truman and his advisors expressed concern that a prolonged debate over the filibuster would grind the Senate to a halt and push angry Southerners to join more frequently with Republicans to defeat administration policy. Senate Democrats shared this view, and on February 7, 1949, they voted *unanimously* to defeat a discharge resolution (filed by Senator Knowland) that would have brought his stalled filibuster resolution out of the Rules and Administration Committee and onto the floor for debate (see Table 9).[208]

This vote, however, did not put an end to the debate over filibuster reform. On February 27, Majority Leader Scott Lucas (D-IL) indicated that he would soon seek a ruling on the question of whether the filibuster could be used against motions to proceed to specific pieces of legislation.[209] As noted previously, this issue emerged during the anti-poll tax debate in the 80th Congress, when Senator Vandenberg ruled that that cloture motions could only be brought against measures (and not motions). With Truman's support, Lucas worked to reopen this question by circulating a petition to request a formal decision from Vice President Alben Barkley.[210] By March 9, the Lucas petition had the signatures of sixteen Republicans and seventeen Democrats, thereby surpassing the sixteen-signature requirement and ensuring a decision from Barkley. On March 10, after a prolonged debate, Barkley overruled the Senate parliamentarian by deciding on behalf of the petition signatories.[211] In explaining his decision,

205. *Congressional Record*, 81st Congress, 1st Session, (January 10, 1949), 131.

206. Ibid., 132.

207. "Negro Leaders Call for Anti-Filibuster Support in Senate," *Chicago Tribune*, February 27, 1949, 12.

208. *Congressional Record*, 81st Congress, 1st Session, (February 7, 1949), 865; and Arthur Krock, "South Stands to Lose Old Filibuster Power," *New York Times*, February 13, 1949, E3.

209. Robert F. Whitney, "Southerners Open Filibuster Today," *New York Times*, February 28, 1949, 1, 20.

210. William S. White, "Drive on Filibuster Opened in Senate on Truman Order," *New York Times*, March 1, 1949, 1, 3 . Barkley resigned from the Senate on January 19, 1949, and was inaugurated vice president the following day.

211. In a 1978 interview, Senate Parliamentarian Emeritus Floyd Riddick explained that in ruling on behalf of those who signed the Lucas petition, Barkley explicitly overruled the Senate parliamentarian. The interview is available at http://www.senate.gov/artandhistory/history/resources/pdf/Riddick_interview_4.pdf

Table 9. Cloture Reform Votes in the Senate, 81st Congress.

Party	Motion to Discharge Knowland Resolution		Vote to Table Russell Appeal		Vote to Sustain Barkley Ruling		Vote to Change the Cloture Rule	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	0	24	21	3	21	3	8	14
Southern Democrat	0	25	4	20	4	20	21	1
Republican	31	7	16	23	16	23	34	8
Total	31	56	41	46	41	46	63	23

Source: Congressional Record, 81st Congress, 1st Session, (February 7, 1949), 865; (March 11, 1949), 2274-75; (March 17, 1949): 2724.

Barkley argued that when the Senate adopted Rule XXII in 1917, it did so to establish "such rules as would enable it to transact its business." And as "a motion to proceed is an absolutely indispensible process in the enactment of legislation," Barkley argued, it fit with the intent of Rule XXII, thereby suggesting that both motions and measures should be subject to a cloture vote.[212]

Senator Richard Russell (D-GA) immediately appealed Barkley's ruling. Lucas sought to table Russell's appeal, but his motion failed 41 to 46.[213] The Senate then overruled Barkley (by failing to sustain his ruling) by the same 41 to 46 vote, thereby protecting the Southern Democrats' "motions" strategy.[214] Despite this defeat, the Senate continued to debate filibuster reform, as both parties wanted the issue resolved. Southern Democrats were in a position of strength but also realized that they needed to tread carefully. As Keith Finley explains:

> They held all the cards. Any change in chamber rules would first have to meet the approval of the Southern bloc… however, they knew that they would have to grant at least some minor concessions or risk appearing as nothing but obstructionists. They had to accept a change if for no other reason then to convince their colleagues and the American people that the southern caucus consisted of reasonable men capable of temperate actions. A positive perception of them, southerners hoped, would prove beneficial in future civil rights battles.[215]

212. *Congressional Record*, 81st Congress, 1st Session, (March 10, 1949): 2174. See also Polly Ann Davis, *Alben W. Barkley: Senate Majority Leader and Vice President* (New York: Garland Publishing, Inc. 1979), 284–85.

213. *Congressional Record*, 81st Congress, 1st Session, (March 11, 1949), 2273.

