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"Negro Laborers to the Crossroads:"

Organized Labor and the Traditions of

Black Unionism in Houston, Texas, 1935 – 1964

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by

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On July 2, 1964, the members of the all-black Independent Metal Workers Local 2 at the Hughes Tool Company in Houston, Texas struck a major blow for the rights of black workers by securing an order from the National Labor Relations Board prohibiting their employer and all-white IMW Local 1 from practicing racial discrimination in union membership policies and in company contracts. The NLRB decision set a national precedent in favor of racial equality in industrial employment. It was the culmination of three decades of effort by black oil and steel workers in and around Houston to use the institutions of organized labor – unions, federal labor agencies, and labor law – to secure substantive economic gains and equality of opportunity, rights, and treatment at work.

The long fight against employment discrimination in Houston met opposition both from employers and from white workers reluctant to surrender their positions of marginal privilege. It also split the city's black community on the labor question. Groups of black workers, civil rights activists, lawyers, and community leaders battled over fundamental issues of strategy and over the proper relationship between black workers and the labor movement, their white counterparts,

and employers. There were two broad factions: one committed to a social democratic vision of working class advance through the biracial unions of the CIO, the other mistrustful of white workers and labor leaders, favorably disposed towards employers, and dedicated to promoting black self-determination and autonomy through "independent" labor organizations.

Drawing upon the records of unions, the NAACP, and the federal labor bureaucracy, as well as Houston's black newspapers, this dissertation pays particular attention to the many mid-level organizers and activists involved in union campaigns in the 1930s and 1940s and charts the turn towards the courts and the NLRB in the 1950s and 1960s as black workers disappointed with the labor movement fought to secure their rights. In doing so, it aims both to explore the relationship between black workers and organized labor and to assess the strengths and shortcomings of biracial movements, democratic institutions, and the law as means for promoting equality.

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Introduction: Labor, Law, and the Traditions of Black Unionism

The front page of the July 3, 1964 *New York Times* announced promising news for America's black workers. In a three to two decision, the National Labor Relations Board, the federal agency overseeing labor unions, ruled that the all-white Local 1 of the Independent Metal Workers union at the Hughes Tool Company in Houston, Texas, had violated federal law by barring black workers from membership and by contracting with the company to keep African Americans out of skilled jobs and apprenticeship programs. The ruling marked the first time that the NLRB had prohibited unions from discriminating on racial grounds. Robert L. Carter, the lead attorney in the Hughes complaint and the general counsel for the National Association for the Advancement of Colored People, called the decision "almost revolutionary" for the precedent it set prohibiting segregated job, pay, and seniority classifications and racially exclusive apprenticeships, devices that unions and employers across the nation had used to lock black workers into low paying and less desirable jobs.[1]

The charges against the IMW union had been filed in 1962 by veteran Hughes Tool employee Ivory Davis after his application for an apprenticeship in the tool and die department had been rejected. In twenty years with the company, Davis had become an official with IMW Local 2, the segregated black counterpart to Local 1, but had risen no higher in job status than his present materials handler position. Tool and die work, like all skilled jobs, was reserved for whites, who made up roughly seventy-five percent of the workers at Hughes. The segregation of the company's workforce had not changed much since Howard Hughes, Sr. first hired three black workers in 1914 to fuel furnaces, carry materials, and sweep up around the thirty-three

[1] IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574 (1964). *New York Times*, July 3, 1964.

white craftsmen who produced the company's signature rotary oil drilling bit in a small shop on the north end of Houston's downtown. As Hughes Tool grew to employ thousands of workers in the subsequent half century, segregation remained at the heart of the company's labor system, favored by management and kept in place by contracts with the IMW, a rubber-stamp union that rarely questioned the company's designs on the workforce.

Although the IMW, an independent union that existed only at Hughes, had throughout its tenure acted as an enabler of management prerogative, it was certified by and subject to the NLRB, just like the larger and better-known unions affiliated with the AFL-CIO. In 1964, the IMW became the back door through which federal nondiscrimination policy came into Hughes Tool. By barring discrimination in union rules and contracts, Robert Carter proclaimed after the victory, *Hughes Tool* "[gave] Negroes a new tool in their quest for equal opportunity." The NLRB had wedded unions to the cause of nondiscrimination by creating an affirmative duty to dismantle segregated employment systems and to represent the interests of racial minorities in the workplace on par with those of whites. The decision had, in short, established nondiscrimination as one of the guiding principles of the nation's labor policy, some three decades after the Wagner Act had established labor's place in the American state and industrial economy. From July 1964 onward, where unions failed to meet this responsibility black workers now had straightforward recourse through the NLRB, which could remedy the most obvious discriminatory practices with cease-and-desist orders, or in extreme cases, threaten unions with decertification.[2]

Relatively little historical attention has been paid to the landmark *Hughes Tool* decision, or to the efforts of the black workers, activists, and lawyers that brought it about. That the precedent-setting NLRB decision originated in Houston, however, would have been of little

[2] Ibid.

surprise to contemporary labor and civil rights activists. Over the previous decade, black union members in the city's steel shops and oil refineries, attorneys, and local NAACP officials had been on the leading edge of the challenge to workplace discrimination. Their campaign was prosecuted on several fronts: in negotiations with union locals and officials, in federal administrative agencies, and in the courts. The legal efforts of black Houstonians in particular drew the attention of Robert Carter and the NAACP, who acted alongside the Houston forces to bring cases before the NLRB challenging discrimination by labor unions. With varying degrees of success, the two groups advanced arguments rooted in labor and constitutional law designed to compel unions to respect and represent the interests of their black and white members equally. In 1964, those arguments finally made their full weight felt on behalf of Ivory Davis.

That the *Hughes Tool* precedent, and, more generally, the legal campaign against union discrimination that led up to it, remains a relatively minor part of histories of the civil rights and labor movements is undoubtedly due in part to the somewhat technical nature of labor law and the arcane administrative venues in which parts of this campaign were waged, but its continued obscurity is also rooted in historical coincidence.[3] Despite the great promise of *Hughes Tool*, it was not the biggest news for black workers on July 3, 1964. Above the front page *New York Times* article reporting the new precedent against union discrimination was a picture of President Lyndon Johnson and a much larger headline announcing the signing of the Civil Rights Act. Title VII of that momentous law prohibited employers from discriminating in hiring, promotion, dismissal, training, and a range of other employment practices. Title VII and the NLRB ruling

[3] Works that treat the landmark NLRB case are Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005); Herbert Hill, *Black Labor and the American Legal System: Race, Work, and the Law* (Madison: University of Wisconsin Press, 1977); and Sophia Z. Lee, "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948-1964," *Law and History Review* 26 (2008): 327. Bruce Nelson, "'CIO Meant One Thing for the Whites and Another Thing for Us': Steelworkers and Civil Rights, 1936-1974," in *Southern Labor in Transition, 1940-1995*, ed. Robert H. Zieger (Knoxville: University of Tennessee Press, 1997), 113–145 provides a look at a similar, but unsuccessful, NLRB case brought by black.steelworkers in Atlanta in the early 1960s.

were intended to be complementary weapons against employment discrimination – the former laying out the rights of individual workers not to face discrimination on account of race or sex, the latter guaranteeing equal treatment at the hands of unions and in union contracts. At the time, the NAACP recommended that black union members confront discrimination through the well-established procedures of the NLRB instead of the new Equal Employment Opportunity Commission that had been created by the Civil Rights Act. In subsequent years, however, the EEOC and Title VII became the locus for antidiscrimination action by union and non-union employees alike. The law and its promise of equality inspired worker movements and the development of legal doctrines to combat employment devices that had disparate negative impacts on minorities and to take affirmative action to remedy the effects of past discrimination. It exists today as both the basis for much of employment law practice and as the touchstone for modern understandings of civil rights and equal opportunity.[4]

Title VII marked the first significant statutory intrusion into the private domain of employment since the passage of major labor legislation in the 1930s. The Wagner Act, the keystone of New Deal labor policy, protected workers' rights to organize into unions and created a system of industrial democracy in which they might gain a collective say in the corporate decisions that affected their day-to-day lives. By facilitating the growth of unions that aspired to exert a degree of working class control over the American political and economic system, the Act was also the most social democratic element of the diverse field of policies that made up the New Deal program. Despite the reformist intent of the Wagner Act's backers and the social democratic vision of the labor movement it boosted, its benefits were, like those of many New Deal policies, bounded by race and sex. The assumption of male breadwinning held by many of

[4] On the divergent paths of labor and employment law after 1964, see Cynthia L. Estlund, "The Ossification of American Labor Law," *Columbia Law Review* 102, no. 6 (October 2002): 1527–1612; Herbert Hill, *Black Labor and the American Legal System.*

the law's drafters and labor movement supporters limited its reach. The law's worksite-centered procedures and protections were ill suited for service, part-time, and in home work, jobs often performed by women, while concessions to conservative lawmakers resulted in the exclusion of agricultural and domestic workers – disproportionately women, immigrants, and people of color – from the law's protections.[5] The result was a two-tiered workforce: one that was more white and more male that received the benefits of New Deal labor policy, and a second that did not. Nor did the law do anything to dismantle the racial and gendered division of labor that predominated in many American industrial workplaces, where white male workers monopolized the top jobs, while the work performed by women, members of racial minority groups, and recent immigrants was classified as lesser skilled and compensated at a lower rate.

But while the New Deal labor regime protecting workers from a litany of employer abuses was conspicuously lacking antidiscrimination provisions, black industrial workers did not shrink from the opportunities presented by changes in organized labor and the federal labor bureaucracy brought about in the 1930s. Although obvious from the provisions of the Civil Rights Act, it is perhaps worth emphasizing that in most states (and in all of the Southern ones), prior to 1964, such discrimination was a sacrosanct right of employers, a matter of private contract seemingly beyond the reach of the government. Labor unions and labor law, however, limited employers' prerogative by subjecting the terms of employment to collective bargaining and by regulating unions, employers, and the relationship between them, providing a potential opening for black workers to confront discrimination at work. From the mid-1930s, when federal labor law was put into place, until the mid-1960s, when Title VII provided a new set of anti-discrimination tools, black workers and civil rights leaders in fact saw organized labor and

[5] On the gendered ideological and legal limits of New Deal labor policy, see Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York: Oxford University Press, 2001), 64–116.

the laws and agencies governing it as one of the most important arenas in which to carry out the fight against economic inequality. If employers could not be made to provide equal access to jobs and economic opportunity, perhaps the institutions of labor and labor law could.

Labor unions, of course, were not the only means of confronting economic inequality. Boycotts, public pressure, "buy black," and cooperative movements were all means by which black Houstonians aimed to gain access to employment and fought for equal pay. At the heart of black Houstonians' struggle for economic advance in the mid-twentieth century, however, were union organizing and legal battles in the core oil refining and steel manufacturing sectors in Houston and the surrounding industrial area. This dissertation is a study of these union-focused campaigns for equality of opportunity and treatment at work and for substantive gains in job security, pay, and working conditions, beginning with the growth of organized labor in the oil and steel industries in the early 1930s and ending with the *Hughes Tool* decision that brought anti-discrimination standards to bear in the industrial workplace. Carried out on the shopfloors of the city's largest and most important firms, in the organizations of Houston's black community, and in legal, policy-making and administrative forums, these campaigns involved both workers and members of the city's black middle class. These efforts were notable for their vigor, inventiveness, and for the controversy they stirred within black Houston. Rarely in this three-decade period did the city's African Americans speak with a single voice on labor matters. Factions of workers, civil rights activists, lawyers, and community leaders differed greatly in their assessments of the opportunity or threat represented by federal labor policy, the labor movement, white workers, and employers – differences that underlay competing approaches to labor organizing and opposing efforts to alter the internal workings of labor unions and to shape the institutional rules of New Deal labor policy. On this issue, Houston's black citizens were not

divided by class or by status, as were black communities in some other cities, but by different ideological outlooks and divergent takes on the place of African Americans within the nation's labor movement. This diversity of black thought and union participation produced labor traditions in Houston that explored many paths to economic opportunity, often leading to frustrating dead ends, on the way to *Hughes Tool*.

Houston may seem at first blush to be an odd place to explore civil rights and labor history. On the former subject, the city is known for having produced the lawsuit ending the all-white primary, and usually for little else. As for labor, Texas is often presumed to have long been a union desert, with workers and captains of industry alike subscribing to a rugged individualism anathema to labor organizing, while Houston tends to be associated with the reactionary conservatism of its business leaders and the big money and bigger personalities of men who struck it rich in oil.[6] But while the wildcatter may loom large in the public image of Houston and the oil business, the city grew to its place of importance not because of quick fortunes but because it became in the early twentieth century the anchor of an industrial region – beginning on the city's east side, continuing along both sides of the ship channel that connects the city to the Gulf of Mexico, and extending along the upper Texas Gulf Coast – centered on oil refining and the manufacture of steel oil tools and equipment. As crude oil production shifted over the twentieth century from East Texas and fields around Houston to West Texas and later to the Mideast, Africa, and Latin America, the city's massive refining capacity, oil tools firms, and a deep well of petroleum knowledge kept it at the center of the global oil industry.

[6] See, for one example, George Fuermann, *Houston: Land of the Big Rich* (Garden City, N. Y: Doubleday, 1951). A more recent treatment of Texas oil tycoons, Bryan Burrough, *The Big Rich: The Rise and Fall of the Greatest Texas Oil Fortunes* (New York: Penguin Press, 2009), properly locates the majority of big money lunacy in Dallas.

Not surprisingly, for most of the twentieth century these oil and related manufacturing industries also defined Houston's political, economic and demographic character. The construction of large oil refineries and the expansion of steel oil tools manufacturing in the 1920s supplanted an earlier economy of transportation, the processing of natural resources, distribution, and warehousing, in which railway yards, the cargo port, cotton compress and cottonseed oil gins and lumber milling were major employers of black and white workers. By the end of the decade, oil related industries were the region's largest employers, and the major firms, especially two homegrown companies, Humble Oil and Hughes Tool, were well known local institutions whose founders and executives filled Houston's business and political circles. As labor conflict swept these industries in the 1930s, they became a forum in which black workers advanced competing ideas of industrial unionism and became "Exhibit A" in the arguments advanced by different factions of Houston's black middle class about the place of African Americans in the New Deal order and the best course for fighting economic discrimination.

The expansion of oil related industries helped usher in Houston's long population boom, which, in the span of four decades, made the city the largest in the South, with one of the region's largest African American communities.[7] The oil-led economic boom of the 1920s brought some 160,000 people to Houston, more than doubling the city's population. Houston's growth was part of the Great Migration, a movement usually thought of in terms of the mass migration of African Americans into cities in the North, Midwest, and West, but which is more accurately understood as the exodus of rural southerners, black and white, into industrial cities

[7] The demographic and geographic history of Houston black community is detailed in Robert D. Bullard, *Invisible Houston: The Black Experience in Boom and Bust* (College Station: Texas A&M University Press, 1987). See also, Bernadette Pruitt, "'For the Advancement of the Race': The Great Migrations to Houston, Texas, 1914 - 1941," *Journal of Urban History* 31, no. 4 (May 2005).

both outside of the South and within the region.[8] The migration of hundreds of thousands of people, many of them from rural Texas and Louisiana, to Houston in the 1920s and subsequent decades thus shared important features with the migrations that transformed other major American cities like Detroit and Los Angeles in the same period. Although Houston was very much a Southern city, with geographic segregation and political disfranchisement enforced by both law and recent custom, the hard realities of occupational segregation and economic discrimination encountered by black industrial workers in the city were similarly confronted by black workers throughout the nation.

Significant numbers of Mexican nationals and Mexican Americans also arrived in Houston during the 1910s and 1920s, driven by the Mexican Revolution, labor demand during World War I, and the linkage of the city to South Texas by railroad networks. For the next five decades, roughly the period considered in this study, Houston's Mexican population, both American and Mexican born, remained at about six percent. The ratio of the black and white population also remained relatively stable, with African Americans making up between twenty-one and twenty-five percent of the total population. The workforce in refineries and steel plants roughly reflected the demographics of the city as a whole, although Mexicans and Mexican Americans were noticeably underrepresented, the result of corporate preferences for a bi-racial, and clearly segregated, workforce. For anyone familiar with modern Houston, this stable, largely black and white demographic ratio is markedly different, having been transformed by large migrations from Latin America, Asia, Africa and the Caribbean in the past three decades.[9]

[8] On this broader view of the Great Migration, see James N. Gregory, *The Southern Diaspora: How the Great Migrations of Black and White Southerners Transformed America* (Chapel Hill: The University of North Carolina Press, 2006).

[9] On the immigration of black populations from Africa and the Caribbean in the past three decades, see Bernadette Pruitt, "In Search of Freedom: Black Migration to Houston, 1914-1945," *The Houston Review of History and Culture* 3, no. 1 (Fall 2005): 56.

At the same time, Houston's large industries shed blue-collar jobs, with oil and manufacturing companies evolving into global energy and oil services firms. In the middle decades of the twentieth century, however, Houston was a largely blue-collar town. Like much of American heavy industry, its refineries and steel shops were, by the end of World War II, largely organized by major labor unions. Houston was never a labor stronghold on par with cities in the industrial North and Midwest, but neither was it a bastion of the open shop. From the 1930s until the 1960s, it was, in terms of racial demographics and union strength, a city as representative of a diverse nation as any other.[10]

Fig. 1. National Rank of Houston among U.S. Cities, with Total, Black, estimated Hispanic, and Asian populations.[11]

Year	Rank	Total	Black	Black %	Hisp.	Hisp. %	Asian	Asn. %
1900	85	44,633	14,608	33%	NA	NA		
1910	68	78,800	23,929	30%	NA	NA		
1920	45	138,276	33,960	25%	6,000	4%		
1930	26	292,352	63,337	22%	14,149	5%		
1940	21	384,514	86,302	22%	20,000	5%		
1950	14	596,163	125,400	21%	40,000	7%		
1960	7	938,219	215,037	23%	70,000	7%		
1970	6	1,232,802	316,551	26%	150,000	12%		
1980	5	1,595,138	436,392	28%	281,331	18%	34,259	2%
1990	4	1,630,553	448,148	28%	450,556	28%	66,993	4%
2000	4	1,953,631	487,851	25%	730,865	37%	106,620	5%
2010	4	2,099,451	485,956	23%	919,668	44%	129,098	6%

[10] This, of course, sidesteps the oft-asked question of whether Houston is a "southern" or a "western" city. It is neither, or both, and the major issues considered here confronted black and white workers in the South, the West and the North. The vast mid-twentieth century migration of both black and white Southerners into the industrial North, Midwest, and, especially for Texans, into the West challenges the notion that there is something distinctively Southern about a large industrial city in the South like Houston. The same demographic of rural East Texans and Louisianans that moved to Houston from the 1920s to the 1950s, after all, also migrated in large numbers to California. At the same time, a significant portion of Houston's managerial and technical class has always come from, or studied in, the Northeast, a fact on display on every Houston street corner in the 1920s, when the city manager ordered all fire hydrants painted orange and black in honor of his Princeton alma mater. A Northern education, of course, hardly made Houston's ruling class any more likely to accept change in the city's racial caste system or to accept worker organizing.

[11] U.S. Census, measures of city population (not metropolitan areas). Hispanic (mostly Mexican origin) population estimates are from Arnoldo De León, *Ethnicity in the Sunbelt: Mexican Americans in Houston* (College Station: Texas A&M University Press, 2001). Figures from 1980 to 2010 are from U.S. Census. Information on the rapidly changing demographics of modern Houston, with special attention to new immigrant populations, can be found in the published reports of the Kinder Institute's Houston Area Survey, available at http://has.rice.edu/

Like their blue-collar brethren in the rest of the country, Houston's oil and steel workers formed unions not only to win better pay, hours and benefits, but to exert some control over their work lives. Through unions, workers sought to gain a voice in the decisions that directly affected them, by putting in place systems governing promotions, lay-offs, grievances, and conditions of work that provided protection from the unbridled prerogative of management. Houston employers, especially in the city's several large concerns that were still controlled by their founders, vehemently fought the principle of worker control. In the refineries, management exercised tight control over workers, and authority, even where unions held power, unquestionably came from the top down. As one employee of the Shell refinery in nearby Pasadena described the authority of top management, "the refinery or plant manager was next to God! One really didn't speak unless you were spoken to."[12] The chance to provide a counterbalance to such autocracy is what motivated many men to join unions and what drove unions to insist on strong respect for seniority, established grievance procedures, and union work rules.

The prospect of exerting control over the terms and conditions of work had special appeal to African Americans, who faced, in addition to the rule of foremen and upper management, the hard barriers of occupational segregation. The most important organizing principle of industrial employment in Houston, as in many other places with African American workers, was the distinction between white production work and black "common labor." In refineries and steel shops, companies maintained highly stratified and bureaucratized workforces. White production work was divided into departments defined by craft or by industrial process – the pipefitting department in a refinery, for example, or the machine shop in an oil tools plant. Each production

[12] Quoted in Tyler Priest, "Labor's Last Stand in the Refinery: The Shell Oil Strike of 1962-1963," *Houston History* 5, no. 2 (Spring 2008): 8.

department had a defined line of progression, a job ladder along which an employee could climb over the course of his career, starting as an apprentice or helper and rising to become a highly-skilled operator or master craftsman. All African Americans, in contrast, were grouped in labor divisions, which in some places also included smaller numbers of white and Mexican workers.[13] Although this system matched the necessities of production and provided a means for certain workers to acquire technical skills over the course of their work lives, it was, at its heart, a labor system built on notions of the relative capabilities and deservedness of white and black workers. Black laborers were assigned the heaviest, hottest and most dangerous jobs in industry – digging trenches and laying rails in labor gangs, tending furnaces, moving materials, cleaning toxic chemicals – as well as menial janitorial work. A significant number of black workers, however, were semi-skilled or skilled tradesmen doing work equivalent to that of whites in higher divisions. The defining characteristic of all of this work, however, was the race of the men who did it. Regardless of skill or task performed, as one black oilworker put it, "its common labor if a colored man does it." That designation carried with it lower pay, less opportunity, and the assurance that no African American would ever supervise a white worker. For low-skilled whites, often new employees, labor work was a stepping stone to higher positions. For blacks, it was the only rung on the job ladder.

By assigning black workers to the lowest jobs and reserving the top positions for whites, occupational segregation automatically conveyed a benefit to white workers and gave them a concrete interest in black subordination. But segregation also harmed white workers, who found their bargaining leverage with employers undermined by the possibility that they might be

[13] In this dissertation, the intertwined histories of organized labor and equal opportunity are considered largely in terms of white and black workers, following the general demography of the workforce in oil and steel in Houston, the issues raised by all sides in organizing campaigns, and the major legal and administrative battles against industrial segregation. At times, the actions and status of Mexican and Mexican American workers figured prominently, especially during World War II, as explored in Chapter 3.

replaced with lower-paid black workers. Indeed, the industrial color line and the discrete interests of black and white employees acted as a barrier to the sort of collective action that might improve the lot of both groups. Historians of race and labor have well documented the ways in which Southern employers exploited racially divided workforces, using violence, race baiting, and the provision of marginally greater rewards for whites to keep worker movements weak and wages low.[14] Houston's industrialists were no strangers to these techniques. The area's refineries and steel shops, however, differed in important ways from other Southern industries like textile production, or those based on the processing of natural resources – the hardwood industries making barrels, broom handles and flooring in Memphis, for example, or the cotton baling and cottonseed oil plants at the Port of Houston. These industries were generally characterized by low wages, low skill requirements, low levels of capitalization, and by their extensive use of female labor for manufacturing work. In contrast, oil refineries and steel shops required large capital investments and a workforce with a large skill component. With the exception of the World War II years, employees at these facilities were almost entirely male, the result in part of the large role played by the skilled trades, which had been kept all-male for decades by craft unions.[15] But much like their Southern counterparts, Houston's industrial employers were trenchant union opponents, as continuous production and high capital costs in refining and steel manufacturing put a premium on keeping control of an uninterrupted labor supply. With sizeable white majorities in their plants, however, Houston's refining and steel

[14] See, for example Michael K. Honey, *Southern Labor and Black Civil Rights: Organizing Memphis Workers* (Urbana: University of Illinois Press, 1993); Robert Korstad, *Civil Rights Unionism: Tobacco Workers and the Struggle for Democracy in the Mid-Twentieth-Century South* (Chapel Hill: University of North Carolina Press, 2003).

[15] Although excluded from these top tier industrial sectors, black, white, and Mexican women in Houston were employed in in large commercial laundries, in cottonseed oil mills, and in the city's textile and garment industry. See Merline Pitre, "At the Crossroads, Black Texas Women, 1930-1954," in *Black Women in Texas History*, ed. Merline Pitre and Bruce A. Glasrud (College Station: Texas A&M University Press, 2008), 129–158; Melissa Hield et al., "'Union-Minded': Women in the Texas ILGWU, 1933-50," *Frontiers: A Journal of Women Studies* 4, no. 2 (July 1, 1979): 59–70.

firms could not rely on racial division alone to thwart worker organizing. Instead, as detailed in Chapter 1, they kept unions at bay by paying relatively high wages and encouraging the formation of company unions, pliant worker organizations that rarely challenged management prerogative. These company unions were remarkably durable, holding the support of a considerable portion of Houston's workers even during the lowest points of the Great Depression and in the face of strong challenges from "outside" labor unions.

If union-minded whites were to defeat company unions, they would need to do so in concert with black workers. Both of them, after all, sought mutual economic gains and a check on the power of employers. Biracial activism was hardly a secret formula; it had a distinguished history in Texas, from the turn-of-the-century agrarian movement to the various efforts of black and white workers to present a united front in labor battles during the First World War.[16] It would surge again in Texas in the mid-1930s in the form of unions affiliated with the CIO. Studies of Southern unionism often root successful interracial labor activism in shared working class experiences, commonly the solidarity-building experience of manning picket lines in battle against employers and replacement labor.[17] Strikes were rare in Houston's refining and steel industries, however, and there was little shared experience between workers segregated occupationally on the job and spatially outside of it. Where Houston's industrial workers did, at times, find grounds for coalition building was in the democratic space created by New Deal labor

[16] For these examples and others, see Chandler Davidson, *Race and Class in Texas Politics* (Princeton, N.J: Princeton University Press, 1990); Ruth Allen, *Chapters in the History of Organized Labor in Texas* (Austin, Tex: The University of Texas, 1941); David O'Donald Cullen and Kyle Grant Wilkison, eds., *The Texas Left: The Radical Roots of Lone Star Liberalism* (College Station: Texas A&M University Press, 2010).

[17] Interracial camaraderie is emphasized in Daniel Letwin, *The Challenge of Interracial Unionism: Alabama Coal Miners, 1878-1921* (Chapel Hill: University of North Carolina Press, 1998). In a perceptive study of Houston dockworkers, Rebecca Montes points out that even where black and white workers were members of segregated unions, worked in segregated gangs, and had different experiences and social understandings of work, side-by-side time on the picket line fighting company thugs and replacement labor provided a powerful moment of solidarity. Rebecca Anne Montes, "Working for American Rights: Black, White and Mexican American Dockworkers in Texas During the Great Depression" (Ph.D. dissertation, University of Texas, 2005).

policy. By according rights and bargaining authority to unions supported by worker majorities, the 1935 Wagner Act created a strong incentive for white unionists to court black support. In the wake of that law's passage, CIO-affiliated unions in refineries and steel shops opened their membership to black workers in the hope of building majorities capable of defeating their company union foes.

These CIO unions rose to prominence in Houston's heavy industries in the late 1930s and during WWII, and maintained a strong position until the 1960s, when technological changes in both steel and refining reduced their memberships and gave employers the upper hand in bargaining over the terms of work. A major concern of historians of labor and African Americans has been establishing whether union power worked to the benefit or to the detriment of black workers, especially in the case of CIO unions, whose broad organizing philosophies and equality-minded policies were so often at odds with the realities of racial discrimination on the shop floor. For these historians, the status of black workers has often served as a litmus test, used to characterize organized labor either as a democratic movement of the working class or as a protective device used to safeguard white workers, with critics detailing persistent and entrenched shopfloor racism, and CIO defenders highlighting the efforts of leaders to bring local unions into line with official non-discrimination policies and crediting major CIO unions for their financial and organizational contributions to the civil rights movement.[18]

[18] A representative sampling of this debate is Herbert Hill, "Lichtenstein's Fictions: Meany, Reuther, and the 1964 Civil Rights Act"," *New Politics* 7 (Summer 1998): 82–107; Nelson Lichtenstein, "Walter Reuther in Black and White: A Rejoinder to Herbert Hill," *New Politics* 7 (Winter 1999): 133–47. Major works pointing out the failures of the labor movement to advance equality are Alan Draper, *Conflict of Interests: Organized Labor and the Civil Rights Movement in the South, 1954-1968* (Ithaca, N.Y: ILR Press, 1994); Bruce Nelson, *Divided We Stand - American Workers and the Struggle for Black Equality* (Princeton University Press, 2001). Views emphasizing discrimination in the steel industry include Herbert Hill, "Race and the Steelworkers Union: White Privilege and Black Struggles, Review Essay of Judith Stein's Running Steel, Running America," *New Politics* 8, no. 4 (Winter 2002); Bruce Nelson, "Steelworkers and Civil Rights." The debate over the meaning and impact of interracial unionism is most fully developed in the large historiography of the pre-CIO mineworkers union in the Birmingham iron and coal district, beginning with Herbert Gutman, "The Negro and the United Mine Workers of America," in

In the past two decades, histories of organized labor have incorporated black workers into narratives of union organizing, recognizing their key role in the growth of CIO unions during the New Deal and World War II. These histories in particular have demonstrated the connections that black unionists saw between labor activism and civil rights struggles, a perspective that informs their portrayals of the surge of interracial labor activism in the 1930s and 1940s as a key component of a democratic push for social, economic, and racial justice in the South. This history of a linked campaign for labor and civil rights during the New Deal and WWII has stretched our understanding of what is now commonly known as the "long civil rights movement." But the period of "civil rights unionism" collapsed soon after the war, the result of Cold War pressures that prompted unions to marginalize leftist and communist activists, both black and white, that had been among the most effective organizers and those most committed to racial equality as a central principle of working class advance.[19]

In standard narratives of the civil rights movement, the waning of labor-centered black activism after the war is said to have changed the character of the movement as socioeconomic questions were jettisoned in favor of a campaign of litigation and direct action against formal segregation. This "classical phase," beginning with *Brown*, running through the Montgomery bus boycott and lunch counter sit-ins, and culminating in the campaigns that prompted the passage of major Civil Rights legislation in the mid-1960s, was waged in the moral language of

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The Negro and the American Labor Movement, ed. Julius Jacobson (Garden City, N. Y: Anchor, 1968), 49–127, and Herbert Hill, "Myth-Making as Labor History: Herbert Gutman and the United Mine Workers of America," *International Journal of Politics, Culture, and Society* 2 (1988): 123–200. Letwin, *The Challenge of Interracial Unionism* offers a balanced account.

[19] Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *The Journal of American History* 91, no. 4 (March 2005): 1233–1263. Examples of this civil rights unionism historiography include Honey, *Southern Labor and Black Civil Rights*; Korstad, *Civil Rights Unionism*. For broader accounts of black liberation based on the antiracist Southern left, in the New Deal era, see Glenda E. Gilmore, *Defying Dixie: The Radical Roots of Civil Rights, 1919-1950* (New York: W.W. Norton & Co, 2008); Patricia Sullivan, *Days of Hope: Race and Democracy in the New Deal Era* (Chapel Hill: University of North Carolina Press, 1996).

rights and legal equality, aimed at attracting the support of white moderates.[20] Economic concerns, in these accounts, only returned to the forefront in litigation and workplace activism inspired by the Civil Rights Act and in antipoverty, housing and other campaigns for economic justice in Northern industrial cities as well as in Southern cities like Memphis.[21]

More recent research has challenged this portrayal of a "classical phase" with narrow movement demands, both by chronicling the continuation of battles against economic discrimination and for substantive economic reforms, and by breaking down the categories into which historians have sorted, and confined, civil rights activism. A generation of leaders who rose to prominence in the campaign for economic equality during the New Deal and World War II, among them A. Philip Randolph, Bayard Rustin, and Pauli Murray, did not give up the fight after the war, using their links to unions, women's organizations, and churches to build local justice movements in the 1950s and early 1960s. Well known civil rights organizations also emphasized economic issues; CORE urged community-based direction, reviving "don't buy where you can't work" boycott and picket tactics from the 1930s, the Urban League led job training programs and urged employers to hire African Americans, while labor and industry committees of local NAACP chapters urged black workers to join labor unions and challenge discrimination from within. The work of these activists and organizations gained national attention with the 1963 March on Washington for Jobs and Freedom, planned by Randolph,

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[20] Jacquelyn Dowd Hall, "The Long Civil Rights Movement," 1250; Risa Goluboff, *The Lost Promise of Civil Rights* (Cambridge, Mass: Harvard University Press, 2007); Mark V. Tushnet, *The NAACP's Legal Strategy against Segregated Education, 1925-1950* (Chapel Hill: The University of North Carolina Press, 1990). A favorable assessment of the tight focus on formal equality in the 1950s is Manfred Berg, "Black Civil Rights and Liberal Anticommunism: The NAACP in the Early Cold War," *The Journal of American History* 94, no. 1 (June 2007): 75–96.

[21] See, for example, Timothy J. Minchin, *The Color of Work: The Struggle for Civil Rights in the Southern Paper Industry, 1945-1980* (Chapel Hill: University of North Carolina Press, 2001); Robert Samuel Smith, *Race, Labor & Civil Rights: Griggs versus Duke Power and the Struggle for Equal Employment Opportunity* (Baton Rouge: Louisiana State University Press, 2008); Thomas J. Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (New York: Random House, 2008); Michael K. Honey, *Going down Jericho Road: The Memphis Strike, Martin Luther King's Last Campaign* (New York: W.W. Norton, 2007).

Rustin and other leaders of the Negro American Labor Committee, who sought to revive the social democratic spirit of the New Deal and war years with their call for a renewed national commitment to economic justice and the elimination of discrimination that kept black workers from good jobs.[22]

Other research tells the story from below, emphasizing the ways in which the African American freedom struggle in the mid-twentieth century defies easy categorization. Whatever the strategic decisions of national organizations, the efforts of everyday African Americans cannot be neatly classified as either activism for substantive, economic reform or for desegregation and equality of formal rights. Instead, black activism addressed issues both well known, such as voting rights, school desegregation, and union organizing, and others – adequate housing, women's access to industrial jobs, police brutality, protection from sexual violence among them – that have traditionally received less historical attention. What has emerged from these newer works is a picture of a black freedom movement that was continuous and multifaceted, even as it was always concerned with the substantive issues of day-to-day life, and irreducible to any one overarching set of demands.[23]

Like recent histories of black labor and civil rights, this dissertation also aims to link the surge of organizing and union participation during the New Deal and the movement to combat industrial discrimination during World War II with the successful efforts in the 1960s to secure legal rights to workplace equality. Rather than following the actions of national leaders and organizations, or looking outward from labor and the workplace to trace links to other fronts of

[22] William P. Jones, *The March on Washington: Jobs, Freedom and the Forgotten History of Civil Rights* (New York: W.W. Norton & Co, 2013); Nancy MacLean, *Freedom Is Not Enough: The Opening of the American Workplace* (Cambridge, Mass: Harvard University Press, 2006), 35–75; Paul D. Moreno, *From Direct Action to Affirmative Action: Fair Employment Law and Policy in America, 1933-1972* (Baton Rouge: Louisiana State University Press, 1997).
[23] See Laurie B. Green, *Battling the Plantation Mentality: Memphis and the Black Freedom Struggle* (Chapel Hill: University of North Carolina Press, 2007).

the freedom struggle, this study turns inward to examine the workings of labor unions and labor law. By focusing on the labor history of Houston's two key industries, it offers a close look at the evolving ways in which black workers and activists understood, negotiated and shaped labor institutions in an effort to advance their economic interests and combat workplace discrimination.

In tracing the efforts of black workers to overcome discrimination and occupational segregation through the institutions of labor and labor law, this study in some ways returns to the central questions asked by older generations of labor historians: were labor unions a force for greater workplace equality? For anyone familiar with the general record of organized labor in heavy industry, it is spoiling little to say that, on balance, unions in Houston's oil and steel industries were not. Unlike much of the literature on union discrimination, which explains its prevalence in terms of a narrow labor ideology that put aside questions of equality and justice, Cold War pressures that marginalized committed antiracist leaders, the unwillingness of top officials to bring local unions in line with official antidiscrimination policies, or the prejudices of white rank-and-file members, this study looks to the various and changing structures of organized labor and to the laws and administrative rules governing labor to explain the decisions and actions of union leaders and white workers – who at times accommodated and promoted black interests and at other times stymied them – and to explain the diverse strategies of labor movement participation and protest pursued by black workers.

Political scientists and legal scholars have produced a well-developed literature examining the relationship between the design of democratic institutions and the representation of minority interests. Historians too, in studies of the Populist movement, 19th and early 20th century disfranchisement laws, and black politics, have considered the link between democratic

structures, minority representation, and the possibilities for creating biracial political coalitions.[24] Histories of black workers and the labor movement, however, rarely focus on the rules and structures of industrial democracy. Where studies of organized labor have considered the relationship between institutional issues and the protection of minority rights, it is usually only in the context of high-level policy-making, such as the failed attempts of prominent black organizations to include nondiscrimination provisions in federal labor legislation.[25] This study brings an emphasis on the design and workings of labor unions and labor law to the local level of organizing and activism. Its concern with institutions is not only an academic perspective used to describe and make sense of the union activities of steel and oil workers in Houston; it is a reflection of the way African American workers and middle class leaders in that city thought about, debated, and acted on the possibilities of industrial democracy and the labor movement.

Two features of Houston's black and labor communities contributed to the city's institutionally-attuned labor tradition. First, by the late 1930s, there existed within the city a considerable variety of organizations representing black workers, including linked separate-but-equal unions that represented black and white workers who labored on similar terms, the bi-racial integrated unionism of the CIO, and "independent" black unions that favored management and eschewed any relationship with white workers. Competition between unions for the loyalty of black workers touched off contentious organizing battles in which black workers and activists

[24] See, among many others, Lani Guinier, *The Tyranny of the Majority: Fundamental Fairness and Representative Democracy* (New York: Free Press, 1994); Samuel Issacharoff and Richard H. Pildes, "Politics As Markets: Partisan Lockups of the Democratic Process," *Stanford Law Review* 50, no. 3 (February 1998): 643–717; Paul Frymer, *Uneasy Alliances: Race and Party Competition in America* (Princeton, N.J: Princeton University Press, 1999); Lawrence C. Goodwyn, "Populist Dreams and Negro Rights: East Texas as a Case Study," *The American Historical Review* 76, no. 5 (December 1971): 1435–1456; Chandler Davidson, *Biracial Politics; Conflict and Coalition in the Metropolitan South* (Baton Rouge: Louisiana State University Press, 1972).

[25] See for example, Melvyn Dubofsky, *The State & Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994). A recent exception that gives much deeper consideration to institutional design and black rights is Paul Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton University Press, 2011).

argued over the merits of different forms of labor organization, debates that touched not only on the question of what model of unionism stood the best chance of advancing black laborers' material interests and breaking down job discrimination, but also considered what sorts of union structures would help develop black leadership, preserve a black voice in the workplace, and faithfully represent the grievances of individual black workers before management.

The second factor driving institutional concerns was the considerable involvement of members of the black middle class, including attorneys and others with legal knowledge, in the city's labor controversies. This produced vigorous debates over the implications of labor law and the regime of industrial democracy established during the New Deal for the various union strategies pursued by black workers. But Houston's black labor factions did not just react to the legal and administrative rules of American unionism, they also worked to shape them, first in the 1930s through an effort to create statutory protections for independent black unions and later in the 1950s, as attorneys helped groups of black industrial laborers in Houston fight a campaign against union discrimination using the materials of labor, constitutional, and administrative law.

The record of competition between differing types of black labor movement participation requires taking seriously forms of black unionism that have largely been dismissed by historians.[26] Scholars of the post-WWII civil rights movement, especially those considering the legal fight against educational segregation, have for some time recognized that many African Americans in the 1940s and 1950s questioned the integrationist orthodoxy of the NAACP.[27]

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[26] Important exceptions include Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), which provides a rich account of the multiple forms of labor organizing at that company, and Eric Arnesen, *Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality* (Cambridge, Mass: Harvard University Press, 2001), which pays considerable attention to black independent railroad unions outside of the AFL.