214. Ibid., 2275.

215. Finley, *Delaying the Dream*, 119–20.

The Democrats used the weekend—March 12 and 13—to agree on a compromise. The new proposal made clear that cloture would now apply to motions as well as measures, but it also stipulated that debate could only be limited by the votes of two-thirds of the *entire* Senate, instead of two-thirds of those present.[216] This compromise, Finley argues, represented nothing but a "complete victory for the South," as it raised the cloture requirement and thus made filibusters harder to break.[217] On March 17, the compromise passed by a vote of 63 to 23.[218]

As Table 9 illustrates, the coalition that failed to sustain Barkley's ruling and then supported the new filibuster compromise included a majority of both Southern Democrats and Republicans. Here we see Republican opportunism in action. As Arthur Krock notes, the Republican position on filibuster reform suggested that party members sought to "regain some favor among minority groups that have been Democratic for years."[219] When an opportunity presented itself to support meaningful reform, however, as it did after Barkley's ruling, the Republicans balked. On the day of the vote, a number of Republicans echoed the argument offered by Senator Guy Cordon (R-OR), who expressed support for civil rights legislation and cloture reform but opposition to Barkley's ruling because "there can be no law unless there is precedent."[220] Republicans thus positioned themselves as reluctant opponents, forced into their position by Barkley's "activist" decision to infer the intent of those who crafted Rule XXII and to use this interpretation as an explanation for overturning established practice.[221] Their strategy here, similar to their support for a voluntary FEPC, revealed their willingness to substitute symbolic gestures for support of initiatives that would have effected meaningful change.

In the House, the 1949 procedural debate led to an important rules change benefitting civil rights advocates. As noted, the House Rules Committee acted as the primary obstacle to FEPC during the 1945–1946

216. In addition, Robert C. Byrd notes another effect of the compromise proposal. "The new rule differed from the old in that it allowed cloture to operate on any pending business or motion with the exception of debate on motions to change the Senate rules themselves. Previously, the cloture rule had been applicable to those motions. This meant that future efforts to change the cloture rule would themselves be subject to extended debate without benefit of the cloture provision." Robert C. Byrd, *The Senate 1789–1989: Addresses on the History of the United States Senate* (Washington, DC: United States Government Printing Office, 1991), 128.

217. Finley, *Delaying the Dream*, 121.

218. *Congressional Record*, 81st Congress, 1st Session, (March 17, 1949), 2724.

219. Arthur Krock, "In the Nation: Traditional Back-Talk Between Pot and Kettle," *New York Times*, February 11,1949, 22.

220. *Congressional Record*, 81st Congress, 1st Session, (March 11, 1949), 2255.

221. For a series of similar explanations, see ibid., 2241–55.

battle, and between 1946 and 1949 it successfully bottled up additional pieces of FEPC legislation.[222] To prevent the Rules Committee from burying legislation, the House adopted the 21-day rule on January 3, 1949.[223] This rule stipulated that "if the Committee on Rules shall adversely report, or fail to report within 21 calendar days after reference, any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution favorably reported by a committee," the chairman of that committee may bring the bill to the floor directly.[224] This measure passed 275 to 143, as *all* Northern Democrats and a majority of Southern Democrats opposed a majority of Republicans (see Table 10).[225] As to why the Southern Democrats joined in the adoption of the 21-day rule, Eric Schickler writes: "In the wake of the surprising Democratic victory in November 1948, many southerners were apparently willing to identify their interests with those of their party and its leadership. Even such noted conservatives as Edward Hebert (D-LA) and Otto Passman (D-LA) backed the change."[226]

By the second session of the 81st Congress, however, Southern Democrats came to regret their support for this rules change. On January 20, 1950, led by Representative Edward Eugene Cox (D-GA), they organized a vote to repeal the 21-day rule, which failed 183 to 236.[227] As Table 10 indicates, Southern Democrats' support for the repeal mirrors their original support for the change. And a majority of Republicans joined the Southerners in their repeal attempt; but a near-unanimous majority of Northern Democrats (only 2 defections) along with a sizeable group of Republicans (64) kept the rule in place, at least for the time being. In explaining these voting dynamics, Schickler notes: "The increase in southern defections and in Republican support for the rule are each largely attributable to Cox's linking [it] with … a bill to create a permanent Fair Employment Practices Commission."[228] Contemporaneous accounts of the

222. Maslow and Robison, "Civil Rights," 395.

223. For an overview of the politics behind the 21-day rule, see George B. Galloway, *History of the House of Representatives* (New York: Crowell, 1961), 61–63; Richard Bolling, *Power in the House* (New York: E.P. Dutton, 1968), 179–80; and Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton: Princeton University Press, 2001), 174–79.

224. *Congressional Record*, 81st Congress, 1st Session, (January 3, 1949), 10.

225. Ibid.

226. Schickler, *Disjointed Pluralism*, 175.

227. *Congressional Record*, 81st Congress, 2nd Session, (January 20, 1950), 719. The Democrats would eventually succeed in eliminating the 21-day rule in the following (82nd) Congress.

228. Schickler, *Disjointed Pluralism*, 177.

Table 10. House Votes on the 21-Day Rule, 81st Congress.

Party	Vote to Implement 21-Day Rule		Vote to Repeal 21-Day Rule	
	Yea	Nay	Yea	Nay
Northern Democrat	140	0	2	139
Southern Democrat	85	31	83	31
Republican	49	112	98	64
Other	1	0	0	1
Total	275	143	183	236

Source: Congressional Record, 81st Congress, 1st Session, (January 3, 1949), 10; 2nd Session, (January 20, 1950), 719.

vote also highlight the important role of the FEPC.[229] In addition, news reports suggested that Republican support for preserving the 21-day rule came *despite* appeals from the Republican leadership to back repeal. One member noted that Republican defections resulted from the leadership not "checking to see what effect it might have on the individual Republican member in his home district."[230] Another member stated that Southern Democrats, who crafted voting coalitions with the Republicans, had in this case "pushed such voting unions too far."[231]

With this important procedural roadblock cleared and with Southern Democrats in the Senate filibustering FEPC legislation, Representative Adam Clayton Powell's House bill—H.R. 4453—emerged as the centerpiece of the renewed debate on this issue. Powell introduced his bill in 1949, but House Democrats had successfully kept it off the floor until 1950.[232] Finally, on February 22, 1950, Representative John Lesinski

229. For example, the *New York Times* reported that the outcome of the vote "appeared to sift down to House tremors over. . .legislation to create a Fair Employment Practices Commission." See C. P. Trussell, "House Keeps Curb on Its Rules Group By Vote of 236–183," *New York Times*, January 21, 1950, 1, 8.

230. Along these lines, the *Washington Post* reported: "Republicans justifiably feared that a vote for the rules change at this time would be publicly interpreted as a vote to block discharge of the FEPC bill next Monday." Robert C. Albright, "Tally of 236 to 183 Rejects Cox Effort To Eliminate 21-Day Discharge Clause; House Defeats Rules Change," *Washington Post*, January 21, 1950, 1, 7.

231. "House Keeps Curb on Its Rules Group By Vote of 236–183," *New York Times*, January 21, 1950. See also "Tally of 236 to 183 Rejects Cox Effort To Eliminate 21-Day Discharge Clause; House Defeats Rules Change," *Washington Post*, January 21, 1950.

232. One strategy, used by Speaker Rayburn to delay action on civil rights bills in the House, was to begin debate on measures that would provide statehood to Alaska and Hawaii. The debate on these measures would drag on for the entire day, thereby requiring

(D-MI), chair of the House Education and Labor Committee, successfully initiated a floor debate on Powell's FEPC legislation.[233] During the debate, Southern Democrats raised a litany of traditional objections to the legislation, but it was a Republican, Representative Samuel McConnell (PA), who undermined this effort by introducing a substitute amendment modeled after the voluntary measure pushed by Senator Taft in 1946. The McConnell substitute provided no mechanisms for enforcement or penalties for practicing employment discrimination, and it stipulated that "the absence of individuals of a particular race or religion in the employ of a person" did not constitute "evidence of discrimination."[234]

Viewing the McConnell substitute as a threat to a strong FEPC, Powell spoke out against it and asked FEPC supporters to oppose it. Without any mechanisms for enforcement, he argued, Congress would be passing a law asking employers to simply accept "good advice." Statements in support of the McConnell amendment from those who had historically opposed the FEPC also led Powell to argue that this was "nothing but a subterfuge to kill the FEPC."[235] Some Democratic FEPC supporters, however, viewed the McConnell compromise as the only viable option. Representative Franklin Roosevelt Jr. (D-NY), speaking on behalf of those who adopted the "take anything" approach, argued that "we felt that it was more important to keep the FEPC issue alive and send a bill to the Senate than to vote to kill it, though we did not like the bill at hand."[236]

As Table 11 illustrates, Northern Democrats took Powell's side on the McConnell substitute by voting as a bloc against it. Nonetheless, it passed 222 to 178, thanks to strong support from Republicans and Southern Democrats.[237] The next day, the House voted on final passage of H.R. 4453 in the form of the McConnell substitute. In this case, Northern Democrats sided with Roosevelt (and a majority of Republicans) by overwhelmingly supporting the compromise language and helping to pass the measure in a 240 to 177 vote.[238] (Southern Democrats, after supporting the McConnell substitute, defected at the final-passage stage.) Powell, after casting a symbolic vote against the compromise measure, publicly

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civil rights advocates to wait another 21 days before attempting to call up FEPC legislation. C. P. Trussell, "FEPC Sidetracked by Rayburn Ruling and House Stalling," *New York Times*, January 24, 1950, 1, 23.