[27] See Constance Baker Motley, *Equal Justice - under Law: An Autobiography*, 1st ed (New York: Farrar, Straus and Giroux, 1998), 107; Adam Fairclough, "The Costs of Brown: Black Teachers and School Integration," *The Journal of American History* 91, no. 1 (2004): 43–55; Amilcar Shabazz, "The Opening of the Southern Mind: The Desegregation of Higher Education in Texas, 1865-1965" (Ph.D. dissertation, University of Houston, 1996). For a

Similar dissenting voices were present on the question of black involvement in the labor movement. When the CIO came to Houston, not all black workers were ready to receive its embrace. There existed in several of the city's industries a preexisting tradition of black "independent" unionism, unaffiliated with any larger labor federation, which was mistrustful of white workers and labor organizers, favorably disposed to employers, and vehemently anti-CIO. Black independent unionism discounted class struggle, prizing instead black self-determination and autonomy. While stressing many of the same principles as the mainstream labor movement – among them, protection from arbitrary power, input into shopfloor decisions, and a right to organize freely – the independents saw the threat to these ideals emanating not from employers but from white workers and the CIO unions they dominated. Even within the ranks of CIO supporters, many black workers were hesitant to abandon older segregated structures of representation. For decades after the CIO officially endorsed integrated unionism, black workers in the oil and steel industries pressed to keep in place segregated union structures that maintained blacks in leadership positions and ensured a separate black voice, even as these set-ups arguably helped reinforce the color line in the workplace. Historians have frequently written off independent, company-friendly unions and segregated unionism as the product of management domination and white racism. Such a critique fits with a modern preference for integration and with the belief of many labor historians in the necessity of class-based activism. The support given by significant numbers of black workers to segregated arrangements, however, demands

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history of black schooling that questions the integrationist imperative, see Vanessa Siddle Walker, *Their Highest Potential: An African American School Community in the Segregated South* (Chapel Hill: University of North Carolina Press, 1996). A dissenting view, finding strong black support for the legal campaign against segregation, is Tushnet, *The NAACP's Legal Strategy against Segregated Education, 1925-1950*, 151.

that our picture of black labor activism be broadened to include them, lest we ignore important, if largely faded, traditions of black labor thought and participation.[28]

This study's first chapter considers the origin of independent black worker organizing during the open shop era of the 1920s and early 1930s. Black independents, like white company unions, were built to consult with management, not challenge it, and they drew the scorn of workers in "real" unions. Although deserving of much of the criticism directed at them, the independent unions had large memberships, and their leaders put up a full-throated defense of them as the institutions best suited to protect workers with limited power. The arrival in Houston of CIO unions open to African Americans produced a contentious split between black supporters of the new unions and those of the independents. As explored in Chapter 2, this division was, at its heart, rooted in divergent views of the relationship between majority rule and minority rights. Proponents of forming union coalitions with whites saw industrial democracy – the one area of political and economic life that counted blacks and whites equally – as a promising development. In the new regime of representation elections established by the Wagner Act, this camp believed, black votes would guarantee black rights, as insurgent CIO unions looking to build worker majorities would be driven to fairly represent the interests and respect the rights of black coalition partners. Others, fearful that white majorities would turn union power against black workers, adopted anti-majoritarian stances at odds with integrated unionism, urging black workers to remain apart from white labor in institutions they could control. This sentiment was not limited to the independent unions. Within the ranks of black CIO supporters were many who

[28] Black CIO opposition is considered in Richard Walter Thomas, *Life for Us Is What We Make It: Building Black Community in Detroit, 1915-1945* (Bloomington: Indiana University Press, 1992), 271–320.

pushed for union structures that would preserve separate black leadership and a voice independent from white union majorities.

These ideas were not just debated among workers on the shop floor. Ministers, lawyers, and leaders of Houston's civil rights organizations jumped into the labor debate, with opposing factions headed by the editors of rival Houston newspapers: CIO-booster Carter Wesley, and C.W. Rice, who used his paper to advance the independent union movement. Middle class backers of both sides joined with union men to press their case in churches, neighborhood meetings, in the press, and before policy-making, judicial, and administrative audiences. Changes in federal labor law offered different potential benefits to the opposing camps. While CIO proponents were energized by the Wagner Act's promise of industrial democracy and union power, those fearful of white-led unions hoped that the law might be used to discipline labor unions from the outside and worked to construct protections for black workers out of the statutory materials of the new labor rights regime. This dissertation follows these arguments and efforts, and while it examines workers' actions and organizing efforts, it is less about the experience of the average worker, or the meanings of work or unionism to them, than it is a story of the many mid-level organizers and activists, black and white, inside and outside of unions, who defined the strategies of the interrelated campaigns for labor power and economic equality.

Chapter 3 examines the workings of one of these broad strategies – the pursuit of equality through the mainstream labor movement – during the Second World War, when CIO unions in most of the region's industrial plants triumphed over their company union and independent rivals. Labor's gains were enabled by wartime changes in the job market, by federal policies that guaranteed union contracts and provided union security, and by black support. Black workers, despite their frequent misgivings about the intentions of their white co-unionists, became the

strongest backers of the CIO, drawn to its newfound strength and to its espoused policy of worker equality. They were also encouraged by the seeming commitment of the federal government to combat discrimination through the Fair Employment Practices Commission. The possibility of using state power to secure equal economic opportunity, however, put black labor backers in a bind, as white labor leaders cautioned that moves to impose equality from the outside would alienate white workers and jeopardize union majorities. It was one of several signs apparent during the war that industrial democracy was a weak tool for promoting economic equality.

Outside of a handful of activists committed in principle to organizing on the basis of racial equality, CIO members and leaders were opportunistic practitioners of biracial unionism. Where black membership was essential to gaining and holding union power, white CIO leaders secured material gains for black workers and committed to small steps towards workplace equality, in a few cases even backing challenges to the system of occupational segregation that limited black opportunity. But the industrial color line for the most part held firm, as unions minded the attitudes and interests of their white members. The intellectual justification black leaders had provided for supporting the CIO – that the need for black support would prod unions toward equality – proved true only where unions battled rivals for position. Where unions were securely established, white leaders would prove unwilling or unable to hold back rank-and-file moves to thwart efforts by black workers or by the government to remove the white monopoly on skilled jobs.

The establishment of the CIO in the refineries and steel plants around Houston was part of a larger expansion of organized labor in the South during World War II. Unions made inroads into the region's key industries – steel, autos, rubber, and tobacco among them – frequently on

the basis of strong support from black workers. In the half decade after the war, however, this movement receded. Operation Dixie, the CIO's plan to expand into the region's lowest-paying industries, was a notable failure, and significant numbers of Southern unions organized during the war with biracial support broke apart. Historians point to a number of factors for the decline: hostile state legislation, community opposition, skillful employer tactics often aimed at pulling apart fragile coalitions, and, as the anti-communist political climate of the Cold War intensified in the late 1940s and early 1950s, the marginalization and removal of the most committed and effective organizers from the labor ranks. In many histories of southern labor, the end of this period of social democratic activism stands as a major "opportunity lost," a noble mission brought down largely by external forces.[29]

As detailed in Chapter 4, hope that Houston's labor unions might serve to advance workplace equality faded quickly after the war. The biggest union boosters from Houston's black middle class abandoned the CIO in 1946, after the Steelworkers union at Hughes Tool, which had made moves to end workplace segregation during the war, was broken during a prolonged strike in which white workers switched their allegiance to the old company union. In contrast to the general trend in the South, most of the other refining and steel unions in the Houston area emerged from postwar strikes in a favorable position, with healthy memberships and a considerable measure of bargaining power. Union strength, however, allowed leaders to sideline black interests, not advance them, and in the postwar years their energies were directed

[29] See Michael K. Honey, "Operation Dixie, the Red Scare, and the Defeat of Southern Labor Organizing," in *American Labor and the Cold War*, ed. Robert Cherny, William Issel, and Kiernan Walsh Taylor (Rutgers University Press, 2004), 235. Honey attributes the defeat of Operation Dixie to the "overwhelming power of ruling elites" and the "self-defeating politics of anti-communism within the CIO," while also recognizing the impact of the "increasingly virulent racism among white workers" fanned by Southern politicians and segregationists. On lost opportunity, see also Robert Korstad and Nelson Lichtenstein, "Opportunities Found and Lost: Labor, Radicals, and the Early Civil Rights Movement," *The Journal of American History* 75, no. 3 (December 1988): 786–811. By ending their treatments of New Deal and World War II era unions in the late 1940s and early 1950s, many studies of Southern labor and civil rights in this era reinforce the opportunity lost notion

towards securing improvements in pay and furthering control of the work processes, goals that were entirely compatible with maintaining the industrial color line.

For Houston's black industrial workers, there was no "lost opportunity" to pursue racial justice in tandem with the labor movement. Indeed, the record of unions after the war suggests that such an opportunity never really existed. Biracial unionism was the product of incentives in contested organizing campaigns, not the result of working class solidarity. Nor did it generate lasting commitments that would bind white union members to represent black interests once unions were solidly in place. The racism of white workers does not provide a full explanation for unions' acceptance of discrimination; the institutional rules of American unionism, which gave worker majorities nearly unchecked power to negotiate on behalf of all workers on a jobsite, deserve much of the blame. With union agendas and bargaining positions determined by majority rule, the internal battle of interests between lower wage black workers who demanded access to skilled jobs and whites who had a monopoly on them would always be decided in favor of white majorities. In this way, Houston's white-dominated CIO unions were exactly what federal labor law had designed.

It was these issues of unrestrained majority rule and federal labor law to which Houston's black industrial workers turned in the 1950s. Thwarted in their attempts to gain access to better jobs through union democracy and the union hierarchy, black oil and steelworkers, supported by the local NAACP chapter and Roberson King, a young law professor at Texas Southern University, pressed claims in the courts and in administrative agencies challenging the discriminatory practices of their unions and their employers, all with the hopes that they might share equally in the benefits of work and union membership. This legal campaign is considered in Chapter 5. While little noticed by later historians, it represented an important front in a larger

national fight in the 1950s and early 1960s by black labor leaders, many of the veterans of wartime activism from Northern unions with large and organized black memberships, to pressure the AFL-CIO to crack down on racial discrimination, to gain a federal fair employment law, and to wield black labor's weight in political campaigns for pro-worker reforms.[30]

Like these actions, the legal course taken by Houston's industrial workers was part of a long line of efforts to overcome workplace discrimination, beginning in the 1930s as factions of black workers joined unions on equal terms with whites, continuing through the 1940s as they pressed union leadership and enlisted the federal government to act against unequal pay and job segregation, and, finally, as they pursued legal and administrative cases against their unions and employers. But while there existed a continuous struggle against second class status at work, the legal actions of the 1950s and early 1960s brought new tactics and a different orientation towards the labor movement that distinguished them from the efforts of black workers in the 1930s and 1940s to pursue equality through the CIO. It was a change that roughly matched what some historians have described as a shift from the social democratic outlook of the New Deal to the rights-based liberalism of the Cold War era.[31] As a legal move to assert a right to equal treatment and to limit the power of white union majorities, the suits filed by black workers against their unions reached back not to the reformism of the New Deal, but to the anti-majoritarian philosophy of Houston's black independent union advocates in the 1930s. Although abandoning the company-friendliness of the independents (employers, after all, were just as committed to segregation) and the insistence on maintaining separate black organizations, workers suing their unions shared with the old independent tradition a conviction that white-led

[30] William P. Jones, *The March on Washington: Jobs, Freedom and the Forgotten History of Civil Rights*, 121–161.
[31] On this general picture of a shift to rights-consciousness, see Nelson Lichtenstein, *State of the Union: A Century of American Labor* (Princeton, N.J.: Princeton University Press, 2003), 141-211, noting also the use of individual rights arguments by anti-union forces. On the move from economically-focused civil rights litigation to formal rights based claims in the 1950s, see Goluboff, *The Lost Promise of Civil Rights*.

unions could not be reformed from the inside; only a doctrine of equal rights enforced by the courts or the government would suffice.

But while Houston's black workers did turn towards rights-based equality claims, the history of the city's industrial unions and their black members complicates the neat distinction some have drawn between New Deal and Cold War liberalism. From the perspective of black workers, the social democratic promise of the New Deal and war years – pursuing black and labor rights in tandem – was never a reality, and its primary embodiment, the industrial unionism spurred by the Wagner Act, was incapable of forging a movement for racial justice in workplaces where race and job status were linked. Nor did the legal campaign of the 1950s and 1960s represent a retreat from the economically-minded goals of the New Deal era. While the legal road taken by black oil and steel workers was paved with arguments rooted in constitutional rights and concepts of equality, its end was decidedly substantive. The goal of the rights claims put forward before the courts and the NLRB was not paper equality, but access to job ladders and training programs, entry into which was crucial to black workers facing an era of automation and technological change. And though the suits sought to impose limits on union democracy, black plaintiffs did not want to destroy their unions. They aimed instead at securing full participation in the systems of job promotion and mobility that were the product of union power, claiming for black workers a rightful place within the structures of New Deal social democracy.[32]

Houston's legal campaign, while sharing aims with broader national efforts, was in the early 1950s part of a dissenting strain of black labor strategy. Even the national NAACP, the

[32] William P. Jones, "The Unknown Origins of the March on Washington: Civil Rights Politics and the Black Working Class," *Labor* 7, no. 3 (Fall 2010): 36 makes the argument that the history of black labor involvement in the civil rights movement, and the social democratic emphasis of movement leaders demonstrates the compatibility of the two categories of liberalism. Sophia Z. Lee, "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948-1964," *Law and History Review* 26 (2008) makes a similar point in reference to the NAACP's economically-focused litigation.

organization perhaps most convinced of the efficacy of legal action, at first urged black workers to pursue complaints through internal union processes, hopeful that union allies would press local unions to live up to the CIO's professed anti-discrimination policy.[33] But in the second half of the 1950s, a growing sense among the NAACP's labor and legal staff that unions would not police their own ranks prompted the organization to take a more confrontational stance, matching the legal efforts of Houston workers with a campaign to convince the NLRB to bar union policies and practices that restricted African Americans to low-skill, low-wage work.

As both the NAACP and the Houston group found out, neither the courts nor the NLRB were eager to intervene in labor matters, but their work slowly bore fruit, first as legal decisions and government-refereed negotiations led unions and employers to eliminate the most obvious forms of racial segregation, and finally in the 1964 *Hughes Tool* decision, which created a national precedent against union discrimination. The course taken by Houston's black oil and steel workers – looking to the courts and regulatory authority to remedy workplace discrimination – was one that became much more travelled in subsequent decades, especially after *Hughes* and Title VII provided the tools with which to build a body of judge-made and administrative law prohibiting a range of discriminatory employment practices.

Despite these victories, there were serious drawbacks to the legal approach. Courts had an exceedingly formal understanding of racial discrimination. For more than a decade after the Supreme Court in 1955 prohibited a Houston oil worker union from practicing outright workplace segregation, nominally color blind seniority rules, tests, and educational requirements that put up significant barriers to black advance continued to meet the approval of courts. The process was slow as well. A decade passed between the first lawsuit challenging workplace

[33] Despite his later academic reputation as a fierce critic of union racism, it was Herbert Hill who urged black workers in Houston to forgo legal action in favor of working through union processes. When Hill turned against the unions later in the decade, he did so passionately. Hill's work is considered in Chapter 5.

segregation and the *Hughes Tool* decision, and it was not until the late 1960s and 1970s that courts found grounds to dismantle many of the policies hindering equal opportunity in industrial settings.[34] By the time the courts had done their work, actual opportunity was fading. Employment numbers began falling in the refining industry in the late 1950s as the industry became increasingly automated. Jobs in steel began disappearing as well. It was a tragedy of historical timing: during the decades when work in those industries offered the most opportunity to advance into good, well paying, blue collar jobs, African Americans faced union and employer-imposed restrictions that denied them the rewards of work. That unequal access to employment, housing, education and other areas of American life denied many African Americans the full benefits of the great mid-twentieth century period of socioeconomic mobility is a familiar story that goes a long way to explain the persistence of racial inequality. It should not, however, blind us to the fact that efforts to press the courts and the NLRB to acknowledge a right of black workers to equal opportunity did in fact succeed in getting rid of some of the most discriminatory practices in industrial employment, and that the job ranks in Houston's refineries and steel plants, which still employed many thousands of black workers, began to integrate in the 1960s.

The legal campaigns fought by black workers in Houston and by the NAACP before 1964, and the longer tradition of black workers who believed that racial progress could not be achieved by working with the white-led labor movement, receives little attention today. Much more visible, and controversial, are the lawsuits pursued by black workers, often with NAACP support, against labor unions in the late 1960s and 1970s, seeking damages, back pay and remedy for job rules that perpetuated racial inequality within industry. Critics have faulted the legal approach to antidiscrimination for a number of reasons. Some have questioned the political

[34] See Minchin, *The Color of Work*; Smith, *Race, Labor & Civil Rights.*

wisdom of suing unions, accusing the NAACP of pursuing this path at the expense of building broader coalitions, and pointing to the ways that high litigation costs and court-imposed rules undermined a key ally in the fight to secure social and economic justice.[35] Others note the damage done to the Democratic coalition as affirmative action and other equality-minded policies put in place through consent decrees pushed white workers away from organized labor and the broad cause of economic justice.[36] Union backers and labor historians have also questioned the effectiveness of applying a rights-based doctrine to the complicated issues of union contracts. Court rulings, they argue, are too blunt an instrument to design systems that can bring about equal opportunity while respecting union priorities like seniority, a process better left up to union negotiation.[37]

This dissertation does not offer a full account of this post-1964 legal tradition, but the experience of black workers in Houston offers a rejoinder to pro-labor critics of legal action. Arguments for working within union processes give too much credit to the ability of union democracy to advance racial equality, imagining possibilities that largely did not exist. When Houston's unions were strongest, with the most power to shape the terms of work, they used that power to defend workplace segregation, and later to negotiate job rules that obviously disadvantaged black union members. The path to equality in industrial workplaces had to be one that relied on outside forces to bring antidiscrimination norms to bear. The New Deal labor

[35] Bayard Rustin, an organizer of the 1963 March on Washington, criticized the NAACP for not realizing the damage its lawsuits were doing to institutions that were crucial to a broader black/labor movement. In a series of articles in the 1960s and 1970s, Rustin urged black support for organized labor. See, for example, Bayard Rustin, "The Blacks and the Unions," *Harpers*, May 1971.

[36] See Frymer, *Black and Blue*.

[37] See especially Judith Stein, *Running Steel, Running America: Race, Economic Policy and the Decline of Liberalism* (Chapel Hill: University of North Carolina Press, 1998). More generally, critical legal scholars have argued that civil rights litigation was a poor substitute from more substantive action, and served lawyers more than it served black Americans. See Derrick Bell, "Serving Two Masters: Integration Ideas and Client Interest in School Desegregation Litigation," *Yale Law Journal* 85, no. 4 (March 1976): 470–516. More recent skepticism of the wisdom and effectiveness of rights-based litigation includes Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring about Social Change?* (Chicago: University of Chicago, 1991); Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004).

regime, designed in accordance with the idea that the interests of individual workers were best protected when they bargained with one exclusive voice, cherished majority rule. As with any democratic institution, there would be winners and losers as unions negotiated various contract terms that advantaged certain classes of workers over others. The linking of race and job status, however, ensured that once unions were in place and white workers were no longer split on the issue of representation, black workers would be a minority, facing a permanent majority faction with interests generally adverse to their own. Rarely, if ever, were there cross-cutting cleavages capable of elevating a shared black and white interest into the majority. Recognition of this dynamic lay behind the philosophy of black independent unionism, segregated CIO locals, and the legal and administrative actions undertaken by Houston's black workers and their allies in the 1950s and 1960s. Discrimination and inequality, of course, were never completely purged from the labor movement, but it was not until black workers began to find success in their push for guarantees of rights and equal opportunity that the structure of union democracy gained the potential to live up to its New Deal promise to promote the collective wellbeing of all workers.

Chapter One: Work, Race, and the Origins of Unionism in Oil and Steel

"Without oil, Houston would have been just another cotton town," observed a *Fortune Magazine* reporter dispatched to the city in 1939 to profile the big men and big money that ran one of the nation's newest and most important industrial centers.[1] In 1900, Houston was a city of moderate size and prosperity. Its advantageous location and transportation infrastructure – the Chamber of Commerce billed it as the place "Where Seventeen Railroads Meet the Sea" – enabled an economy based on the processing and shipping of natural resources, mainly Blackland Prairie cotton and East Texas lumber, the distribution of manufactured goods to inland destinations, and merchant banking.[2] On January 10, 1901, Houston's industrial destiny changed. Eighty miles east of the city, just outside of Beaumont, Texas, a drilling crew working a deep well tapped a pocket of oil trapped against a salt dome 1,139 feet below Spindletop Hill. The strike was unlike anything the veteran oilmen on the site had ever experienced. Gas pressure blew out the wellhead, sending sections of drill pipe shooting out the top of the derrick. A geyser of oil rose a hundred feet into the air continuously for nine days before it was brought under control. Successful wells in other East Texas locations might have produced twenty to forty barrels per day; Spindletop gushed almost 100,000.[3]

News of the Spindletop strike brought wildcatters and speculators by the thousands to Jefferson County, home to Beaumont and nearby Port Arthur. Despite the undeniable element of luck involved in oil exploration, the petroleum business – gathering oil, refining it, and moving product to market – required managerial knowledge, access to capital, connections with

[1] *Fortune*, Dec. 1939.
[2] Joseph A Pratt, *The Growth of a Refining Region* (Greenwich, Conn: Jai Press, 1980), 13–30.
[3] On Spindletop see Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Simon and Schuster, 1991), 66–71.

equipment suppliers, and relationships with purchasers and distributors in the major markets on the East Coast. Three companies quickly came to dominate in Jefferson County. Gulf Oil, founded with financial backing from the Mellon family in Pittsburgh, built a refinery in Port Arthur from which it loaded fuel oil and kerosene into tankers for sale in Europe and on the East Coast. By 1915, Gulf's refinery was one of the three largest in the United States and the largest on the Gulf Coast. The Texas Company (Texaco), founded by former Standard Oil manager Joseph Cullinan with his personal bankroll, marketed oil from its own Port Arthur works through the founder's past employer. The third major player, Magnolia Petroleum in Beaumont, sold refined product to its largest shareholder, Standard of New York (Socony).[4]

Although Jefferson County was home to much of the initial action after Spindletop, Houston, which in a rare moment of humility had briefly advertised itself as the "Gateway to Beaumont," soon became the center of the Texas oil industry. As early as 1902, production at Spindletop wells began to drop off, and the discovery of new fields at Sour Lake (1902) and two locations near Houston, Humble (1905) and Goose Creek (1908), decentralized production on the Gulf Coast.[5] The producing end of the oil business shifted frequently, as new fields came on line and old ones played out. The administration and management of the industry, however, found a stable home in Houston by the 1910s. Cullinan was the first to set up shop in the city. Drawn to its superior transportation, communication, and financial infrastructure, he moved the headquarters of the Texas Company to Houston in 1908. Hundreds of oil men, drilling contractors, engineers, and lawyers associated with the business soon followed, forming a cluster

[4] Standard of New York merged completely with Magnolia in 1959 to form the Mobile Oil Co. The early history of the Jefferson County oil boom and the rise of Gulf and Texaco is detailed in Ibid., 62–79; Diana Davids Olien and Roger M. Olien, *Oil in Texas: The Gusher Age, 1895-1945* (Austin: University of Texas Press, 2002); John O. King, *Joseph Stephen Cullinan: a Study of Leadership in the Texas Petroleum Industry, 1897-1937* (Nashville: Vanderbilt University Press, 1970); Pratt, *The Growth of a Refining Region*, 33–56.
[5] Olien and Olien, *Oil in Texas*, 42–47.

of petroleum knowledge and business relationships that would sustain the city as an oil capital well after adjacent fields went dry.[6] The concentration of oil men enabled the formation of combinations to rationalize production, spread the cost and risk of exploration, and find bulk buyers. In 1917, Ross Sterling, later to become a one term governor of Texas, joined a half dozen other producers to combine their holdings into the Humble Oil and Refining Company. Two years later, Standard of New Jersey took a controlling interest in the company. Although it was still managed from Houston, the majority of Humble's stock was owned by Standard, and the majority of its product was purchased by the oil giant for sale on the East Coast.[7]

At the beginning of the oil boom, most oil field equipment came from suppliers in older producing areas in Pennsylvania and Ohio. Innovations in the Texas fields in the 1900s and 1910s, however, led to the establishment of a significant oil tools manufacturing industry in Houston. The key firm in the industry was the Hughes Tool Company. Howard Hughes, Sr., came to Texas in 1901, leaving behind a law practice in his native Missouri when he heard the news of the Spindletop strike. Hughes enjoyed a measure of success with his partner, drilling contractor Walter Sharp, in a small venture specializing in re-drilling dry wells. In 1906, after a layer of hard rock halted progress on a well, Hughes began looking for an alternative to the "fish tail" style of drill bit then in use. His answer came in a Shreveport bar in 1908, where a Louisiana oil field worker told Hughes of his idea for a new style of drill bit. The Harvard-trained Hughes bought the exclusive rights to the idea on the spot for $150. After a few weeks of tinkering, Hughes filed a patent for his two cone rotary bit. It was a beautiful piece of

[6] King, *Joseph Stephen Cullinan*, 182; Yergin, *The Prize*, 78. On the role of a petroleum "knowledge cluster" in Houston's growth see Federal Reserve Bank of Dallas, Houston Branch, "Houston in 1900, Part 2: Houston and the Texas Oil Industry," *Houston Business* (July 2002). On the movement of oilmen and their families in this era see Marguerite Johnston, *Houston, the Unknown City, 1836-1946* (College Station: Texas A&M University Press, 1991), 116–127.

[7] Henrietta M Larson and Kenneth Porter, *History of Humble Oil & Refining Company* (New York: Arno Press, 1959), 39–66, 71–77. Jersey Standard completed its purchase of Humble in 1959. The gasoline of the combined company was marketed under the ESSO name beginning in 1960. In 1972 it changed its name to Exxon.

engineering. The old fishtail bits scraped away material as they turned, quickly dulling when they hit rock. Hughes's new bit featured two cones with interlocking ridges of hardened steel that pulverized rock as they turned. The bit revolutionized the industry. Although expensive, it drilled a straighter hole, through harder rock, ten times faster than the old fishtail models, dramatically lowering total drilling costs.[8]

Hughes and Sharp set up a shop to produce the bits in Houston in 1908. After Sharp's death in 1912, Hughes assumed control of the company. Although it would remain the dominant firm, Hughes soon gained competition. In 1917, the Reed Roller Bit Company established a Houston plant to produce a competing rotary bit and reamer of slightly different design. Other steel manufacturing companies offered different oil field supplies. The Howard Smith Company began producing pipe fittings in 1917; W-K-M Manufacturing made rotary slips and valves; Cameron Iron Works opened in 1922 to produce its innovative blowout preventer, a device that kept pipe and well casing from exploding out of the wellbore when drilling penetrated pockets of high pressure oil or gas.[9] As American oil exploration expanded in the 1920s, Houston's steel manufacturing industry grew to supply the market for oil tools. By the end of that decade, there were forty-one machine shops in the city with a combined employment of 5,800, of which 4,200 were hourly production workers.[10]

Fueled by the oil industry, Houston grew rapidly in the first two decades of the twentieth century. A town of 44,000 in 1900, Houston counted 138,000 residents in 1920. While it had

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[8] R. C. Gano, "HUGHES, HOWARD ROBARD, SR.," *Handbook of Texas Online* (http://www.tshaonline.org/handbook/online/articles/fhu16), accessed Jan. 12, 2013. Published by the Texas State Historical Association; Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), 36–37.

[9] Examples and history of early oil tools industry from David G McComb, *Houston, a History* (Austin: University of Texas Press, 1981), 80–81; Olien and Olien, *Oil in Texas*, 59–62.

[10] United States Bureau of the Census, *Fifteenth Census of the United States: Manufactures, 1929* (U.S. Government Printing Office, 1933), 517, tbl. 14. The employment figure is provided for machine shops. The figure is not entirely reliable, as it may include a small number of workers in shops not engaged in oil tools production.

become the managerial seat of the Texas oil boom and home to the nation's largest concentration of oil tool manufacturers, most of the refining capacity on the Gulf Coast remained in the three big facilities – Gulf, Texaco and Magnolia – in Jefferson County. The Houston area lacked access to a deep-water port necessary to accommodate the tankers that moved refined product to markets in the northeast. Goods moving from the Port of Houston had to be transported first to Galveston, either by rail or by shallow bottom drafts on Buffalo Bayou, before loading onto ocean-going vessels. In 1914, Houston's industrial leaders solved this problem by widening and deepening the bayou, allowing large ships to make the fifty mile trip from the Gulf of Mexico to the port.[11]

Completion of the ship channel set off a boom in refinery construction in the tax-favored navigation district created on either side of its banks. The Humble Oil Co. built the largest of these refineries on a site thirty miles east of Houston, adjacent to the Goose Creek oil field on the north side of the channel where it met Galveston Bay. Construction at the 2,200 acre site, named Baytown by the company, began in 1919. It was a monumental undertaking. The swampy land, where work crews sometimes labored in waist deep water, had to be cleared, drained, and leveled before concrete footings could be poured to hold the refinery units. Wells were drilled to provide fresh water for operations, utility lines were strung, and a railroad spur built. Excavating crews labored to install sewer lines and pipelines, and carpenters and bricklayers constructed the pump houses, outbuildings, and workshops that would surround the refinery stills. Pilings were driven for a six hundred foot concrete pier that extended into the

[11] By 1930, Houston had overcome its traditional rival Galveston as the largest cotton processing and shipping port in the world, and was surpassed only by Los Angeles and New York nationally in the value of goods that crossed its wharves. See Houston *Post*, November 5, 1929; Marilyn McAdams Sibley, *The Port of Houston; a History* (Austin: University of Texas Press, 1968), 114 – 168; McComb, *Houston, a History*, 92 – 95, 118 – 119. The high ranking of the port by value of goods shipped was the result both of a growth in traffic and the relatively high price of the petroleum products shipped. In 1924, these products made up 79% of the total value of goods shipped from Houston. By contrast, cotton processing and shipping, a major activity and employer at the Port, made up only 7% of total value. See Pratt, *The Growth of a Refining Region*, 74, table 3.9.

channel for loading and unloading ships. The Baytown refinery opened on April 21, 1921 – San Jacinto Day, commemorating the 1836 victory of Texas forces over the Mexican Army at a site only a few miles away.[12] Major national firms Sinclair Oil and Shell followed suit, opening ship channel plants in Houston in 1920 and nearby Pasadena in 1929, respectively.[13] Texaco added a refinery on the north side of the channel in Galena Park. Five other small and medium sized concerns also built on the channel in the 1920s.[14]

Houston boomed in the 1920s as its population more than doubled to 292,350. All aspects of the oil business grew to meet expanded national demand for petroleum products, especially gasoline. Houston existed in a symbiotic relationship with the automobile industry. As Detroit's innovations in production and marketing drove consumer demand, Hughes's revolutionary drill bit allowed access to deeper and more plentiful crude sources at lower cost, providing cheap fuel to a nation falling in love with the automobile.[15]

Drivers' thirst for gasoline spurred expansion and technological change in the refining industry. Traditional refinery techniques used heat to distill crude into a profile of resulting petroleum fractions. Refineries before the 1920s produced a ratio of fractions that was high in kerosene, but had few of the light hydrocarbons necessary for gasoline. As electricity replaced kerosene lighting, refiners adopted new processes that used higher temperatures and pressures to

[12] Larson and Porter, *History of Humble Oil & Refining Company*, 198–201.
[13] In the early years of the Shell refinery, its location was usually referred to as Pasadena, although it was technically adjacent to the much smaller town of Deer Park. The union local that would eventually organize the refinery was based in Pasadena as well. For consistency, here the refinery location is called Pasadena, although today the Shell refinery is known as the Deer Park Manufacturing Complex and is part of that city.
[14] Pratt, *The Growth of a Refining Region*, 72 – 75. Even as crude production from local fields was outpaced by new finds in the Panhandle, West Texas and, after, 1930, the gigantic East Texas field, the ship channel remained the crucial choke-point through which much Texas crude moved before heading off to East Coast markets, a position secured not only by access to ocean going commerce, but by the enormous capital expenditures already sunk into the channel's large, technologically-complex facilities.
[15] On the interconnected role of the ship channel, oil firms, and supporting industry in Houston's growth, see Joe R. Feagin, *Free Enterprise City: Houston in Political-economic Perspective* (New Brunswick: Rutgers University Press, 1988), 43–72.

"crack" heavier hydrocarbons into the more desirable light ones.[16] Throughout the 1920s, the large refineries on the ship channel were constantly under construction to expand capacity and install new advanced distillation towers and thermal and steam cracking units. In 1921, the Baytown refinery had a daily capacity of 10,000 barrels. Ten years later it stood capable of processing 125,000 barrels a day, making it the largest plant on the Gulf Coast.[17] Combined, the ship channel refineries employed roughly 7,000 production workers, collectively making them Harris County's single largest industry, above the 4,200 production workers in steel fabrication.[18]

Novel technologies and increasing complexity required a workforce with a range of skills. Refinery work was divided into three segregated categories: operations, mechanical, and labor. Whites, mostly Anglos from east Texas but also a significant number of Cajuns from southwest Louisiana, worked in operations as skilled gaugers, stillmen, pumphouse men and clerks running the refinery units, or in the mechanical division, which employed carpenters, electricians, welders, boilermakers, pipefitters, and other craftsmen to build and maintain

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[16] A clear technical overview of refining process history is provided by John L. Enos, *Technical Progress and Profits: Process Improvements in Petroleum Refining* (New York: Oxford University Press, 2002).

[17] Larson and Porter, *History of Humble Oil & Refining Company*, 218.
The capacities (in bpd) and national ranking of American refineries in 1940 were:

1. Humble – Baytown – 140,000
2. Texaco – Port Arthur – 135,000
3. Gulf – Port Arthur – 125,000
4. Jersey Standard – Bayonne – 124,000
5. Standard of Indiana – Whiting – 119,000
6. Mobile (Magnolia) – Beaumont – 100,000
7. Jersey Standard – Baton Rouge – 100,000
8. Standard of California (Chevron) – El Segundo – 100,000
9. Standard of California (Chevron) – Richmond – 100,000
10. Standard of Indiana (Pan American) – Texas City – 94,000

Source: Winona Patton, *United States Petroleum Refining, War and Postwar* (Washington: U. S. Govt. Print. Off, 1947). Cited in Pratt, 86, n.13.

[18] Pratt, *The Growth of a Refining Region*, 79, tbl. 3.10. The 1929 Census of Manufacturers omitted a total count of refinery workers for Harris County in deference to concerns that the figure could be used to divine information about individual firms' economic performance. The 7,000 figure was calculated by Pratt by comparing Harris County output with that of Jefferson County, where employment figures were published.

refinery equipment.[19] The large companies often brought in senior men from other refineries to train skilled process workers. Humble, for example, imported its entire corps of foremen, known as the "New Jersey Yankees" by Baytown's native workers, from the plants of its corporate parent. Many of the tradesmen in refinery mechanical divisions were hired away from work in oil fields, railroads, or the building trades, where blacks were excluded from skilled positions by custom and by all-white unions.[20]

The labor division existed at the bottom of the refinery hierarchy and was staffed largely by African Americans, and, in some refineries, by smaller numbers of white and Mexican workers. The Magnolia refinery newsletter captured the attitude of management towards laborers in its 1921 description of the "mules, niggers, wheelbarrows and a few white men [that] form one of the largest and most essential departments of our refinery."[21] That racist view of black laborers was undoubtedly shared by the vast majority of white workers. For white workers, the labor division could be an entry point into higher semi-skilled and skilled work. Minority workers, however, could not rise into the operations or mechanical divisions. Many black workers in ship channel refineries in the 1920s were first hired to do the hard preparatory work of clearing and draining land before construction and continued to perform the most labor intensive, hot, and dirty work once the plant was open. Segregated labor crews dug trenches for pipelines, moved materials around plants and on the wharves, and cleaned noxious chemicals and deposits out of tanker holds, boilers, and stills, where men donned all the clothes they could

[19] Tyler Priest and Michael Botson, "Bucking the Odds: Organized Labor in Gulf Coast Oil Refining," *Journal of American History* 99, no. 1 (June 2012): 100–110; Darrell G. Welch, "Union Activity in the Petroleum Industry of Texas" (M.A. Thesis, University of Texas, 1950), 106–111.
[20] Larson and Porter, *History of Humble Oil & Refining Company*, 198–209. Some of the larger refineries also had laboratory or research divisions. Humble's was initially staffed with graduates of Northern universities, mostly MIT, but the company later began to hire graduates from Texas and other regional institutions.
[21] *Magpetco*, v.1, no.1 (April 1921). Quoted in Pratt, *The Growth of a Refining Region*, 184.

put on to guard against temperatures that could reach 200 degrees.[22] Some African Americans were employed in semi-skilled trades. Black bricklayers, concrete pourers, and carpenters, for example, performed some of the same tasks as whites in the mechanical division. Following the practice of the construction industry, however, any work done by blacks was classified as "common labor" rather than craft work and paid a lower wage than comparable work done by whites.

A similar pattern of segregation and job and wage inequality existed in the oil tools industry. Custom, training, and, most immediately, company policies demanded that all machinists, blacksmiths, boilermakers, patternmakers, and other skilled workers be white. The exclusion of blacks from machine work was common practice in industries nationwide, based on widely held notions of the inferiority of black labor and reinforced by white craft unions. In Houston's tool shops, most of the semi-skilled jobs like machine maintenance and shop assistant were also reserved for white workers. Although much of the work performed by African Americans required considerable skill, black workers were prohibited from rising to the positions and pay grades of skilled and semi-skilled white workers. At the bottom level of skill and pay was the heavy work of moving raw materials around the plant and the hot and dangerous jobs in the foundry and in the heat-treat departments. All of these jobs were done by black laborers.

Work in refineries and machine shops, where production ran continuously, was rigidly controlled by foremen who had complete authority over hiring, firing and job placement. It was also dangerous, especially in refineries, where workers were in frequent contact with caustic and explosive materials; chemical and flame burns were not uncommon. But refinery work was highly desired, as it paid better wages than any other job in the region. In 1916, for example,

[22] Ray Davidson, *Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union* (Denver: Oil, Chemical and Atomic Workers International Union, 1988), 83.

refinery machinists earned an average of $27.80 for a 48 hour work week. Machinists in other Houston industries earned between $16.78 and $22.60 working longer hours. The same held true even for black laborers, who earned on average $17.27 for a 50 hour week in a refinery. At the low end of the labor market, cottonseed oil mills paid black laborers $10.75 for an 84 hour week.[23] Although both refineries and steel shops were strictly segregated, high wages, advanced technology and capital intensity differentiated them from most Southern manufacturers. Refinery workers, for example, earned roughly the same amount as their counterparts in northern automobile and steel industries.[24]

Welfare Capitalism and Company Unionism in Boom and Bust

High wages were part of a strategy to ensure that production would remain uninterrupted by strikes. The expansion of refining and oil-related manufacturing during the 1920s coincided with a period of notable labor peace in Houston. In those keystone industries, good pay was joined with a paternalistic system of welfare capitalism and company-controlled employee organizations put in place by management to cultivate the loyalty of their growing workforces and to keep out unions. Hughes Tool and Humble Oil, the city's largest firms in their respective industries, took the lead in implementing these industrial relations measures. Both were driven by labor activism during the First World War. In late 1917, Texas Gulf Coast oil workers, some of whom labored as many as 84 hours a week, walked away from drilling rigs, pipelines, and refineries in Beaumont and Port Arthur to force Texas oil companies to accept recommendations from the War Labor Board for higher pay and a standard eight hour day. The companies broke

[23] Pratt, *The Growth of a Refining Region*, 159, tbl 6.2.

[24] *Houston*, Aug. 1938. In the 1930's, in fact, as Southern business sought to draw industry from the North with low wages, Houston's Chamber of Commerce advertised that the city was a booming consumer market, with wages on par with or exceeding those paid in Northern industrial areas.

the strike with replacement labor brought in under the protection of the Texas National Guard, local police, and private security forces.[25] At the war's end, 350 to 400 metalworkers in Houston's railroad and oil tools shops struck in an attempt to force employers to make permanent the government's pay guidelines. Again, the strikes were broken by replacement labor – skilled metal workers brought in from St. Louis, Cincinnati, and Pittsburgh and, in some cases, escorted into shops under armed guard.[26]

Although employers generally held the upper hand in the labor battles of the late 1910s and early 1920s, costly production shutdowns and criticism of harsh strike-breaking tactics convinced companies of the need for new labor relations strategies. In Houston's booming refining and steel industries, breakneck production, constant plant expansion, and high capital investment put a premium on labor peace, leading plant managers to cast about for an industrial relations strategy that could provide a stable labor supply and preserve the open shop. For the managers at Humble's Baytown refinery, that meant following the example of their corporate parent Standard Oil, which had become a reluctant leader in labor relations reform. After a 1914 range war between workers and agents of the Rockefeller-owned Colorado Fuel and Iron Company triggered a national outcry, Standard Oil head John Rockefeller Jr. hired industrial

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[25] Early pre-WWI unionization in oilfields is considered in Ruth Allen, *Chapters in the History of Organized Labor in Texas* (Austin, Tex: The University of Texas, 1941), 221–222; Welch, "Union Activity in the Petroleum Industry of Texas." On wartime strikes see Pratt, *The Growth of a Refining Region*, 164; Ernest Obadele-Starks, *Black Unionism in the Industrial South* (College Station: Texas A & M University Press, 2000), 69–70; Davidson, *Challenging the Giants*, 19–21; Harvey O'Connor, *History of the Oil Workers International Union* (Denver: Oil Workers Intl. Union, 1950).

[26] Some of the Northern replacement workers, among them union men drawn by the promise of open jobs in Houston, demanded to be given return train fare home when they found that their jobs required crossing picket lines. But others stayed, happy to find work. See Allen, *Chapters in the History of Organized Labor in Texas*; Botson, *Hughes Tool Company*, 42–52. Although replacement workers are usually thought to be Southerners filling jobs held by urban Northerners, blacks replacing whites, or the unorganized replacing union members, the example of Houston employers looking Northward for skilled strikebreakers is a reminder that so-called "scab" labor – a term that should not be used to describe workers who are often no more, and no less, motivated by calculations of self-interest than their supposedly solidarity-minded union counterparts – is primarily a function of market demand, usually flowing along the above channels, but in this case reversing during a time of labor surplus in Northern cities at the end of WWI.

relations expert Mackenzie King – later to become the long-serving Prime Minister of Canada – to overhaul labor policies across the family's interests.[27] King had two recommendations for reducing labor tensions and keeping unions at bay. The first was the Joint Conference, a plant-wide organization that brought worker representatives into regular contact with management to discuss issues of concern to workers. Second was welfare capitalism, an assortment of benefits intended to better workers' material conditions and encourage corporate loyalty among long-term employees.[28]

Over the course of the 1920s, variations of King's system were implemented across American industry, but it came first to Standard Oil's Bayonne, New Jersey refinery, where new benefits and the Joint Conference brought a measure of peace to a facility known as "Bloody Bayonne" for its recent history of labor violence. From there, it was carried to Baytown by J. Perry Moore, a young Texan dispatched to New Jersey to study under Standard's director of personnel and training. When Moore returned to Houston, he put in place a benefits program that gave workers sick pay, vacation days, death and disability benefits, a stock-purchase plan, and a pension system that rewarded workers with more than twenty-five years of service to the company. While most perks were available only to skilled and semi-skilled workers, Humble was unique in extending a minimum of benefits such as sick and vacation pay to all of the refinery's black and Mexican employees.[29] In general, however, Humble's benefits program reinforced the pattern of segregation in the refining industry. For "native born" white workers

[27] David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865-1925* (Cambridge [Eng.]: Cambridge University Press, 1987), 350. Although the resulting Colorado Industrial Plan was not the first of its kind, the Rockefeller connection garnered it national attention and it soon became a model of open shop industrial relations.

[28] George Sweet Gibb and Evelyn H Knowlton, *History of the Standard Oil Company of New Jersey, Volume 2: The Resurgent Years, 1911-1927* (New York: Harper, 1956), 249–59. After success at Bayonne, the Standard Oil model was adopted by G.E., Westinghouse, DuPont, International Harvester, General Motors and Goodyear Tire, among others. See Clarence J. Hicks, *My Life in Industrial Relations; Fifty Years in the Growth of a Profession* (New York and London: Harper & Brothers, 1941); Montgomery, *The Fall of the House of Labor*, 355.

[29] Larson and Porter, *History of Humble Oil & Refining Company*, 96–98.

and their families, the company established the community of East Baytown, built low-cost rental housing, a school, and a movie theatre, and provided mortgage financing for longer-tenured white workers who wanted to build their own homes. No such provisions were made for "common laborers." Throughout the 1920s, many of the refinery's black employees and their families lived in the shoddy bunkhouses the company had built in 1919 to house construction laborers.[30]

As the refinery grew, the company worked to keep a strong relationship with a workforce that rose from less than 100 workers to more than 4,000 by the end of the 1920s. Whereas refinery bosses may have once communicated with employees face-to-face, they now took to the pages of the newly-launched *Humble Magazine* to convey the company outlook and policies. Three times a year – on Labor Day, San Jacinto (Texas Independence) Day, and on the company's own holiday, Humble Day – President Ross Sterling and other top brass travelled from the downtown headquarters out to Baytown for giant BBQs, an opportunity for "shirt-sleeved company officials" to "recapture something of the intimacy of earlier days… [by] mingling with the employees and their families, calling them familiarly by their nicknames, [and] exchanging friendly talk, banter, and reminiscences."[31]

The most important link between workers and the company, however, was the Joint Conference, which provided a regular forum for managers and elected worker representatives to settle disputes and discuss wages, hours, and working conditions. Humble looked to the JC to help quell workers' calls for a union, but it was not simply a way to dress-up the open shop. Workers were able to put it to good use. Through the JC, management agreed to a host of measures intended to address one of workers' persistent complaints: the power of individual

[30] Ibid., 212.
[31] Ibid., 97–8.

foremen to make seemingly arbitrary employment decisions. The company adopted recommendations for written standards for discipline and dismissal, an appeal system, and an informal seniority system that would govern the plant's seasonal cycle of layoffs and rehiring.

Despite these gains, the design of the JC left little doubt who was ultimately in control. Management held a majority of seats in the conference, and the refinery superintendent had final say in all decisions. Refinery management used its position to hold back any worker demands that would impose upon its absolute control over production. In 1926, the superintendent refused the request of worker representatives to create a worker safety committee, despite the fact that the Baytown refinery was the most accident-prone in the Standard Oil family, with an annual rate of 2,266 accidents per 1,000 workers. Management also dismissed calls for an eight hour, six day work week as a dangerous "Bolshevik idea" and a "radical social experiment." While Baytown management would not accommodate worker desires submitted through the JC, they did have to bow to bosses in New York. A personal directive from Rockefeller Jr. eventually forced the adoption of the forty-eight hour week, and he dispatched a new industrial relations director from New Jersey in 1929 to finally put in place a safety committee at the plant.[32]

The Humble program of welfare benefits and employee representation was soon imitated by other Houston area industries. Flush with profits, the region's oil companies gladly accepted the higher labor costs that came with Humble-style health care, retirement, and housing benefits as the price of avoiding worker-controlled unions. At the same time, the major refiners – Gulf, Texaco, Magnolia, Sinclair, and Shell – all implemented employee representation plans (ERPs), some closely modeled on the Baytown Joint Conference and others with more informal structures. Texaco, surveying its own welfare benefits, claimed that it was "truly striving to become something more than just a place where oil is refined," assuring its workers in the

[32] Ibid., 103, 211.

company magazine that their fortunes would rise along with the firm's. Magnolia similarly bragged in its house organ that the company's new labor posture put it firmly "in the vein of humane, progressive, and enlightened employers of labor."[33]

As Standard's open shop model spread to area refineries, the Hughes Tool Company, the largest of Houston's oil tool manufacturers, formulated a related system of benefits and representation for its segregated workforce. Company president and founder Howard Hughes, Sr., dismayed that many of the roughly fifty skilled metal workers in his employ had joined the metal worker strike during World War I, took steps to ensure worker loyalty as his company grew. In 1918, Hughes moved out of its original downtown shop to a large facility on Harrisburg Road in the East End. The new campus was built with worker benefits in mind, with a laundry and medical clinic as well as a gymnasium and baseball and football fields for company-sponsored sports programs. Hughes offered many of the fringe benefits recommended by the National Association of Manufacturers and the American Iron and Steel Institute's anti-union "American Plan of Employment:" savings accounts with favorable interest rates and bonuses, home ownership and stock purchase plans, life and burial insurance, workers compensation, and new job training and safety courses.[34]

In an effort to build the sort of "personal" relationship that Hughes Sr. envisioned having with his workers, the company in 1918 established the Hughes Mutual Welfare Organization (MWO), a nine member shop committee that met regularly with the founder to discuss issues of mutual concern. However, like other employee representation programs of the era, the MWO was, in practice, a one-way street. As Hughes Sr. saw it, the main cause of worker discontent was poor communication; if employees understood how policies benefitted the corporate family,

[33] *Texaco Star* v.13, no.3 (March 1926), 13; *Magpetco* v.6, no 5 (April 1921), 27. Quoted in Pratt, *The Growth of a Refining Region*, 168.
[34] Obadele-Starks, *Black Unionism in the Industrial South*, 83–4.

their concerns would be satisfied. Matters of crucial importance to workers, among them hours, wages, and piece rates, were deemed inappropriate subjects for discussion. Management did not intend the MWO to become a forum for haggling. For matters relating to work rules and procedures, the MWO had a standing shop committee, but it too favored management. With four seats filled by worker elections and five filled by the company, employees may have been given the feeling of representation, but they had little real bargaining power.[35]

The production of Hughes's signature drill bit required large numbers of skilled workers. To meet this skill demand, the Hughes industrial relations department implemented training programs to help move workers up the skilled lines of progression. Technical education, the passing on of knowledge and technique from skilled craftsmen to younger or lesser-skilled workers, was traditionally within the purview of the craft unions and guilds in the steel and metal working industries. But as Hughes Tool expanded, it took control over and institutionalized this role. The organization of the MWO transcended traditional craft and skill divisions in the white workforce. As a Hughes worker rose along a line of progression or moved into a different skilled line, he would remain part of the MWO, which would provide seamless benefits and a constant relationship with the company.

The MWO may have bridged skill divisions, but it reinforced the fundamental color line in the plant. African Americans at Hughes were not eligible for the fringe benefits provided to white workers, nor were they part of the MWO. In 1924, Richard Guess and Joe Polk, both African American garage laborers, started an independent black welfare organization to fill this void. The Hughes Tool Colored Club (HTC) provided its members with supplemental sick pay,

[35] The early history of Hughes' company unions is provided in the findings of In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836 (1940). See also, Botson, *Hughes Tool Company*, 52.

burial benefits, and a loan program, and ran a charity fund, all supported by member dues.[36] Unlike the MWO, the HTC was not a creation of the company and thus had no formal shop committee or link with management. After the death of Hughes Sr. in 1924, however, the HTC gradually assumed a semi-official role at the plant. Howard Hughes Jr. inherited a majority stake of the company but, wanting little to do with its day-to-day operations, turned over management to Colonel Rudolph Kuldell, a Pittsburgh-born graduate of West Point and the Army's engineering school. Kuldell introduced continuous twenty-four hour manufacturing to Hughes and presided over the dramatic expansion of the company in the second half of the 1920s.[37]

Hughes's growing ranks – topping 2,000 by 1929 – made the MWO even more important to company bosses facing a great number of newer employees with little loyalty to the firm or contact with management, and with African Americans making up a quarter of the men streaming through the plant gates every shift, Kuldell recognized the need to establish the HTC as the legitimate and semi-official representative of black workers. The key figure in this process was HTC President Richard Guess. Kuldell gave the HTC his endorsement by ordering his managers to attend club meetings and set up Guess as the sole link between black workers and the company by inviting him to the otherwise all-white executive meetings. By the end of the decade, Kuldell considered Guess's leadership important enough that he hired a new man to replace him in the garage, keeping Guess on the payroll to continue his work with the HTC full-time.[38]

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[36] *Negro Labor News*, March 2, 1940 provides an overview of the HTC's early years.
[37] Botson, *Hughes Tool Company*, 56. Although ownership of the company fell to Howard Hughes Jr. after his father's death, the 18 year old Hughes soon departed for California, leaving all responsibility for the company with Kuldell (for which he was paid handsomely).
[38] *Negro Labor News*, March 2, 1940; Obadele-Starks, *Black Unionism in the Industrial South*, 83–84; Botson, *Hughes Tool Company*, 53.

During the booming 1920s, the system of welfare capitalism and employee representation helped ensure the open shop and labor peace in Houston's industries. Were the relatively sanguine labor relations of the era a sign that these arrangements also served the needs of workers? Employee representation plans like the Humble JC and the Hughes MWO were faulted by contemporary labor organizers (and later by labor historians) for their chimerical representation schemes and corporate fealty. One oilworker called the generous benefits and company-sponsored activities "a silken cord [that] tied employees to the employer in leisure hours while stronger lashings controlled working time."[39] To be sure, the system of welfare capitalism could be starkly paternalistic at times. Through benefit plans, corporate management could observe how employees managed their private lives. Humble bosses, for example, partially based seasonal furloughs on the records of Humble's investment plan. Savers were generally retained, and supposedly profligate workers (or those who kept their money outside Humble) were cut.[40]

Despite these shortcomings, the stability of the various labor relations set-ups in Houston's big plants during the 1920s provides evidence that they met some important needs of workers.[41] The financial benefits conferred were, after all, quite real, and for most workers a refinery or steel fabrication job in all likelihood represented a material improvement over previous employment, especially for those who had come to Houston from Texas farms in the era of depressed agricultural prices and the boll weevil. Perhaps most significantly, there was little visible, or viable, alternative to the company-sponsored representation plans at this time.

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[39] Davidson, *Challenging the Giants*, 11.
[40] Larson and Porter, *History of Humble Oil & Refining Company*, 101.
[41] On this point generally, see David Fairris, "From Exit to Voice in Shopfloor Governance: The Case of Company Unions," *The Business History Review* 69, no. 4 (December 1995): 494–529; Daniel Wilson, "Employee Representation in Historical Perspective," in *Employee Representation: Alternatives and Future Directions*, ed. Bruce Kaufman and Morris Kleiner (Madison: IRRA, 1993), 371–390.

Longer-serving workers remembered the vehement union opposition during and after World War I. The subsequent decade had brought them many of their demands, if not a real union, without the economic and physical danger of long strikes. Meanwhile, many of the thousands of new hires had never labored under any other system.[42]

When employers were flush, welfare capitalism and employee representation plans kept labor agitation and unions at bay. The depression, however, brought falling demand and prices for petroleum products, forcing refiners to scale back production, cut jobs, and squeeze labor costs. The situation was worse in oil tools. The discovery of massive oil fields in East Texas in 1930 put vast supplies of crude onto the market just as demand was falling. The production glut brought drilling, and thus demand for rotary bits and wellhead assemblies, to a near standstill.[43] As Houston's refiners and oil tools manufacturers scaled back to meet the deflationary pressures of the Depression, the open shop system began to crack.

By the end of 1932, the Hughes plant, frantic with round-the-clock production just three years prior, now sat idle more than half the day. The company ran only one shift, trimming it or cancelling it all together during slack times. The workforce fell accordingly: from a high of 2,150 in 1929, job cuts left only 900 employees in 1933, some of them working only

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[42] This is not to say that the people who came from agricultural life were less historically or ideologically suited for collective action, only that visible and viable alternatives in factories had been fully pushed aside in the 1920s. Praise for the rugged, agrarian, or small-town individualism of Texas workers has often been offered by employers, especially when touting the anti-union "Americanism" of their workers to audiences of Northern investors. That individualist assumption has found its way into histories of Texas labor as well. Ruth Allen, perhaps the original Texas labor chronicler, at times fell back on this assumption (especially in her descriptions of oil field workers) even as she documented the rise to collective action and labor activism of cowboys, roughnecks and roustabouts, and lumbermen in late 19th and early 20th century Texas. See generally Allen, *Chapters in the History of Organized Labor in Texas*. More recent considerations of early Texas labor organizing are in David O'Donald Cullen and Kyle Grant Wilkison, eds., *The Texas Left: The Radical Roots of Lone Star Liberalism* (College Station: Texas A&M University Press, 2010). The argument for the agrarian impediment to collective action is seriously hindered by the radicalism of Texas farmers in the late 19th and early 20th century. On this point, and its implications for bi-racial political action, see Lawrence C. Goodwyn, "Populist Dreams and Negro Rights: East Texas as a Case Study," *The American Historical Review* 76, no. 5 (December 1971): 1435–1456. See also Chandler Davidson, *Race and Class in Texas Politics* (Princeton, N.J: Princeton University Press, 1990), xxiii–xxviii.

[43] The State of Texas and the federal government propped up crude prices by capping the amount of oil each producer could pump, saving many from bankruptcy, but this "prorationing" policy did nothing to increase drilling.

occasionally. To trim labor costs, hourly pay was reduced by an average of twenty-five percent over the same period, and the company moved to extract more labor out of each worker hour, speeding up the pace of production and stretching out each worker's responsibilities, making, for example, one operator responsible for two machines.[44]

Hughes workers could do little to stop the cutbacks. Col. Kuldell had looked to the MWO and the HTC to build a close relationship with workers as the company had expanded in the 1920s. But economic reality quickly forced him to abandon the company's old policy. Kuldell slashed benefits and recreation programs and disbanded the MWO, an acknowledgement, perhaps, that when company and employee interests were so obviously opposed, the MWO would no longer be able to claim a role representing workers; better for Hughes to have no MWO at all than to provide a company forum for workers to voice their anger. Richard Guess's HTC, in contrast, stayed active. Despite its quasi-official status, the HTC paid benefits to black workers out of its own member-funded pool, insulating it from company cutbacks. In this respect, black workers fared better than their white counterparts, even though African Americans at the bottom of the skills ladder were at the greatest risk of losing their jobs.[45]

Humble officials did not abandon their representation system so easily. At the onset of the Depression, refinery management accepted a proposal from employee representatives on the JC for a share-the-work program that pared shift lengths and the weekly hours of each employee. Accommodating workers' desires to spread out the available work helped maintain the legitimacy of the JC system, but it came with a cost to the company; layoffs would have reduced overhead and provided greater labor savings. As Baytown's production fell, work days were

[44] Botson, *Hughes Tool Company*, 61.
[45] *Negro Labor News*, March 2, 1940.

spread thinner, and by 1932, some departments had standard workweeks of less than twenty-four total hours.[46]

Management flexibility could only go so far, however, and as the Depression continued it became more apparent that the JC could not protect employees from the pain of business contraction. Despite work sharing, by 1933 approximately 1,300 workers had been laid off, roughly one-third of the refinery's pre-Depression workforce. The harsh economic climate also washed away some of the veneer of mutual interest that the JC had provided. In making the cuts, the company ripped up the old conference-negotiated seniority system, putting in its place a new "ability rating" scheme in which personnel decisions would be made miles away from the refinery at Humble's downtown headquarters. Those decisions were based entirely on assessments by department supervisors, who submitted reports classifying individual employees as part of an "outstanding 10 percent," a "loyal and efficient" 65 percent, and a "questionable" 25 percent. Although sold as an "objective" approach, workers protested that the rankings were arbitrary, a reflection more of obsequiousness to their supervisors than of skill or efficiency.[47]

Even with layoffs and hours reductions, persistent low prices for refined petroleum products destroyed the margin on each barrel coming out of Baytown. The refining division suffered a large loss in 1931, leading Humble's downtown executives to pressure Baytown to boost operating margins by cutting wages. The demand triggered a debate within the company. Baytown's industrial relations chief warned executives that wage cuts would breed resentment (and possibly organizing) among workers, but downtown pressed forward. Rounds of wage cuts in 1932 touched all pay grades, from highly skilled technicians in the laboratory down to

[46] A year later, NRA petroleum codes standardized the refinery workweek at 36 hours. The upturn in demand and NRA-influenced stabilization of refined product prices may have led Humble to increase work hours regardless of the codes.
[47] Larson and Porter, *History of Humble Oil & Refining Company*, 356–358.

common labor, and they hit pocketbooks hard: wages for white unskilled workers, for example, fell from 50 to 40 cents an hour. Common labor fared even worse. Between cuts in wages and hours, their take home pay fell an estimated forty to sixty percent from 1929 to 1933. In comparison, the average decline for production workers was 28 percent.[48]

The refinery's industrial relations man had been correct. Unilateral action by management to remake the seniority system and cut wages angered workers. Acting without input from worker representatives also caused Baytown bosses to misjudge workers' desires. In 1933, the company assigned all of the refinery's white "surplus" workers, regardless of division, to a repair detail. For cleaning and painting the men were paid twenty-five cents an hour, well below the wages of any white worker in the refinery. Management thought the work would be appreciated. A small paycheck was, after all, better than none. But the men hated the "two bit gangs," as the detail was derisively labeled. If the work was worth doing, they argued, it was worth doing at the regular wage. In addition to the steep drop in pay, workers on the two bit gangs were bitter that management had thrown them down the job ladder, threatening their status as skilled white workers. The sting of demotion was felt most intensely by men from upper divisions like the laboratory – white men with experience, skill, and in a handful of cases college degrees, now paid like "common labor."[49]

Serious flaws had appeared in employee representation programs during the early years of the Depression. For employers, economic downturn seemed to demand a free hand to quickly remake workplace policies. Many ERPs, like the EWO at Hughes, were simply cast aside, and

[48] Ibid. Cutting wages was the only real way to boost refining margins. Although labor was a relatively small factor of production, it was in some ways the easiest to cut. The pass-through cost of crude was set by Humble's production unit, which was obviously unwilling to inherit the refining division's balance sheet woes. Then, as now, major integrated oil firms privileged the profits of "upstream" operations, with refining and retailing seen as less important, if necessary, means of moving product to market.
[49] O'Connor, *History of the O.W.I.U.*, 114–117; 229–231.

the efforts to maintain the legitimacy of the Baytown JC had failed in the face of economic realities. Workers found that the employee representation plans put in place during the boom were powerless to stop businesses from shifting the burden of falling demand and prices onto their employees. The ERPs were tarnished in the eyes of workers, and the open shop system they were designed to support would soon be challenged as changes in government policy helped spur workers to seek out alternative forms of representation in the workplace.

A New Approach to the Problem of Depression: the NRA and the Origins of Worker Organizing

In 1933, with Houston's economy at its Depression era nadir and worker resentment building in factories, the federal government presented a new approach to the problems of a shrinking economy. Convinced that overproduction, unemployment, and falling prices and wages could be addressed by greater cooperation within industries, President Roosevelt pushed through his broad 1933 National Industrial Recovery Act (NIRA). The law loosened antitrust regulations and set up the National Recovery Administration (NRA) to oversee the creation of industry boards with the power to set production quotas and establish minimum prices for goods. The NRA presented an implicit bargain to business: in return for the ability to restrain competition and raise prices, industry would also boost wages, cut hours, and increase employment.[50]

The NRA reflected Roosevelt's ambitious belief in a managed economy, but the law left unclear the actual authority of the federal government to make and enforce codes. Most of the NRA's workings were put in the hands of national industry boards and local committees, which

[50] Alan Brinkley, *Liberalism and Its Discontents* (Cambridge, Mass: Harvard University Press, 1998), 27–30. Like the share-the-work program at Baytown, the NRA's maximum hours provisions were based on the assumption that fewer hours worked per individual worker would curb layoffs and, as the economy stabilized, drive re-employment.

could only encourage business and workers to follow the rules of minimum prices and wages. Boards might shame a noncompliant company by taking away the NRA's seal of approval – the Blue Eagle emblem – but the NIRA provided no explicit power to the government or the boards that could force a company to hew to the codes. The law's backers hoped it would not come to that. In their mind, businesses would be foolish not to realize that cooperation within industries and with workers was preferable to ruinous price competition and labor unrest.

American businesses quickly realized that the poorly enforced NIRA could be used to raise prices without matching gains in wages. The law's implicit bargain, in other words, was easy to break. From the beginning, the national code-making boards were stacked with industry executives and trade association lawyers. In un-unionized industries, or in ones where workers were divided among various craft unions, there was often no labor voice to push back against business dominance. Fewer than ten percent of boards had any labor representation at all.[51] Where labor did manage to secure wage or hours gains from boards, the complex (and sometimes contradictory) codes and the lack of any real enforcement usually left individual businesses free to ignore rules that would hurt the bottom line.

Houston's employers were accomplished manipulators of the new law. Like most of their national counterparts, the city's businessmen initially cheered the NRA's vision of a cooperative economy and the end of "dog eat dog individualism" in commerce and were quick to pledge their adherence. [52] The city post office reported that enthusiastic businesses depleted its supply of Blue Eagle decals in four days, which was, it claimed in classic booster fashion, the fastest rate of sticker exhaustion in the South.[53] The rush to embrace the NRA was matched by a

[51] Bernard Bellush, *The Failure of the NRA* (New York: Norton, 1975), 47. The NIRA also stipulated that each board have a representative of consumers' interests, but only one percent of boards met this requirement.
[52] Houston *Press*, June 14, 1933.
[53] Roger Biles, *The South and the New Deal* (Lexington: University Press of Kentucky, 1994), 60.

willingness of some of the city's largest employers to exploit it. In this task they were abetted by the Houston Chamber of Commerce, which asserted control of code enforcement in the city.[54]

Nothing in the NIRA endowed the Chamber with such power, but the Act, like much early New Deal legislation, left implementation in the hands of local powers-that-be, and the Chamber's customary influence made it the "natural" candidate to oversee the NRA in Houston. The Chamber board was led by three members of Houston's establishment. Jacob F. Wolters, a former Democratic Senate candidate, General Counsel of the Texas Company (Texaco), and National Guard General was appointed "General in Command." During his Guard career Wolters had gained a reputation as an effective troubleshooter for Texas's pro-business Governors, commanding troops to break strikes by longshoremen in Galveston in 1920 and by Gulf Coast oil field workers in 1922 and 1929. He even wrote a textbook, *Martial Law and Its Administration,* used by the University of Texas Law School to instruct the state's budding lawyers on the finer arts of enforcing injunctions, breaking strikes and riot suppression.[55] The board's other two members – River Oaks developer Hugh Potter and Oveta Culp Hobby, the wife of former governor and Houston *Post* owner William Hobby – left little doubt about its business tilt, which was quickly confirmed by General Wolters, who spent some of his first days fighting off the efforts of the building trades unions to include a labor representative in the group. Although Wolters eventually agreed to let a labor man in the board meetings, the representative's role was limited to that of a non-voting consultant.

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[54] *Houston*, August 1933, p.3.

[55] See Harry Krenek, "Jake Wolters: An Iron Fist in a Velvet Glove," *Houston Review* 7 (1985). Immediately before being tapped to head the NRA in Houston, Wolters had led the Guard's efforts to crack down on "hot oil" runners - shippers of oil pumped in excess of state production quotas in the East Texas fields - a command that earned him the admiration of Houston's oilmen. The textbook is Jacob F Wolters, *Martial Law and Its Administration* (Austin, Texas: Gammel's Book Store, 1930).

With little to fear from the government or from the local NRA board, Houston's industrial employers were open violators of NRA wage, hours, and hiring codes. Houston's economy began to improve in 1933. Federal and state efforts to end the oil glut by enforcing pooling agreements and capping the allowable production of individual wellheads propped up oil prices. At the same time, national demand for petroleum began to rebound, the result of a slight improvement in the national economy, and, more importantly, the ongoing switch from coal to oil as America's primary energy source.[56] But to the chagrin of New Dealers, rising fortunes for industry failed to produce corresponding benefits for workers. Hughes Tool boss Kuldell met increased demand for drill bits by instituting another round of speedups and stretch-outs, overlooking requirements to rehire laid off workers and opting instead to squeeze more production out of his depression-thinned workforce. "Although the company has had a remarkable increase in gross business," Kuldell admitted, the company would continue to cut labor costs until it made up for the profits lost over the past three years.[57]

This sort of selective code compliance was a nationwide phenomenon, but Houston's industrialists were perhaps the most egregious violators. General Hugh Johnson, chief NRA administrator, used his first public comment on code avoidance to single out the city's employers for special approbation.[58] Lorena Hickok, an assistant to New Deal administrator Harry Hopkins who traveled the country in 1933 and 1934 to assess relief efforts, was similarly appalled by the situation in Houston. After lunching with the director of an unnamed oil-drilling equipment manufacturer, she wrote a note to Hopkins registering her disgust with the practice of sacrificing everything – including volume of production – at the altar of profit margins. "These babies are

[56] See Harold L. Platt, "Energy and Urban Growth: A Comparison of Houston and Chicago," *The Southwestern Historical Quarterly* 91, no. 1 (July 1987): 1–18.
[57] Quoted in Botson, *Hughes Tool Company*, 66.
[58] E. Thomas Lovell, "Houston's Reaction to the New Deal: 1932 - 1936" (Master's Thesis, University of Houston, 1964), 22.

thinking in terms of 1929 profit," she wrote in near disbelief. "Why, they'll let orders go, dammit, before they'll permit their cost of production to go up and cut into their profit. Now, if that's following the spirit of the New Deal, I'll eat my hat."[59]

As Hickok lamented, inter-business cooperation under the auspices of the NRA failed to give employers any real incentive to share the fruits of higher prices with their employees. If workers were to realize the NRA's promise of wage and hours improvements, they would have to pursue those gains themselves. In that effort, they were encouraged by a provision of the NIRA based not in the corporatist vision of economic reform, but on the premise that workers, and the economy as a whole, would benefit by bolstering their bargaining position vis-à-vis employers. Section 7(a) of the NIRA, inserted by labor-friendly legislators, established the right of workers to join unions without employer retaliation, prohibited compulsory membership in company unions, and endorsed a right of unions to bargain collectively with employers.[60]

Section 7(a) inspired a surge of activism among workers frustrated by the failure of employers, company unions, and the NRA to protect them from the Depression. In the Gulf Coast oil industry, the new federal endorsement of labor rights sparked an explosion of organizing by the International Association of Oil Field, Gas Well and Refinery Workers of America (IAOFGW&RWA), a moribund union that had not played a meaningful role in Texas oil for over a decade. Company unionism and the open shop had devastated the union's ranks. In 1932, it counted only 300 dues-paying members nationwide. When the NRA's petroleum industry board was formed in the spring of 1933, Interior Secretary Harold Ickes struggled to find anyone who could serve as a worker representative. The union's voluntary secretary-

[59] Richard Lowitt and Maurine Hoffman Beasley, eds., *One-Third of a Nation: Lorena Hickok Reports on the Great Depression* (Urbana: University of Illinois Press, 1981), 217.
[60] Melvyn Dubofsky, *The State & Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994), 111–119.

treasurer eventually made the trip to Washington, but only after mortgaging his house (which did double duty as the union's headquarters) to purchase the train ticket.[61] Over the summer, a handful of old IAOFGW&RWA stalwarts barnstormed throughout Texas oil towns, reconnecting with veteran rig men and re-chartering locals that had lain dormant since the early 1920s. The union gained strength rapidly. In the last six months of 1933, national membership rose from 300 to 12,500; in Texas alone, the union chartered fifty-seven new locals.[62]

The IAOFGW&RWA's ungainly name reflected its ambitious approach to organizing. Unlike the other unions in the AFL, which were focused narrowly on specific crafts, the IAOFGW&RWA had a "wall-to-wall" charter, a license to organize workers throughout the industry, and it began an aggressive push in 1933 to recruit in oil fields, refineries, on pipelines, and in distribution operations. Many of the new locals were small outposts in the Texas oil patch, but the biggest organizing prize lay in the refineries, where large and relatively stable workforces provided a natural foundation from which to unionize the oil companies.[63] There, the union organized across lines of craft and skill, from relatively well-paid operators, gaugers, and stillmen down to the low-skilled maintenance crews. This broad organizing approach put the IAOFGW&RWA, along with labor movements afoot in automobile, rubber, and steel manufacturing, on the leading edge of industrial unionism. The idea to organize all refinery workers in one unit had really been an innovation of Standard Oil and other companies that established ERPs a decade earlier. Those industrial relations structures were well suited for workers who might stay with a single firm for decades, rising over time up the skill ladder or moving across craft divisions. By mimicking the plant-wide approach of company unions, the

[61] Welch, "Union Activity in the Petroleum Industry of Texas," 24; Davidson, *Challenging the Giants*, 61.
[62] American Federation of Labor, *Report of Proceedings of the Fifty-Sixth Annual Convention* (A.F.L., 1936), 45; Welch, "Union Activity in the Petroleum Industry of Texas," 33.
[63] On importance of Houston locals, see Davidson, *Challenging the Giants*, 67.

IAOFGW&RA now had the potential to challenge them in a way that parochial craft and trade unions never could.

Refinery workers did not necessarily set out in 1933 to create new institutional rivals to the more longstanding, but in many cases weakened, ERPs. Refinery unions in many cases evolved out of existing worker movements or were built atop the cracked foundations of the old ERPs. At Shell, for example, the union grew out of a failed push to get the company to set up a worker safety committee.[64] At Sinclair and Baytown, elected employee representatives in ERPs provided the initial nucleus of union leadership. Sinclair's ERP was a recent arrival in the company's East End refinery, created out of thin air in the summer of 1933 by executives scrambling to get ahead of the wave of union talk in the industry. Managers simply posted notices that all workers were now part of a new company union. But Sinclair's transparent gesture failed to hold back union sentiment and instead provided workers with the experience of representation and organizers with an institutional framework to establish their own union.

Lacking the numbers or resources to immediately go head-to-head with Sinclair, IAOFGW&RWA men within the plant decided instead to use the nascent company union to their own advantage. In the inaugural company union election, workers favoring an "outside" union captured five of the six worker seats. The worker reps became unofficial, but hardly secret, recruiters inside the plant, while outside IAOFGW&RWA organizers set up an office across the street in a leased service station. Organizers paid special attention to the handful of craft union veterans in the plant, including A.R. "Sarge" Kinstley, a "large, affable" senior boilermaker who had been in the refining industry since the end of his World War I service and had assumed an unofficial role as a negotiator on behalf of skilled workers in the plant. He led protests against pay cuts in the first year of the Depression and had persuaded Sinclair to pay an extra nickel for

[64] Davidson, *Challenging the Giants*, 66.

men doing "hot work," the dangerous job of welding and cutting around flammable materials. Although long a dues-paying member of the Boilermakers union, Kinstley was quick to embrace the IAOFGW&RWA's wall-to-wall approach and convinced many of the plant's skilled electricians, carpenters, mechanics and his fellow boilermakers to abandon their narrow craft affiliations in favor of the oilworkers union.[65]

With the number of union supporters in the refinery growing during 1933 and early 1934, the five union-friendly employee representatives made their move, resigning en masse from the company union and demanding that Sinclair recognize the IAOFGW&RWA or face a strike. The move was risky. The demand for recognition, one union official later recalled, meant the fledgling union would have to "match its strength against Sinclair in a paralyzing strike that might have been won, or lost."[66] But it paid off. Before the refinery manager could call the union men's bluff, the Sinclair corporation, facing pressure from Great Lakes area locals and from a Petroleum Board overtime wage case, cut a deal avoiding paying back wages in exchange for a master contract recognizing the IAOFGW&RWA at all of its plants.[67]

Kinstley and the rest of the Sinclair union men were indeed lucky to avoid a strike. Some one and a half million American workers hit the picket lines in 1934 in battles for union recognition and better wages, the largest labor disruption since the beginning of the open shop era in the early 1920s.[68] In most cases, the strikes were defeated.[69] And Gulf Coast oil workers

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[65] Ibid., 67.
[66] Ibid., 76.
[67] Welch, "Union Activity in the Petroleum Industry of Texas," 36.
[68] Florence Peterson, *Strikes in the United States, 1880-1936*, Bulletin of the United States Bureau of Labor Statistics no. 651 (Washington: U.S. G.P.O., 1938), 21, tbl.1. The 1934 totals were greater than any year since 1922.
[69] Of the hundreds of thousands of workers out on strike in 1934, perhaps the most national attention was given to the large strikes by West Coast longshoremen and Southern textile workers, and violent clashes between police and auto workers in Toledo and truckers in Minneapolis. The importance of the 1934 strikes in forcing changes in American labor law and legal doctrine is briefly considered in James Pope, "The Thirteenth Amendment Versus the

at Sinclair and elsewhere could see that labor activism came with a high cost. When workers at the Houston Textile Company threatened to strike in 1934, the company instituted a lockout and ushered in replacement workers behind armed guards. Packinghouse men at the Armour and Swift plant were foiled in the same way.[70] A series of strikes in 1934 and 1935 by the black and white locals of Houston's International Longshoremen's Association (ILA) brought limited gains in wages and hours but not without violence. Company guards escorting ships filled with replacement laborers from Alabama and Mississippi killed eight protestors gathered to prevent them from landing on company docks. By the end of the strikes, the port had been fully militarized, guarded by a contingent of off duty police officers and Texas Rangers led by notorious gunman and veteran strikebreaker Frank Hamer, fresh from hunting down Bonnie and Clyde.[71]

The Sinclair contract was a significant win for the union, but it did not herald other victories. For the time being, the Sinclair local was a small island of unionism in an open shop sea. With no history of worker loyalty, Sinclair's ERP had unintentionally catalyzed worker organizing. But other Gulf Coast oil companies, led by Humble, the region's originator and master of company unionism, were more successful in keeping the organizing wave from breaking over their plants. Humble's industrial relations director Charles Shaw was committed to the old Standard Oil model of worker representation and recognized that pay cuts and the abrogation of the old seniority agreement with the JC had weakened management's grip on workers and their loyalties. The answer to the recent union tumult, Shaw reasoned, was more

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Commerce Clause: Labor and the Shaping of American Constitutional Law, 1921 - 1957," *Columbia Law Review* 102 (January 2002): 46, n.216.

[70] Lovell, "Houston's Reaction to the New Deal," 68.

[71] See Rebecca Anne Montes, "Working for American Rights: Black, White and Mexican American Dockworkers in Texas During the Great Depression" (Ph.D. dissertation, University of Texas, 2005).

representation, not less. Better to direct such energies into company-approved channels than fight them head on.

To this end, Shaw worked to make the Baytown JC more democratically responsive and independent of obvious company control. In December 1933, he shifted the responsibility of oversight of employee representation elections from department foremen to an employee committee. In April of the following year, the company granted employee reps the right to caucus and meet with workers on company grounds without a supervisor present. In June, Baytown created an arbitration board to settle disputes between individual workers and management, staffed by an equal number of workers and company men. Shaw put further distance between management and the JC by vesting joint authority for keeping and approving meeting minutes with one employee and one management representative, a job that had previously belonged to the refinery superintendent alone.[72]

Shaw's liberalizing measures sparked interest in the Joint Conference. In the first election of worker representatives under the reformed procedures, a record 81 percent of the shopfloor voted, well above the roughly 50 percent participation rate during the late 1920s. But Shaw's plan was not without risks for the company. Participating in the company-approved representation scheme was hardly a sign that workers scarred by the Depression accepted the company line. The surge of worker turnout, in fact, swept into office a slate of representatives that had promised to press management on wages and seniority. One of the men selected was Robert Oliver, a twenty-five year old East Texan who came to Baytown's research division after graduating from the University of Texas. Research division employees were among the most skilled and educated in the refinery, but that had not protected them from layoffs. Low demand for products meant little incentive for the company to invest in expensive research. Many of the

[72] Larson and Porter, *History of Humble Oil & Refining Company*, 365–6.

workers that survived cuts ended up assigned to the hated "two bit gangs" in the spring of 1933, and Oliver was among them. Facing demotion and a big pay cut, Oliver had applied to a job in the sales division. His transfer did not come. Instead, he became a leader among the disaffected research men and, in December 1933, a frustrated and ambitious member of the JC.[73]

There, Oliver challenged management to reverse the previous year's wage cuts. Workers had a strong case. Rising oil prices brought Humble back into the black in 1933, and even the low-margin refining unit booked a profit that year. Workers had sacrificed during the worst years of the depression, Oliver argued. Now that profitability had returned, they deserved part of the rewards. Oliver's linkage of wages to profits was hardly radical, flowing both from the cooperative corporatism of the NRA and from the spirit of welfare capitalism. Oliver's plan for a wage restoration even garnered a tentative endorsement form the management representatives on the Joint Council. But Humble's top bosses pushed back against the demands. In general, the company's old guard was reluctant to accede to employee demands, even when made within the company's own representation system. As founders of the firm, many in Humble's corporate suite had always been loath to yield any say in the firm's operation. Indeed, the very idea of giving workers a measure of representation through the JC, a development so crucial to the success of the open shop system, had been imported to Baytown, brought in by a series of industrial relations men like Shaw who were all in some way outsiders, having trained in, or moved from, New Jersey.

As a means of keeping the open shop, employee representation could be celebrated, but as Baytown men demanded a real voice in refinery affairs, executives were quick to employ a hard hand. In November 1933, superintendent Raymond Powell warned his workers that any

[73] Houston *Chronicle*, Aug. 9, 1936. Oliver spent his first two college years at the New Mexico Military Institute. For the role of research division employees in Humble unionization, see O'Connor, *History of the O.W.I.U.*

move to organize an independent union would "force" the company "to withdraw the various benefits… such as vacations, sick pay, etc.," that had been gained through the Joint Conference.[74] Even when Baytown workers channeled their requests through the JC, the assertive posture of their lead representative challenged management's expectation of deference. Humble brass took particular exception to Oliver's contention that recent profitability *entitled* workers to wage increases. Powell offered a blunt rebuttal to Oliver. "Labor," he lectured the Joint Conference, "like sugar, was worth just what you had to pay for it."[75] As such, the Baytown men were *owed* nothing. Humble founder and vice president Harry C. Wiess, although broadly agreeing with Oliver that wages should rise, was also determined to stand on the principle of management supremacy. If Wiess was willing to see some of his company's profits passed along to workers, he was also a jealous guardian of his own prerogative to make such a determination, and he insisted that wage increases were to be set purely based on management's assessment of a worker's individual merit and the local market for skills.

Wiess and Powell, despite their tough stances, were no skinflints, and they knew better than to unnecessarily antagonize workers when the company could afford wage increases. Over the course of 1934, the superintendent conducted a review of wage policy, granting raises department by department, a process that was intended to avoid the impression of caving to worker demands for an across the board increase.[76] From one perspective, little of substance had separated Oliver from company bosses during their sparring over wage policy. Whether wage bumps had been owed workers or simply warranted by changing labor markets; whether they had

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[74] Even sympathetic chroniclers of Humble conclude that the idea of according workers an equal voice in affairs was "foreign to [the] temperament and training" of the firm's old guard. See Larson and Porter, *History of Humble Oil & Refining Company*, 365.

[75] Ibid., 366.

[76] Humble adopted a similar strategy on the ability ratings issue. With the need for big layoffs now past, Shaw agreed to suspend the system. Management reserved the right, however, to bring it back in case of cutbacks down the road.

been induced by the demands of worker representatives or resulted from management's economic calculations, the end result for workers was the same. But to the principal antagonists the real battle was over the future relationship between workers and management and the institutional form of worker representation. Here, Humble used its improved economic fortunes to resurrect its successful open shop strategy of representation through the Joint Conference coupled with wage concessions.