233. *Congressional Record*, 81st Congress, 2nd Session, (February 22, 1950), 2165.

234. Maslow and Robison, "Civil Rights," 395.

235. *Congressional Record*, 81st Congress, 2nd Session, (February 22, 1950), 2221.

236. C. P. Trussell, "'Voluntary' F.E.P.C. is Passed by House; Senate Fight Looms," *New York Times*, February 24, 1950, 1, 18.

237. *Congressional Record*, 81st Congress, 2nd Session, (February 22, 1950), 2253.

238. *Congressional Record*, 81st Congress, 2nd Session, (February 23, 1950), 2300.

Table 11. House Votes on FEPC Legislation, 81st Congress.

Party	McConnell Substitute to H.R. 4453		Final Passage of H.R. 4453	
	Yea	Nay	Yea	Nay
Northern Democrat	13	125	114	23
Southern Democrat	104	3	1	111
Republican	105	48	124	42
Other	0	2	1	1
Total	222	178	240	177

Source: Congressional Record, 81st Congress, 2nd Session, (February 22, 1950): 2253; (February 23, 1950), 2300.

condemned the bill as a "fraud, a sham, and a hypocrisy" and claimed that "it takes Republicans off the spot and will allow them to attempt to fool the people in their districts."[239]

As happened so frequently during these civil rights battles, the Senate filibuster made any movement on House-passed legislation impossible. In this case, the Senate did not even take up the voluntary measure, but instead sought to invoke cloture on the compulsory McGrath Bill.[240] In May 1950, Majority Leader Lucas (D-IL) indicated that the Senate would reopen the FEPC debate but that he would only allow "two or three days of talk" on the matter in order to prevent the Senate from grinding to a halt.[241] By May 10, the debate had begun, and on May 19, the attempt to invoke cloture was defeated 52 to 32 (See Table 8).[242] A majority of both Northern Democrats and Republicans voted to shut off debate, but 10 defections (6 of which were Republican) combined with unanimous opposition among Southern Democrats proved to be the difference. In the aftermath of the failed vote, Republicans blamed the Democrats. Senator Knowland (R-CA), for example, highlighted the fact that whereas "78.5 percent of the Republican membership of the Senate voted for cloture, only 36.5 percent of the Democrats" supported the measure.[243] On July 12, 1950, Majority Leader Lucas orchestrated one

239. "'Voluntary' F.E.P.C. is Passed by House; Senate Fight Looms," *New York Times*, February 24, 1950.

240. Maslow and Robison, "Civil Rights," 396.

241. C. P. Trussell, "F.E.P.C. Bill Gets Priority in the Senate; Filibuster Looms," *New York Times*, May 3, 1950, 1, 23.

242. *Congressional Record*, 81st Congress, 2nd Session, (May 19, 1950), 7299.

243. Ibid., 7300.

more attempt to invoke cloture only to see the motion go down to defeat by a similar margin (55 to 33).[244]

To restate, these two periods of political struggle over the FEPC suggest that party–race coalitional dynamics remained fluid. While the Democratic Party had made significant inroads with black voters, its Southern contingent continued to handicap efforts to fully incorporate them into the party. At the same time, Republicans in the early 1940s remained optimistic about their chances of counteracting Democratic gains among black voters. Their opposition to New Deal-style government initiatives, however, prevented them from embracing the FEPC measures advanced by Northern Democrats, and they relied on largely symbolic appeals, such as changes to their platform and support for procedural reform. By the late 1940s, the Republican Party's embrace of a purely voluntary FEPC, consistent with the preferences of Southern Democrats, suggested that the dictates of conservative ideology took precedence over outreach to black voters.