Humble bosses were right to trust their industrial relations director's emphasis on reinvigorated company unionism, as Shaw's moves proved an astute counter to the upwelling of worker activism and organizing that came in the NRA's wake. Humble's decision to grant much of the substance of wage demands, while insisting that such improvements could only flow from management, became central to the company's efforts to undermine union organizing at Baytown over the next decade. Indeed, in the estimation of one oil union organizer, the company's return to the "original joint council form" and its "velvet glove technique" became the "major factor" standing in the way of unionizing the plant in the 1930s.[77] Management concessions failed to satisfy Bob Oliver and other Humble men who had hoped to give workers greater control over refinery affairs. Oliver, frustrated with his inability to exercise worker power through inside representation, left his position on the JC in the summer of 1934, chartered IAOFGW&RWA Local 333 - Baytown, and began organizing refinery men.[78]

Oliver's push for wage increases in 1934 had been something of a double-edged sword for his effort to draw workers into an outside union. His arguments with management had

[77] Davidson, *Challenging the Giants*, 11.
[78] At the end of the decade, Oliver would be tapped to lead the OWIU's campaigns against Jersey Standard. Oliver's move northward was a reminder that despite the failures to organize Baytown, the oil union had more success in Houston than it did at the heart of the Standard empire. In contrast, industrial relations talent had traditionally moved outward from New Jersey to Standard affiliates like Humble. Local 333 also courted men in the Goose Creek and Barbers Hill fields, but its primary focus was always on Baytown.

undoubtedly helped secure concrete gains for the workers that had elected him. At the same time, his work could be seen as demonstrating the efficacy of the Joint Conference process. Faced with a long established, and recently liberalized, system of company-controlled representation, Oliver's outside union, Local 333, struggled to build levels of membership and power that might force the company to recognize or negotiate with the union. With the exception of Sinclair, unions at the other half-dozen refineries along the ship channel, which together formed Local 227 - Houston, also remained too small to put any pressure on management. But the establishment of the IAOFGW&RWA Locals 227 and 333 marked a new era in the labor landscape of Houston area refineries. Worker organizing, catalyzed by the government's promise of labor rights under the NRA, had created a nascent rival to the company ERPs. For the first time since the triumph of the open shop system a decade prior, the refinery rank-and-file could consider the possibility of bargaining with their employer through a union of their own choosing.

Majority Rule, the Black Right to Work, and Forms of Segregated Unionism

Locals 227 and 333 represented workers across craft and skill boundaries, but not across racial ones. The new refinery unions, like the employee representation schemes they challenged, were white-only. African Americans in the refineries had strong incentives to organize; employers had placed a disproportionate share of pay cuts and layoffs on the backs of workers at the bottom of the job scale, in part to accommodate surplus white workers, such as the Humble "two bit" gang, reassigned to "common labor" tasks. So black refinery men took the labor enthusiasm and new legal environment of 1933 and 1934 as an opportunity to put themselves on more equal footing with their white coworkers. Along the Texas Gulf Coast, black workers

chartered their own separate IAOFGW&RA units, each matching a white counterpart. Black workers in Houston plants covered by white Local 227 organized IAOFGW&RA Local 244; white Locals 23 and 243 in Port Arthur and Beaumont were matched by black Local 254 and 229, respectively.[79] This system of "dual unionism" in refining was familiar. On docks from Corpus Christi to Mobile, black and white longshoremen had divided up the work of loading and unloading ships since the turn of the century, laboring in separate gangs and represented by separate locals of the International Longshoremen's Association (ILA), each with separate but equal agreements with shippers stipulating pay and hours. While these black and white ILA locals squabbled from time to time over the division of available work, they stood together during contract negotiations and strikes, their solidarity keeping shippers from using the threat of one race against the other.[80]

Black refinery workers could only dream of such wage and work equality, but they too had a history of organizing alongside whites. Albert Le Bert, the head of a black union local in Beaumont during World War I, recalled such biracial activism: "When the Magnolia men went [on strike], the Negroes were right behind them – all 1600, white and black marching up the main street."[81] Le Bert's memory of the war-era march served as a good metaphor for the dual union system in refining that emerged in 1933: workers of both races united against the company while divided in their own organization, white ahead of black. Dual unionism mirrored the racial caste system of refinery labor, but Le Bert saw in it an opportunity to demonstrate that black workers were just as capable and deserving of unionism and its promise of representation and better jobs as were whites. Black workers were made a plain second class by their exclusion from the joint conference system and by segregated job ladders that kept African Americans

[79] Welch, "Union Activity in the Petroleum Industry of Texas," Appendix A.
[80] See Montes, "Working for American Rights."
[81] Quoted in O'Connor, *History of the O.W.I.U.*, 117–118.

from advancing above the grade of common labor. Joining the IAOFGW&RA, even on a separate and unequal basis, offered a chance to prove that "the Negro is just as good a man as the white. The main difference is that he gets $1.50 to $2.00 a day less."[82]

Whatever equality black workers might demonstrate by organizing their own unions, the dual system had benefits that, like the benefits of work itself on the Gulf Coast, flowed disproportionately to white workers. The shared union affiliation of the black and white locals implied that they would stand together against employers. Joint action, in theory, would enable white unions to press employers for recognition or job gains without fearing that management would undermine them by upgrading black workers into previously all-white positions. Black workers, however, could not expect for their white counterparts to return the favor by supporting efforts to end job and pay segregation on union terms. In 1933, leaders of black Gulf Coast IAOFGW&RA locals turned to the federal government to attack the racial wage differential, a step that threatened to test the relationship between black and white refinery workers and their dual unions, by petitioning the Petroleum Board to break up the "common labor" classification on the grounds that employers were using it to avoid paying black workers the minimum wages set by the Board. "The only job classification for Negroes was common labor no matter what skilled work they did," testified Alex Joseph, the head of Port Arthur Local 254, before the Petroleum Board in Washington. Only 100 of the 813 black employees at the Gulf refinery received the 48 cent minimum specified by the NRA wage code. The rest got 38 cents, Joseph informed the Board, while "white scales paid 20 to 30 cents more per hour." Daniel Bromon, president of Local 229, offered a similar assessment, noting that refiners escaped paying code

[82] Ibid., 117–8.

wages to more skilled workers through the use of the blanket "common labor" classification, the only defining element of that class being that "its common labor if a colored man does it."[83]

By pressing the government to enforce its own wage minimums, black oil workers hoped to chip away at discrimination in refineries, but such a strategy was not without risk. On its face, black workers were not directly challenging the legality of racial pay differentials (although such discrimination had been nominally barred by the statutory language of the NIRA).[84] So long as they paid black workers the appropriate minimum wages for the work they performed, employers were free to maintain wage discrimination by increasing the corresponding rates for whites. It was more likely, however, that employers would fire black semi-skilled workers and replace them with whites and that such actions would be applauded by white workers and unions, who might very well demand that positions accorded the "white" wage be filled with white workers.[85] Similar wage cases initiated by black workers across the South had led to a rash of dismissals, leading one black critic to dub the NRA the "Negro Removal Act."[86] Texas's black refinery workers did not end up facing this threat, however. The Petroleum Board, in what may have been a fortuitous development, turned a deaf ear to their appeal.[87] By leaving the common labor system intact, the Board prevented any temptation for white unions to poach black jobs paying equal wages.

Leaders of the Hughes Tool Colored Club were much more suspicious of white unionists. Like their counterparts in the oil industry, workers on the Hughes oil tool production lines had

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[83] Ibid., 118; Davidson, *Challenging the Giants*, 82–83.
[84] On anti-discrimination language in the NIRA, see Herbert Hill, *Black Labor and the American Legal System: Race, Work, and the Law* (Madison: University of Wisconsin Press, 1977), 98.
[85] On this threat, see Raymond Wolters, *Negroes and the Great Depression: The Problem of Economic Recovery* (Westport, Conn: Greenwood Pub. Corp, 1970), 98–103, 130–132.
[86] William Pickens, "NRA - Negro Removal Act?," *The World Tomorrow* 16 (1933); on black organizations' criticisms of the NRA's wage minimums see Herbert Hill, *Black Labor and the American Legal System*, 97–100; Kenneth W. Mack, "Rethinking Civil Rights Lawyering and Politics in the Era Before Brown," *The Yale Law Journal* 115 (2005): 335–339.
[87] Davidson, *Challenging the Giants*, 83.

been battered by the Depression, but they entered 1933 with their worker organization intact. The HTC continued to provide black workers with bare bones benefits during the worst years of the Depression, its member-funded pool protected from the budget knife management took to welfare measures for white workers, and HTC head Richard Guess had maintained his role as spokesman and management go-between for black workers. The demise of the Mutual Welfare Organization (Hughes's white company union) two years earlier had left a void between Hughes bosses and white workers. Encouraged by Section 7(a), a group of skilled workers led by machinist P.F. Kennedy moved to fill it. In September 1933 Kennedy obtained a charter from the AFL-affiliated International Association of Machinists (IAM) for Blue Eagle Lodge – 1303; the name giving recognition to the ubiquitous logo of the NRA. Like the oil workers, the Lodge founders saw value in a broad approach to organizing and stepped outside the traditional boundary of the IAM to recruit workers regardless of skill or craft. But this expansive industrial unionism stopped at the color line. By local custom and by the international constitution of the IMA, Blue Eagle Lodge 1303 was whites-only.

With no company-sponsored organization to oppose it, the IAM quickly added members. In November 1933, P.F. Kennedy, holding signed membership cards from more than 600 of Hughes's roughly 1,600 white production workers, asked management to recognize his union and begin bargaining with it on a plant wide contract.[88] The rapid rise of the IAM caught Col. Kuldell off guard. His initial reaction to the NRA and the stirrings of labor organizing at Hughes came in the form of a confident flyer assuring workers that "this act does not require, nor even encourage the organization of employee unions, especially in plants where conditions have been

[88] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 840 (1940).

as satisfactory as those of the Hughes Tool Company."[89] Despite his bravado, Kuldell had underestimated the desire for representation and the resentment at layoffs and speedups among his employees. The IAM's demand for recognition convinced him that the company needed to offer an alternative, so he moved to reconstitute the discarded Mutual Welfare Organization. The new organization was rechristened the Employee Welfare Organization. The subtle name change signaled a shift in the organization's structure and purpose. The MWO had provided only a discussion forum for management and employee representatives; the EWO was set up to resemble a real union, run by workers, which would bargain on behalf of its worker members.

In reality, the EWO was closely linked to company management. Kuldell had encouraged E.M. Ramsey, a top level toolmaker, to start the organization, and the company provided him with paid leave, office space, and legal advice to help him write the EWO's constitution and begin recruiting members. Ramsey, one of the most senior workers in the shop, made his case for the EWO from the top of the skill ladder down, taking particular aim at Kennedy's broad organizing approach. Ramsey's EWO could represent all the workers, he assured, but without leveling the traditional hierarchy of skill and craft distinctions that provided status and financial benefit to the plant's top workers. Why should top tier men link their fate to the lowest workers when it came to working out pay or work rules or any other matters with the Hughes bosses? Ramsey had help building support for the EWO. Workers were brought into mandatory assemblies where the company's personnel director and department foremen lectured them on the benefits of joining a friendly union rather than one that was antagonistic towards the company. Kuldell cautioned employees that "there exists in the minds and hearts of your foremen, superintendent and manager an antipathy to the professional organizer and representative" that would prevent the company from negotiating with an "outside" union.

[89] Houston *Labor Messenger*, Aug. 18, 1933.

Workers would make no progress by joining with "persons who are, by their official position, out of favor with your foremen and all management officials," a point he emphasized, if it was needed, by firing one of the IAM's most visible organizers.[90]

Management's naked support for the EWO illustrated a crucial shortcoming of the NRA's labor rights regime: A right to collective bargaining was of little use if employers could plainly favor a friendly company union and ignore "outside" unions like the IAM. In the fall of 1933, the National Labor Board, created as part of the NRA to oversee the workings of Section 7(a), was facing this very issue as employers nationwide hastily assembled company unions to avoid bargaining with invigorated worker-run organizations. NLB chairman Richard Wagner, a Senator from New York and a strong labor-backer, responded with two policies: majority rule and exclusive representation. The first required employers to bargain with any representative chosen by a majority of workers in NLB-administered secret ballot elections. Of course, the NLB recognized that although it might compel employers to negotiate with majority unions, it had little power to make them do so in good faith. Even where unions held the support of a worker majority, management could draw out negotiations while continuing to confer separately with a company-friendly rival. If companies were ready to reach an agreement they could do so with their company unions, giving them credit for any gains and undermining "outside" unions by demonstrating the pointlessness of opposing management. To get around this problem of so-called "multiple bargaining," the NLB put forward the controversial exclusive representation rule, which stipulated that bargaining agents chosen by the majority would be the exclusive

[90] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 843 (1940).

representative of all workers, leaving companies with only the option of the majority union for negotiating the terms of employment with its workers.[91]

The NLB's new rules became a battleground on which the IAM fought the EWO and management for the right to represent Hughes workers. The IAM, convinced that its membership of 600 was matched by the silent support of hundreds more, petitioned the NLB for a December 1933 election. The result was disappointing. The EWO garnered 1026 votes, the IAM 602. The union immediately wrote the NLB to contest the election, arguing that it had been conducted in a climate of company intimidation. The not-so-subtle threats proffered by Kuldell and other company officials, the IAM maintained, had scared workers away from expressing their true preference. Moreover, the election had been unfairly conducted on company property under the watchful eye of management. Ramsey and a handful of foremen had even been allowed to serve as election judges in some departments. The NLB agreed with the IAM's charges and ordered a new election for April 1934. In the meantime, Kuldell did not hesitate to tell the IAM men to fall in line behind the majority that supported the EWO, warning in a plant flyer that "if certain individuals cannot adjust themselves to the new order of things, and heartily refuse to support the rule of the majority, there is no alternative left but to ask those persons to find some other place of employment."[92]

The April revote, this time conducted offsite with neutral observers, produced a victory for the IAM, 718 votes to the EWO's 515. Not surprisingly, Kuldell quickly reversed his position on majority rule. It was now the rights of the company union minority, not the "rule of the majority," that demanded the company's respect. "In view of the fact that the result of the

[91] Lloyd K. Garrison, "The National Labor Boards," *Annals of American Academy of Political and Social Science* 184 (March 1936): 143; Dubofsky, *State and Labor*, 111–119.
[92] Houston *Labor Messenger*, Feb. 2, 1934; In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 842–845 (1940).

election indicates the existence among employees" of considerable support for "other organizations for collective bargaining," he announced, the company would not honor any claim the IAM might make to exclusive representation. Kuldell pledged that he would not allow the bargaining rights of EWO members, or of the hundreds of workers who did not vote, to be subject to the NLB's majority rule edict and captured by the IAM. Instead, "it [would] be the policy of the management to deal with individuals directly or with such organizations as may choose to deal with management themselves."[93] It was precisely the sort of multiple bargaining system that NLB chairman Wagner had predicted would be used to undermine majority unions, and it was characteristic of the open shop position taken by many American employers in defiance of the NLB policy.

The prospect of majority rule by the IAM was especially troubling to HTC head Richard Guess. Both the IAM and the EWO excluded nonwhite workers, but in Guess's estimation, the mechanics posed a risk that the company union did not. If the IAM became the exclusive bargaining agent at Hughes, it might force the company to remove blacks from all but the lowest jobs. Even worse, the all-white IAM might push for a closed shop, keeping blacks from jobs at Hughes altogether by virtue of their ineligibility for the union. In reaction to the new labor situation at Hughes, Guess, with the encouragement and assistance of company management, refashioned the HTC, making the mutual benefit organization into a company union for black workers. For Kuldell, a black company union offered a bulwark against the possibility that the IAM might open itself to black members, either on a biracial or dual union basis. From Guess's position, it was the best way to protect black workers from the IAM as it currently was – for whites only.

[93] Ibid., 844-945; Botson, *Hughes Tool Company*, 80.

As Guess pitched HTC membership to Hughes's black employees, he stressed the idea that AFL craft unions like the IAM were the traditional enemies of black workers, a reputation they had earned by using their organizing and bargaining muscle over the past several decades to push blacks out of many skilled trades. In the face of the potential threat of organized white workers, it was best, Guess argued, to cultivate a good relationship with the management, who would deal with the EWO and the HTC separately on matters pertaining to their respective races. Besides, the HTC was the only labor organization at Hughes that was open to African Americans. If black workers were to have a "voice in their own affairs," Guess urged, they would need to get behind the HTC. Not all of Hughes's black workers responded to Guess's organizing push. Some thought his long tenure atop the HTC made him too eager to please Hughes bosses and made the HTC a mere rubber stamp for company actions. But Guess's many years working at Hughes and his stature outside of the plant – he was for a time the president of the Third Ward Civic Club, a vice president of the Negro Chamber of Commerce and a church deacon – helped him enlist more than half of the black workforce as dues paying members of the HTC and would keep him at the organization's helm for more than a decade.[94]

The HTC also had supporters outside the plant, the most vocal of whom was C.W. Rice, editor of the *Negro Labor News*, where Guess had an occasional column. Born in Tennessee, Rice moved to Texas at the age of seventeen and began studies at Samuel Houston College in Austin two years later, paying his way by working as a domestic for white families. Rice arrived in Houston in 1925 as the head of the Texas Negro Business and Working Man's Association (TNBWMA), an outfit he had cofounded four years earlier in Beaumont "to promote the

[94] The organizing history of the HTC is recounted by Guess in *Negro Labor News*, March 2, 1940.

industrial, commercial, financial and agricultural development of the Negro race."[95] The TNBWMA was, at most times, a one man operation. Under its name, Rice operated a job placement business, highlighted by semi-annual "Domestic and Industrial Worker Institutes," job fairs that matched black workers with Houston's white employers. Maintaining friendly relationships with white employers was at the core of both Rice's business model and his economic philosophy. Rice believed the most profitable avenue for black advance ran through self-help, self-improvement, and cooperation with the white powers-that-be of Southern economic and political life. Indeed, atop the editorial page of every edition of the *Negro Labor News* was a declaration of the editor's intent to "encourage workers to appreciate the dignity of honest work and loyalty to their jobs and employers."[96]

It was an outlook that Rice credited to his role model Booker T. Washington, whose name the editor frequently invoked in the pages of his paper.[97] It was, of course, some three decades from the time Washington had laid out philosophy of economic self-help, but Rice saw in it a lesson for his modern urban readership. Like Booker T. Washington, Rice was also a staunch opponent of white organized labor.[98] His *Negro Labor News* was filled with criticisms of the national labor movement and tales of the many injustices perpetrated by white unions. Rice cautioned black Houstonians against siding with labor, especially the AFL-affiliated Jim Crow locals in the city's port and refineries. The white locals, he argued, invariably called the shots in these segregated pairings, and got black workers needlessly mixed up in whites' battles. Instead, Rice counseled black workers to form their own "independent" labor organizations

[95] Hobart Taylor, Jr., "C.W. Rice - Labor Leader" (B.A. Thesis, Prairie View State Normal and Industrial College, 1939); Rice's background and philosophy is considered in Eric Arnesen, *Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality* (Cambridge, Mass: Harvard University Press, 2001), 139–145.
[96] See, for example, *Negro Labor News*, Nov. 25, 1939.
[97] See Hobart Taylor, Jr., "C.W. Rice - Labor Leader."
[98] See Booker T. Washington, "The Negro and the Labor Unions," *Atlantic Monthly* (June 1913): 756; Robert J. Norrell, "Booker T. Washington: Understanding the Wizard of Tuskegee," *The Journal of Blacks in Higher Education* no. 42 (December 1, 2003): 107.

along the lines of the HTC. Rice's advocacy for independent unionism mixed race consciousness with friendliness to management. Black independent unions, he believed would give black workers both a voice on the job and an opportunity to develop indigenous working-class leadership out from under the control of white labor officials. At the same time, by rejecting the antagonistic posture of "outside" unions, black workers could demonstrate their loyalty and worth to employers. [99]

Rice's pro-employer orientation was not simple deference. Over the past two decades, a handful of Texas employers, most notably the railroads, had resisted the demands of white strikers to rid desirable jobs of black workers.[100] That stance was certainly self-interested, as black workers were generally compensated less than whites, but it nonetheless gave Rice a reason to praise employers while heaping score on white unions. Whatever his justifications, however, Rice's support of the HTC at Hughes Tool may have fed the beliefs of those who thought the organization was too closely allied with company management. Many in black Houston, in fact, thought that Rice prized his own interests and those of white employers above the welfare of black workers. Most of the TNBWMA's funding and the advertisements in the *Negro Labor News* came from the city's largest businessmen, and he had been accused by the editor of the rival Houston *Informer* of operating his job placement service, for which he charged black workers a substantial fee, as a means of providing compliant workers to employers.[101]

However self-interested Rice and Guess's advocacy of independent unionism, their suspicions of white organized labor put them in step with most of the nation's black civil rights leadership, who viewed racist labor organizations as one of the primary threats to African Americans' economic well-being and right to work. John P. Davis, an activist representing

[99] These purposes receive a full explanation in the *Negro Labor News*, March 2, 1940.
[100] Obadele-Starks, *Black Unionism in the Industrial South*, 54.
[101] *Informer*, May 29, 1937.

black interests in New Deal programs, had captured this attitude in 1929, writing in *The Nation*, "hurrah for the Scab and the Open Shop and To Hell with the Unions."[102] In 1933, black organizations were especially concerned that the NRA, by raising the stature of white unions, would worsen the plight of black workers, a point the Urban League conveyed to President Roosevelt in a letter urging him to reform Section 7(a) to protect "minority groups of workers" from unions using the law to "exclude [them] from employment."[103]

Opposition to the power of labor under the NRA made strange bedfellows of civil rights leaders and industrial employers. As African Americans sought to secure a black right to work free from union-imposed racial restriction, powerful employers championed a more general version – a right to work on one's own terms, free from the rules of labor unions claiming to represent all workers in a shop. Although black workers and American employers (especially those that profited from segregation) had very different pecuniary interests, they shared philosophical ground in their objection to majority rule in the workplace and the power of labor unions to influence the terms of employment.

Employers, of course, carried more weight in Washington. From its first days, the NLB's majority rule standard came under fire from the business community, and the Roosevelt administration itself sent mixed signals about its willingness to enforce the rule. Just days after Wagner put in place his ambitious policies, NRA head Johnson trimmed them back, announcing that the government's grant of collective bargaining should not be interpreted to give unions exclusive negotiating power or to prevent employers from dealing with their own company unions. With uncertainty prevailing in D.C., American employers refused to obey NLB orders. The President only added to the confusion. Although he at times endorsed majority rule in

[102] "The Black Man's Burden," *The Nation*, Jan. 9, 1929: 44. Quoted in Kenneth W. Mack, "Rethinking Civil Rights Lawyering and Politics in the Era Before Brown," *The Yale Law Journal* 115 (2005): 304.
[103] Quoted in Herbert Hill, *Black Labor and the American Legal System*, 102.

public statements, Roosevelt negotiated a settlement in March 1934 in the automobile industry that gave recognition to worker unions while allowing firms to continue bargaining with their old company outfits. That settlement signaled the effective end of majority rule under the NLB. In April, Hughes IAM Lodge 1303 petitioned the Board to require the company to recognize its election victory and accord it exclusive bargaining rights. With the majority rule in retreat, the Board turned down the Lodge's request, instead acquiescing to a proposal submitted by Col. Kuldell to give the IAM four seats on a twelve member bargaining panel, with the remainder filled out by EWO and management representatives.[104] Even with the support of a worker majority, the IAM was undercut in the new bargaining panel, becoming a mostly-powerless voice in the Hughes open shop.

Even if the NLB was unable to make the paper rights granted by Section 7(a) real, the Depression and the spirit of the new federal policy had produced major changes in the labor landscape of Houston industry. Worker organized and controlled "outside" unions like the IAM and the IAOFGW&RA now challenged the company unions in refineries and steel plants, splitting white workers on the question of what posture to take towards employers. Black workers also eyed different paths. Black oilworkers organized into segregated unions paired with white locals to present a dual, if divided, challenge to employers, while Guess and Rice urged black workers to hold on to their own "independent" company-friendly organizations. The appearance of outside unions brought a revived challenge to employer prerogative, but the Depression and the NRA did nothing to challenge the industrial color line. Indeed, from the perspective of Guess and Rice, the slack labor market and the new powers promised to unions by federal policy only threatened to make the situation worse, by encouraging and enabling white workers to gain control over black jobs.

[104] Botson, *Hughes Tool Company*, 80.

In 1935, the Supreme Court struck down the NIRA.[105] Few mourned its passing. What had been billed as a cooperative approach to the problems of economic downturn had instead turned into an occasion for abuse and conflict. For workers, the law had promised an opportunity to organize unions as an alternative to the company representative schemes that had failed to protect them during the Depression, but in the end that promise fell short. Even before the NLB's program of labor elections and collective bargaining fell apart, however, Senator Wagner and other labor backers in Congress were at work on new legislation that would put the ambitious agenda of industrial democracy and state-managed labor relations on solid statutory ground.[106] The Wagner Act, passed in July 1935, would spur renewed efforts by Houston's industrial workers, both black and white, to form real labor unions, and would turn some of the city's black workers and leaders towards the possibilities of fighting employment discrimination and pursuing economic advance by joining with white workers to lay claim to the power conferred by majority rule.

[105] A.L.A. Schechter Poultry Corporation, et al. v. United States, 295 U.S. 495 (1935).
[106] Dubofsky, *State and Labor*, 119–128.

Chapter Two: Industrial Democracy, the CIO, and Black Independent Unionism in Houston, 1935 – 1940.

It might have been the plans for a cargo airlift into the Baytown refinery that let Bob Oliver know it was time to retreat. On September 10, 1936 the membership of Local 333 had approved Oliver's call for a walkout on September 18 to force Humble management to recognize their union. In the intervening week, company Vice President Wiess had sprung into action, militarizing the refinery to defeat whatever picket line the union might throw up outside his plant. An electrified fence was raised around the plant's perimeter, with extensions into the ship channel to protect sea-going operations on the company wharfs. Ninety-six gunmen, many of them local police, were hired to secure ground approaches, pledging to shoot strikers who tried to block plant gates. Food and cots were brought into the plant in case those efforts failed. And in a final over-the-top act, Wiess ordered the construction of an airstrip on the facility's sprawling grounds, presumably to provision the refinery and import replacement workers in the event of a prolonged siege.[1]

It had been a year since the passage of the Wagner Act reaffirmed the right of workers to bargain collectively through a representative of their own choosing, but refinery management refused to recognize or negotiate with Local 333. Instead, management had been pursuing its traditional strategy for undermining the union, ignoring it while taking advantage of an improving oil economy to offer wage increases through the company-controlled Joint Conference. Frustrated with the company's tactics, Oliver made a bold demand for recognition in the summer of 1936. Although he only had membership cards for roughly 1,000 of Baytown's 3,000 workers, Oliver professed that his union had the support – both official and undeclared –

[1] Ray Davidson, *Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union* (Denver: Oil, Chemical and Atomic Workers International Union, 1988), 104–5; Harvey O'Connor, *History of the Oil Workers International Union* (Denver: Oil Workers Intl. Union, 1950).

of a majority of workers, and should, by the Wagner Act, be accorded the right to exclusive representation and bargaining.[2]

Wiess brushed aside the union's claims. "The Company has no intention whatsoever of operating a 'closed shop'," he informed Oliver in an open letter, or of making "an agreement, the effect of which would be to require our employees to belong to a union or to pay tribute to anyone or any organization for the right to work."[3] Sensing the union's weak position, the company had practically begged for a confrontation that would show Oliver's inability to build mass support among Baytown's workers. The company-friendly local paper took direct aim at Oliver, painting him as "a sort of Czar, Mussolini, Hitler, or what have you among… gullible individuals in the employ of the Humble refinery." Now it was time for the union to back up its claims. "After drawing a fat salary from the dues of the members, Mr. Oliver [has] finally reached a point where it [is] necessary for him to either 'deliver the goods or get off the receptacle' (if you get what I mean)."[4]

The union had hoped that a strong initial showing in a September strike might bring some of the refinery's 2,000 non-union workers on board. But striking a refinery was a tricky business, and one that limited the ability of activist workers to make dramatic demonstrations of solidarity and power by shutting down plants. Refining is a delicate and dangerous process that works by heating combustible liquids and gasses to precise temperatures, at precise pressures, for

[2] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 117 – 120 (1939). The union's position had been better in 1934, when it claimed to represent 1400 of 2300 workers. Over the subsequent two years, expanded hiring and management's effective anti-union tactics had reduced the union's footprint.
[3] Ibid., 16:119.
[4] *Pelly News Tribune*, Sept. 16, 1936 quoted in Michael Botson, "We're Sticking by Our Union: The Battle for Baytown, 1942-1943," *Houston History* 8, no. 2 (2011): 11–12. *Pelly News Tribune* editor Clifford Bond joined bankers and businessmen from Baytown, Pelly and Goose Creek, all effectively Humble company towns, to form the anti-union Tri-Cities Citizens Committee, which presented management's case outside of the rfinery. See, In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 120 (1939). Bond's corporate brown nosing would serve him well. In 1942 Baytown gave him a no-show job where he could write anti-CIO handbills from the perspective of a "worker" inside the refinery.

precise amounts of time. A walkout by the union would leave valves, boilers and stills unmanned and workers and supervisors remaining within the plant scrambling to prevent the production system from becoming dangerously uncontrolled. In order to prevent such a catastrophe, refinery unions had to give advance notice of labor actions.[5]

The same precaution that kept a struck refinery from becoming a bomb, however, also helped management diffuse strikes by giving the company time to plan for reduced production and an opportunity to mobilize uncommitted workers against the union. In the week preceding Local 333's planned walkout, vice president Wiess sounded a call for joint resistance. The company, he guaranteed, would stand firm on the "sound American principle" of the open shop and the "right to work." The union was "dependent on coercion, and that is the root of all evil," but "this insidious force can best be combated by the resistance of the employees themselves." In that effort he pledged that "the Company will stand behind you with all possible support," a promise that was matched by department supervisors, who swore that they would come out shooting if necessary to help dutiful workers make it through union pickets. To secure worker loyalty, the company engaged in a little coercion itself. The garage foreman warned his men that the union would put up "pretty tough opposition," but told workers that the company would have jobs for them in the event of a strike. Only workers who managed to make it into work, however, would be paid. When supervisors asked the men in the garage for a show of hands of who would be joining the picket line, none were raised. Some of the workers pledged to bring guns to their shifts to prevent a shutdown.[6] Facing company opposition and unsure of support

[5] The Petroleum Labor Board cited this danger in a 1934 decision limiting the rights of striking refinery workers. See "Matter of the Arbitration of Controversies at Champlin Refining Co. Sept. 13, 1934" in *Decisions of the Petroleum Labor Policy Board: Feb 6, 1934 to March 13, 1935* (U.S. G.P.O., 1935), 69. Also, "The Decisions of the National Labor Relations Board," *Harvard Law Review* 48, no. 4 (February 1935): 654, n.172.
[6] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 118 – 120 (1939).

among non-union workers, Local 333 called off the strike before it ever started. Wiess offered only the assurance that union members would not be fired for their strike vote, a concession that was, in theory, already guaranteed by the Wagner Act.[7]

Wiess' militarization may have been extreme, but his steadfast refusal to recognize an "outside" union and its claim under the Wagner Act to be accorded exclusive bargaining status placed him in good company with the nation's other industrial employers. Passed in 1935 by healthy majorities in a Congress transformed by a New Deal wave in the 1934 elections, the National Labor Relations (Wagner) Act gave strong statutory backing to the principles of majority rule and exclusive representation that Senator Robert F. Wagner had advanced during his brief tenure atop the NLB a year before. The law created a new set of worker rights by prohibiting specific "unfair labor practices" on the part of employers, making it illegal to "interfere with, restrain, or coerce" workers engaged in union organizing, or to dismiss, retaliate, or discriminate against them for union membership and activity.[8] Those prohibitions were aimed not only at stamping out the most abusive tactics deployed against labor organizers, but also at ensuring that workers would enjoy a truly "free choice" of representation, able to select a bargaining agent without management attempting to coerce them away from "outside" unions. Toward that end, the Act required that employers must not "dominate or interfere" with labor organizations or "contribute financial or other support" to them, provisions that were understood to bar employee representation plans and company unions.[9]

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[7] The Wagner Act initially guaranteed workers a right not to be fired during a strike. The Supreme Court trimmed that right in *N.L.R.B. v. Mackay Radio & Telegraph Co.* 304 U.S. 333 (1938), holding that a company cannot discharge a union member for engaging in a lawful strike, but that it could hire a "permanent replacement" that could remain employed even after the conclusion of an (unsuccessful) strike, thus raising the risks for striking workers and giving employers a powerful lever (the offer to restore previous employment) to end strikes. See James Pope, "How American Workers Lost the Right to Strike, and Other Tales," *Michigan Law Review* 103 (December 2004): 527.

[8] National Labor Relations Act, Sections 8(a)1 – 8(a)5.

[9] National Labor Relations Act, Section 8(a)2.

Congress created the National Labor Relations Board (NLRB) to enforce these new labor rights. The NLRB was given the task of determining appropriate "bargaining units" (a community of workers with similar interests, to be represented by a single union), conducting representation elections, and certifying labor unions. It was also endowed with the powers to investigate, hold hearings, and issue findings relating to unfair labor practices, to compel employers to correct violations, and to provide remedy for workers who had been unjustly fired or discriminated against on account of union activity. The Wagner Act's backers had argued that the law would boost the purchasing power of American workers and help reduce labor unrest by ending the need for unions to engage in lengthy and violent recognition strikes against recalcitrant employers. Under these relatively conservative justifications, however, was a law that marked a radical new take on the rights of American workers and employers and began a new era of federal government intervention in employment and the labor economy. The principle of exclusive representation and the law's grant of a collectively-held worker right to bargain ran against decades of legal thinking that privileged individual economic liberty, and by making it illegal for employers to fire or discipline workers for organizing or joining unions the Act also undermined long-held ideas about the common law authority of employers over employees.

Particularly controversial was the ban on company unions. Although many of these organizations were of recent creation, hastily put together by employers to head off worker organizing in the NRA era, the law seemed to prohibit even long-standing employee representation programs, like the Baytown Joint Conference, that had been the cornerstone of the

open-shop policy in major industries for more than a decade and a half.[10] In the view of the law's backers, the core precept of the open shop system of welfare capitalism and employee representation plans – that workers and employers had largely compatible interests – now appeared to be plainly false. This class-conscious outlook underlay the Wagner Act bar on company unions. For many labor supporters, it was inconceivable that a company-friendly or approved organization could faithfully represent the true interests of workers. Besides, a company-supported union was incompatible with industrial democracy and bargaining. Workers could not freely select a representative of their own choosing if management plainly favored some organizations over others. Nor could fair bargaining between workers and management occur if management controlled the union it was facing on the other side of the table.[11]

Not surprisingly, American employers and their political allies cried foul. Opponents doubted the new law's constitutionality, a solid position considering the Supreme Court's recent history of overturning New Deal programs. One Congressional foe called the law nothing more than "an attempt to override the Constitution as construed by the Supreme Court" in the recent *Schecter* decision striking down the NRA, while another Representative offered his assurance that the "obviously unconstitutional" Act, which "abrogates the right to contacts" and "stands outside the power of Congress" would be "promptly nullified."[12] Like many employers, Humble executives argued that matters of employment and industrial relations lay beyond the government's power to regulate interstate commerce. Humble gasoline might end up in other states, they conceded, but hiring, firing, promoting, and negotiating with workers was strictly a

[10] By the estimation of the NLB, some 60% of company unions in 1934 had been in existence less than a year. Lloyd K. Garrison, "The National Labor Boards," *Annals of American Academy of Political and Social Science* 184 (March 1936): 139.
[11] See Robert Wagner's editorial, "Company Unions: A Vast Industrial Issue," *New York Times*, March 11, 1934.
[12] Statements of Rep Tarver (Georgia) and Rep. Smith (Virginia), in Congressional Record, 79th Congress, 1st Session (1935) p 9692, 9708, quoted in Drew D. Hansen, "The Sit-Down Strikes and the Switch in Time," *Wayne Law Review* 46 (2000): 64–5.

Baytown matter, immunizing it from federal interference.[13] Believing that the new labor regime was on shaky constitutional ground, the National Association of Manufacturers advised its members to ignore any orders from the NLRB, while the conservative Liberty League formed a "Lawyers Vigilance Committee" to support employer challenges to the new law. Even among supporters it was widely acknowledged that a presumption of unconstitutionality would render the NLRB powerless and new labor rights empty until the Supreme Court gave its opinion on the Wagner Act.[14] The Roosevelt administration struggled to find people willing to serve on the new labor board, and those that did were hesitant to assert its powers, urging unions to hold back bringing claims until the Board was on firmer ground.[15]

But American workers were unwilling to watch the law languish. Eager to wrest recognition of their unions from intractable employers and realize the rights promised by the Wagner Act, workers across the country launched a wave of bold, sometimes violent, and often successful strikes in the winter and spring of 1936 and 1937. The strikes all took advantage of a new tactic– the "sit down" – in which employees stopped work and occupied plants, denying management the opportunity to bring in strikebreakers or operate with a reduced workforce. Pioneered at a handful of plants in the summer and fall of 1936, "sit downs" enabled a flood of successful strikes that winter.[16] Although in some cases police or company guards were able to

[13] Anticipating court challenge, the authors of the Wagner Act included a statement justifying the regulation of labor relations as necessary to ensure the unburdened flow of commerce. There had been much debate among labor leaders, lawyers and New Deal officials over the law's constitutional grounding. Alternate claims to Constitutional justifications had been ventured, included the freedom of labor and the 13th Amendment prohibition of slavery and involuntary servitude; the power to guarantee a republican form of government (by preventing dependency); the power to promote the general welfare; 14th Amendment due process; and the power to regulate interstate commerce. Wagner put his emphasis on the last one. For a full discussion, see James Pope, "The Thirteenth Amendment Versus the Commerce Clause: Labor and the Shaping of American Constitutional Law, 1921 - 1957," *Columbia Law Review* 102 (January 2002): 46–59.

[14] Lloyd K. Garrison, "The National Labor Boards," 146.

[15] James A. Gross, *The Making of the National Labor Relations Board; a Study in Economics, Politics, and the Law* (Albany: State University of New York Press, 1974), 149.

[16] A handful of sit-down strikes by rubber workers and the by the UAW in 1936 demonstrated to labor leaders how the tactic could be effective at securing some of the very rights, among them protection from dismissals, union

regain control of factories – at Fansteel Metallurgical in Waukegan, Illinois police built a multiple story siege tower so officers could fire tear gas into the plant through unsecured windows – workers generally were able to hold plants and force employers to the bargaining table, where they had considerable success pressing demands for recognition and the disbanding of company unions.[17] In January 1937, United Auto Workers strikers shut down GM facilities across the industrial Midwest. Soon after, the automaker agreed to recognize the UAW as the sole collective bargaining agent in all of its plants, pledged not to discriminate against union members or organizers, and began immediate contract negotiations with the union over wages and work rules.[18] A month later, another industrial giant fell. At U.S. Steel, a company known for fierce and successful union opposition, workers abandoned the company union in favor of John L. Lewis' newly-formed Steel Worker Organizing Committee (SWOC). With the ranks of the union swelling and the prospect of a debilitating strike looming, U.S. Steel folded, agreeing to recognize the SWOC as the exclusive bargaining agent in all of its mills.[19]

The winter of 1936 and 1937 was a time of law breaking. The refusal of employers to recognize Congress' grant of labor rights under the Wagner Act and workers' bid to bring those rights into plants by occupying private property precipitated a constitutional crisis and thrust the Supreme Court into the spotlight of American life. By the time it took the Wagner Act's constitutionality under consideration in February 1937, the Court was under extraordinary pressure to abandon its anti-regulatory framework. President Roosevelt leveled withering public

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recognition, and bargaining, promised by the Wagner Act. See Sidney Fine, *Sit-down: The General Motors Strike of 1936-1937* (Ann Arbor: University of Michigan Press, 1969), 123–130.

[17] The government counted 477 sit-down strikes in 1937, involving firms employing a total of more than 400,000 workers. See Ibid., 181. On recognition and other purposes, see Bureau of Labor Statistics, *Monthly Labor Review*, vol. 44 (Washington: G.P.O, 1937), 1480, tbl. 4. On Fansteel siege tower, see Drew D. Hansen, "The Sit-Down Strikes and the Switch in Time," 86.

[18] Fine, *Sit-down*, 304–5.

[19] Robert H Zieger, *The CIO, 1935-1955* (Chapel Hill: University of North Carolina Press, 1995), 59. Lewis and organizers from the United Mine Workers formed the SWOC in 1936 to bring the Mine Workers' model of industrial unionism to the formerly-unorganized primary steel industry.

attacks against the Court's obstructionism and threatened to dilute the power of the existing conservative bloc by expanding the Court's number of justices beyond nine. Within the institution itself some of the Justices, including centrist Chief Justice Charles Hughes, worried that continued rulings against popular New Deal initiatives would threaten the Court's legitimacy.

And then the Court suddenly changed its stance on the New Deal. In upholding a variety of economic and labor regulations in the spring of 1937, the Court backed away from its history of intervention in defense of individual economic liberty and began deferring instead to legislative and administrative judgment in economic matters.[20] In April 1937, the Court handed down its opinion in *NLRB v. Jones & Laughlin Steel Corp*, upholding the Wagner Act and validating the extension of public power into the relationship between employer and employee, which the Court had just one year before deemed a "local," "domestic relationship" beyond the reach of the federal government.[21] Considerable disagreement exists among historians about what caused the Court to abandon its antipathy to economic regulation, but the majority opinion in *Jones & Laughlin* made clear that workers, by paralyzing broad segments of the industrial economy in the sit-down wave, had put the factual lie to Wagner Act opponents' arguments that employers' labor policies were a local matter beyond the reach of the federal government.[22] The Court could no longer "shut our eyes to the plainest facts of our national life," wrote Chief

[20] In that year's term, the Court upheld the constitutionality of state minimum wage laws in *West Coast Hotel Co. v. Parrish* 300 U.S. 379; the Wagner Act in *N.L.R.B. v Jones & Laughlin Steel Co.* 301 U.S. 1; and various provisions of the Social Security Act in *Helvering v. Davis* 301 U.S. 619, *Steward Machine Co. v. Davis* 301 U.S. 548, and *Carmichael v. Southern Coal & Coke Co*. 301 U.S. 495.
[21] Carter v. Carter Coal Co. (1936), 298 US 238, at 308.
[22] Among competing explanations of the Court's changing view of the New Deal, William Edward Leuchtenburg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* (New York: Oxford University Press, 1995) provides an argument stressing political and institutional pressures. Some legal historians downplay the effects of political and social context, arguing instead that the Court's "switch" was the result of a long-developing doctrinal shift. This interpretation has its origins in Felix Frankfurter, "Mr. Justice Roberts," *University of Pennsylvania Law Review* 104, no. 3 (1955): 311–317. More recently, see Barry Cushman, *Rethinking the New Deal Court: The Structure of a Constitutional Revolution* (New York: Oxford University Press, 1998).

Justice Hughes. "Experience has abundantly demonstrated" that the labor rights protected by the Wagner Act were "often an essential condition of industrial peace" with "the most serious effect upon interstate commerce."[23] And so workers in CIO unions had both helped secure legal backing for long-desired labor rights and bring about a revolution in constitutional law.[24]

It was an historical irony that workers in the industrial North and Midwest, whom had been inspired by the Wagner Act and who, by their actions, had paved the way for its validation, were the ones that depended on it the least. They had won their unions the old-fashioned way – through strikes. As the aborted Humble walkout showed, Houston's industrial unions lacked the power to wrest recognition from employers. There were no victorious strikes in Houston in 1936 or 1937, sit-down or otherwise. No union obtained recognition or a contract through economic pressure. Instead, more so than their established national counterparts, the unions in Houston's core industries would have to put their hopes in the powers and protections provided by the new law to reverse their losing streak. From 1937 to 1940, the city's CIO and company unions would clash over the meaning of the Wagner Act and industrial democracy, with each side claiming to represent the true interest of workers, free either from management control or domination by "outside" union bosses. This contest was fought by workers and organizers on and off the shopfloor, but it would reach its peak in the forums of administrative law, as CIO unions of oil and steel workers turned to the NLRB both to curb employers' anti-union activities and to disqualify their company union foes. At the heart of this effort was a contested understanding of the Wagner Act's guarantee of "free choice," with supporters of the CIO arguing that workers could only freely select a representative where employers were barred from playing favorites,

[23] N.L.R.B. v. Jones & Laughlin Steel Co., 301 U.S. 1, 41-42 (1937).
[24] Drew D. Hansen, "The Sit-Down Strikes and the Switch in Time" offers a compelling version of this argument.

while sizeable numbers of the rank-and-file enacted their own ideas about choice by spurning the CIO and continuing to support company unions.

The contest between the CIO and company unions would also divide Houston's black workers. Although widely recognized for shifting the balance of power between labor and employers, the Wagner Act, by bringing federal authority into the employee-employer relationship, would also present both threats and opportunities to black workers facing discrimination from employers and fellow workers. Would the New Deal concept of worker rights and industrial democracy provide a new place for black workers in the labor movement, or would it only further empower unions hostile to black interests? That question would occupy much of Houston's black community over the next half decade, provoking a contentious split between factions of black workers and middle class activists as they debated the role of black workers under majority rule.

The CIO Comes to Houston

The new shape of Houston's labor landscape was heralded by changes in the organization of its oil and steel unions. The IAOFGW&RA withdrew from the craft-focused AFL in 1936, relabeling itself as the Oil Workers International Union (OWIU), a name that better captured its industrial organizing philosophy.[25] In May 1937, a month after the Supreme Court upheld the Wagner Act, P.F. Kennedy dropped his union's affiliation with the IAM and chartered Local 1742 of the Steelworkers Organizing Committee (SWOC), leading most of the IAM's membership – with the exception of a few dozen highly-skilled machinists – into the

[25] Davidson, *Challenging the Giants*, 87–90.

CIO.[26] That summer Kennedy and John Crossland, an energetic OWIU organizer at Shell-Pasadena, travelled to Beaumont, where they joined leaders from eight smaller, left-leaning unions to set up a state CIO body. The OWIU and the SWOC formed the heart of the Texas CIO. Crossland was elected president of the state organization; Kennedy became its secretary-treasurer.[27] The oil and steel unions, with their origins in organizing white, skilled, and relatively well-paid men, represented the labor aristocracy in Texas, but the early efforts of the State CIO body showed a commitment to organizing broad swaths of the state's working class. In 1937 the CIO set out to organize white, black and Mexican American men and women in smelters, packinghouses, pecan shelling and shrimp peeling plants, cotton mills, railroad tie lumber yards and on docks and ships, among other places.[28] This diversity of workers reflected the CIO's commitment to organizing across lines of race and craft to build a unified working class movement in industry. Keeping with this commitment, the oil and steel workers, having abandoned craft distinctions in 1933 to strengthen their unions, now took up the strategy of organizing unions without racial bars in an effort to establish themselves through majority rule.

The OWIU unions along the ship channel dropped their dual local structure in 1936, reorganizing along lines of geography rather than race. Oliver's Local 333 at Baytown opened its membership to black workers; Local 227 incorporated the black workers in Local 243 at the Houston refineries and spun off a new union, Local 367 - Pasadena, helmed by Crossland, to

[26] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 849 (1940).
[27] Murray Polakoff, "The Development of the Texas State CIO Council" (Ph.D. dissertation, Columbia University, 1955), 7.
[28] An overview of early organizing is George N. Green, "Texas State Industrial Union Council," *Handbook of Texas Online* (http://www.tshaonline.org/handbook/online/articles/octbg). See also, Rick Halpern, "Interracial Unionism in the Southwest: Fort Worth's Packinghouse Workers, 1937-1954," in *Organized Labor in the Twentieth-Century South*, ed. Robert H Zieger (Knoxville: University of Tennessee Press, 1991), 158–182; Harold Shapiro, "The Pecan Shellers of San Antonio," *Southwestern Social Science Quarterly* 32 (1951): 229; Frank Arnold, "Humberto Silex: CIO Organizer from Nicaragua," *Southwest Economy and Society* 4 (Fall 1978); Gilbert Mers, *Working the Waterfront: The Ups and Downs of a Rebel Longshoreman* (Austin: University of Texas Press, 1988).

represent black and white workers at Shell in Pasadena and the Texas Company (Galena Park).[29] Black workers were brought into the new unions on an equal basis, with full standing to participate in internal governance, but union leaders made no commitment to pursuing equality in the workplace. The OWIU aimed to build membership by adding together the different segments of the refinery workforce – black and white, skilled and unskilled – not by promising to integrate them in the plant. Not all black workers were enthralled with the possibility of integrated union membership. Leaders of black locals 254 and 229 representing workers at Port Arthur Gulf and Magnolia in Beaumont, where blacks made up a larger percentage of the workforce than they did at most ship channel plants, opted to keep their separate set-ups. The segregated unions were closely affiliated, but their separation ensured that black union officers would keep their positions and that black workers would continue to bring grievances to management through black representatives.

An OWIU campaign at Shell in Pasadena, where African Americans made up about ten percent of the refinery workforce, showed workers of both races and of various skill levels ready to embrace the union's model of plant-wide organizing. Since 1935, Shell had engaged in on-and-off informal negotiations with the OWIU and two other unions, the Machinists and the Boilermakers, but the unions had never reached terms with the company or cracked its open shop policy. In November 1937, Crossland called a walkout to up the pressure on the company. Almost all of the refinery's black workers joined with white OWIU men in the strike. But while the walkout provided an opportunity to demonstrate picket line solidarity, it also revealed a union that lacked the power to wrest a contract from management. After two weeks, the OWIU came back to work. The defeat convinced Crossland that his union's best course was to pursue

[29] Darrell G. Welch, "Union Activity in the Petroleum Industry of Texas" (M.A. Thesis, University of Texas, 1950), 111; O'Connor, *History of the O.W.I.U.*, 224.

certification through the NLRB. The Board's policies reinforced the OWIU's commitment to biracial organizing. In determining bargaining units, the NLRB refused to acknowledge that communities of worker interest could be defined along racial lines, giving the union a strong reason to bolster its ranks by opening its membership to black laborers. Crossland would also reach out to workers at the top of the refinery job hierarchy. The NLRB gave the machinists and boilermakers the option of sticking with their AFL affiliates, but most of those workers, perhaps recognizing that their separate unions had also failed to bring about a contract, signed on to the OWIU. [30] The OWIU's strength-in-numbers approach had appeal: 766 of the refinery's approximately 1000 hourly workers committed to the union. In November 1938, the NLRB certified it as the exclusive bargaining agent at Shell without an election.[31]

The organizing drive was the sort of exercise of worker choice envisioned by the backers of the Wagner Act. In Houston, it was also rare. Crossland had enjoyed a crucial advantage in his campaign – Shell had no company union to oppose it. Certification at Shell was a significant victory for the OWIU, but both the oil and steel unions had their sights set on the area's largest plants, Humble Oil and Hughes Tool, keeping with the CIO's strategy of targeting industry leaders. Smaller employers, the CIO believed, would fight unions to the death out of a fear of being put at a disadvantage with their larger competitors. If the regional wage and price setters were unionized first, however, smaller refineries and oil tool shops would follow with little resistance. Humble and Hughes were, of course, familiar union opponents and skillful defenders of the open shop. Determined to avoid the fate of their counterparts in the North, Houston's

[30] See In the Matter of Shell Petroleum Corp. and O.W.I.U., Local No. 367, 10 N.L.R.B. 1107 (1939) for boilermakers and In the Matter of Shell Petroleum Corp. and O.W.I.U., Local No. 367, 11 N.L.R.B. 572 (1939) for machinists.

[31] In the Matter of Shell Petroleum Corp. and O.W.I.U., Local No. 367, 9 N.L.R.B. 831 (1938). Membership figures represent sum of validated cards presented to NLRB and OWIU votes cast by boilermakers and machinists in separate NLRB elections.

industrial employers reorganized their company unions to meet the challenge of CIO organizing and to bring them in line with the Wagner Act's prohibition on company "dominated" labor organization.

In the spring and summer of 1937 Hughes Tool executives took steps to remove the taint of company domination from the EWO and the HTC. On the advice of the company's attorneys, Hughes head Kuldell met with officers of the two company unions to inform them of changes required by the Wagner Act. For the first time in their history, both organizations would need to draft and adopt formal constitutions. Plant managers had to be removed from the EWO board, and the company could no longer provide financial assistance in the form of free office space, materials, and paid time off for company union activities. Plenty remained that tied the company to the EWO and HTC, however. Hughes deducted dues from workers' paychecks and the EWO kept its membership desk within the payroll department. The leadership of both company unions continued with no interruption and the EWO, despite now being technically free from management control, still counted foremen and lower-level supervisors in its membership, ensuring that the company union, and by extension Hughes officials, could keep an eye on CIO men in the rank-and-file. In July 1937, Hughes formalized its relationship with the reconstituted company union by giving contracts to the EWO and the HTC recognizing them as the exclusive bargaining agent for all of Hughes's white and black workers respectively. Despite the requirements of the Wagner Act, Kuldell ruled that there was no need for workers to vote on their new representatives because, he asserted, "this plan will work to the satisfaction of the greater majority of the employees."[32]

[32] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 849–850 (1940). "Summary of agreement arrived at by the Hughes Tool Company and its hourly employees, October 1, 1937" Independent Metal Workers Union papers, File 3, HMRC.

Humble Oil was more thorough in remaking its company union as a legitimate worker organization. The Joint Conference had been at Baytown nearly as long as the refinery had existed, but in late April 1937, Humble director Hines Baker dissolved the organization, citing the recent validation of the Wagner Act. The following day, the Baytown Security League – a group of loyal employees dedicated to "opposition without reservation to any program [of] John L. Lewis, the CIO, affiliated organizations or associates" – unveiled plans for an "Employee Federation," a new "independent" union (so called because it was unaffiliated with a national labor organization) to replace the JC. [33] The Security League was formed in February 1937 by W. A. Thomas, a part-time Methodist minister and full-time employee in the Baytown cracking unit, and fifty other employees, drawn heavily from the shop floor chain of command, from the gangpushers and labor foremen who supervised small groups of laborers up to department foremen and shift supervisors. The Employee Federation they created was, in form and outlook, closely related to its JC predecessor, with one crucial exception – the Federation had no formal positions for company officials. Despite its worker provenance, however, the Federation lacked essential features of real worker organizations. It had no regular meetings of the membership, lacked provisions for presenting grievances and would not appeal disciplinary actions taken against workers. At its founding, Federation leaders declared their "utmost confidence" in management and its "continuing policy of fair dealing with the employees," a trust they demonstrated by agreeing to negotiate all matters of wages and hours in a special committee of

[33] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 124–125 (1939), Baytown's Security League was modeled after a similar organization at the Weirton Steel Company in West Virginia. See Elizabeth Fones-Wolf and Ken Fones-Wolf, "Cold War Americanism: Business, Pageantry, and Antiunionism in Weirton, West Virginia," *Business History Review* 77 (Spring 2003): 61–91. Weirton Steel, like Humble, would successfully fight the NLRB and CIO's efforts to disestablish its company union.

half Federation and half company representatives, a neutered form of collective bargaining that neatly replicated the old Joint Conference structure.[34]

The Security League moved quickly to shove aside the OWIU and establish the Federation as the only recognized union in the refinery by holding a representation election at the end of April 1937, just days after the new independent union had been announced. The election procedure was a farce. Voting was administered by company officials at the plant gates, where workers had a choice of filling out a Federation membership card that would be forwarded on to the industrial relations department or signing in a "no union" column. The OWIU was not on the ballot. The results of the election – 2,516 Federation memberships signed, 79 defiant "no" votes – might have led any neutral observer to conclude that the procedure was rigged, but it was good enough for the company, which was only too happy to accept the Federation as the exclusive bargaining agent for all Baytown workers.

The Humble Federation became the model for independent unionism in the area's smaller refineries. Eastern States refining dispatched workers to Humble's downtown headquarters for advice on forming their own Federation, which was voted in by worker referendum in May 1937. The Eastern States Federation was a curious case. Three of its five elected directors were OWIU members, and the union's own internal polling showed that the great majority of the plant's 113 member workforce preferred keeping their hybrid OWIU/Federation setup to making an all-out push for recognition of the union.[35] Elsewhere, Federations were established by less democratic means. Texas Company officials installed the "Houston Works Employees Federation" by fiat and bound it to a memorandum of understanding that put in place the existing pay scale and

[34] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 130 (1939).
[35] In the Matter of Eastern States Petroleum Co., Inc. and O.W.I.U. Local 227, 15 N.L.R.B. 450, 453–55 (1939).

work rules without an employee vote.[36] American Petroleum mimicked Humble's sham election procedures, taking the coercion a step further by having each worker express his preference for or against the Employee Federation in front of his foreman. A majority signed on.[37]

The reform of company unions into independents represented the ground campaign in a war waged by Houston's industrialists in the late 1930's to protect their company-friendly system of labor relations from the CIO. As oil-led growth in the second half of the decade restored the fortunes of the city's businesses, Houston's corporate leaders were quick to link their prosperity to the free hand that management still held in industrial matters.[38] With much of the country wracked by strikes and suffering from the "double-dip" recession of 1937 and 1938, the Chamber of Commerce bragged that Houston remained a "treasure land of golden opportunity" in large part due to "freedom from serious friction in the labor world."[39] Houston's industrialists joined their affirmative defense of their customary labor relations with scathing attacks on unions proffered by political allies and professional extremists. They supported Martin Dies, the congressman from refinery-heavy Jefferson County (Beaumont and Port Arthur), who used his position on the House Un-American Activities Committee to investigate links between the New Deal, the CIO and the Communist Party, and funded the propaganda activities of Vance Muse, a Houston-based, right-wing raconteur whose "Christian Americans" front group warned of CIO plans for Communist dictatorship and Negro rule.[40]

To help bring the anti-CIO campaign into their plants, Houston's industrialists encouraged the heads of independent unions to form the American Association of Independent

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[36] In the Matter of The Texas Company and O.W.I.U. Local 367, 33 N.L.R.B. 1214, 1217–18 (1941).
[37] In the Matter of American Petroleum Co. and O.W.I.U., Local No. 227, 12 N.L.R.B. 688, 699 (1939).
[38] See *Fortune*, Dec. 1939 on businessmen in "the city the Depression forgot."
[39] *Houston* [Chamber of Commerce magazine],Dec. 1938; Oct. 1938.
[40] George N Green, *The Establishment in Texas Politics: The Primitive Years, 1938-1957* (Norman: University of Oklahoma Press, 1979), 58–62, 69–71. Drew Pearson's exposed Muse's decades-long association with Texas's reactionary businessmen and politicians in the *Southern Patriot*, Aug. 1944. See also *Collier's*, Aug. 18, 1945.

Labor Unions. Headed by longtime Hughes EWO chief E.M. Ramsey, the AAILU brought together representatives from Hughes, the refinery Federations, and other inside unions from bottling plants, shipping companies, Western Union and Southwestern Bell. Through its member organizations, the AAILU claimed to cover more than 40,000 workers in the Houston area, making it larger than either the local CIO or AFL, but the group was less a mass-membership organization than it was a distribution channel for employer-funded union bashing propaganda from industry and extremist groups.[41] Through the AAILU, Houston's workers were warned to the dangers of communism by the N.A.M.'s *Join the CIO and Help Build a Soviet America*, learned the benefits of cooperation with management in the Iron and Steel Institute's *The Men Who Make Steel*, were informed of the constitutional perils of the Wagner Act in the Liberty League's *What the Supreme Court Does Not Require*, and alerted by Vance Muse to the CIO's plan to force "white men and women into organizations with black African apes who they shall have to call brother or lose their jobs." [42]

Within individual plants, management could count on employees from the supervisory ranks, many of them officers of independent unions, to keep the CIO at bay. Top executives encouraged supervisors to press the anti-CIO position, but they had to be careful not to run afoul of the Wagner Act requirement that management not show open preference for one labor organization over another. Humble head Hines Baker, for example, issued a carefully worded declaration that "if any employee in a supervisory capacity shall encourage or discourage… any

[41] The American Association of Independent Labor Unions, *Constitution and By-Laws* (Houston, 1938); In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 123 (1939).

[42] On distribution of pamphlets to Houston shopfloors, see Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), 91. On Muse, see Stetson Kennedy, *Southern Exposure* (Garden City, N.Y: Doubleday, 1946), 84. For a thorough treatment of such propaganda in the late 1930s, see Jerold S. Auerbach, *Labor and Liberty: The La Follette Committee and the New Deal* (Indianapolis: Bobbs-Merrill Co, 1966). The author of *Join the CIO and Help Build a Soviet America*, Joseph P. Kamp, was jailed in 1950 for refusing to disclose to Congress the financial backers of his updated, politically-tuned 1944 pamphlet *Vote CIO and Get a Soviet America.*

labor organization, it must be clearly understood that he is acting on his own responsibility, and is not acting for the Company."[43] If Baker's language served the legal purpose of insulating the executive suite from the actions of supervisors on the shop floor, it was as much a license as a warning for them to carry out the company's desires. Of course, management's perspective came through in the course of ordinary organizing, as when the Federations touted their advantages to the rank-and-file: inside unions charged much lower dues, did not carry the risk of a costly strike to secure recognition or contract terms, and, in the words of the Humble newsletter, would allow ambitious workers an "opportunity to develop [their] capabilities to the utmost" free from the work and seniority rules that the CIO wanted to impose.[44] "Organized labor is all right up in those sweatshops and places like that," a Baytown supervisor lectured one of his workers, "but we don't need it here in this refinery. We can get anything we desire through [our] little company union."[45]

CIO organizers were the frequent target of harassment and threats, often in the form of warnings from supervisors disguised as advice. Baytown foreman C.F. Kelley offered some of that form of counsel to an employee in his department. "I told him that I wanted to give him a little advice, not as his foreman, but just as man to man," Kelly later testified to an NLRB investigator. "If I were in his place I would not take such a prominent part in union activities. It looks like they are letting you do the dirty work guiding these negroes around Baytown." Organizing black workers, Kelley cautioned, "will sooner or later get you in trouble. And you are letting [Local 333 president] Bob Oliver make a sap out of you."[46] That rank-and-file

[43] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 128 (1939). Even if no one took Baker's statement to be genuine it was a smart legal move. The statement would be held up three years later by the 5th Circuit as the key piece of evidence establishing the independence of the Federations
[44] Ibid., 16:121–22, quoting *Humble Bee* Feb. 11, 1937.
[45] Ibid., 16:131.
[46] Ibid., 16:120–121.

organizers were being taken advantage of by outside union officials was a common theme among supervisors. A Hughes superintendent called aside three members of the SWOC grievance committee to warn them that they were taking risks on behalf of national CIO leaders who were "just in it for the money." They should instead "study how to make [themselves] better workmen rather than taking up labor matters."[47] Supervisors played up the issue of union corruption. One Southport OWIU organizer complained that a manager told employees that "if we knew what he knows about the executives of the organization we were in, we would get out guns and go after them… John Lewis will look after himself, and it is up to you to look after yourself."[48]

Supervisors' anti-CIO activities often had a harder edge, such as when they used their power over promotions to reward those who "would remain loyal to the Company and stay out of outside unions," and punish those who would not. George Walmsley, Baytown utilities superintendent, let the employees in his unit know that one of the men had been passed over for promotion because his union organizing had, in Walmsley's opinion, made it hard for the man to "get along with his fellow workers."[49] By making clear the risks of going against company wishes, warnings and retaliation must have exercised a chilling effect on workers. For some CIO men, however, they must have only confirmed the need for an outside union. Irvin Tuck, a machine operator and charter SWOC member was confronted by his set-up man (immediate supervisor), C.F. Steinman, after the worker who shared Tuck's machine reported to Steinman that Tuck had been "talking CIO" to his fellow operators. "You ought to be careful about what

[47] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 856 (1940).
[48] In the Matter of Southport Petroleum Co. and O.W.I.U., Local No. 227, 8 N.L.R.B. 792, 799 (1938).
[49] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 130–131 (1939).

you get into out here," Steinman told Tuck. Had he read *Join the CIO and Help Build a Soviet America*? Tuck replied that he read it and was even more certain that Hughes needed the CIO.[50]

In plants where the old company unions continued to hold the loyalty of many workers, the CIO promoted itself as the "bona fide union" alternative to organizations in the pocket of management. The CIO's willingness to take on management attracted men like Hughes worker Ward Clark. In 1936, Clark had been the EWO grievance man in the forge shop, but his efforts representing his fellow workers proved too much for the general foreman, who informed Clark that the company didn't "approve of some of the grievances you have taken over there [to management]" and accused him of "trying to organize the boys against me." Clark let his frustrations show. "Well, the Welfare [EWO]… that is no union," he responded. "It is nothing but a fake." Clark withdrew from the EWO and was transferred to the foundry. A year later he became an active SWOC man and continued to be scolded for his union work. "They don't need no union here," the foundry boss told him. "We have the Welfare [and] good benefits. That is all we are going to have or recognize." Clark wielded the Wagner Act in his response. "I told him the Welfare was illegal," he later recounted, and his supervisor's anti-union stance was "a violation."[51]

The desire for a bona fide union at Hughes gave black and white SWOC supporters a point of unity. As Clark told the company personnel director when he was confronted about organizing black foundry men, "the colored employees need a union as well as the white men."[52] Allison "Bud" Alton, who first joined the all-black HTC when he began work at Hughes in 1936,

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[50] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 855 (1940); Botson, *Hughes Tool Company*, 95.
[51] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 847–8 (1940).
[52] Ibid., 27:856.

explained his decision to sign on to the SWOC in similar terms. "The only way we could have a real union, apart from the company union, was to organize with the CIO."[53] If the language of "bona fide" union was shared by CIO men, its meaning must have varied among the hundreds of workers who joined the SWOC and OWIU in the late 1930's. The CIO could represent the promise of tangible improvement in wages, hours and working conditions; a union that would defend workers from autocratic foremen and protect workers' rights on the job; an opportunity to participate in the management of the shop floor; or a way to show solidarity with fellow workers. For many white members, the CIO's disregard of racial boundaries may have been accepted as a strategic necessity or out of recognition that whites and blacks shared common interests as workers. While black members were undoubtedly drawn to the CIO's racial openness, they too must have thought of the union in some of the same strategic and pragmatic terms as their white counterparts.

When the leadership of the CIO spoke of the meanings of unionism, they often described it in much broader terms. Unionism, in their take, was more than a shop floor coalition of workers with shared economic interests; it was a broad social and political crusade "founded on the Christian principle of the brotherhood of men." Workers united in "bona fide organizations," declared the Houston CIO's *Organizer* newspaper, could take the fight to "Fascism, Company Unionism, capitalism and any other 'isms' which serve to rob, starve, browbeat, destroy or obstruct the workingman." Houston's CIO leaders preached to their members a vision of working class "Americanism" dedicated to establishing the principles of "Democracy, Workers' Rights, [and] Civil Liberty" in factories and "promoting social justice" outside of them, while trumpeting the idea that united action could produce gains for all workers. Unity and worker

[53] Ernest Obadele-Starks, *Black Unionism in the Industrial South* (College Station: Texas A & M University Press, 2000), 88.

advance, however, did not necessarily mean worker equality. While the *Organizer* pledged "constantly raising wages and shortening hours regardless of creed, politics, or religious beliefs," it conspicuously avoided the issue of race.[54] Driven by the need to put together workplace majorities, Houston's industrial unions had turned to black workers for support. The extent of the CIO's commitment to equality in the workplace, however, remained undefined, leaving it to black workers and leaders to debate the trustworthiness of white unions and the possibilities of pursuing black advance through coalition with whites in the CIO.

"Negro Laborers to the Crossroads": Dueling Biracial and Black Independent Approaches to the Union Question.

"Sweeping irresistibly over America today is an upsurge of labor" observed the Houston *Informer* in May 1937. The Wagner Act and the rise of the CIO had brought "Negro laborers to the crossroads."[55] The new open unionism of the CIO promised to incorporate black workers into a labor movement that had long been ambivalent, or in many cases, hostile to the interests of African Americans. Could the local oil and steel unions be trusted to represent black workers, or were they a case of "Greeks bearing gifts," appealing to black workers to gain power, only to operate in the interests of whites once they gained it? [56]

The question of what role African Americans might play in the "new" labor movement spilled out of factories in the spring of 1937 and into the institutional life of black Houston. The black YWCA hosted a lecture by socialist activist and native Houstonian Thyra Edwards, who urged African Americans to spurn company unions that "mean nobody any good except the

[54] *Organizer*, Jan. 1939 [monthly]. Reprinted in Sutton J. Boyd, "Appeals Made to Employees to Influence Their Decision Regarding Collective Bargaining." (MA Thesis, North Texas State Teachers College, 1945), 79.
[55] *Informer*, May 1, 1937.
[56] Ibid.

capitalists" and embrace the CIO as part of a global workers' struggle against racial and economic oppression.[57] The Baptist Ministers Alliance heard ILA leader Freeman Everett speak on the importance of organizing black workers into the national labor federations. As a representative of the city's largest black union, and the only labor organization whose members commanded the same pay as their white counterparts, Everett's position carried considerable weight. After his speech, the ministers resolved that their parishioners should look to the CIO and the AFL and "enter labor unions wherever the privilege is given."[58]

Sparks flew at a labor forum arranged by the NAACP, where Roy Sessions, described by the *Informer* as the "handsome representative of the militant, rebelling CIO," clashed with black independent union advocate C.W. Rice over the future course of black labor. If local CIO leaders muted their racial progressivism around white workers, Sessions held nothing back when pitching his union to a black audience, promising that the CIO represented nothing more than a "Second Emancipation." The first had been "merely a transposition from physical to economic slavery." Now, pointing to the "higher wages paid to Negro workers in the two oil refineries organized under the CIO here" and to the CIO's policy of prioritizing wage increases for common labor, Sessions argued that the bonds of black economic oppression would finally be broken by working class unity. C.W. Rice attacked the CIO's intentions, cautioning the audience that promises of black advance were merely "bait" being used by white organizers like Sessions in their pursuit of bigger fish. Once whites landed their union, he predicted, those promises would be cast aside. White workers had not changed their attitude towards African Americans, and black workers still had much to fear from a union shop where "fifty two percent of workers" could disregard the interests of minorities. The Wagner Act's election provisions may have

[57] *Informer*, May 8, 1937. On Edwards' black popular front politics, see Gregg Andrews, *Thyra J. Edwards, Black Activist in the Global Freedom Struggle* (Columbia, Mo: University of Missouri Press, 2011).
[58] *Informer*, May 8, 1937.

given white unions a reason to pursue black support, but majority rule would still mean white rule and the perpetuation of workplace discrimination.[59]

Rice continued to warn of the dangers of allying with white workers in the *Negro Labor News*. In his "As I See It" editorial columns, he advised black workers to be alert to the threat the CIO posed to black jobs and rights. The CIO's "outside high powered organizers and agitators" might promise great opportunity for African Americans, but they were really in pursuit of "a long time hope" to "get control of the nearly 20,000 Negroes engaged in occupations in Houston." Unions in Houston had a history of "double crossing the Negro," and the CIO would prove no different. Rice counseled black workers to consider this discriminatory history before "casting their vote" to "convey full power to the union" to represent and bargain for them. Once in place, he cautioned, CIO unions would be run by, and for, whites. Black workers would be denied the "right to speak in their own defense" by white grievance committees and white union officers would employ "every conceivable scheme through union rituals and regulations to deprive the Negro from holding a decent job."[60] The behavior of CIO unions at times helped confirm Rice's position. The editor delighted in poking holes in the CIO's racial progressivism, as in a report from the OWIU's 1938 annual gathering, where he noted that the same union that was "shouting from the housetops about its race equality policy" failed to stick up for black members who were made to ride in the freight elevator of the segregated convention hotel.[61]

Keeping with his Booker T. Washington-influenced outlook, Rice believed that the national labor movement and its theory of class conflict was at cross purposes with the real path

[59] *Informer*, May 29, 1937.
[60] *Negro Labor News*, Aug. 14, 1937; Nov. 25, 1939.
[61] *Negro Labor News*, June 18, 1938; Obadele-Starks, *Black Unionism in the Industrial South*, 76.

to black progress – "getting and holding more jobs."[62] Jobs came from employers, not unions, he reminded readers, and "Negroes in Houston have been most fortunate" to have employers that were "favorably disposed toward Negro workers."[63] As area refineries increased employment in the late 1930s, Rice lauded oil companies for hiring African Americans. The growth of Houston as an industrial center made it "a bright spot for Negro labor," but, Rice warned, "too much labor trouble" would turn employers away.[64] Rice was especially critical of black ILA dockworkers, faulting their "laziness" for reducing employment during a strike that pushed shipping away from Houston towards open ports in Galveston and New Orleans.[65]

Starting in the mid-1930s, Rice emerged as the leading spokesman for a form of independent black unionism that was, he advertised, in the "best interest of employers and employees" alike.[66] Rice's independent unionism was not the only model of all-black labor organization at the time. A. Philip Randolph's Brotherhood of Sleeping Car Porters, for example, had built the nation's largest black union membership by organizing Pullman porters, an entirely black profession. Rice's independent unionism, in contrast, was intended to provide a separate, black-controlled institution for black workers that labored alongside whites on job sites. Perhaps a more crucial difference between the two visions of black unionism was the stances struck by Randolph and Rice towards the rest of the labor movement. Randolph positioned his BSCP as an organization dedicated not just to bringing material reward to its members, but to leading a national political and economic movement on behalf of black workers, a task that would involve joining in coalition with the left flank of white labor. Rice, on the other hand, was

[62] Rice used the phrase repeatedly. See, for example, *Negro Labor News*, Oct. 23, 1937; Mar. 2, 1940; April 13, 1940.
[63] *Negro Labor News*, Nov. 25, 1939.
[64] *Negro Labor News*, March 2, 1940.
[65] *Negro Labor News*, June 18, 1938.
[66] *Negro Labor News*, April 13, 1940. On Rice's role as the leading proponent of independent black unionism in the railroad industry, see Eric Arnesen, *Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality* (Cambridge, Mass: Harvard University Press, 2001), 139–145.

deeply suspicious of the interracial, reformist current running through the labor left, and warned that joining with white labor, no matter the terms, was a recipe for betrayal.[67]

This conviction led Rice to urge the adoption of his model in all of the major Houston industries – shipping, oil refining, steel fabrication and the railroads – where blacks and whites worked around each other. This evangelism, and his attacks on mainstream labor organizations, earned Rice the enmity of many black unionists and labor boosters in Houston's black leadership. ILA officials offered a particularly scathing response to the editor's criticism of their union. "There isn't any more truth in [Rice] than there is in Satan himself," the dockworkers charged in an open letter that criticized the *Negro Labor News* for its fawning praise of shipping companies. Rice "may instruct the domestics how they may obey their employers," the ILA wrote, referencing Rice's employment institutes, but his version of black labor subservience had nothing to offer union men in a "bona fide labor organization" that was operated on the principle that "a man is a man regardless of his color."[68]

Rice's most vociferous detractor was Carter Wesley, editor of the *Houston Informer*, the city's leading black newspaper. Wesley was born in Houston in 1892, the son of a school teacher and a laborer on the Southern Pacific Railroad. A graduate of Fisk University and Northwestern University Law School, Wesley practiced law in Muskogee, Oklahoma from 1922 until 1927, when controversy over large fees charged for administering the oil claims of an elderly half-black, half-Creek ex-slave landowner prompted Wesley to leave the state.[69] He returned to his native city, where he joined the *Informer* as a part-owner and business manager.

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[67] See Jones, *The March on Washington: Jobs, Freedom and the Forgotten History of Civil Rights*, 1–40; Paula F. Pfeffer, *A. Philip Randolph, Pioneer of the Civil Rights Movement* (Baton Rouge: Louisiana State University Press, 1990).

[68] *Informer*, July 9, 1938. (Letter by ILA 1271 president T. Isaacs and board chairman N. Weathers.)

[69] Darlene Clark Hine, *Black Victory: The Rise and Fall of the White Primary in Texas* (Millwood, N.Y: KTO Press, 1979), 127–129; Nancy Ruth Eckols Bessent, "The Publisher: a Biography of Carter W. Wesley" (M.A. Thesis, University of Texas, 1981).

After a contentious split from his partner, Wesley took control of the paper, modernizing its operations and expanding its reach outside Houston. In the late 1930s, the paper ran local editions for Austin, Corpus Christi, Galveston, Beaumont, Longview and five other East Texas cities.[70] The *Informer*'s growth owed to Wesley's hard-nosed business sense and to his positioning of the paper as Houston's leading advocate of civil rights and black political and labor activism. From the *Informer*'s pages, Wesley urged black Houstonians to support legal challenges to the white primary, efforts to secure public housing for African Americans, and the boycott movement. Beginning in 1937, as the racially inclusive CIO appeared in the state, Wesley also became a full-throated supporter of black participation in the organized labor movement and a frequent critic of his rival editor at the *Negro Labor News.*

Wesley seemed to delight in taking on a man he dubbed a "shallow-brained Uncle Tom" and a "cheap Benedict Arnold."[71] Rice, the *Informer* editor charged, had let "largess from white employers" in the form of fees for his employment agency and donations to the TNBWMA, turn him into a "spokesperson" for management and the city's "bigger white men," and his advocacy for black independent unions was, in Wesley's eyes, nothing more than a ploy to thwart working-class mobilization.[72] The "black, rascally leader," Wesley alleged, was "trying to keep labor in the South split by color in order to feather [his] own nest."[73] Although the *Informer* and real estate investments had made Wesley one of the wealthiest African Americans in Houston, his labor writings in the late 1930s took wholeheartedly to the union movement's rhetoric of class conflict and working class unity. On May Day 1937, he declared optimistically that labor "has shaken capital out of its ascendency," and soon thereafter praised both the AFL and the CIO

[70]Charles William Grose, "Black Newspapers in Texas, 1868-1970" (M.A. Thesis, University of Texas, 1972), 141–144, 170–175.
[71] *Informer*, May 6, 1939.
[72] *Informer*, May 29, 1937.
[73] *Informer*, May 6, 1939.

for "recogniz[ing] that the interests of employers and employees are fundamentally at variance."[74] Viewed in this framework, Rice's "arguments in favor of trusting capital" were out of place "in the columns of a paper [the *Negro Labor News*] presumably dedicated to the advancement of the Negro workers." Rice's advocacy of independent, management-friendly, black unions was, Wesley declared, "unnatural… for a Negro," and put Rice and his paper on the wrong side of working-class and black struggle. Of this Wesley was sure: "A Negro… doesn't belong with capital. He belongs with labor."[75]

At the center of the disagreement between Wesley and Rice was their different take on the meaning of the CIO's racial policy. Wesley conceded that in the past "unions have stood for united effort on the part of white workers to bar Negroes," but this was "not the motive" of the current organizing efforts of the SWOC and OWIU.[76] "The CIO, the New Deal and the spirit which actuates them have caused the laboring class, white and colored, to see that salvation lies in united effort to get justice for all colors of workers," he wrote.[77] Wesley believed that CIO leaders were offering their rhetoric of unity across race "in good faith," but he recognized that the key issue for black workers was the ability of union leaders to "control Southern members and enforce open house" to make sure that Southern CIO locals did not abridge black rights and privileges in their organizations or use union power to exclude blacks from the workplace.[78]

Given the general record of white labor, it was asking a lot of black workers to accept the "good faith" assurances of the CIO that union power would be used for mutual benefit. Wesley, however, built his support for the CIO on a stronger foundation that faith alone. The Wagner Act, he believed, created a powerful democratic incentive for unions to include black workers on

[74] *Informer*, May 1, 1937; May 29, 1937.
[75] *Informer*, April 14, 1937; Aug. 21, 1937.
[76] *Informer*, May 1, 1937.
[77] *Informer*, Dec. 22, 1937.
[78] *Informer*, April 14, 1937.

fair terms. Wesley posed the question in his paper: The "CIO…in Texas is taking in the same prejudiced workers who have fought Negroes all their lives. Can Negroes trust them if they join?" The *Informer* editor acknowledged that it was "doubtful" that black workers could take the CIO's inclusive rhetoric at face value. But they did not have to "wholly trust" their white co-unionists in order to join with them. It was not the intent of white union leaders that mattered, Wesley argued, but their interests in gaining a pro-CIO majority. Did whites not "need Negroes to sew-up and keep the shops?" This was especially true in Houston's industries where the loyalties of white workers were split between the CIO and the independents, leaving black workers as "the balance wheel." This incentive, Wesley predicted, would be an enduring feature of industrial democracy. With black workers holding the swing vote, CIO unions would continue to represent black interests even after they gained majorities, as white unionists had to fear that "if they double-cross Negroes," blacks could "turn… back to the company unions."[79] Even in workforces divided by race, Wesley believed that the lack of white worker unity on the labor question would provide a safeguard for the rights and interests of a black minority. It was a strongly democratic vision of how progress for Texas' African Americans might proceed.