The Powell Amendment and the School Lunch Program

Amid the catalogue of failed civil rights proposals discussed to this point, one success stands out: Representative Adam Clayton Powell's (D-NY) amendment to the 1946 Permanent School Lunch Bill (H.R. 3370). On February 19, 1946, the House began debate on the School Lunch Bill, which, as argued by its chief sponsor, Representative John Flannagan (D-VA), aimed to provide federal money as "aid to the states in the operation of school lunch programs as permanent and integral parts of their school systems."[245] Prior to 1946, Congress had authorized federal aid for school lunch programs on a year-by-year basis, but with H.R. 3370, Flannagan sought to permanently establish the program, to provide an appropriation of $50,000,000 to state agencies for disbursement to schools, and to distribute $15,000,000 to public schools for the resources necessary to "employ and train school lunch administrators, supervisors and managers. . .to equip school lunchrooms. . .[and] to develop programs of nutrition education."[246]

244. *Congressional Record*, 81st Congress, 2nd Session, (July 12, 1950), 9982.

245. In taking up the school-lunch bill, the House adopted H.R. 495, which made H.R. 3370 a special order of business and laid out the terms for its consideration. See *Congressional Record*, 79th Congress, 2nd Session, (February 19, 1946): 1451–54. Flannagan's quote appears on page 1454.

246. Ibid., 1455.

During the debate over this proposal, the question of racial discrimination became an important point of contention.[247] Representative John Vorys (R-OH) noted that the original bill considered by the Subcommittee on Agricultural Appropriations included a provision that would "guarantee that in states where they have separate schools for white children and black children. . .the black children are assured of participating in this program," whereas Representative Cliff Clevenger (R-OH) argued that the Agriculture Committee excised the antidiscrimination clause to ensure that the bill made it out of committee and onto the floor for debate.[248] These accusations led Representative Malcolm Tarver (D-GA), chairman of the Subcommittee on Agricultural Appropriations, to defend the bill by noting that in all the years of the school-lunch program "there has never been a provision in the bill of the kind to which the Gentleman [Rep. Vorys] referred. . .no complaint has ever been received by our committee of any discrimination in the use of the funds."[249] The concerns about discrimination voiced by these Republicans did not lead them to offer an amendment to ensure the protection of minority groups, which suggests that this might have simply been a ploy to create controversy (i.e., embarrass the Democrats) and delay passage of the bill.

Instead, Adam Clayton Powell introduced an amendment the next day, February 20, which passed 114 to 48 on a division vote. It read "No funds made available pursuant to this title shall be paid or disbursed to any state or school if, in carrying out its functions under this title, it makes any discrimination because of race, creed, color or national origins of children or between types of schools, or with respect to a state that maintains separate schools for minority and majority races, it discriminates between such schools on this account."[250]

The language of this amendment sparked an important debate about Powell's intent, as some claimed that his goal was to prevent states that maintained segregated schools from receiving federal school-lunch funds. For example, Representative Sam Russell (D-TX) argued that if adopted, the Powell amendment would "deny funds to the colored race as well as the white race in any state or district where the schools are

247. For full House debate, see *Congressional Record*, 79th Congress, 2nd Session, (February 19, 1946), 1454–79; (February 20, 1946), 1484–1508; (February 21, 1946), 1534–40.

248. *Congressional Record*, 79th Congress, 2nd Session, (February 19, 1946), 1456, 1459.

249. Ibid., 1456.

250. *Congressional Record*, 79th Congress, 2nd Session, (20 Feb. 1946): 1493.

separated."[251] During the debate, additional members, both Republicans and Democrats, echoed this concern.

In response, Powell clarified his intent. "The purpose of my amendment," he stated, "is not in any way to alter existing education patterns. The purpose of my amendment is to assure that *even where there are separate schools*. . .the money allocated for the school lunch programs shall be allocated fairly to all people without regard to race, creed, color, or nation of origin."[252] Therefore, whereas Russell portrayed the Powell amendment as an attack on segregation, Powell himself indicated that his amendment was actually a concession to the doctrine of "separate but equal."[253]

Even with this concession, some members remained suspicious. Representative Paul Stewart (D-OK), for example, argued that the word "'discrimination' as used. . .is broad enough to destroy the Oklahoma separate school system."[254] As Table 12 demonstrates, however, when the Powell Amendment was considered in the full House on February 21, it garnered large majorities in three separate votes: as a stand-alone amendment to the underlying bill (258 to 110); then immediately after the amendment vote, when Representative Clevenger's motion to recommit the entire measure to the Agriculture Committee was defeated (121 to 260); and finally, when the amended bill came up for final passage (276 to 101).[255] The first two votes pitted majorities of both Northern Democrats and Republicans against a majority of Southern Democrats. The final-passage vote was supported by majorities of all three groups. On the whole, the Powell Amendment generated the starkest division, whereas the motion to recommit and final-passage vote created divisions within the Southern