During the drafting of the NLRA, the NAACP had pressed Senator Wagner to include language denying NLRB certification to unions that excluded members on racial grounds.[80] That provision was removed at the behest of Southern congressmen and the AFL, whose unions in the skilled trades continued to use racial membership bars to monopolize particular craft areas for

[79] *Informer*, May 1, 1937.
[80]Herbert Hill, *Black Labor and the American Legal System: Race, Work, and the Law* (Madison: University of Wisconsin Press, 1977), 105. The Urban League offered a provision making racial bars to membership an unfair labor practice, a lesser sanction than denial of certification. See United States, *Legislative History of the National Labor Relations Act, 1935* (Washington: National Labor Relations Board : U.S. G.P.O, 1949), 1058.

white workers.[81] Two years after the NAACP had failed to achieve a statutory bar on union discrimination, the appearance of CIO unionism in Houston had convinced Carter Wesley that the Wagner Act's democratic provisions could achieve similar ends. Despite the history of racist unionism in Houston, the majority imperative, he predicted, would compel the CIO to stick to its promise that black and white workers would have equal standing in unions. And while some AFL affiliates – the building trades, for example – might remain all-white, Wesley hoped that AFL unions in industries with both white and black workers, which were "already breaking the bounds of craft," might be "forced" by competition with the CIO "to draw Negroes in" as well.[82]

Carter Wesley's optimistic take on industrial democracy fit with his general belief that black political participation was the most essential and effective course of black advance. Before he took up the banner of biracial unionism, Wesley had been a prime mover in efforts to break down barriers to voting. In 1927 and again 1932, the Supreme Court had considered cases brought by the NAACP against the all-white Texas Democratic primary. In both instances, the Court had struck down the bar on black participation, but with limited technical rulings that were quickly and easily circumvented by the Texas Democratic Party, which continued to exclude African Americans from meaningful political contests in the state.[83] In 1932, Carter Wesley and two other black Houston attorneys decided to undertake their own legal challenge to the primary. As Wesley's group prepared their case, the editor worked to build an accompanying black

[81] Melvyn Dubofsky, *The State & Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994), 129; Herbert Hill, "The National Labor Relations Act and the Emergence of Civil Rights Law: A New Priority in Federal Labor Policy," *Harvard Civil Rights-Civil Liberties Law Review* 11 (1976): 305–308.
[82] *Informer*, April 24, 1937. The question of biracial AFL unionism in Houston would play out mostly in the railroad industry, although AFL unions at Reed Roller Bit included both black and white workers on equal membership terms in the late 1930's.
[83] After Nixon v. Herndon 273 U.S. 536 (1927) struck down the Texas statute excluding blacks from the Democratic primary, the state passed a new law giving the state Democratic Party Executive Committee authority to set membership (voting) requirements. Nixon v. Condon 286 U.S. 73 (1932) found that state authority still lay at the root of the exclusionary policy. In reaction, the State party convention unilaterally declared its own authority to set primary voting requirements.

political movement. Not coincidentally, the *Informer* was at the heart of the effort. Wesley publicized the suit, raising a significant legal fund while boosting the paper's reputation and circulation. He also sent speakers through the state to urge black Texans to pay their poll taxes: if the suit were to have any meaning, Wesley preached, they would need to be registered in numbers that would give whites a reason to listen to black demands. But Wesley's organizing and publicity efforts were not matched by legal acumen. More experienced NAACP lawyers had cautioned the Houston attorneys that the Supreme Court was not ready to advance further on the voting rights front, but Wesley appealed his case, *Grovey v. Townsend*, despite their warnings, and met an embarrassing nine-to-nothing defeat in the Court's 1935 term.[84]

While the fight to open the political system to black voting had stalled, Wesley hoped that the Wagner Act's system of workplace elections would work by similar means to bring broad progress to African Americans. Industrial democracy for Houston's black workers preceded by a half-decade the 1944 *Smith v Allwright* decision outlawing the white primary.[85] Voting rights in union representation elections were, in the late 1930s and early 1940s, effectively the only voting rights available to Houston's African Americans. But as Wesley watched the city's CIO unions drop their racial bars, he became convinced that the democratic incentive that caused white CIO leaders to appeal to black workers would become a model for changes in the political system writ large. "Just as the New Deal and the CIO inevitably take in Negroes," he hopefully wrote in the *Informer*, "they also inevitably open the avenue for Negroes to reach their goal of complete citizenship."[86]

[84] Grovey v. Townsend, 295 U.S. 45 (1935).
[85] Smith v. Allwright, 321 U.S. 648 (1944) was argued by Thurgood Marshall, with Wesley playing a large role by selecting plaintiffs, helping shape legal strategy, and providing financial backing.
[86] *Informer*, Dec. 22, 1937.

Wesley was not alone in seeing an essential unity between the new rights guaranteed to laborers at work and the broader rights that belonged to all citizens. The CIO spoke of the Wagner Act, and of its own activities, as guaranteeing that core constitutional protections – free speech, assembly, freedom of conscience and religion – did not end when workers walked onto the shopfloor. For union backers, labor rights and civil rights were one in the same, a fact apparent in the name of Senator LaFolette's Civil Liberties Committee – the body charged in the late 1930's with investigating the abusive anti-union practices of employers. As Wesley pointed out, this expansion of rights under the Wagner Act – "labor's new Constitution" he dubbed it – would "particularly benefit Negroes, who are 96% workers," and the "practical result of the attitude of the CIO" would be "to extend new rights to the masses of unskilled workers, including Negroes."[87] Indeed, the rights made available by labor law to Southern African Americans *as workers* in many ways surpassed those that could effectively be claimed by them broadly as citizens. By establishing employment as an area subject to federal power, the Wagner Act was a significant federal measure to secure the rights of Southern blacks, perhaps the most significant one since Reconstruction.[88] For black workers, federal backing made labor rights ones that, in theory, had to be respected, even as the law did nothing to prevent discrimination based solely on race by either employers or labor unions.

The big prizes eyed by unions – substantive gains in wages, hours and conditions, and a measure of control over employment policies – were not simply granted by statute, they had to be won, first in representation elections, and then at the bargaining table or on the picket line. For black workers, gaining union power would be a necessary, but hardly sufficient, step if industrial

[87] *Informer*, April 24, 1937.
[88] The NAACP, its anti-discrimination provisions stripped from the bill, vigorously opposed the law's passage. The NAACP dreaded the ability of AFL unions to use the closed shop to create all-white shops. Wesley's praise of the law was driven by his hope that it would help secure the CIO's biracial unionism in Houston's industries. The two positions were not incompatible even as their emphasis differed.

democracy were to become a tool for ending their second class status at work. Black CIO backers were convinced that democratic incentives – the need to attract black members to tip the balance against company unions – would compel white union leaders to live up to their promise of equal status and begin attacking workplace discrimination. The racial division of the workforce, after all, had long been the scourge of Southern workers, white and black alike. Wesley, for one, was convinced that white workers would move to equalize wages as a way to break the "eternal circle" that pitted white and black workers against each other. "Once the unions are common," he concluded, "it must follow, as the day the night, that all union men must fight for the same wages for black and white."[89]

Unequal pay, however, was just one feature of workplace discrimination, and the effects of its elimination would be limited. Black laborers might get better wages, but they would still be denied the opportunity to advance into better jobs as long as occupational segregation prevailed. Breaking down the barriers that kept black workers out of skilled jobs, was, of course, the ultimate goal, but its prospect was a question that Wesley avoided in his editorializing on behalf of the CIO. Belonging to unions on equal terms, and the possibility that unions would press to equalize the wages of laborers were important steps, and enough for Wesley to urge Houston's industrial workers to join unions. "Our economic horizon has been extended," he wrote, "let us look up into a new day and see the rising sun."[90] Whether white union members would give up the racial advantage that gave them a monopoly on the better jobs was a question for another day.

C.W. Rice's Anti-Majoritarian Paths to Nondiscrimination

[89] *Informer*, May 27, 1939.
[90] *Informer*, April 24, 1937.

Any answer to that question in the late 1930s, while Houston's CIO unions lacked standing in the workplace, could only be speculative. While Wesley urged black workers to pursue a majoritarian path to combat discrimination, C.W. Rice, sure that African Americans would never find justice in coalition with white workers, carried on his fight for independent black unions. The black independents like the HTC were born out of exclusion, but as unions removed their color bars, the independents were threatened both by the loss of their original justification and by the majority rule, which would give white-led unions an exclusive right to represent black workers. From the perspective of Rice and the black independents, the Wagner Act's framework of industrial democracy posed a grave danger to black workers, threatening both their jobs and their rights to control the organization which represented them. In the three years after the Wagner Act was upheld, Rice would join his promotion of independent unionism with a campaign against the majority rule and exclusive representation.

If Rice and Wesley differed in their assessment of the CIO's professed racial inclusiveness, the policies and actions of most unions outside of that labor organization left little doubt that discrimination prevailed in the labor movement. In the railroad industry especially, unions continued to accord African Americans second-class status. In 1937, a representation dispute among coach cleaners at the Texas Pacific yard in Houston gave Rice an opportunity to contest the right of discriminatory unions to represent black workers. The dispute pitted the independent National Federation of Railway Workers (NFRW), which employed Rice as an organizer and had represented all seventy black coach cleaners at Texas Pacific for the past two years, against the Brotherhood of Railway Carmen, an AFL union that claimed to hold pledge cards for a majority of the eighty-six total cleaners in the yard. The Brotherhood admitted black workers into membership but not into union governance, organizing black railway men into

separate units that fell under the jurisdiction of the nearest white Lodge.[91] Despite this discriminatory set-up, the Texas Pacific coach cleaners, eighty percent of whom were African American, narrowly selected the Brotherhood in an election conducted by the National Mediation Board – the railroad industry's equivalent of the NLRB.[92] For the black coach cleaners that sided with the AFL, discrimination may have been the price to pay for membership in a union that had both resources and a history of fighting the railroad. Rice's independent union had neither.

Shut out from the Texas Pacific yard, the NFRW filed suit in federal court to block the Brotherhood from gaining the exclusive right to represent the black coach cleaners. The NFRW's case was led by James A. Cobb, a well-known member of Washington D.C.'s black bar. Cobb had impressive civil rights credentials; in the early years of the NAACP he had been the only black attorney in the top ranks of the organization's legal staff.[93] While serving as an assistant to the Attorney General during the Taft administration, Cobb had helped Booker T. Washington secure audiences in official Washington, and he shared with C.W. Rice the Tuskegee leader's interest in fighting discrimination in labor unions.[94]

While civil rights leaders had long inveighed against union discrimination, they lacked the legal tools to challenge the racist labor policies and practices of private institutions, whether

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[91] National Federation of Railway Workers v. National Mediation Board, 110 F.2d 529, 537–539 (1940). By section 6(c) of the Brotherhood constitution, "Where these separate lodges of negroes are organized they shall be under the jurisdiction of and represented by the delegates of the nearest white local in any meeting of the Joint Protective Board, Federation, or convention where delegates may be seated." The case is detailed in *Negro Labor News*, April 6, 1940; Arnesen, *Brotherhoods of Color*, 142–143.

[92] National Federation of Railway Workers v. National Mediation Board, 110 F.2d 529 (1940).The National Mediation Board was established in 1934 by an amendment to the Railway Labor Act of 1926. In set-up and function, it was very close to the NLRB, established one year later.

[93] Kenneth W. Mack, "Law and Mass Politics in the Making of the Civil Rights Lawyer, 1931-1941," *The Journal of American History* 93, no. 1 (June 2006): 37, 41–42. (In 1931, James A. Cobb was "the most famous lawyer in black… America.")

[94] On Cobb and Washington, see Lewis R. Harlan, *Booker T. Washington : Volume 2: The Wizard Of Tuskegee, 1901-1915* (Oxford University Press, 1983), 342. On Washington and labor, see Robert J. Norrell, "Booker T. Washington: Understanding the Wizard of Tuskegee," *The Journal of Blacks in Higher Education* no. 42 (December 1, 2003): 107.

employers or unions. Without the anti-discrimination provisions insisted upon by the NAACP, the Wagner Act and nearly identical legislation pertaining to the railroad industry seemed only to strengthen the power of unions to discriminate against black workers. By putting federal law behind union claims to exclusive representation, however, the new labor laws raised the possibility that they might provide an avenue for anti-discrimination standards to be brought to bear by the courts, despite the absence of such standards in the statutes. Along these lines, the NFRW's suit challenged not the right of the private railway Brotherhood to discriminate against its black members, but the ability of the government's National Mediation Board to certify a labor union that drew racial distinctions in violation of black members' rights to due process and equal protection.

Rice and Cobb's attack on the Board's power to certify the Brotherhood was designed to satisfy the Supreme Court's "state action" doctrine, which limited the application of the Fourteenth Amendment by drawing a sharp distinction between permissible private discrimination and impermissible discrimination practiced by government.[95] The Brotherhood could discriminate against its black workers, the suit argued, but government power, in the form of a grant of exclusive representation, could not be used to force black coach cleaners, many of whom had voted against the Brotherhood, into a union that consigned them to subordinate status without running afoul of the Constitution.

The Washington D.C. district court, however, rejected Rice and Cobb's ambitious state action argument. The Brotherhood, it ruled, was a "private association" able to "limit the rights of its colored members" without running afoul of Constitutional guarantees. The Brotherhood was established as exclusive representative not by the government, but by the collective consent provided by a majority of workers in the bargaining unit. The NFRW's argument that a union

[95] The state action doctrine was set forth in the Civil Rights Cases, 109 U.S. 3 (1883).

according black members second-class status was not a Constitutionally-suitable representative for black workers, the court argued, had "spent its force in the pre-election campaign… to no avail." Concern for the rights of minority workers thus was a subject for employees in the bargaining unit to consider during union organizing and election campaigns, not for the courts to enforce after a union had been given the power of majority support. In the Texas Pacific yard, black workers were in the majority, and the selection of the Brotherhood represented a free choice by many of them to join an organization that consigned them to a lower class.[96]

The ruling affirmed the right of a union to discriminate against minority members of the bargaining unit as firmly grounded in the "principle of majority rule" that lay at the heart of federal labor law. Indeed, the court scolded the NFRW for working against the very purpose of labor policy, as separate black unions, would "destroy the bargaining advantage of the united front."[97] In deferring to the broad principle of majority rule, the court refused to treat a racial minority (within the Brotherhood, if not in the Houston railway yard) as any different from other minority classes of workers within a workplace, such as a specific craft or trade or workers that preferred non-majority unions. Although the NFRW had asked that the ever-present reality of racial discrimination facing black workers be considered in the case, the court would not depart from its color-blind view of the workplace. If it were to hold "that colored employees could be

[96] National Federation of Railway Workers v. National Mediation Board, 110 F.2d 529, 538 (1940). In its finding that the membership rules of the union were an exercise of private authority, the court relied on *Grovey v. Townsend*, Carter Wesley's failed 1935 voting case, in which the Supreme Court had drawn a line between the public power of the State of Texas to establish the Democratic primary and the private power of the state Democratic Party to bar African Americans. Rice and Wesley, bitter enemies in Houston, had both fallen to the state action doctrine in Washington.

[97] Ibid., 110:358. This part of the ruling followed the arguments put forward by lawyers for the Department of Justice and the AFL, who were keen to prevent any finding that might allow individual workers or unions with minority support to make claims against majority unions. Such a ruling, they feared, would lead to the re-establishment of the open shop via lawsuit.

represented only by colored persons for bargaining purposes," the court wrote, it would "introduce… the very discrimination which the Federation seeks to avoid."[98]

Back in Houston, Carter Wesley critiqued Rice's case with a similar majoritarian logic. The philosophy that black workers should simply "form a union of their own where there will be no discrimination… would be an ideal solution, but unfortunately… the Wagner Act gives the right to majority groups." Black independents were incompatible with the new legal landscape because, Wesley pointed out, "in practically no shop in the South are Negroes the majority."[99] Black workers might be able to maintain a separate organization through the segregated set-ups of independent unions (along the lines of the Hughes Tool EWO and the HTC), but the majority rule would give the all-white independents the bargaining rights for black workers. In other words, eschewing the unequal treatment that might be found within mainstream AFL or CIO unions by forming all-black independents would only magnify the discrimination facing African Americans by locking them out of the bargaining process entirely. Instead, Wesley argued, black workers needed to use majority rule and union democracy to their advantage by joining biracial unions en masse. Neither the AFL nor CIO was "free of prejudice," he granted, "but the place to fight that prejudice is inside the unions."[100]

Of course, if white workers were intractable enemies of African Americans, labor unions would have to be disciplined from the outside, not reformed from within. Stymied in the courts, Rice next brought his campaign against union discrimination to Congress. As the House of Representatives held hearings in July of 1939 on proposed changes to the Wagner Act, Rice

[98] Ibid., 110:538.
[99] *Informer*, Jan. 13, 1940.
[100] *Informer*, May 27, 1939. This argument for reforming the labor movement from within was most notably advanced in the railroad industry by A. Philip Randolph of the Brotherhood of Sleeping Car Porters.

travelled to Capitol Hill to advance his own amendments to the law.[101] Keenly aware of the challenge the majority rule presented to independent unions, Rice tried to establish a broad discrimination exception that would allow minority representation. Under his proposal, the NLRB would be prohibited from certifying any union in which there was "evidence of discriminatory practices or customs, or understanding, or rules, oral or written," that drew distinctions on account of race.[102]

Rice's standard went well beyond the provision against discriminatory membership rules that the NAACP had proposed at the law's drafting. The NAACP's rejected Wagner Act terms had aimed at the AFL, which counted in its federation notoriously discriminatory unions that continued to maintain racial bars to membership, but Rice made clear that his amendments were intended to punish discrimination in unions with interracial memberships, including the CIO. Rice's suggested prohibition on "discriminatory practices or customs" was undoubtedly a broader standard than a simple rule outlawing membership bars, but its exact implications were unclear. Was it discriminatory for black workers to be represented exclusively by white union officers or only by white grievance men on the shop floor? Could unions sign contracts with employers that discriminated against their own members by consenting to employer-favored racial differentials in pay and work assignments?

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[101] *Negro Labor News*, April 6, 1940. Most of the pressure to amend the Act came from business, eager to harness the powers of NLRB lawyers who they believed were much too eager to prosecute ULPs and to disallow company unions, and from the AFL, which felt the NLRB had a preference for plant-wide bargaining units that curbed the rights of craft workers to organize into smaller bargaining units. See Dubofsky, *State and Labor*, 151–158. In this way, although miles apart on discrimination, the AFL and Rice shared an interest in carving out "minority" units within the NLRB's sweeping industrial bargaining unit determinations.

[102] C.W. Rice, *Proposed Amendments to the National Labor Relations Act* (Washington, D.C: G.P.O., 1939), 1441. *Negro Labor News*, July 8, 1939; *Negro Labor News*, April 6, 1940; Arnesen, *Brotherhoods of Color*, 145.

Rice's provision for remedy suggested that he would have welcomed an expansive interpretation of prohibited discrimination.[103] In cases where any discrimination existed, he proposed that the NLRB void certification and create separate, racially-defined, bargaining units, allowing black workers to "form an independent union" if they so desired. In an exchange with Congressman George Heinke of Nebraska, Rice clarified the dangers he saw in majority rule for minority groups within interracial unions. Didn't "Negroes… have an adequate remedy" for fighting off discriminatory unions "by exercising the right to vote?" Heinke asked. Rice responded that the majoritarian remedy was inadequate. Voting offered little protection because blacks were in the majority on "rare occasion." Only a change in the law allowing minority representation could provide blacks with the right to choose a union that would fairly represent them. Heinke imagined the chaotic and weakened bargaining system that might result from Rice's standard. "There would be the white race, the colored race, and there might be some Chinese or Japanese labor, and everyone would demand… bargaining agencies in the same plant." Rice assured that he was "not asking that particularly," but in fact separate unions were exactly what he envisioned for black workers in Houston.[104]

Rice's efforts stemmed from a long civil rights tradition of fighting unions that excluded African Americans, and by seeking to apply statute and Constitutional rights to the problem of union discrimination, he anticipated by more than two decades the successful use of those approaches in Houston to break black workers free from the most obvious forms of discrimination at the hands of employers and unions both. In the current moment, however, his proposed anti-discrimination standard would have been a poison pill for Southern CIO unions

[103] In testimony, Rice mentioned both bargaining and grievance procedures as areas where a lack of black representation could be discriminatory. In other places, however, he offered a more limited conception, suggesting that the best place to establish evidence of discrimination was in the constitution and by-laws of unions.
[104] C.W. Rice, *Proposed Amendments to the National Labor Relations Act*, 1443–4.

trying to organize both black and white workers into majority coalitions. If only unions with sterling anti-discrimination records could gain NLRB certification, it was doubtful that any would ever assemble the necessary support from white workers to do so.

In the eyes of Carter Wesley and other labor backers, Rice was not fighting for black rights so much as he was "a baby given a hammer turned loose in a china closet," wrecking the fragile promise of progress through real unions in order to protect employers and his own outdated form of black organizing.[105] "Prejudice is an evil in the labor movement which must be eradicated," the *Informer* granted, "but Negroes make a serious mistake when they attempt to kill the labor movement because certain sections of it are afflicted." Black workers had a choice; they could join with the labor movement's "struggle toward unification and cooperation" or they could take Rice's independent route, one that left them "relying upon the goodness of employers" to end rules restricting blacks to low-paid common labor. Because they benefitted from such discrimination, Wesley told his readers, "no one" should "expect Southern employers to voluntarily change this condition."[106]

A "Free" Choice: "Integrated" vs. Independent Unionism at Hughes Tool

While the two newspaper editors advanced their competing visions of black unionism, most workers, black and white, in Houston refineries and steel shops labored under the terms of contracts that employers had given to the independent unions in their plants. Outside of the OWIU's early organizing success at Shell, the CIO's campaigns in Houston had stalled. Facing management harassment and counter-organizing by the independents, CIO unions took up a new

[105] *Informer*, May 27, 1939.
[106] *Informer*, Jan.6, 1940; April 13, 1937.

tactic. Beginning in late 1938, the SWOC and OWIU filed a raft of unfair labor practice (ULP) complaints with the NLRB, alleging violations of the Wagner Act by both management and the independents. The CIO presented Board investigators with detailed accounts of supervisor interference and open CIO opposition, demotions and dismissals in retaliation for union activity, and spying on workers and intimidation by company security forces.

Board investigators upheld most of the ULP complaints, ordering companies to reinstate fired workers with back pay and issuing cease-and-desist orders covering the other prohibited practices. These small victories gave organizers the opportunity to trumpet the unions' ability to protect workers, but the ULP suits also had a larger purpose. Each violation of workers' labor rights, the CIO hoped to show, was part of a pattern of illegal management support contrary to the Wagner Act prohibition of company-dominated unions. If it was shown that the independents still functioned as company unions, the NLRB would invalidate them and order elections without the independents on the ballot, giving workers what the NLRB believed to be a "free choice" in the spirit of the Wagner Act, that is, a choice between the CIO and a "no union" option.

Making that case became the primary goal of Houston's CIO unions in 1939 and 1940 and demanded a good share of organizers' time and limited resources. Union leaders busied themselves collecting complaints and coaxing workers to testify before Board trial examiners, who conducted their initial investigations in Houston before forwarding recommendations on to the full NLRB in Washington board for action. Providing testimony against the company could be risky; the ability of the NLRB or the CIO to protect workers was as of yet unproven. Supervisors, on the other hand, had already shown a willingness to punish this sort of disloyalty. But the unions had enough people whose CIO sympathies were already well-known or who had

already run afoul of management to make compelling cases to the Board. The CIO took two complementary paths to proving their company union charges. The first focused on clear, if at times minor, statutory violations, the sum of which would demonstrate that independents were supported by management. Here, the CIO unions added to their ULP complaints evidence of material support given to their rivals and denied the CIO, in the form of such things as paid time off for company union organizers, free office space and supplies, paycheck deduction of dues, the presence of recruiting tables or offices in payroll departments and permission to post union notices on company property.

The second method of proving company domination was more ambitious. In several cases, the CIO asked the Board to consider the history of labor relations in their respective shops, stretching back years before the Wagner Act. That record, the OWIU and the SWOC argued, would show that the new independents were merely the old company unions poorly disguised by cosmetic legal changes. To this end, union officials and their lawyers stressed the telling timing of the independents' organization (coming right after the validation of the Wagner Act and the start of CIO organizing drives), the continuity of leadership between the old company unions and the independents, the similarity of their constitutions and structure, and the generally similar dispositions of the independents and their predecessors. On this last point especially, the CIO hoped to prove company support and domination not by exposing links between management and the independents, but by noting the independents' stated belief in maintaining good relations with management and accepting management-directed contracts. In doing so, the CIO played to a basic assumption it shared with the NLRB's union-friendly examiners: because management and labor had fundamentally opposing interests, the deference the independents gave to

management was a sign that they were not honest representatives of workers.[107] In other words, the CIO argued, if it acted like a company union, it was one.

Management and the independents put up a full-throated defense of the charges before the Board. Where possible, industry executives rebutted specific ULP allegations and independent union leaders downplayed the encouragement or assistance provided by their employers. For the most part, however, the fate of the independents turned on the interpretation of established facts: the similarity of the independents to their company union predecessors, the official role and privileges accorded them, an acknowledged history of anti-union sentiment among supervisors and managers, and the public statements of company officials. The independent unions tapped the city's top corporate legal talent to represent them before the NLRB. Despite collecting little to no dues, the Hughes Tool EWO and HTC were represented by Baker, Botts, Andrews and Wharton, perhaps the city's most established corporate firm, with deep ties to the oil industry. The Humble Employee Federation could count on the considerable skills of John H. Crooker, Democratic Party political player and longtime counsel to Houston's Anderson, Clayton Company, the world's largest cotton broker.

In their defense, the companies and the independents pressed three main claims. First, they argued that most instances of management favoritism occurred before the Wagner Act was upheld by the Supreme Court, when the prohibition against company unionism was under a Constitutional cloud. Management assistance provided before 1937 had been given to the old and discarded company unions, not to the independents that were organized in the wake of the Wagner Act's validation. Second, company executives argued that the anti-union statements of supervisors, many of them hardhats occupying low positions within the hierarchy of

[107] Indeed, from 1937 to 1940, NLRB examiners routinely upheld CIO ULP charges and wielded a strict interpretation of company domination to invalidate company unions. See Gross, *Making of the National Labor Relations Board*, 240–244.

management, could not be taken as the position of the company itself. That supervisors should prefer to manage workers without the interference of an outside union and that they should express this in casual conversations around the plant was not surprising and hardly amounted to a company-directed attempt to undermine worker choice. Lastly, the independents offered an affirmative defense: whatever the assumptions of the Wagner Act about friendly inside unions, workers in Houston's plants preferred them. Pointing to the independents' membership rolls and to the large margins in the quickie elections that had established them, companies and their inside unions argued that what the CIO claimed was an artificial creation of management was in fact the organic product of worker desire, in accord with the values of industrial democracy.[108]

The NLRB greeted such arguments with skepticism. In two cases involving smaller refineries, the Board let stand independent Employee Federations that had no company union predecessors, believing them to have been organized with a minimum of management interference.[109] Elsewhere, however, the NLRB invalidated refinery Federations, finding merit in the CIO's arguments that the independents illegally benefitted from company assistance and that there existed essential continuity between the old company unions and the new "independent" Federations.[110] In the most significant refinery case, the labor board struck down the Employee Federation at Baytown, where inside unionism had long served as the keystone of the company's labor relations policy. The Board seized upon this history to support its finding of company domination. For the past decade and a half, Humble had "fostered, encouraged and

[108] This description of company and independent union arguments is based on cases involving Eastern States Petroleum, Crown Central Corp., American Petroleum, Humble Oil & Refining, and Hughes Tool, *supra* notes 116-119.
[109] In the Matter of Eastern States Petroleum Co., Inc. and O.W.I.U. Local 227, 15 N.L.R.B. 450 (1939); In the Matter of Crown Central Petroleum Corporation and O.W.I.U., Local 227, 24 N.L.R.B. 217 (1940).
[110] See, for example, In the Matter of American Petroleum Co. and O.W.I.U., Local No. 227, 12 N.L.R.B. 688 (1939), finding that the Federation at American Petroleum benefitted from a management "policy of antagonism to outside unions and preference for inside organization," and that Federation's "springing up" and management's "prompt recognition" around "a time when an outside union was conducting a campaign" made the Federation's claim of independence "exceedingly dubious."

supported" the Joint Conference, and later the Joint Federation, and "conditioned its employees to collective dealing through [those] agencies." Even though top officials pulled back from overt support of the Federation after 1937, the Board found that supervisors had continued to express a preference for it, and rejected the company's argument that supervisors had only been expressing themselves in a personal, not a managerial, capacity as an "unrealistic distinction" that would not be made by the employees working under them. Humble's counsel had offered the failed 1936 strike and the ease with which the Federation had collected memberships in 1937 as evidence that the Federation was backed by a significant number of Baytown workers, but the Board discounted it. Whatever support the Federation enjoyed, the NLRB ruled, was colored by the company's history of "coercive pressures" that "deprived its employees of any actual freedom in their choice of representatives."[111]

The NLRB passed the same harsh sentence upon the Hughes Tool EWO and HTC. The EWO had plainly begun as a company union, organized by Hughes during a period of union activism in 1918 and revived in 1933 in response to the organization of the IAM Blue Eagle Lodge. The HTC's origins as a separate black mutual benefit society gave it a stronger claim to independence, but under questioning from the NLRB trial examiner, HTC founder Richard Guess acknowledged that Col. Kuldell had maintained a close association with the HTC from its beginnings and had recommended and assisted its transition into a company union in 1934. The reorganization of both independents in the spring of 1937, the Board concluded, did nothing to break them from their company pasts. EWO members testified that their choice of the independent over the SWOC had been freely made on the basis of which organization they believed would provide greater benefit, but as in the Humble case, the Board swept this

[111] In the Matter of Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112, 132–134 (1939).

testimony aside. The EWO and the HTC were company unions, and the support they enjoyed the poisoned fruit of a company-dominated tree.[112]

The NLRB trial examiner's report on the Hughes case was made public in late February 1940. The independent unions were quick to denounce the findings as a "lopsided, unconstitutional, and un-American" attempt to enshrine the CIO as bargaining agent against the wishes of Hughes workers.[113] It was the NLRB, both independents argued, that was infringing on workers' free choice, not the company. In outraged tones, the EWO urged its members to resist the labor board's effort to "compel" them to join the CIO. "This is America. You are a free man," the EWO reminded Hughes workers, "and if you really want an independent union… you have the unlimited right to [one]."[114] Rice echoed the EWO, accusing the NLRB of having "collaborated" with the CIO for the purposes of "capturing" the HTC. In the name of protecting free choice, he charged, the NLRB was denying black workers their right to self-determination, as expressed through their preference for an organization that ensured autonomous black control over union resources, bargaining power and grievance procedures.[115]

In Carter Wesley's eyes, the NLRB report confirmed that the HTC was anything but the independent union that it claimed to be. The HTC did not provide autonomy for black workers, Wesley claimed, but instead guaranteed subservience to the company. Although Hughes pledged to fight the trial examiner's findings before the full Labor Board, Wesley triumphantly declared that "an impartial tribunal has found that the *Informer* has been telling its readers the truth and

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[112] In the Matter of Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836, 850, n.17, 852–3, 857–9 (1940).
[113] *Negro Labor News*, March 16, 1940
[114] EWO handbill, Feb. 26, 1940. In Sutton J. Boyd, "Appeals Made to Employees," 87.
[115] *Negro Labor News*, March 2, 1940, March 16, 1940. See also Nov. 25, 1939 on Rice's belief that the NLRB was dead-set on killing black independents.

Mr. Rice has been deceiving the people;" the HTC was nothing more than a "stooge for employers."[116]

The Hughes case was more than just an occasion for another shot to be fired in the ongoing war between the editors. During the spring and summer of 1940, as the case was pending before the NLRB, black labor supporters clashed publicly with HTC members over the legitimacy of the independent union and, by proxy, over the proper course that black workers should take on the union question. With some 800 black employees, Hughes Tool was the largest industrial employer of African Americans in Houston, and both supporters and detractors saw the HTC as "Exhibit A" of black independent unionism in the city.[117] Many black Hughes men lived in the Third Ward, the closest black neighborhood to the plant and home to much of Houston's black leadership and professional class, and HTC men such as Richard Guess played a prominent role in that area's institutions.

In addition to his positions in his church and the Negro Chamber of Commerce, Guess had once presided over the Third Ward Civic Club, an organization established in the late 1920s by Richard Randolph Grovey, a well-known activist and barber with a shop on Dowling Street from which he ran the black barbers' union. The Third Ward Civic Club had been founded to bring Houston's black professional leadership together with the working class – the "doctor and the… ditch-digger," in Grovey's description – in a united struggle for political and economic rights.[118] Denied a formal role in city politics by disfranchisement, African Americans looked to the Third Ward Civic Club (and similar organizations in the other black neighborhoods) to represent their interests in municipal matters, and the group had been at the center of efforts to mobilize support for challenges to the all-white primary, including the failed 1935 case for which

[116] *Informer*, Feb. 24, 1940.
[117] *Informer*, Feb. 24, 1940.
[118] Grovey quoted in Hine, *Black Victory*, 130.

its founder Grovey had served as plaintiff. In the first half of the 1930s, while under Guess' leadership, the Civic Club had endorsed the work of building independent unions to give black workers a way to counter all-white organizations. As unions opened to African Americans in the latter half of the decade, however, Grovey, back at the helm of the Club, declared in the *Informer* his "all out support for the CIO," the only labor organization in his judgment that had the drive and the resources to take on powerful employers like Hughes. So when the Third Ward Civic Club invited SWOC supporters to debate HTC leaders at an open meeting two weeks after the NLRB examiner's report had been released, the HTC men must have been prepared for abuse.

Grovey and Wesley – Houston's two most visible CIO backers – stuck to the sidelines during the Civic Club debate, allowing officials of the black longshoremen's union to make the case against the HTC. ILA men commanded considerable respect. At the time, the ILA was, along with the HTC, one of the most well-known organizations in black Houston, with a long history, large membership, and leaders that were heavily involved in other community activities.[119] Unlike the HTC men at Hughes, the black dockworkers labored on the same terms and for the same rates of pay as their counterparts in the segregated white ILA locals; separate, but actually equal. Although the ILA was part of the rival AFL, its black leadership was fully in support of the SWOC campaign at Hughes. Down at the port, the ILA faced its own Rice-affiliated rival, the Buffalo Dockworkers Benevolent Association, and Rice had taken the ILA in for criticism more than once for striking alongside whites.[120] The ILA and the SWOC thus had a common enemy and a shared view of the value of organizing with white workers. In the ILA's take, it was precisely its record of standing and fighting alongside white union brothers that had

[119] On community involvement, see Rebecca Anne Montes, "Working for American Rights: Black, White and Mexican American Dockworkers in Texas During the Great Depression" (Ph.D. dissertation, University of Texas, 2005).
[120] Ibid., 77–78.

given black longshoremen equal standing with their white counterparts and, collectively, given the white and black unions power in negotiations with shipping companies. The HTC's history of employer friendliness was, to the ILA men, anathema to true unionism, and their leaders savaged Guess and his independent union at the Civic Club labor forum. The HTC lacked the "courage to fight for better wages," one ILA man charged, forcing the wives of Hughes workers to work long hours in compensation. Reverend W.M. Jones, ILA district vice president, "really poured it on," accusing Rice and the HTC leadership of "attaching themselves to the 'sugar tit'" of company largess while agreeing to inadequate raises for members. "It's time to pull these leeches away… and let the workers get a chance to fatten a bit," he yelled.[121]

HTC head Guess took issue with comparisons between his union and the ILA. The dockworkers were only able to organize alongside whites and command equal pay because everyone on the docks performed the same type of work, he argued. In a machine tools shop, however, it was impossible to organize into a union with white workers who were intent on defending their position on the top of the skills and job ladder. And he hit back at the ILA's tough talk: It was the black SWOC supporters, not the HTC, who would find themselves in a subordinate role, lorded over by white CIO bosses as soon as they established themselves in the plant. The recently published NLRB findings, however, made it harder for Guess to defend his union. As he made the case for the HTC at the forum, he was drowned out by ILA men standing in the audience and reading verbatim the trial examiner's conclusions that the HTC was dominated by Hughes Tool. After the interruptions, the meeting descended into a shouting match. HTC organizer George Duncan then went on the offensive, locating Wesley in the audience and approaching him with a shaking finger, pledging that black Hughes workers would refuse "to be led up the blind alley by a man who has a reputation of cheating the cheaters,

[121] *Informer*, March 16, 1940.

robbing the robbers, swindling the swindlers and back biting the back biters." Wesley left the meeting with a mob of HTC men on his heels.[122]

The tension between Wesley and HTC backers boiled over two weeks later at an NAACP meeting at the Mount Olivet Baptist Church. After falling victim to corruption and declining membership in the late 1930s, the Houston NAACP chapter had recently been revived under the leadership of new president Rev. A.A. Lucas, a strong labor backer, and organizer Lulu White, who built the group's rolls by recruiting members of the city's black unions.[123] The Mount Olivet meeting had been called to plan the Houston chapter's latest endeavor: a new legal challenge to the all-white primary, this time undertaken in cooperation with Thurgood Marshall and the national NAACP legal staff. The suit was not without controversy among Houston's black leaders. Remnants of the local NAACP chapter's more conservative old guard, Rice and Guess among them, believed that the best chance to secure the franchise would come through negotiating with Texas's conservative Democratic Party leadership, and wanted to delay the case, fearing it would bring embarrassment to Vice President John Nance Garner's planned campaign to challenge Franklin Roosevelt for the 1940 Democratic Nomination.[124]

The factional division of the Houston chapter over the new voting case mirrored the divisions in local black leadership on the union issue. Wesley and Grovey, leaders of the failed

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[122] *Negro Labor News*, March 16, 1940.

[123] On corruption, see Daisy Lampkin to Walter White, Oct. 30, 1939, Nov. 6, 1939. On Lucas, see Lampkin to White, Nov. 10, 1939. On labor membership, see Drake to White, Nov. 7, 1939; Snydor to Wilkins, April 26, 1938. All in NAACP Papers, Part 12, Series A, reel 20. Montes, "Working for American Rights," 185–188 details the links between the ILA and the Houston NAACP chapter. On the Houston NAACP in the late 1930s generally, see, Michael Lowery Gillette, "The NAACP in Texas, 1937-1957" (Ph.D., The University of Texas at Austin, 1984), 9–11, 16–18; Merline Pitre, *In Struggle Against Jim Crow: Lulu B. White and the NAACP, 1900-1957* (College Station: Texas A&M University Press, 1999), 28–40; Hine, *Black Victory*, 196–199.

[124] Garner's campaign, in a disingenuous effort to attract the votes of black northern delegates to his planned convention putsch, had hinted that he might push the Texas Democratic Party to end the primary bar on black voting. While Houston's NAACP leaders hadn't believed him, Dallas oil man E.B. Germany, Garner's campaign manager, had reached out to Rice and Mills to try and get them to slow the primary case. See Walter White to John Nance Garner, Jan. 2, 1940; G.F. Porter to E.B. Germany, Jan. 15, 1940; Walter White to Drew Pearson, Jan. 27, 1940; Wesley to Marshall, March 29, 1940, all in NAACP Papers, Part 18, Series B, reel 21. On Garner campaign generally, see Seth Shepard McKay, *Texas Politics, 1906-1944* (Lubbock: Texas Tech Press, 1952), 418–424.

1935 primary challenge, were both outspoken supporters of the new case. The two held nothing back when criticizing their opponents. At the Mount Olivet meeting, Grovey pilloried the pro-Garner group for its cowardice, corruption, and disgraceful water-carrying for powerful whites. They were fighting words. In the middle of Grovey's speech, Alphonse Mills, a Rice associate, leaped over the pews and attacked Wesley. When the two were separated, blood covered Mills's face and the church floor.[125]

The fight caught the attention of the NAACP in New York and earned coverage in national black newspapers.[126] In Houston, Wesley, now gleefully referring to himself in his own paper as "the militant editor," used the fight to rain down further condemnation on Rice, Guess and other HTC men "lined up with Mills."[127] It was time, the *Informer* editorialized, for black Houston to choose between "Groveyism or Riceism," between confrontation or collaboration with systems of exclusion and discrimination in employment and politics. Black Houstonians overwhelmingly backed the primary challenge, and the local chapter soon filed the lawsuit that would bring about the end of the white primary. The union question, however, was far more controversial, and in 1940 the most important battle on that front was being fought at Hughes Tool. After the shouting match at the Civic Club and the fracas at the NAACP meeting, the *Informer* took every opportunity to attack the HTC. Significant news, such as the discovery of irregularities in the union's books, splashed on the front page, but no story was too small, or too

[125] Mills subsequently accused Wesley of having pulled a pen knife during the confrontation. Wesley, an avid boxing fan, delighted in assuring his readers that all of the damage to Mills' face had been inflicted by fists alone. Wesley couldn't resist bragging to Thurgood Marshall ("I beat his face and he bled all over the place. After the fight we carried through the program."). See Carter Wesley to Thurgood Marshall, March 29, 1940. NAACP Papers, Part 18, Series B, reel 21. An account of the fracas featuring Mills throwing a "Joe Louis punch" and Wesley on the ground begging is provided by *Negro Labor News*, March 30, 1940.
[126] See, for example, *Chicago Defender* (national edition), April 13, 1940.
[127] *Informer*, March 30, 1940.

petty, for Wesley to run (sample headline: "Reports Say HTC Picnic Was a Big Bore").[128] In the summer of 1940, however, Wesley was forced to report good news for the HTC: The Fifth Circuit Court of Appeals, in a stern rebuke of the NLRB, had handed down a ruling that would prevent the agency from decertifying Houston's company-friendly independent unions.

The June 1940 decision stemmed from a suit filed by the Humble Employee Federation challenging the NLRB's reading of the rules prohibiting company unions. The court's ruling reinstated the Federation with an opinion that legitimized management-preferred unions as a permissible expression of worker free choice under the Wagner Act. In the ruling, Hoover appointee Samuel Hale Sibley held that the NLRB had been over-zealous in its use of evidence of management preference for inside unions and supervisorial "intimidation" as justification "to put the Federation to death."[129] In Sibley's take, events that the NLRB had found to be disqualifying instances of interference were instead legitimate participation by the company and independent union supporters in the process of industrial democracy. The law did not require employers "to stand as sheep before his shearers dumb, not opening his mouth," nor did it prevent supervisors acting "on their own responsibility" from exercising a "personal right of free speech" to encourage workers to join an organization that was more company-friendly and respectful of supervisorial authority than the CIO.[130]

While it was proper for the NLRB to act against unfair labor practices and bar organizations that were blatantly "dominated" by management, Judge Sibley ruled that the Board could not insert itself as "guardian or ruler" over employees with speculative findings of when

[128] See *Informer*, Sept. 7, 1940. Rice would use even this small story as a metaphor for the HTC's supposed shortcomings. In his telling, the group's leadership took most of the BBQ for themselves and provided too little beer, leaving the rank and file waiting in line for nothing. Meanwhile, Rice's "long winded" speech "tortured the people beyond endurance."
[129] Humble Oil and Refining Co. v N.L.R.B., 113 F.2d 85, 87 (5 Cir. 1940).
[130] Ibid., 113:89, 92. In a similar case involving an employers' stated preference for an independent union, the Supreme Court in 1941 recognized a right to employer non-coercive speech in N.L.R.B v Virginia Electric and Power Co. 314 U.S. 469 (1941).

workers were and were not making a truly free choice of bargaining agent. "Texans have never been remarkable for timorousness," the judge noted. If Humble workers preferred an organization with the same leaders and nearly the same structure as the old Joint Conference, the Board could not write off that support as the workings of company interference. With that matter settled, the only thing that could potentially invalidate the EF would be a finding that it was, in reality, a direct continuation of the old Joint Conference company union. But the Fifth Circuit decided that, despite similarities in form and attitude, there was no legal or institutional continuity between them. The EF had been created anew in 1937 as a legitimate union, and because it had prevailed in the quickie election that same year, it could be reinstated as Baytown's exclusive bargaining agent.[131]

Although Hughes Tool would lose its case before the NLRB in October 1940, the Fifth Circuit decision gave the EWO and the HTC a path forward. Because the Fifth Circuit had ruled that a recent history of employer and supervisorial favoritism towards an inside union was not enough to invalidate it, the only thing keeping the EWO and the HTC from enjoying the same legitimacy as the Humble Federation was management's failure in 1937 to technically dissolve and reconstitute the two independents. With this in mind, the EWO and HTC terminated their legal existence on November 9th. The same day, members of the old organizations chartered two new unions, Independent Metal Workers Local 1, representing white workers, and IMW Local 2 for Hughes's black employees.[132] At Baytown and other refineries where Employee Federations had been established through elections, the ruling of the Fifth Circuit restored the independent unions' status as exclusive bargaining agent and put their contracts with management back in

[131] Ibid., 113:88, 92. If the NLRB could be accused of acting out its own assumptions of worker preference the same could be said of the Fifth Circuit, which opined in the Humble case that it was only natural that refinery employees should support the Federation after the OWIU's failed 1936 strike showcased a "burly sample" of "would-be strikers" threatening "those who wished to work" (at 89).
[132] *Informer*, Nov. 16, 1940.

place. Because Hughes Tool had certified the EWO and HTC as bargaining agents through management decree in 1937, the new Local 1 and Local 2 would need to win an NLRB election. To meet the NLRB's broad interpretation of the bargaining unit at Hughes, which included all hourly workers in the plant regardless of division or race, the IMW locals were nominally one union. In function, however, Locals 1 and 2 closely matched the segregation of the Hughes workforce. The two unions had separate leadership, internal governance and grievance procedures. The company would bargain with Local 1 over matters relating to the white jobs in the plant's production divisions and reach terms separately with Local 2 for black workers in the common labor pool.[133]

The IMW launched a proactive campaign to sign up members from the old EWO and HTC. As they faced a challenge from the biracial national Steelworkers union, IMW Locals 1 and 2 both trumpeted the virtues of autonomy and segregation. Local 1 advertised itself as "an independent union, run by you, for you, and spending dues collected for your benefit."[134] Unlike the CIO, which had a national policy of non-discrimination, the all-white local could assure its members that it was fully committed to preserving the white monopoly on skilled jobs and the maintenance of good relations with management. Independence meant control over policy and over money. As the leaders of the independents liked to stress, all of the dues they collected stayed in house. In contrast, seventy-five percent of USWA dues were sent to headquarters to help fund the large union's strike fund, organizing, and administrative costs. For Local 2 leaders, union autonomy meant keeping a separate black voice and separate black resources.

[133] In the Matter of Hughes Tool Company and Independent Metal Workers Union Locals Nos. 1 and 2, 33 N.L.R.B. 1089 (1941). All black workers were grouped as "Class C" labor. Unlike white workers who were affixed to specific departments and progression lines, "Class C" labor was assigned as needed. Although black workers were moved among the divisions, there were tiers within the Class C labor pool reflecting seniority, skill and pay differences.

[134] EWO handbill, Feb. 26, 1940. In Sutton J. Boyd, "Appeals Made to Employees," 87.

"Join[ing] the CIO," Richard Guess told workers, "would be a complete 'sell-out' for the race," and would mean relinquishing "the opportunity of managing our own affairs." At the time it was dissolved, Guess' HTC had a membership of six hundred of Hughes's roughly eight hundred black employees. For more than a decade, many of them had depended on the group's loan program, burial pool, and hospital fund. Now, Local 2 promised to continue these trusted programs out of its new Dowling Street office in the heart of the Third Ward. Joining the CIO meant giving up this tradition of black self-help and independence. As Guess asked the membership, "Why should we join any other organization and turn our monies and affairs to them when we are getting along well [on] our own?"[135]

By April 1941, the IMW had amassed enough memberships to petition the NLRB for a representation election. A contest between the IMW and the SWOC would give Hughes's black workers their first chance to weigh in on the question of black unionism at the ballot box. The SWOC faced an uphill battle. At the time the election petition was filed, the IMW held 1250 membership cards; the CIO 850.[136] Steelworker union leaders, knowing they needed the bulk of the black vote to prevail in the election, addressed black workers in an open letter: "We of the CIO know that unless we organize our colored co-employees the employers shall always be able to create friction between white and colored in order to lower the standard of living of all of us. It is, therefore, not only a Christian Act to help and associate all workers regardless of color and creed, but it is good sound business protection for all workers."[137] What was striking about the letter was not its open appeal to organizing across race but the vagueness of that appeal and the

[135] *Negro Labor News*, March 2, 1940, March 30, 1940. *Informer*, Nov. 16, 1940..
[136] In the Matter of Hughes Tool Company and Independent Metal Workers Union Locals Nos. 1 and 2, 33 N.L.R.B. 1089, 1092 n.3 (1941).
[137] Quoted in Botson, *Hughes Tool Company*, 116.

implication that "we of the CIO," four years after the SWOC was chartered at Hughes, still seemed to be in the preliminary stages of building support among "our colored co-employees."

Indeed the most significant efforts to swing black workers to the SWOC came not from inside the plant but from the CIO's black backers in the press. Wesley reminded workers that separate bargaining came with a cost. Hughes's 1940 contract with the EWO gave white workers an across-the-board five cent hourly raise. The HTC secured only a two cent hourly bump for its workers. If black workers ever wanted to rise above the "menial jobs of sweeping, cleaning, helping," Wesley counseled, they would need to leave the HTC, a union that by its very structure was incapable of challenging management's determination of the color line.[138] In the *Informer*, Grovey "urged Negroes to join the CIO" in less specific, if more dramatic, terms. "Independent Labor Unions… perpetuate a system of economic slavery," he declared, and siding with them gave employers "the finest excuse for not recognizing the rights of the Negro workers as American citizens." It was time for black workers to "join the CIO… and demand the right to enjoy the blessings, economic and political, inherent in this democratic setup."[139]

While the CIO could offer workers the promise of rights and expanded economic horizons, the IMW could guarantee stability. Rice zeroed in on the uncertainty of the CIO's promises in his appeals for the IMW. The SWOC organized across race but its leadership was entirely white, a fact that allowed Rice to raise the old specter of the double-cross. The SWOC wanted to supplant the independents, he claimed, "for profit," and "to run the Negroes out of their jobs." Only the separate contracting power of Local 2 could ensure that black workers would hold on to the jobs they already had. Although Wesley dismissed the idea that white CIO members would use the unions to lay claim to African Americans' lower-paying labor positions,

[138] *Informer*, Feb. 24, 1940; "Contract between the EWO and the HTC Club and the Hughes Tool Company, 1940-1941." Independent Metal Workers Union Papers, File 1, HMRC.
[139] *Informer*, Aug 23, 1941.

as "a lot of hooey and poppycock," black workers could have no guarantees how they would be represented by the SWOC. Wesley put his faith in the idea that democratically elected unions would be democratically responsible. Even if led by whites, Wesley believed that unions built on biracial support would mind the interests of their black members. Local 2 organizer George Duncan, remembering the SWOC's origins in the all-white IAM, was not so sure. "The *Informer* has urged us to join the CIO. Who are the people that make up that organization? The same faction that kept us out of the AFL. I believe in the saying, a leopard can't change its spots."[140]

In the August election, 1601 Hughes workers opted to continue with the IMW. 950 voted for the CIO.[141] The Hughes Tool election was the first major test in Houston of the CIO's strategy of building biracial majorities to win an NLRB election. The CIO had brought a new form of unionism to Houston, but outside of the Shell refinery the city's industrial plants were still in the control of inside unions held in place by a combination of worker preference, management pressure and legal curbs on the ability of the NLRB to vigorously prosecute the Wagner Act bar on company unions. Because the NLRB only reported election results for the bargaining unit as a whole, there is no sure way to know if white and black workers at Hughes differed in their support for the IMW but SWOC leaders after the election believed that they had failed to gain a majority of either racial group. There were many reasons why Hughes workers may have stuck with the IMW: low dues, a preference for local control, a fear that the company might retaliate against the unions or that it would require a strike to gain a contract, or a desire to keep familiar leaders and benefits. But SWOC leaders pointed their fingers specifically at uncertainty among both white and black workers over the union's racial policy as a primary stumbling block to winning majority support.

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[140] *Informer*, Aug 23, 1941; *Negro Labor News*, March 2, 1940.
[141] In the Matter of Hughes Tool Company and Independent Metal Workers Union Locals Nos. 1 and 2, 36 N.L.R.B. 904 (1941).

Indeed, for all the intensity of the debate between HTC backers and opponents, workers at Hughes had little hard evidence by which they could assess the meanings of the CIO's biracial approach. Ambiguity may have cost the SWOC support among white workers wary of the eventual possibility of job integration, without bringing the union any offsetting gains among African Americans. The CIO offered black workers no guarantees; through the IMW they could at least be assured of job security, a benefit program, and a voice in the administration of the union. In an effort to assuage the fears of both white and black workers, the SWOC segregated its union soon after the election loss. Local 1742 would now be all white, and a new Local 2457 was created for African Americans. Like the IMW Locals 1 and 2, SWOC Locals 1742 and 2457 would have their own internal governance, grievance procedures and seniority lines, but the SWOC locals were linked at the top. They shared bargaining and policy committees made up of equal numbers of black and white representatives and would bargain and contract with the company as one.

The new design of the SWOC meant abandoning the idea that the union was an institutional embodiment of a biracial working class movement. Instead, the organization of the Steelworkers now conformed to the same racial line that structured the workforce at Hughes. With this structure, union leaders hoped to appease whites who worried that biracial unionism was a precursor to sweeping aside segregation of the workforce. But the reorganization was also aimed at boosting the union's standing among African Americans. By providing equal representation on key committees, the SWOC gave black workers the ability to block any contract that would push them out of their jobs. For true believers in the CIO's biracial mission, like Richard Grovey, segregating the union was a lamentable development, but one that was

made necessary by the presence of white workers who were not "willing to concede to the Negro his full share."[142]

Mutual suspicion of the SWOC's ambiguous biracial unionism had pushed it towards the philosophy of the CIO's most vociferous enemy. C. W. Rice, whose mistrust of white workers was absolute, had insisted that black workers stay away from biracial unions until hard guarantees of fair and equal membership and representation could be imposed upon unions by external legal or statutory authority. Rice's attempts to secure those guarantees had been defeated by the absolute standard of majority rule contained in the Wagner Act. Now, the Hughes steelworker union implemented internal versions of those standards as a way to clarify the position of minority workers under union rule. That the segregation measures could also quell white fears of job integration was a sign that the union's institutional approach to guaranteeing equal standing was itself a side step of the CIO's nominal non-discrimination policy. Splitting the SWOC gave black workers institutional equality, but it left many questions unanswered. Would white workers bargain through a process in which the black local had equal representation? Would the SWOC be willing or able to advance its own policy of equal standing by fighting for equal wages for white and black workers doing equal work? Did union segregation mean an acceptance of the system that confined black workers to unskilled jobs, or did the CIO's separate but equal set-up imply a commitment to bring equality to the workplace as well?

Over the next four years, the Hughes Steelworkers union and Houston's other CIO locals would be forced to address these questions. In the largely losing battles fought against inside unions from 1937 to 1941, the CIO could lay aside the thornier issues of biracial unionism. Out of power, the CIO had been committed to the idea of attracting the support of black workers. As

[142] *Informer*, Oct. 11, 1941.

changes in the workforce and the emergence of new federal bodies governing labor during the Second World War weakened the hold of inside unions and strengthened the ability of black workers to press for better treatment, CIO leaders and black and white members would have to move beyond the CIO's ambiguous biracial promise and begin negotiating the extent of its commitment to equality.

Chapter Three: Union Power and Black Rights in the Wartime State

Houston's economy, already relatively healthy in the late 1930s, grew vigorously during the Second World War. In the opening days of the war, President Roosevelt announced an ambitious program to convert the civilian economy to military production. America would prevail over the Axis Powers, Roosevelt told the nation, by its "crushing superiority of equipment."[1] To fuel America's massive war machine, Washington's production planners looked to the Texas Gulf Coast. Over a billion dollars in federal and private investment flowed to the region during the war to expand refineries, shifting capacity even further from refining centers on the Atlantic and Pacific coasts, which were judged too vulnerable to enemy attack.[2] The Defense Plant Corporation built advanced new catalytic cracking units alongside existing refineries to produce 100-octane gasoline for fighters and bombers and precursor chemicals for synthetic rubber and explosives. Houston's oil tool plants hummed around the clock to provide drill bits and tool joints necessary to meet the government's plan for expanding domestic oil exploration and production, and they added new factories to machine airplane parts and tank treads and cast gun barrels.[3]

Wartime investment – what the Chamber of Commerce touted as the "flow of golden dollars being spent in Houston" – was a bonanza for the city's industrialists, who benefitted from

[1] Annual Budget Message to Congress, Jan. 5, 1942 in Franklin D. Roosevelt, *The Public Papers and Addresses of Franklin D. Roosevelt*, vol. 12 (New York: Random House, 1950), 7. On Roosevelt's ambitious production schedule and America's "war of machines," see David M Kennedy, *Freedom from Fear: The American People in Depression and War, 1929-1945* (New York: Oxford University Press, 1999), 618–631.
[2] Joseph A Pratt, *The Growth of a Refining Region* (Greenwich, Conn: Jai Press, 1980), 94–95. Efforts by the Chamber of Commerce to convince federal officials that Houston was a safer location for war plants are in *Houston*, Feb., Mar., 1941.
[3] Accounting of wartime investments in oil and steel industries are in *Houston*, Nov. 1940, Feb., Mar., 1941. Government-financed refining upgrades are in Henrietta M Larson and Kenneth Porter, *History of Humble Oil & Refining Company* (New York: Arno Press, 1959), 597–598.

low-interest government loans, cost-plus war contracts, and tax-sheltered profits.[4] War production also offered opportunities to organized labor. The thousands of new workers hired by Houston's war plants, union leaders hoped, would disrupt the traditional patterns of loyalty to employers and ties to company unions that had kept the CIO largely at bay in the city's oil and steel industries in the 1930s. Labor shortages and tight production schedules might also help unions by giving them greater leverage in strikes or in negotiations to secure recognition and contracts from employers.

As America mobilized for war, industry in Texas prepared for a fight with unions. Employers and their political allies readily incorporated the need for uninterrupted wartime production into their attacks on the CIO. While soldiers prepared to sacrifice their lives overseas, union opponents claimed, greedy labor bosses were readying to strike to force unions onto workers and extort employers for higher wages. Texas Governor W. Lee "Pappy" O'Daniel warned that an "imported racketeering, fifth column, radical, violence-producing element" was planning to target the state's "essential industries."[5] The president of the Texas Manufacturers Association feared that "sinister influences… so prevalent in the North" would use the war to redouble their efforts to impose CIO unionism on "the better class of labor in this section of the country."[6] Ex-Congressman Joe Henry Eagle, trying to regain his seat from Houston's more labor-friendly Representative Albert Thomas, extended the allegations of greed to include subversion, warning of a plot from "communists [who] have drawn plans of every pipe running

[4] *Houston,* Feb. 19 41, p.13.
[5] March 13, 1941 Speech to Texas Legislature, in *Journal of the Senate of Texas, Regular Session, 47th Legislature,* vol. 1 (Austin, 1941), 496. See also Murray Polakoff, "The Development of the Texas State CIO Council" (Ph.D. dissertation, Columbia University, 1955), 271.
[6] *Texas Industry,* March 1942, p. 16.

to the Baytown refinery."[7] Citing as justification the simple fact that "dead war industries mean dead soldiers," Governor O'Daniel signed a state "anti-violence" bill in 1941, which barred union pickets outside plant gates and provided prison terms for strikers who would interfere with any person attempting to work. The legislature passed several laws to harass unions during the war, requiring, among various other measures, the registration of out-of-state union organizers, public audits of union books, a cap on union dues, and a ban on political contributions.[8] In an April 7, 1941 national radio broadcast from the North American Aviation plant in Dallas, Governor O'Daniel declared Texas ready to thwart the labor threat. "Let any wild-eyed labor agitators… from distant states or foreign countries come to Texas and attempt… to slow down or stop work at this airplane factory or any other industry," he taunted, "and they will have plenty of time to rue their folly while they pick cotton on our Texas prison farms."[9]

Political bluster and harassing legislation, however, failed to stop the CIO from making major gains in the oil and steel industries, as the war helped the CIO gain the upper hand in its battles against employers and independent unions. Unions were aided by a tight labor market, an influx of new employees, and by a federal labor bureaucracy created to ensure industrial peace and uninterrupted war production. For the duration of the war, the locus of federal labor oversight shifted from the NLRB – which would still conduct representation elections and certify bargaining agents – to the National War Labor Board (WLB), which was tasked with the dual

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[7] Ernest Obadele-Starks, *Black Unionism in the Industrial South* (College Station: Texas A & M University Press, 2000), 22. For a sampling of business community red-baiting, see "Harris Country Association for Industrial Peace" Newsletters, in Labor Movement in Texas Collection, Box 2E189, Briscoe Center for American History.

[8] Texas was an innovator in anti-labor laws during World War II. Many union restrictions, including those later associated with the federal Taft-Hartley Act, made early debuts in Austin. The state was also the home base for several anti-labor propaganda and lobbying outfits that were active passing restrictive legislation in other, mostly Southern, states during the war. See Thomas B. Brewer, "State Anti-Labor Legislation: Texas - a Case Study," *Labor History* 11, no. 1 (1970): 67–72; Marc Dixon, "Limiting Labor: Business Political Mobilization and Union Setback in the States," *Journal of Policy History* 19, no. 3 (2007): 313–344; Murray Polakoff, "The Development of the Texas State CIO Council," 271–298.

[9] "Speech on anti-strike, anti-violence bill, April 7, 1941" Radio broadcast files, Box 66, Records of Texas Governor W. Lee O'Daniel. Texas State Library and Archives.

mission of settling labor disputes and holding down wage inflation in war plants.[10] The WLB functioned as a system of binding arbitration with the authority to set and impose contract terms. The WLB would use its considerable power to discipline both labor and management. It demanded from unions a "no strike" pledge and acceptance of caps on wage increases. In return, the Board forced employers to contract with unions and consent to union security provisions that guaranteed that they would hold their place as exclusive bargaining agent until the end of the war.[11] Successful organizing campaigns and WLB contract arbitration would, for the first time, give the CIO a measure of control over the labor systems in Houston's industries. In 1941, the CIO held bargaining rights at only two major Houston plants – the Sinclair refinery and Shell Oil in Pasadena. By the end of the war, the OWIU had organized all but one of the large Texas Gulf Coast refineries and the USWA had taken hold in the city's steel facilities.

In refineries and steel shops, employer prerogative, company unionism, and racial discrimination had existed in a self-reinforcing system. The decline of employers' ability to unilaterally determine the organization of the workplace created an opening for black workers to press for better and more equal terms of employment and would test biracial CIO unions' willingness and ability to advance the interests of all their members. Black workers would figure prominently in the 1941-1943 campaign to organize Gulf Coast refineries, where union activists worked to forge an interracial coalition with a rhetoric that stressed the equality of worker participation in the war effort and the shared right of workers to labor in an industrial democracy free from management dictatorship. Efforts to organize black and white workers into one union

[10] Like the NLRB, the WLB had a tripartite structure, with equal numbers of members representing business, labor and the public on both the national and regional boards. The WLB's public members, such as Chairman William Davis, Frank Graham and Lloyd K. Garrison (NLB chair in 1934), tended to endorse labor as force to make the economy more equitable and a key partner in maintaining industrial peace. See Melvyn Dubofsky, *The State & Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994), 183.
[11] Ibid., 182–187.

opened the door for race-baiting attacks from employers and company unions, but they were often not enough to defeat the CIO. Strong black support, in fact, would frequently prove the difference in union representation elections where white workers were divided in their loyalties between the CIO and rival unions. It was in this democratic setting that black oil workers would push newly-organized CIO unions to take the first steps to live up to their official policies of non-discrimination.

While the dynamics of union organizing would provide Houston's minority workers with an opportunity to combat discrimination from within their labor unions, they would also find an ally in that effort in the federal government. While most of the government's wartime employment bureaucracy was focused primarily on ensuring labor peace and maximum production, one agency, the Fair Employment Practices Committee, was tasked specifically with combatting discrimination in war industries. Created by President Roosevelt in large part to head off black protest, the FEPC was given the authority to respond to complaints, investigate discriminatory conditions in industry, and to order war contractors to remedy discriminatory practices.[12] The Committee, however, had little enforcement power. Unlike the WLB, it could not write its orders into binding contracts.[13] In the last two years of the war, groups of black and Mexican employees in two of Houston's largest industrial facilities would petition the FEPC to help them push CIO unions and employers to go beyond small measures to eliminate discrimination, calling on them to instead dismantle the system of segregated job assignments and lines of promotion that enforced the industrial color line. In complex negotiations involving

[12] On A. Phillip Randolph, the March on Washington movement and the origins of the FEPC, see Pfeffer, *A. Philip Randolph, Pioneer of the Civil Rights Movement*, 45–101. A comprehensive and generally favorable assessment of the Committee is Merl Elwyn 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).
[13] The FECP was established by Executive Order 8802 (June 25, 1941) and strengthened by Executive Order 9346 (May 17, 1943), mandating anti-discrimination clauses in new defense contracts. As discussed later in this chapter, such clauses proved hard to enforce.

unions, companies, and various government agencies, minority workers and the FEPC would encounter opposition from management, white workers both inside and outside of the CIO, and from federal agencies unwilling to fight discrimination where it might endanger war production. By the end of the war, the limits of organized labor as a means to combat discrimination would be on full display. Houston's black and Mexican industrial workers had a complicated relationship with union power. As a countervailing force in the workplace, union power was necessary to check the authority of segregationist employers. At the same time, as an institution controlled largely by white workers, unions could prove just as capable of enforcing employment discrimination.

"Boil Hitler in Texas Oil:" Biracial Organizing on the Gulf Coast, 1941-1943

The wartime drive to unionize Texas Gulf Coast refineries was announced at the 1941 OWIU national convention, where Local 367 leader John Crossland succeeded in pushing the International to commit to an aggressive campaign of organizing under a new, independent body, the Oil Workers Organizing Committee (OWOC). Oil union drives in 1933 and in the late 1930s had been undertaken with little coordination, relying on worker activists to devise strategies and carry out organizing campaigns within their own individual plants. Now the OWOC would provide what those drives had lacked, outside resources and professional full-time organizers. Although funded by a fifty cent monthly levy on all of the unions' members, the independent nature of the OWOC gave it the freedom to target its resources. With federal investment shifting refining capacity and employment to the Texas Gulf Coast, the OWOC decided to focus its efforts there. The separation of organizing functions from the regular structure of the OWIU had other advantages. Professional organizers could approach the task of building union majorities

free from the threat of employer retaliation and largely unburdened by the parochial interests and internal politics that often preoccupied union locals.[14]

To guide the Gulf Coast campaign, Crossland hired a corps of organizers from outside the OWIU ranks, many of whom had track records of building unions across racial lines and in the face of intense opposition. Lead organizer Clyde Johnson had been the Communist Party's chief labor organizer in Alabama in the mid-1930s and head of the Alabama Share Croppers Union before coming to Texas in 1938 to help coordinate a strike by San Antonio pecan shellers and organize a biracial union of cotton compress and flour mill workers on the Houston ship channel.[15] Like Johnson, most of Crossland's other organizers came from the left flank of the Texas labor movement, but the OWIU leader himself was no radical. In 1940, Crossland convinced Hughes SWOC founder P.F. Kennedy to break ties with members of Texas's small communist party. The following year, the two men spearheaded the ouster of communist representatives of other Texas CIO unions from the leadership of the State CIO body. But while he cleared out radicals at the top, Crossland resisted efforts by staunch anti-Communist leaders within the OWIU to bar communists from holding office in union locals, believing that such a move would violate the OWIU's tradition of local independence and would needlessly turn away potential sources of support from the labor base. Indeed, Crossland recognized that the most committed organizers often came from the ranks of radicals who saw the union movement in principled terms of class struggle and racial justice, and while his politics separated him from the

[14] Ray Davidson, *Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union* (Denver: Oil, Chemical and Atomic Workers International Union, 1988), 145.
[15] Robin D. G. Kelley, "A Lifelong Radical: Clyde L. Johnson, 1908–1994," *Radical History Review* 1995, no. 62 (March 1995): 255–258; On Johnson's involvement with the pecan shellers, see Zaragosa Vargas, *Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-century America* (Princeton, N.J: Princeton University Press, 2005), 139.

organizers he hired, Crossland shared with them a commitment to aggressive campaigns that reached out to workers across race.[16]

The OWOC kicked off its organizing drive in February 1942 in Texas City, fifty miles southwest of Houston on the Gulf Coast. Texas City lay in the shadow of two refineries, the formidable Pan American (Standard of Indiana) complex and the much smaller Southport Petroleum plant. OWOC organizers were greeted in Texas City by a public campaign of red-baiting and charges of disloyalty led by the Chamber of Commerce, members of the City Council and leaders of Texas City Employee Federation, the inside union at Pan American. Despite the hostile reception, organizing at the small Southport refinery proved easier than expected. Southport management had a long history of open hostility to the OWIU. In 1938, the NLRB had denied an election request from OWIU Local 449 on technical grounds because the union refused to divulge its membership rolls for fear of management retaliation, and the company's insistence that it would never sign a contract with the CIO even if it won an election had kept the union at bay for the next three years. Federal wartime labor policy, however, took away the company's cudgel. The pre-war NLRB could not compel a company to contract with a union, even if it was the exclusive bargaining representative; the War Labor Board could. A month after organizers arrived, Southport workers voted for the CIO by a wide margin, 105 to 20. As

[16] The move against communist leadership was part of an effort by the Oil Workers and the SWOC to take control of the state council away from the National Maritime Union and other small communist-led unions. In 1941, the OWIU and the SWOC succeeded in pushing through institutional reforms linking voting strength with membership numbers, giving them effective control over the council. See Murray Polakoff, "The Development of the Texas State CIO Council," 143–153. Col. Kuldell accused Kennedy of being a communist, saying that detectives hired by Hughes had discovered that men handing out SWOC literature in 1936 were members of Houston's small Communist Party. Kennedy, for his part denied being a party member. See Houston *Chronicle*, July 21, 1939. In an interview with Murray Polakoff, Crossland claimed that Kennedy had indeed associated with communists in 1936 and 1937, but that he had distanced himself by 1940.

expected, months of negotiation with management failed to produce a contract, leaving the union to take its case to the WLB later in the year.[17]

The OWOC faced a tougher fight at Pan American, where Local 449, the Employee Federation, and a consortium of AFL unions – the Boilermakers, IAM, Operating Engineers, and the Hod Carriers, Builders and Common Labor Union, a largely black union of manual laborers – all vied for representation. Support for the oil workers and the Federation was roughly equal. In the OWIU's election petition, it produced cards for 313 of the refinery's 957 hourly employees. The Federation had 334 pledges, and the AFL unions combined to show 120 cards.[18] As at Southport, the OWIU's appeal was shaped by wartime labor policy. Because wage controls denied the CIO one of its traditional recruiting tools, organizers instead presented Pan American workers with a plan that would boost pay by reforming the refinery's job classification system. Standard Oil affiliates like Pan American liked to boast that they paid the highest hourly wages in the industry, but as the union pointed out, they kept actual earnings low by classifying work downward. For example, pipe gangs at Pan American were led by one first-class pipefitter, assisted by one or two second-class men and a dozen helpers. At Shell and Sinclair, plants with CIO contracts, the same gang had two or three first-class men, four or five second-class, and a half dozen helpers. While Standard Oil paid a slightly higher wage to its first class pipefitters, the rest of the workers, by virtue of the lower classification, earned less than their CIO counterparts.[19] By challenging the classification system, the OWIU could produce effective pay increases even under the WLB's wage controls. The OWIU also proposed open job bidding by

[17] In the Matter of Southport Petroleum Co. and O.W.I.U., Local No. 227, 8 N.L.R.B. 792 (1938); In the Matter of Southport Petroleum Company of Delaware and O.W.I.U, Local 449, 30 N.L.R.B. 257 (1942). There were 156 hourly employees in the bargaining unit.
[18] In the Matter of Pan American Refining Corp. and Texas City Employees Federation, Unaffiliated, 35 N.L.R.B. 725, 727 (1941).
[19] Clyde Johnson, "CIO Oil Workers' Organizing Campaign in Texas, 1942-1943," in *Essays in Southern Labor History*, ed. Gary Fink and Merl E. Reed (Westport, Conn: Greenwood Press, 1977), 176.

seniority for promotions and the use of seniority, instead of supervisorial discretion, to determine layoffs and furloughs in slack periods.

Facing the likelihood of a close representation election, Clyde Johnson set his sights on building support among Pan American's 120 black workers, roughly half of whom were in the AFL Hod Carriers Union.[20] The union pledged to fight for the elimination of the separate classification of "colored labor," for pay at the equivalent white rate for work done when black laborers were temporarily assigned outside the labor division, and for the creation of a unified seniority list covering both black and white workers. Under the proposed seniority system, a merged list meant black laborers would no longer bear the disproportionate burden of layoffs, and it would begin to break apart the refinery color line as senior black employees applied for open positions in previously white-only divisions. Johnson recognized that the union was offering a "revolutionary program" of workplace equality, but the OWIU's demands for seniority and open bidding were not intended to benefit black workers alone. They instead aimed broadly to bring equal opportunity to both black and white union members by reducing the power of foremen to discriminate in personnel matters. Strict seniority promised OWIU men relief from the hated "suction system," the union's mocking term for the managers' practice of rewarding obsequious non-union underlings. Open bidding allowed both black laborers and the lower-skilled whites that made up the core of OWIU support the opportunity to advance into better jobs by getting rid of the separate departmental job ladders favored by the refinery's AFL unions, and plant-wide seniority would eliminate the penalty of restarting workers' seniority clock when they moved up into new divisions.[21]

[20] In the Matter of Pan American Refining Corp. and Texas City Employees Federation, Unaffiliated, 35 N.L.R.B. 725, 727 (1941).

[21] See Frank Dobbin, *Inventing Equal Opportunity* (Princeton University Press, 2009), 114–121 on open bidding and plant-wide seniority as means to promote equal opportunity. Unions' contributions to these measures are considered

Such a program comported with Johnson's conviction that justice for the Southern working class must come through justice for African Americans, and it provided evidence for the hopes of union backers in the black community that economic rights were best pursued through the labor movement. The Federation and the white AFL unions jumped on the plan, warning workers (correctly) that the CIO would end the white monopoly on skilled jobs, but Local 449 president Doc Yoas did not back away from the OWOC's organizing strategy or its promise of equality. With black workers potentially holding the balance in the representation election, the leadership of the Local judged the prospects of winning to be worth the risks of embracing equality measures. In line with this assessment, CIO backers made a concerted effort to court Pan American's black workers. In the month leading up to the election, national OWOC director Edwin Smith, John Crossland, white OWIU men from Sinclair and the Sinclair Negro Quartet, and Rock Richardson, the black president of the biracial Houston Cotton Compress Union, all travelled to organizing meetings in La Marque, the black community adjoining the refinery and Texas City, to preach the benefits of CIO unionism.[22]

The Pan American campaign culminated in a large "Oil for Victory" parade two weeks before the scheduled May 5th NLRB election. Beginning in La Marque, black and white members of Local 449 marched up Texas Avenue past the refinery and into downtown Texas City, where the OWIU men were joined by members of the communist-led National Maritime Union, the Central High School band, firefighters and the mayor, who had recently been elected with strong oil worker backing. The parade ended at city hall, which was decked out with a

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in Frank Dobbin et al., "Equal Opportunity Law and the Construction of Internal Labor Markets," *American Journal of Sociology* 99, no. 2 (September 1993): 399. Michael Burawoy, *The Politics of Production: Factory Regimes Under Capitalism and Socialism* (London: Verso, 1985) argues that the Wagner Act and the WLB, by narrowing the scope of labor bargaining, pushed unions towards these formal measures of internal labor market control and away from broader, more informal claims to workplace power.

[22] Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 176. Rock Richardson was a unique case in Texas – a black president of a biracial union.

sixty-foot banner reading "BOIL HITLER IN TEXAS OIL – CIO." There, a crowd heard the mayor, OWIU president O.A. Knight, and George Roberts of the War Production Board offer speeches praising the OWIU and refinery workers for their contribution to the national war effort.[23] The rally was a strong showing of union support; two days later the Pan American Employee Federation withdrew from the NLRB ballot, throwing its support behind the AFL unions as the most viable alternative to the CIO. The election outcome was razor-close: 353 for the OWIU, 354 for the AFL, and 136 votes for a "no union" option. With neither union gaining a majority, the NLRB ordered a run-off election to take place in a month's time.[24]

Switching support to the AFL may have been a strategic blunder by Pan American's CIO opponents. In the month before the run-off election, the OWIU hammered the AFL unions for their lack of democracy and inability to effectively represent refinery workers. The Operating Engineers, for example, only admitted refinery workers as Class C affiliates, unable to vote in union elections. The Hod Carriers had not held a convention in over three decades. And none of the AFL unions had ever extracted a contract from Pan American management. The criticisms brought many of the "no union" votes around to the OWIU, which bested the AFL in the runoff election by more than a hundred votes. Now certified as exclusive bargaining agent, Local 449 began negotiating with management over contract terms. Just as they had at Southport, talks deadlocked over union demands for seniority, classification changes and equality measures.[25]

In late 1942 the WLB took up both cases. Southport management in particular objected to the elimination of separate "white laborer" and "colored laborer" classifications and pay rates. Rather than bringing all black workers up to the white wage scale, Southport proposed that higher-skilled black employees contest their common laborer classifications on an individual

[23] Ibid., 177; Davidson, *Challenging the Giants*, 146.
[24] In the Matter of Pan American Refiing Corporation and I.A.M. Local No. 1446, 41 N.L.R.B. 161 (1942).
[25] Ibid.; Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 178.

basis through the grievance process. That procedure would only give wage increases to the few senior black laborers who could prove that they were performing work equivalent to that done by white employees in higher classifications. For most, if not all, of Southport's black workers, it would mean the company could continue to pay them a lower, discriminatory rate. It would also, however, keep Southport in compliance with the WLB's own "Little Steel Formula," which capped any blanket raises at 15 percent over pre-Pearl Harbor rates.[26] The WLB's primary mission to keep down wages across the board was in conflict with the request to bring black wages up to comparable white levels. Nevertheless, the WLB sided with the union on the equal pay issue, ordering the company to create a single "laborer" classification paying the higher prevailing white rate.[27]

Despite its limited application to senior black laborers, Southport's equal pay provision was the first of its kind in the Texas refining industry. It also set a Board precedent for acting in favor of pay equality when the issue arose in contract disputes, which the Board ruling accomplished by extending its Congressionally-granted power to adjust wages in the case of "gross inequalities" in industry to matters of racial pay discrimination within individual plants.[28] The author of the Southport decision, University of North Carolina president Frank P. Graham, rooted the WLB's authority to bind employers to contracts eliminating racial pay discrepancies in the "democratic formula of equal pay for equal work" and, more sweepingly, in the nation's war aims. In a battle against "Hitler and his Master Race," Graham wrote, safeguarding "equal

[26] The fifteen percent wage cap came out of a WLB settlement with four smaller steel companies in early 1942. It was soon generalized across all WLB cases.
[27] National War Labor Board Case No. 771 (2898-CS-D). In the Matter of Southport Petroleum Company (Texas City, Texas) and Oil Workers' International Union; Local 449, CIO. June 5, 1943.
[28] The Southport case set a precedent for wage equality that was extended by the WLB's decision in *Miami Copper et. al*, where it ruled that a pattern of wage discrimination against minorities, although not clearly established by separate and unequal classification, nonetheless merited a reclassification of effected workers into more accurate pay grades (Case No. 111-716-D, Sept. 7, 1944). The evolution of WLB anti-discrimination precedent is outlined in U.S. Department of Labor, *Termination Report of the National War Labor Board*, vol. 1 (Washington: U.S. G.P.O., 1948), 150–155.

rights" in employment was a "test of our sincerity in the cause for which we are fighting" and central to "the promise of American democracy regardless of color." While Graham made a forceful case for racial equality, the Board could not pursue that end unilaterally; the impetus had to come from the union. The WLB did, however, help facilitate the OWIU's equal pay policy. Any pay equality measure had to, by definition, give disproportionate raises to previously-underpaid black workers. Under peacetime conditions, union leaders may have been hard pressed to convince their white members to support black raises without corresponding (and inequality maintaining) gains for whites. But WLB policy capped overall increases; only equality-creating ones were allowed.

At Southport, the OWIU had only asked for equal pay for black and white laborers. At Pan American, black workers would gain more. Although the WLB held the line on some of Local 449's requests for up-classifying certain jobs, it granted the union's major demands for equal pay, open bidding and plant-wide seniority regardless of race. OWOC organizers even secured time-and-a-half for black workers on Emancipation Day.[29] The WLB contract encountered some opposition from a group of white OWIU men led by Local 449 secretary Foy Hopkins, who believed that OWOC negotiators had gone too far pressing for provisions favorable to black workers. At a meeting of the membership called to consider the contract, Hopkins floated the idea of asking the International to tear up the WLB sanctioned contract, but his was a minority voice. Hopkins's motions were shot down by Local president Yoas and others, and the contract was approved by a rank-and-file vote.[30]

[29] Articles of Agreement between O.W.I.U., Local No. 449 (CIO) and Pan American Refining Corporation, Texas City, Texas, December 1942. Overtime pay on Emancipation Day was not a common union request or contract term, and appears to have only existed at Pan American. After the war, it became standard in many Texas OWIU contracts.

[30] Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 178.

The OWOC's Pan American victory was an auspicious beginning for the Gulf Coast campaign, marking the first time the OWIU had defeated one of Standard Oil's company unions. For Clyde Johnson and other backers of biracial unionism, the early success in Texas City confirmed their belief that incorporating black workers and their interests could be a source of union strength. Indeed, Local 449's acceptance of job integration measures was remarkable for the relative ease with which white OWIU members had been willing to lay aside aspects of their unique racial interest in pursuit of union power. No other oil union in Texas would go as far as Local 449 in promoting racial equality during the war, but Johnson's Texas City strategy set the precedent for subsequent OWOC organizing efforts in area refineries.

From 1941 to 1944, the OWIU won eight of the nine refinery representation elections it entered. The extent of black employment in those plants varied widely, with few patterns evident across geographic location or refinery size. Black workers most commonly made up between five and ten percent of the workforce in refineries, but there were many that fell outside of that range. Gulf in Port Arthur employed over one thousand African Americans, roughly thirty percent of the refinery's total workforce; the similarly-sized Texaco facility next door counted only seventy black workers on its payroll.[31] At Pan American, a closely divided worker electorate had given white OWIU members a powerful reason to appeal to the decisive black swing vote. The democratic incentives for courting black support were not always so obvious. In a few plants, black workers proved essential to forming CIO majorities; in others, the margin of CIO victory, or in one case, defeat, exceeded the size of the black workforce. Despite the differences in black employment and the racial dynamics of elections, all of the union campaigns in refineries followed the two crucial aspects of the OWOC's biracial approach. First, union organizers courted black voters, who generally supported the CIO by larger margins than their

[31] *Negro Labor News*, Jan. 9, 1940; Davidson, *Challenging the Giants*, 150.

white counterparts. Second, in all of the cases where the OWIU prevailed, the union pressed to equalize the wages of black workers with those of white laborers doing the same work. In plants with few African Americans, the OWOC's general emphasis on biracial organizing passed with little notice. At Humble's massive Baytown refinery, however, union opponents would seize upon the race issue to bludgeon the CIO.