251. Ibid., 1495.

252. Ibid., 1496 [emphasis ours].

253. Powell, in his own autobiography, blurs the intent of this amendment with his future civil rights efforts. He states, ". . .I decided to create the Powell amendment, forbidding federal funds to those who sought to preserve segregation and wherever I thought there was an opportunity that it could be passed, or wherever the opportunity arose to defeat bad legislation, there I would introduce it. . .The first test came with the school lunch program. Under legislation passed by congress, free school lunches were available to schoolchildren. This was of no importance to those in my district but of the utmost importance to millions of children living in those barren, benighted areas of the United States that are subcontinents of human misery. With the support of my colleagues, the first civil rights amendment, attached to the school lunch program, was passed. . .From then on I was to use this important weapon with success, to bring about opportunities for the good of man and to stop those efforts that would harm democracy's forward progress. Sometimes I used it only as a deterrent against the undemocratic practices that would have resulted if the amendment had not been offered." See Adam Clayton Powell Jr., *Adam By Adam: The Autobiography of Adam Clayton Powell Jr.* (New York: Citadel Press, 1971), 81.

254. *Congressional Record*, 79th Congress, 2nd Session, (February 21, 1946), 1537.

255. Ibid., 1540–42.

Table 12. House Votes on Powell School Lunch Amendment, 79th Congress.

Party	Powell Amendment to H.R. 3370		Motion to Recommit		Final Passage	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	95	8	3	106	105	2
Southern Democrat	9	92	53	49	59	43
Republican	152	10	65	103	110	56
Other	2	0	0	2	2	0
Total	258	110	121	260	276	101

Source: Congressional Record, 79th Congress, 2nd Session, (February 21, 1946): 1540–42.

Democratic and Republican ranks. A significant number of Southern Democrats and Republicans, for example, expressed their opposition to the bill by citing concerns about expanding federal power and "statism."[256]

On February 26, the Senate debated its own school lunch bill (S. 962) and voted to substitute its language into H.R. 3370; the Senate's version would increase the cost of the school lunch program almost twofold over the House's version.[257] The Senate then insisted on its version of the bill and asked for a conference, to which the House agreed a day later.[258] On May 23, the conference report was considered in the House and agreed to without debate; the same scenario occurred in the Senate a day later.[259] The only change included in the compromise measure dealt with the "amount of money spent and the method [ratio] of distributing federal matching funds."[260] More important for civil rights advocates, the antidiscriminatory language inserted by Representative Powell remained intact.

The enrolled bill was then presented to the President Truman on May 25, and he signed it into law on June 4, 1946.[261] The National School Lunch

256. "House Votes Fund for School Meals," *New York Times*, February 22, 1946, 22; "School Lunch Bill Approved by House Vote," *Chicago Tribune*, February 22; 1946, 1; and "School Lunches," *Washington Post*, February 23, 1946, 6.

257. *Congressional Record*, 79th Congress, 2nd Session, (February 26, 1946), 1608–28; "Senate Boosts House Bill on School Lunches," *Chicago Tribune*, February 27, 1946, 13; and "School Lunch Fund Doubled by Senate," *New York Times*, February 27, 1946, 18.

258. *Congressional Record*, 79th Congress, 2nd Session, (February 26, 1946), 1628; (February 27, 1946), 1724.

259. *Congressional Record*, 79th Congress, 2nd Session, (May 23, 1946), 5229; (May 24, 1946), 5603. The text of the conference report appears on pages 5227–29 and 5602–03.

260. "School Lunches Voted," *New York Times*, May 24, 1946, 16

261. *Congressional Record*, 79th Congress, 2nd Session, (May 25, 1946), 5765; (June 11, 1946), 6674.

Act of 1946 (Public Law 396),[262] complete with the Powell Amendment attached, is considered a "landmark law" by Steven S. Stathis, a leading congressional analyst. Per Stathis: "For the first time, regular federal appropriations were authorized to provide states cash grants for public and private education."[263]

In his autobiography, Powell calls this "the first civil rights amendment" to pass Congress in the post-Reconstruction era.[264] Powell's claim rings true, even if his School Lunch Amendment was not an effort to undo Jim Crow. Prior to the ultimate acceptance of the conference report on H.R. 3370, however, Powell would embrace a new strategy for pushing civil rights proposals through Congress. In April 1946, during debate over the what would become the 1947 District of Columbia Appropriations Act, Powell offered an amendment that would have banned federal money from going to "any agency, office, or department of the District of Columbia which segregates the citizens of the District of Columbia in employment, facilities afforded, services performed, accommodations furnished, or aid granted."[265] In opposing this amendment, Representative William Poage (D-TX) linked it to the school lunch fight, arguing:

> There are those of you who would not believe 1 month ago when the Member from New York offered a similar amendment to the school-lunch program that it had the implications that you now see evident. One month ago there were those of us who pointed out to you that the Member from New York was determined to see that there were no school lunches throughout the United States unless the school lunches were served to whites and colored together. All of us here today can plainly foresee that the action proposed here is intended as a step in a program of change through the nation. There is no man and no woman so dense on this floor today who does not realize what is done here today will next month or next year be quoted as a precedent for doing the same thing in your state and in mine.[266]

In this case, the amendment failed. But for Powell, it was a major shift in strategy and represented an important development in his approach to civil rights, and one that has largely gone unexplained. Indeed, many of those looking at legislation offered by Powell in the 1950s—especially his 1956 amendment to the School Construction Aid Bill[267]—fail to highlight the importance of the 1946 school lunch battle to this effort.

262. For full text of Public Law 396, see 60 *Statutes at Large* 230–34.

263. Stathis, *Landmark Legislation 1774–2002*, 227–28.

264. Powell, *Adam By Adam*, 81.

265. *Congressional Record*, 79th Congress, 2nd Session, (April 5, 1946), 3227.

266. Ibid., 3230.

267. Examples include James Enelow, "Saving Amendments, Killer Amendments, and an Expected Utility Theory of Sophisticated Voting," *Journal of Politics* 43 (1981): 1062–89;

Conclusion

By the end of the 1940s, civil rights advocates fighting for legislation to outlaw the poll tax, to protect the voting rights of black soldiers, and to create a Fair Employment Practices Commission (FEPC) had very little to show for their efforts. Indeed, the one legislative "success" of this decade (the school lunch program) was itself a tacit endorsement of the doctrine of "separate but equal." Nevertheless, close attention to these defeats is important, we argue, because it allows us to better understand how civil rights advocates regrouped and developed the strategies that would ultimately lead to the formal elimination of Jim Crow in the 1960s. In this way, we heed historian Richard Dalfiume's call for those studying the civil rights movement to pay attention to the "forgotten years" of the revolution.[268]

We also follow the lead of legal historians who have drawn our attention to the formative impact of legal strategies in the years preceding *Brown*. As Risa Goluboff and Kenneth Mack argue, legal advocacy in the 1940s demonstrates an intentional effort to link civil rights and class issues.[269] They find, however, that the success achieved in *Brown* led to a course of legal advocacy that intentionally avoided class issues and instead worked to undermine segregation. The legacy of *Brown*, therefore, represents "only one possible form of civil rights doctrine."[270] Sophia Lee has also stressed the early but ultimately abandoned effort to link class and civil rights that emerged in the 1940s; in this case, the NAACP used the post-New Deal administrative state—specifically the National Labor Relations Board—to contest discrimination by employers and unions.[271] These works are all important because they show the early and often overlooked work of civil rights activists who pushed for both economic and social equality.

William H. Riker, *Liberalism Against Populism: A Confrontation Between the Theory of Democracy and the Theory of Social Choice* (San Francisco: Freeman, 1982): 152–56; Arthur Denzau, William Riker, and Kenneth Shepsle, "Farquharson and Fenno: Sophisticated Voting and Home Style," *American Political Science Review* 79 (1985): 1117–34; Keith T. Poole and Howard Rosenthal, *Congress: A Political-Economic History of Roll Call Voting* (New York: Oxford University Press 1997), 157–59; John B.Gilmour, "The Powell Amendment Voting Cycle: An Obituary," *Legislative Studies Quarterly* 26 (May 2001): 249–62; and Charles Stewart III, *Analyzing Congress* (New York: Norton, 2001), 33–35, 40–43.

268. Richard M. Dalfiume, "The 'Forgotten Years' of the Negro Revolution," *Journal of American History* 55 (1968): 90–106.

269. Goluboff, *Lost Promise*; and Mack, "Rethinking Civil Rights Lawyering."

270. Goluboff, *Lost Promise*, 4.

271. Lee, "Hotspots."

What these studies do not tell us, however, is *why* civil rights advocates adopted a strategy that relied so heavily on the courts and the administrative state. Goluboff makes the point that prior to the 1940s, organizations such as the NAACP and the National Urban League "saw little success in court."[272] Similarly, as we show here, and as we demonstrate for the years from 1891 to 1940, those who held the White House offered little support for meaningful civil rights reform.[273] As a consequence, Congress remained the primary site for civil rights advocacy through the late 1940s. However, as we document in our case studies, the parties' continuing evolution (or "sorting") on civil rights during the 1940s explains why civil rights advocates began to turn to the judiciary and the executive branch to press their claims.

By the end of the 1930s, as our earlier work illustrates, the historic coalition between the Republican Party and black voters broke down; Northern Democrats' efforts to pass antilynching legislation led many black voters who had migrated to Northern cities to view the Democratic Party as the vehicle for pushing civil rights reforms through Congress.[274] This sorting influenced the civil rights battles of the 1940s, as the rift between Northern and Southern Democrats, which had opened in the 1930s, widened and persisted. Northern Democrats continued their active pursuit of black voters, whereas Southern Democrats fought to maintain their Jim Crow institutions back home. At the same time, we find that Republicans were not ready to completely abandon their outreach to black voters, and at different points throughout the decade attempted to signal their support for civil rights. For example, Republicans in the House signed discharge petitions on civil rights measures to force floor debates, and Republicans in both chambers supported important procedural changes that influenced the likelihood of meaningful civil rights reform becoming law. As a consequence, legislative remedies to Jim Crow continued to appear possible to civil rights advocates.

When asked to endorse the *substance* of the civil rights proposals spearheaded by Northern Democrats and backed by black organizations and interest groups, however, Republicans were less than reliable. Whereas Republicans joined with Northern Democrats in support of anti-poll tax legislation and Powell's antidiscrimination amendment to the school lunch program, they also joined with *Southern* Democrats in opposition to a strong federal war ballot (for electoral reasons, in an effort to dampen

272. Goluboff, *Lost Promise*, 36.
273. Jenkins, Peck, and Weaver, "Between Reconstructions."
274. Ibid.

Roosevelt's vote total in 1944) and a strong FEPC (for ideological reasons, in keeping with their conservative, small-government paradigm).

The joining of Republicans and Southern Democrats in opposition to liberal-leaning policy produced a durable conservative coalition in Congress that stretched deep into the twentieth century. And while labor issues served as the primary glue in the conservative alliance,[275] civil rights represented an important formative issue. For example, in our earlier work, we find that, in 1938, Republicans and Southern Democrats in the Senate joined to oppose cloture on antilynching legislation.[276] And Ira Katznelson builds on this, stating that "soldier voting [in the mid-1940s] became a key site at the early stages of the development between southern Democrats who feared for their social order and Republicans who especially disliked the New Deal's alteration of the balance between capital and labor."[277] Our case studies, anchored by a close examination of roll-call votes, help underscore the formative nature of race in the development of the conservative coalition during the 1940s.

The Republican Party's equivocation on civil rights, along with its growing conservative alliance with Southern Democrats, had both substantive and strategic consequences. Substantively, by preventing passage of meaningful civil rights legislation, the Republicans helped perpetuate a system of "legal protection against discrimination throughout the 1940s [that] was grossly inadequate to the task."[278] As legal historians working on the 1940s demonstrate, these conditions led black workers and citizens to continue sending complaints to civil rights advocacy organizations and for these organizations to continue pressing for legal remedy. Strategically, the rise and resilience of the conservative coalition in Congress led civil rights advocates to expand their focus and adopt the legal and administrative remedies documented by legal historians. For not only did civil rights advocates begin to see some progress by pressing their claims in these venues, they now knew that they could not confidently rely on the historically friendly Republican Party and the now-friendly national Democratic Party to work together consistently to pass legislation. While civil rights advocates continued to push for statutory gains, they also directed increased attention to other institutional actors who might provide help. This decision helps explain the emergence of a court-based litigation

275. See Katznelson, Geiger, and Kryder, "Limiting Liberalism"; and Farhang and Katznelson, "The Southern Imposition."

276. Jenkins, Peck, and Weaver, "Between Reconstructions."

277. Katznelson, *Fear Itself*, 38.

278. Goluboff, *Lost Promise*, 83.

strategy for pushing civil rights measures near this time,[279] and the increased pressure on executive branch agents to act on the claims of civil rights advocates.[280] This broadening of focus—by looking to multiple institutional actors for assistance—played an important role in shaping the contours of the civil rights revolution, and through our analysis of the defeats endured by civil rights advocates in Congress through 1950, it becomes increasingly clear why this strategy was adopted.

279. Douglas McAdam, *Political Process and the Development of Black Insurgency, 1930–1970* (Chicago: University of Chicago Press, 1982) Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991); and Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004).

280. Philip A. Klinkner and Rogers M. Smith, *The Unsteady March: The Rise and Decline of Racial Equality in America* (Chicago: University of Chicago Press, 2004); Desmond King, *Separate and Unequal: African Americans and the U.S. Federal Government* (New York: Oxford University Press, 2007); and Paul Frymer, *Uneasy Alliances: Race and the Transformation of American Politics* (Princeton: Princeton University Press, 1999).