Baytown, the largest refinery in the Standard Oil chain, presented the greatest prize and the greatest challenge to the OWOC. In July 1942, Clyde Johnson and a handful of other organizers fresh off their victories at Southport and Pan American took up residence in Baytown, where they would spend the next year and a half trying to crack Humble's mighty Employee Federation. Johnson's OWOC brought to Baytown the same general approach used in Texas City, pushing for classification changes that would increase worker pay and appealing to the refinery's 450 black and Mexican American laborers with a commitment to equal wages.[32] For more than a decade, oil unions had been outmatched at the refinery, but its recent growth gave organizers hope. Baytown had expanded significantly under the defense program, adding three government-owned units for the production of TNT and synthetic rubber precursors. Humble operated all three facilities, which were directly adjacent to the core refinery and tied to it by pipes supplying petroleum fractions.[33] Between 1940 and 1943, Baytown took on one thousand new workers, bringing its total employment just under five thousand.[34] Humble classified many of the new hires as "temporary" workers, a designation that denied them seniority and allowed

[32] Baytown used more helpers in proportion to craftsmen than any other refinery, which helped keep wages down. See Larson and Porter, *History of Humble Oil & Refining Company*, 602–603.
[33] Ibid., 546, 597–598. The Baytown Ordinance Works produced nearly half of all TNT used by the United States during the war. Plancors 485 and 1082 (financed by the Defense Plant Corporation and leased back to Humble) produced butadiene and butyl for sale to the government's Rubber Reserve Company. The units were sold to Humble after the war.
[34] Figure from Humble weekly payroll, March 21, 1943. See In the Matter of Humble Oil & Refining Company and Local No. 1002, O.W.I.U and Brotherhood of Railroad Trainmen and International Association of Machinists, District #37 and International Brotherhood of Electrical Workers, Local No. 6, 53 N.L.R.B. 116, 120 (1943).

the company to avoid the requirement of the Selective Service Act that (non-temporary) workers leaving employment for military service be given hiring priority upon their return from war.[35] The OWIU had successfully challenged similar "temporary" designation schemes at other refineries, and organizers believed that a promise to do the same at Baytown would draw many of the new hires into the union.[36]

The Federation met the OWOC with standard anti-union fare, advising Baytown employees to stay away from the "gang of high pressure organizers" trying to recruit dues-payers to line the pockets of "the big bosses back in Washington and New York."[37] Humble and its inside union had long placed such criticisms at the center of their attacks on the OWIU. From the beginning of the 1942 organizing drive, however, the usual efforts to portray the union as led by corrupt outsiders took a back seat to a virulent campaign of race-baiting. The Federation carried out its assault on the CIO though the *Bulletin*, a propaganda sheet produced by Clifford Bond, the former editor of the *Pelly News Tribune*. Bond had been a faithful anti-union voice in the 1930s; now Humble gave him a no-show job from which he could push the Federation's line from the inside. His pen was filled with pure poison. *Bulletin* #9, one of Bond's early efforts, charged the OWIU with carrying on a "secret campaign" among African Americans by promising them social equality and an end to "all forms of racial segregation" at the expense of "the White workers in Baytown Refinery." As supervisors handed workers copies of the *Bulletin* at the plant gates, they read an appeal to "you thousands of Texas country boys here in Baytown"

[35] See "No Rights, No Job Protection For Over 1,000 Temporary Employees." Baytown OWOC circular, Dec. 1942. Reprinted in Sutton J. Boyd, "Appeals Made to Employees to Influence Their Decision Regarding Collective Bargaining." (MA Thesis, North Texas State Teachers College, 1945), 73; In the Matter of Humble Oil & Refining Company and O.W.I.U., Local 1002, and Oil Workers Organizing Campaign (CIO), 48 N.L.R.B. 1118, 1138 (1943).

[36] Not all of the 1,000 temporary employees were production workers, meaning that less than that number were in the bargaining unit.

[37] *Bulletin* #25, undated [Jan. 1943], excerpted in Sutton J. Boyd, "Appeals Made to Employees," 90. (Many issues of the Bulletin are excerpted in Boyd. A fuller run is available in Clyde Johnson Collection. The Bancroft Library, University of California, Berkeley)

to stop the CIO from coming "into our Southern State of Texas, brandishing a torch of racial hatred" intended to turn black workers against whites. "The place to check them is HERE and NOW," the *Bulletin* warned. "Tomorrow may be too late."[38]

Aware that racial polarization was a grave threat to its organizing drive, the OWIU forwarded *Bulletin* #9 to the Washington D.C. headquarters of the Fair Employment Practices Committee. In response, Lawrence Cramer, FEPC executive secretary, sent a telegram to the Federation, with copies sent to the OWIU and Humble management, rebuking it for publishing an "incitement to violence against Negro workers." Feeding the flames of race hatred in an essential war plant was "a gross act of irresponsibility," leading Cramer to demand that the Federation "promptly retract this appeal to race prejudice… in the interests of patriotism and of the national war effort."[39] The OWIU distributed copies of the telegram throughout the refinery, but the Federation was unbowed, pledging not "to be swayed from our purpose by… the CIO-owned and operated Fair Labor Practices Committee," and chiding the union for crying to Washington to have "Fed [Employees Federation] officials 'called on the carpet' by your Committee."[40]

Federation propaganda mixed bravado and fiery racial rhetoric with appeals to the economic interests of white workers. Warnings that the CIO would bring about "absolute equality on every job… from labor gang to department head," while overblown, were aimed at the very real stake that white workers had in keeping black job competition at bay.[41] But in raising the prospect of integrating the job ranks, the Federation was overstating the CIO's

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[38] *Bulletin* #9, Oct. 23, 1942. Exhibit in In the Matter of Humble Oil & Refining Company and O.W.I.U., Local 1002, and Oil Workers Organizing Campaign (CIO), 48 N.L.R.B. 1118, 1138 (1943).
[39] Telegram, Cramer to Federation, Oct. 27, 1942, in Ibid., 48:1133.
[40] *Bulletin* [number unknown], April 27, 1943; *Bulletin* #69, May 2, 1943, excerpted in Sutton J. Boyd, "Appeals Made to Employees," 87.
[41] *Bulletin* [number unknown], April 27, 1943. Quoted in Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 184.

commitment to racial equality at Baytown. The union had stayed away from proposing the sorts of changes to seniority and job bidding that it had implemented at Pan American. "If anyone starts the anti-Negro stuff," organizers instructed union members, "ask what the CIO has said to Negroes. The answer is equal pay for equal work."[42] That limited principle, the union believed, was much more palatable to white workers. Under the CIO's plan for equal pay, black laborers would be brought up to the white labor rate. In the short term, white laborers would lose nothing. In the long term, the union argued, they would benefit from the company losing its ability to use cheap black labor to keep down the wages of lower-skilled whites.

Organizers like Clyde Johnson, deeply committed to racial equality, would have undoubtedly liked to go further, but the equal pay principle on which the Baytown OWIU stood struck a balance between attracting black support and minimizing white antagonism. And the embrace of pay equality marked an important departure from the union's long standing acceptance of separate wage structures for laborers. Until 1942, the OWIU and the Federation had the exact same position on wage equality, leaving Baytown's black workers with little enthusiasm for the CIO. In fact, a significant number of African Americans in the labor department had signed up with the Federation as a way to stay in the good graces of their white bosses. Now Federation officials worried that it would be impossible to "hold our colored members against… CIO promises."[43]

The Federation, however, had ways to reduce the appeal of the CIO. The labor department, where most of Baytown's African Americans were employed, was overseen by a foreman and his twenty-two white gang pushers, each of whom ran a crew of usually no more than a dozen black men at work on the grounds of the expansive facility. Gang pushers were in

[42] Baytown OWOC handbill, March 1943, excerpted in Sutton J. Boyd, "Appeals Made to Employees," 79.
[43] *Bulletin* #9, Oct. 23, 1942. Exhibit in In the Matter of Humble Oil & Refining Company and O.W.I.U., Local 1002, and Oil Workers Organizing Campaign (CIO), 48 N.L.R.B. 1118, 1138 (1943).

close and near constant contact with their crews, allowing them access to union talk among black laborers. When Vito Gargano, the overseer of a rail-laying gang, overheard G.H. Blue, a black teamster who had been busted down to Gargano's crew, talking to his fellow workers about the NAACP and the push for equal wages, the labor pusher confronted him in front of the men: "Blue, what are you doing? Signing them up for the CIO? If you don't watch yourself you will get in trouble." Joining the CIO, Gargano told the men, "ain't going to get you nowhere," a point he reinforced by threatening to fire some of the men and keep the others on the hardest jobs. Indeed, if the CIO could offer black laborers the promise of higher wages, the supervisors with immediate control over their work lives could balance the ledger by rewarding black workers who stayed out of the union and punishing those who supported it. The department foreman was open about assigning workers who kept their "mouth quiet" to work a "light job" indoors in the warehouse, where the clerk would "fix them up" with a Federation membership.[44] Black union supporters got the opposite treatment. One gang pusher warned his crew that if they joined the CIO, "you will be in the Army next." This is exactly what happened to outspoken CIO supporter Hervie Bradley, who was fired by Gargano in October 1942 for eating a sandwich with G.H. Blue outside of their designated lunch breaks. A month later, Bradley was drafted.[45]

While Federation men from the supervisorial ranks worked to suppress black support for the CIO and its promise of wage equality, Baytown management used hiring and promotion policies to reinforce the color line in the refinery. The company removed whites from the lower ranks, promoting them upwards to meet the shortage of semi-skilled workers caused by expansion and military service. Vacancies at the bottom were filled with African Americans and

[44] Ibid., 48:1124–1127.
[45] The Bradley sandwich incident is detailed by testimony in Ibid., 1134–1139.. The OWIU challenged Bradley's dismissal to the NLRB. The Board found that he had been illegally fired for union activities, and ordered his reinstatement upon return from war. In the same case, the Board struck down Baytown's temporary classification policy as an unfair labor practice.

with white women.[46] By removing white men from laborer positions, the company hoped to blunt the equal pay issue. If no white men performed the same jobs African Americans were doing, it would be harder to demonstrate a racial discrepancy in pay. The use of white women, however, gave the union grounds to criticize the inconsistency of Humble and the Federation's position on the color line. While the Federation had been attacking the CIO for advocating equality, it had "negotiated" a monthly pay rate of $100 for white women hired as janitors. Black men in the same position earned $157; white men, before they were promoted out of janitorial positions, had earned $197. The $100 wage proved that "Humble recognizes no color line when it comes to getting work done cheaper," and, the union argued, it was part of a long term plan to cut pay when peace returned. White workers temporarily promoted into semi-skilled positions, the OWIU warned, would find themselves "going back to a $100 a month job after the war."[47] The company respected no line but the bottom line, a point the union made in a *CIO Campaigner* article entitled "Reminisces of the Two Bit Gang." Purportedly written by "one of the Gang," it recalled management's move in 1933 to reduce white workers down to labor gangs, where "we worked right along in the same ditches with the Negroes and Mexicans doing the same job" for the same "soaring wage of 25 cents."[48]

The OWOC's attention to the pay of female janitors shamed the company into equalizing pay for women workers. It was one of a small number of victories that the union could claim in the early months of the organizing campaign. Towards the end of 1942, the union appealed successfully to the NLRB to end the "temporary" classification system and secured a WLB

[46] Ibid., 1135. This general pattern in refining is noted in "War Manpower Commission Labor Market Developments Report for the Houston, TX Area, Feb. 1, 1943," p. 6. Papers of Albert Thomas, Series 1, Box 1, Defense Housing, WRC.
[47] "Fed Sabotages U.S. War Policy on Women's Pay," OWOC handbill, March 1943. Excerpted in Sutton J. Boyd, "Appeals Made to Employees," 79.
[48] "Reminisces of the Two Bit Gang," *CIO Campaigner*, November 20, 1943. Excerpted in Ibid., 89–90.

ruling – against the objections of the company and the Federation – granting hourly workers a Christmas bonus and overtime for holidays.[49] The union's use of federal labor agencies to challenge Humble's employment rules allowed it to cast itself as a partner in carrying out the federal government's war policies and to accuse the company and the Federation of trying to "sabotage our Commander-in-Chief" on labor matters.[50] Appeals to patriotism and loyalty figured heavily in the oil workers' campaign, as the union sought to shift the focus away from the issue of racial equality towards the broader struggle for economic security and democracy. Joining the CIO, organizers stressed, meant working to "maintain Americans standards" for "Humble workers and the sons of Humble workers upon their return from war," and to see to it that "nobody here in America is able to impose the kind of Hitlerism they are fighting against" abroad.[51]

By January, organizers felt optimistic about the union's chances. Fresh off the pay and classification victories, the union filed notice with the company and the NLRB that it would seek certification as exclusive bargaining agent. Although the OWIU only produced 874 commitment cards, compared to 1657 shown by the Federation, Johnson believed that momentum in the organizing drive was swinging the union's way.[52] Humble and the Federation were ready for the move. Right after the OWIU filed, the Federation signed a new contract with the company, which, it argued, barred the OWIU from challenging the Federation's status while it was in effect. While the regional NLRB considered that position, two AFL unions petitioned to be

[49] "Make it CIO in January," OWIU circular [undated, Jan. 1943] in Ibid., 78; In the Matter of Humble Oil & Refining Company and O.W.I.U., Local 1002, and Oil Workers Organizing Campaign (CIO), 48 N.L.R.B. 1118, 1139–1140 (1943).
[50] "Make it CIO in January," OWIU circular [undated, Jan. 1943] in Sutton J. Boyd, "Appeals Made to Employees," 78–79.
[51] "Men in Service Say Vote CIO," *CIO Campaigner*, Nov. 20, 1943 in Ibid.
[52] In the Matter of Humble Oil & Refining Company and Local No. 1002, O.W.I.U and Brotherhood of Railroad Trainmen and International Association of Machinists, District #37 and International Brotherhood of Electrical Workers, Local No. 6, 53 N.L.R.B. 116, 120 (1943), combining NLRB cases R-5746 to R-5749.

included as representatives for small groups of skilled workers in the refinery. The new claims created a mess of motions and hearings, pushing a representation vote at Baytown back to November 1943.[53] Clyde Johnson was furious with NLRB officials for the delay, fearing that constant exposure to the Federation's racist appeals would erode the membership gains the OWIU had made since the beginning of the campaign. [54]

As much as the OWIU wanted to avoid being identified too closely with black equality, tensions between whites and blacks outside the refinery kept the issue at the forefront. Like other industrial cities in the South, an influx of workers into the Baytown area had produced competition for housing and crowding in public spaces and transit, challenging the public color line just as black workers and the CIO were testing it in industrial plants. Every shift change, white and black Baytown workers packed into trolley cars – built for forty riders, now often stuffed with eighty – to travel to and from the refinery. Fearing that any outbreak of violence would quickly polarize the plant, OWOC men rode the line trying to spot potential trouble and petitioned the trolley company to add more cars. The OWOC suspected that the company and its allies were trying to spark racial violence in surrounding communities. Organizers reported that unknown persons had sent white prostitutes from Houston into bars in black neighborhoods around Baytown, presumably with the hope of provoking outrage from area whites. Ewart Twine, a black organizer hired by the OWOC, had his own confrontation with unsavory whites in a bar in McNair, a black settlement to the north of the refinery. Three deputy sheriffs singled

[53] The history of the representation case is detailed in In the Matter of Humble Oil & Refining Company and Local No. 1002, O.W.I.U and Brotherhood of Railroad Trainmen and International Association of Machinists, District #37 and International Brotherhood of Electrical Workers, Local No. 6, 53 N.L.R.B. 116 (1943) combining NLRB cases R-5746 to R-5749. NLRB policy did prohibit representation elections for one year after a new contract went into place, but the OWIU had filed their petition before the new contract was signed. The Federation succeeded in delaying the certification of the election petition by arguing that the OWIU had filed pre-emptively without having sufficient support to compel an election. Sorting out that claim took the better part of a year.

[54] Over the course of the campaign, the Federation published more than ninety issues of the Bulletin, an average of about one every four days from the beginning of publication in November 1942.

out Twine, who was wearing three CIO buttons on his hat. "Nigger, take off that hat," one of the lawmen ordered. Twine refused. A deputy raised a pistol, threatening to "blow his head off." Twine's hat stayed on. Before the deputies retreated, they sent a bullet past the organizer's head into the barroom wall.[55]

Elsewhere on the Gulf Coast, black labor activism triggered violent white reprisals. On May 25, 1943, the upgrading of a dozen black welders at the Alabama Dry Dock and Shipbuilding Company in Mobile, in compliance with an FEPC order, sparked a melee in the shipyard as whites took up their tools and turned on black workers.[56] In June, rumors and counter-rumors began to swirl on the Texas coast: white workers were planning walkouts to protest the promotion of blacks in shipyards and blacks were planning militant demonstrations around the upcoming Juneteenth holiday. In Houston, the NAACP helped keep the peace by joining the white political leadership and the Chamber of Commerce to denounce the rumors in full-page ads in the white dailies.[57] On June 15, however, violence erupted in Beaumont when an accusation that a black man had raped the white wife of a Pennsylvania Shipyard Company worker sent thousands of whites pouring out of the shipyard gates into black neighborhoods, where whites ransacked homes and assaulted black residents before a force of 1,800 state guardsmen put down the white riot.[58]

The possibility of violence did nothing to deter the Federation from playing up the racial threat represented by the CIO. Throughout the summer and fall of 1943, the *Bulletin* kept up its drumbeat of racial animus. The NLRB field examiner overseeing the Humble case imposed a

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[55] Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 180–181.
[56] Harvard Sitkoff, "African American Militancy in the World War II South," in *Remaking Dixie: The Impact of World War II on the American South*, ed. McMillan, Neil R. (Jackson: University Press of Mississippi, 1997), 85; Paul A. Gilje, *Rioting in America* (Bloomington: Indiana University Press, 1996), 156.
[57] A.A. Lucas to Walter White, July 6, 1943; "Action of Branches to Prevent Race Riots," July 30, 1943 in NAACP Papers, Series 19C. Advertisement: "Loose Talk Helps Hitler," Houston *Press*, June 18, 1943.
[58] James A Burran, "Violence in an 'Arsenal of Democracy'," *East Texas Historical Journal* 14 (1976): 188; Obadele-Starks, *Black Unionism in the Industrial South*, 106.

two week moratorium on the "race issue" before the November election. The Federation took its race-baiting campaign right up to the wire. The final appeals made by the OWIU and the Federation before the election provide instructive examples of the way each side wanted to frame the union question. As the OWIU told workers that it was their duty to see to it that returning troops would find "a decent American wage" and "American democracy preserved," the Federation warned workers that it was segregation, not wages or democracy, that was most at stake. "Under the CIO contract, White, Blacks and Mexicans work and sweat together, cleaning stills, pulling tongs together, eating together, using the same toilet and bath facilities and the same drinking fountains. This will soon lead to race riots and there will be CIO men leading them."[59]

On November 25, 1943 Humble workers voted against the CIO by a nearly two to one margin.[60] Once again, the powerful inside union at Baytown had survived a challenge from the oil workers. Clyde Johnson laid the blame for the loss squarely on the NLRB for dragging out the election process. White workers, he believed, had soured on the union over the course of 1943. In the campaign to organize Pan American, Johnson and the OWOC had been able to build a surge of support headed into the NLRB election. At Baytown, nearly a year elapsed between the filing of the NLRB petition in January and the November election. In that time, the Federation had bombarded white workers with propaganda linking the CIO to black militancy as racial tension and violence flared up on the Gulf Coast. But Johnson may have given too much credit to the Federation's race-baiting. Even in January, when the organizer believed he had the greatest chance to secure an election win, the OWIU lagged well behind the Federation in the

[59] CIO Campaigner, Nov. 20, 1943; Bulletin #92, Nov. 4, 1942 excerpted in Sutton J. Boyd, "Appeals Made to Employees," 90.
[60] In the Matter of Humble Oil & Refining and Local 1002, OWIU (CIO), 54 N.L.R.B. 78 (1943). The OWIU received 35.2% if the vote; the CIO, 64.0%.

number of commitments it had secured from workers. Many Baytown employees had cast their lot with the Federation well before the independent union painted the CIO as a threat to white workers. Indeed, the CIO's problem at Baytown was less due to white workers being driven away from the CIO by its racial policy than it was the result of there not being enough African American workers to change the balance in a workforce that had historically been divided on terms unfavorable to the CIO.

In places where there were more black workers, a heated racial climate like that at Baytown did not necessarily spell a death sentence for the CIO. In the first half of 1943, the segregated OWIU Locals 23 and 254 in Port Arthur were confronted by race-baiting and police violence as they waged a successful campaign against the AFL for bargaining rights at Gulf Oil. While the OWIU locals on the ship channel were consolidating their dual unions in 1936, Port Arthur had kept its segregated set-up at the insistence of Local 254's black leadership, who feared that their positions, and the independent black voice they provided, would be lost in any amalgamation plan. The OWIU had lost an election at Gulf in 1938, and the men who assumed control of white Local 23 afterwards were convinced that the main reason for the defeat was a lack of strong black support. The membership of Local 254 in 1938 had been small, and black CIO turnout had been suppressed by Port Arthur Police Chief H.F. Baker, a "notorious negro beater" and sworn CIO opponent. On the eve of the 1938 vote, Baker and his deputies drove through the city's black neighborhoods, warning Gulf workers to stay away from the labor election.[61]

The segregated locals of the Port Arthur OWIU were built on a recognition, especially from Local 254's leadership, that racial prejudice and the discrete interests of black and white workers stood in the way of true biracial unionism. But the two unions also shared some

[61] Harvey O'Connor, *History of the Oil Workers International Union* (Denver: Oil Workers Intl. Union, 1950), 308.

common purpose and common enemies. In 1940 and 1941, a white Local 23 official serving on a Jefferson County grand jury had instigated an investigation into Chief Baker and the Port Arthur police department's abuses of African Americans. Despite the probe, Baker remained feared. Many black citizens declined to swear to the Chief's abuses. Local 254 President Alex Joseph was the only black witness willing to testify, but he was jailed the day before his appearance. Local 23 helped expose the false charges against Joseph and secured from the police a public apology for imprisoning the black union leader. Such a thing was unheard of in Port Arthur and earned Local 23 considerable credit in the city's black community. [62]

A year later, the leaders of Local 23, hoping to build on that goodwill with a promise to fight for equal pay, looked to Gulf's 1,000 black workers to carry the CIO to victory in a representation election. The campaign was led by F.H. Mitchell, a veteran organizer from Tulsa, who spent much of the first three months of 1943 canvassing Port Arthur's black neighborhoods with Local 23 men to spread the CIO gospel. Although the union remained segregated, OWIU opponents seized upon the efforts of white organizers to mobilize black workers to cast the CIO as a dangerous threat to Port Arthur's racial order. The AFL unions in the refinery alerted white workers to the CIO menace in terms that closely resembled those offered by the Baytown Federation. One handbill, titled "CIO Promises Negroes Equality with Whites," directly mirrored *Bulletin* #9's prediction of "serious trouble" that would result from the CIO's "secret campaign" among African Americans.[63]

Black workers, too, were cautioned to stay away from the CIO's racial provocations. The chief anti-CIO voice in black Port Arthur was none other than C.W. Rice, who began offering a special Port Arthur edition of his *Negro Labor News* in December 1942, just as OWOC

[62]Ibid., 308–309; Davidson, *Challenging the Giants*, 149–150.
[63] Handbill quoted in Clyde Johnson, "CIO Oil Workers' Organizing Campaign," 182.

organizers arrived at the Gulf Refinery.[64] From December until the March 1943 NLRB election at Gulf, each weekly edition of the *Negro Labor News* carried front page editorials giving readers a crash course in Rice's philosophy of industrial and racial relations. He praised Gulf for the stability it had provided over four decades of employing black workers and warned that the CIO offered "no guarantee what [it] will do for them."[65] In addition to his standard criticisms that biracial unions would neglect black concerns and threaten black jobs, Rice devoted special attention to "a most serious threat" posed by "a white man, a stranger, F.H. Mitchell by name, living among the colored people." The white organizer, he assured readers, could not have black interests at heart, rather, he was a "ravening wolf dressed in sheep's clothing," intent only on collecting dues from Gulf's 1,000 black workers.[66]

Rice's crusade against the CIO in the late 1930s had been given weight by the ambiguity of the union's racial policies and that era's slack labor market. The OWIU's segregated locals, however, blunted the editor's predictions that unions would silence the voice of black workers, while his warnings of job loss were made less plausible by wartime labor shortages. With whites looking up the job ladder at an abundance of open skilled and semi-skilled positions, black workers had little reason to fear that they would use union power to drive blacks out of lower-level labor jobs. The same market dynamic also alleviated the Depression-era worry that equal pay, by removing the comparative advantage of employing African Americans, would lead employers to replace black laborers with whites. The OWIU's equal pay commitment, combined with the segregation of the union, offered black workers the promise of immediate gain through a

[64] There is nothing to explain the convenient timing of Rice's expansion into Port Arthur. Perhaps the publisher was simply eager to move into a new market. Given his close links to employers and the source of much of his funding, it is also possible that Rice's business decision was assisted by CIO opponents in the city. On OWOC arrival at Gulf, see Davidson, *Challenging the Giants*, 149.
[65] *Negro Labor News*, Feb. 20, 1943.
[66] *Negro Labor News*, Jan. 2, 1943.

CIO contract while protecting them against the potential threat of a white union majority. The pay gains made to date by black oil workers in Texas City and other CIO refineries had done nothing to change Rice's stance. In fact, he cautioned his Port Arthur readership against being "led down a blind alley" by the CIO's "false promises."[67] Equal pay aside, the editor insisted that "the CIO's labor program calling for equality for white and colored workers is not practical in the South," where white workers would never consent to the desegregation of skilled jobs.[68] It was not just foolhardy for black workers to place their livelihood "in the hands of strangers," he warned, it was dangerous.[69] White organizers, Rice told his readers, did not have as much at stake as did Port Arthur's African Americans. Mitchell and "his henchmen" would be gone when the representation election was over. Meanwhile, he asserted, black support for the radical CIO program would turn employers and most whites against the city's black citizens, threatening "your jobs, your business enterprises and racial relations" for years to come.[70]

Black workers hardly needed Rice's warnings to know that CIO support invited potential trouble. Chief Baker, who swore that "there will be no God Damn CIO in Port Arthur," had redoubled his intimidation of African Americans during the campaign and broadened his reign of terror to include whites trying to mobilize African Americans, brutally beating F.H. Mitchell with the help of two deputies one night as the organizer walked through a black neighborhood on his way to a meeting at Alex Joseph's house.[71] In the March 6th representation election, sixty percent of Gulf workers opted for the CIO. Defying the warnings of Rice and the threats of

[67] *Negro Labor News*, Jan. 2, 1943.
[68] *Negro Labor News*, Feb.13, 1943.
[69] *Negro Labor News*, Feb. 20, 1943.
[70] *Negro Labor News*, Jan. 2, Jan. 16, 1943.
[71] O'Connor, *History of the O.W.I.U.*, 309–315; Davidson, *Challenging the Giants*, 150; Obadele-Starks, *Black Unionism in the Industrial South*, 77.

Baker, black workers voted in a bloc for the union.[72] With thirty percent of the refinery electorate, black supporters proved crucial to the CIO win. A majority of white workers, in fact, voted against the union, although white CIO support ran considerably higher at Gulf than it would later at Baytown.[73]

Organizers like Clyde Johnson disapproved of segregated local unions like those in Port Arthur, believing that they perpetuated the racial division keeping the Southern working class beholden to employers. However, at the Gulf refinery, segregation may have been crucial to the CIO's success. For white and black union leaders, keeping segregated unions was a strategic response to both the racial attitude and entrenched privilege of white workers. Segregation bounded the possibilities of CIO unionism and in the process soothed anxieties of both white and black workers. It enabled black workers to push aside the warnings of Rice and other opponents that biracial unions would be, in effect, white-dominated unions, impervious or even threatening to the interests of African American members. For white workers, of course, segregation appeared to limit the reach of the CIO's commitment to equality, throwing water on the combustible claims of company unions and propagandists that biracial unionism would inspire black militancy and lead quickly to workplace integration and social equality.

Whether OWIU locals were segregated or integrated, unionization in Gulf Coast refineries was defined by a general pattern of biracial organizing and a baseline of wage equality

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[72] Ray Marshall, "Some Factors Influencing the Upgrading of Negroes in the Southern Petroleum Refining Industry," *Social Forces* 42, no. 2 (December 1963): 188. The total was 1629 for the CIO, 1096 for a consortium of AFL unions.

[73] In contract talks, the joint Local 23-Local 254 negotiating committee pressed to bring black wages, which started at 60 cents and were capped at 63 cents, up to the starting white wage of $1.00 an hour. Representatives from Gulf's Pittsburgh headquarters countered with an offer to bump black wages up to 75 cents, but the union held out for more, sending the contract to the WLB. The final settlement gave black workers a starting wage of 75 cents, with steps up to 84 cents and $1.00. Because black workers could only rise to the lowest level of white pay, the agreement fell significantly short of the union's equal pay for equal work promise, but the wage increases for black workers, 25% for new hires, 60% for more experienced workers, were considerable, and well beyond any raise white workers could achieve under the WLB pay guidelines. See Davidson, *Challenging the Giants*, 151.

in contracts. It was, in essence, an opening transaction between white union backers, who needed black votes, and black workers, who could command wage equality as the price for their support. State supervision helped lock that bargain into place by saving unions from having to strike to wrest recognition and contracts from employers, while equal pay provisions strengthened unions by denying employers the ability to threaten whites with replacement by cheaper black labor. Indeed, for black workers, the embrace of CIO unionism meant burying the idea – formed in leaner times and most directly represented by C. W. Rice's pro-employer union opposition – that black workers' ability to hold jobs in the South depended on being paid less than whites. Black oil workers in dual unions had unsuccessfully fought for equal pay in the early 1930s through the NRA's minimum wage codes. Now, the democratic imperative facing the OWIU had made pay equality a reality. The gains of that measure were limited, however. Pay for white and black laborers had been equalized, but opportunity had not. Only at Pan American had barriers to black advance above the laborer classification been removed. Equal pay had been part of a democratic bargain that helped OWIU unions gain power. Now that they were in place, would CIO unions built on crucial black support have the motivation, or the power, to press for equal access to better jobs for their black members? In Houston's steel and oil industries, CIO leaders would have to navigate the relationship between black rights and union power as they faced pressure from black workers and federal agencies to live up to the CIO's stated commitment to equality and resistance from employers and white workers to putting that principle into practice.

Union Power, State Supervision, and Black Rights at Hughes Tool

From early 1942 until mid-1945, the Steelworkers union at Hughes Tool would fight a tense battle with management and the Independent Metalworkers Union over bargaining rights and the position of black workers at the company. The Hughes Steelworkers began 1942 determined to reverse the union's late 1941 representation election loss to the IMW with a new membership drive to attract white and black workers to Locals 1742 and 2457, respectively. Convinced that his union had not done enough to reach out to black employees in the past election, Local 2457 president Ernest Martin took a five month leave of absence to devote his time to organizing. To assist him, the union hired CIO-booster and Third Ward Civic Club president Richard Grovey to visit workers' homes to pitch the union program.[74]

Support for the CIO had been undermined in the 1941 campaign by fears that white leaders and interests would dominate the union. The reorganization of the union into separate locals, while a concession to segregation, now allowed Grovey to point to the guarantees of equal representation on the bargaining and other union committees as proof of the CIO's "policy of fairness."[75] Grovey and Martin's case for the USWA was also aided by the contract IMW Local 2 had signed in January 1942, which put the shortcomings of black independent unionism on full display. Negotiated entirely between the company and the white Local 1, it kept black workers segregated to the common labor pool and provided for racially-distinct and unequal wage ladders, starting at fifty cents an hour for new black employees and sixty cents for whites.[76] Local 2 leaders attacked the CIO's new outreach. Grovey in particular came in for abuse from his organizing rival Richard Guess, who laughed off the idea that black Hughes men would "take advice from a barber [and] a good ballyhoo man… who has never put up a good days work in a

[74] *Informer*, July 18, 1942; Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), 123.
[75] *Informer*, July 18, 1942.
[76] Botson, *Hughes Tool Company*, 124; Document 58, IMW Contract, Hughes Tool file (hereinafter, "HT"), FEPC Papers, reel 96FR.

steel plant."[77] But Grovey was an effective recruiter. Armed with the Steelworkers' official equality policy and pledge to fight for equal wages for equal work, the popular barber alone brought in two hundred new memberships in the first six months of 1942.[78]

The Steelworkers organizing effort was also boosted by the rapid expansion of the Hughes workforce. Hughes operated three different facilities during the war: the main oil tools plant, an airplane strut manufacturing concern in Northeast Houston that opened in December 1941, and the Dickson Gun Plant in Galena Park, which came on line in January 1943. The company's payroll ballooned due to wartime production. In 1941, the company employed 3,600 people at the main plant; at the end of the war it counted more than 5,000 workers. The strut plant hired 1,645 workers in its first year of operation; the gun plant added 1,500 more by August 1943. At their peak in 1945, the three Hughes plants employed a total of 9,100 workers.[79] With little attachment to the company or knowledge of its acrimonious labor history, new employees made ideal targets for the Steelworkers. In the strut plant, the union obtained commitments with the simple strategy of asking new members to organize their friends.[80] At the main plant, it looked outside of the traditional union base in the production divisions to organize

[77] Negro Labor News, Feb. 27, 1943. (Guess recounting 1942 confrontation with Grovey at Fifth Ward labor forum).
[78] Local 2 complained to the NLRB that hiring the popular civic leader had given the CIO an unfair bargaining advantage. See In the Matter of Hughes Tool Company and United Steelworkers of America, Local Unions Nos. 1742 and 2457, CIO, 45 N.L.R.B. 821 (1942).
[79] The Aircraft Strut Division was on Wallisville Road in Northeast Houston. The Dickson Gun Plant made centrifugally-cast gun tubes at a Clinton Drive facility on the north bank of the ship channel. For employment figures, see "War Manpower Commission Labor Market Developments Report for the Houston, TX Area." Feb. 1, 1943. Item C-13 "Summary of Employment of Women and Non-Whites." In Papers of Albert Thomas, Series 1, Box 1, Defense Housing, WRC (strut plant); Final Disposition Report, Case 10-BR-34, HT, FEPC Papers, reel 96FR (strut and main plant); In the Matter of Hughes Tool Co. (Dickson gun plant) and USWA Locals 1742 and 2457, CIO, 53 N.L.R.B. 547, 548, fn. 1 (1943). Peak employment figure from John H. Ohly, *Industrialists in Olive Drab: The Emergency Operation of Private Industries During World War II* (Washington, D.C: Center of Military History, U.S. Army, 1999), 358, Appendix EE, item 14.
[80] Botson, *Hughes Tool Company*, 123.

cafeteria workers, newly-hired "janitresses and matrons," and drivers who shuttled parts, blueprints and workers between the different Hughes facilities.[81]

The membership drive caught the IMW flat-footed. Confident after its 1941 victory, the independent union had done little to match the efforts of the CIO. In July 1942 the Steelworkers petitioned the NLRB for a new election, claiming that it now had the support of a majority of workers. In the subsequent hearing, the union produced membership cards representing 56% of the bargaining unit, over half of which had been signed in 1942. Most of the IMW cards, in contrast, dated from 1941 or earlier.[82] In other Houston steel plants, the CIO enjoyed similar success targeting new employees. In September 1942, the USWA received the almost unanimous support of employees at the newly constructed Sheffield primary steel mill (where there was no independent union opposition). At Mosher Steel and Reed Roller Bit, both oil tools concerns like Hughes, the Steelworkers defeated AFL unions for bargaining authority in 1943 and 1945, respectively.[83] At Hughes, new workers and black converts from the IMW proved to be just enough to put the CIO over the top. The union bested the IMW in a December 1942 representation election covering the strut facility and the main plant by the thin margin of 1690 to 1528.[84]

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[81] In the Matter of Hughes Tool Company and United Steelworkers of America, Local Unions Nos. 1742 and 2457, CIO, 45 N.L.R.B. 821, 823 (1942). The union persuaded the NLRB to enlarge the bargaining unit to include these non-production employees.

[82] Ibid., 45:823 fn.3. Approximately 25% of the IMW's cards were from 1942. The IMW tried to block the representation contest, arguing to the Board examiner that any election held while to company was growing so rapidly would provide an inaccurate gauge of worker sentiment. The election could be pushed off another year, it suggested, so that employees could get a better sense of their representation options. The NLRB acknowledged the uncertainty created by a growing labor force, and decided to limit the bargaining unit to the main plant and the strut facility, excluding the Gun Plant, where most of Hughes anticipated post-1943 growth would occur. The Gun Plant would vote in the USWA in late 1943.

[83] In the Matter of Sheffield Steel Corp. of Texas and USWA, Local 2708, 44 N.L.R.B. 955 (1942); In the Matter of Reed Roller Bit Co. and USWA, 60 N.L.R.B. 73 (1945).

[84] In the Matter of Hughes Tool Company and United Steelworkers of America, Local Unions Nos. 1742 and 2457, CIO, 45 N.L.R.B. 821, 824–825 (1942). (Amended with certification issued December 26, 1942)

The 162-vote difference was good enough for the NLRB to declare the USWA exclusive bargaining agent, but it would hardly settle the union question at Hughes Tool. Instead, the close election set off a struggle between the CIO and the IMW, as the former sought to turn its slight majority into a secure position at Hughes. The fight centered on two issues. First, the Steelworkers union insisted that the company stop collecting dues for the IMW through deductions from members' paychecks and cease handling grievances of IMW members through that union's stewards, both practices that, if continued, would enable the IMW to remain as a powerful minority union even though it was no longer the bargaining agent.[85] Second, the USWA wanted Hughes to consent to the inclusion of a maintenance-of-membership clause in its contract. Maintenance-of-membership was a union security provision the War Labor Board routinely added to contracts as a way to encourage unions to abide by the no-strike pledges they offered during the war. The policy worked to guarantee unions a stable and secure membership by requiring existing union workers to keep up their membership for the duration of the union's contract. It also automatically enrolled new employees in the union unless they specifically opted out of it during their first fifteen days on the job. Because few new workers took advantage of the fifteen-day "escape period," the maintenance-of-membership policy essentially made workplaces where it was in effect union shops.[86]

Hughes flatly refused the union's requests. Although the CIO could claim an exclusive right to negotiate contracts on behalf of workers, Hughes personnel director Thomas Mobley informed the CIO that the company had "always felt and still believe[d] that an individual

[85] In the Matter of Hughes Tool Co. and United Steelworkers of America Locals Nos. 1742 and 2457, CIO, 56 N.L.R.B. 981, 983 (1944). The union had asked that a representative of the CIO be "called in" before disposition was made in cases where employees brought grievances to management on their own behalf. This request was on uncertain legal ground, as the Wagner Act provided that individuals should be able to present their own grievances independent of union involvement. The NLRB, however, would endorse the union's position in 1943.
[86] Robert H Zieger, *The CIO, 1935-1955* (Chapel Hill: University of North Carolina Press, 1995), 146–147. Maintenance of membership is covered most extensively in U.S. Department of Labor, *Termination Report of the NWLB*, 1948, 1:81–100.

employee or a group of employees have the right to either themselves or through a representative of their choosing to present grievances to their employer." Hughes had been consistent in its recognition of minority unions. As Mobley reminded CIO leaders, the company had deducted dues for the Steelworkers and handled member grievances through its representatives even during the period from August 1941 to December 1942 when the IMW held exclusive bargaining rights; it would certainly not reverse its policy now that the CIO was on top.[87] The same commitment to an individual right to work and to the open shop, the company argued, prohibited it from requiring workers to join the USWA through a maintenance-of-membership provision.

With contract talks stalled on the union security and exclusivity issues, the USWA's biracial negotiating committee challenged another of the company's long-held principles by asking management to provide black workers equal pay for equal work and to consider a plan to promote black workers above the labor division. As Hughes expanded, it struggled to fill semi-skilled welding and machine-operating positions. Unlike high-skilled technicians, younger, semi-skilled workers were not exempt from military service, and many of those not drafted left for higher paying positions on the West Coast, where their trades were in even greater demand.[88] Local 2457 urged the company to fill vacant positions with senior black workers, many of whom already had some welding and machine knowledge. But Hughes held fast to its racial policy. White workers, management warned, might riot if they saw their customary entitlement to the plant's better jobs threatened by violations of the company's historic division of labor.

Even where custom and precedent had not established an exclusive white claim to skilled work, however, Hughes showed its commitment to segregation as an industrial relations strategy.

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[87] In the Matter of Hughes Tool Co. and United Steelworkers of America Locals Nos. 1742 and 2457, CIO, 56 N.L.R.B. 981, 991 (1944).

[88] See "Protest of Houston Chamber of Commerce to War Manpower Commission Chairman McNutt," April 14, 1944. Papers of Albert Thomas, Series 1, Box 1, Defense Housing, WRC

At the new strut plant, the company could have transferred more experienced black workers in to fill vacancies in semi-skilled craft positions, but it opted to replicate the color line that existed in the main plant by training white women for the jobs instead. Hughes was, in fact, an area leader in the employment of women for war work. While Houston's other industrial employers begged the government to make available more white male workers with adequate job skills, Hughes put in place an aggressive program to recruit and train female workers, earning praise from the War Manpower Commission for finding a way to fill jobs from which "the colored worker in the area is generally restricted."[89]. The effort showed in the strut plant's employment figures. In the first year of operation the company hired 361 women, 22 percent of the plant's total workforce. Black employees, barred from positions above laborer, held only 16 percent of the jobs.[90]

Facing dug-in management opposition to black upgrading, the negotiating committee elected to take half a loaf, securing from the company a basic equal work for equal pay agreement in the contract it signed in April 1943. Under its terms, black workers would now start at 60 cents an hour, the same as their white counterparts. Additionally, when black workers were pulled from the labor pool for temporary assignment in another division, they would now be paid for the job they were performing rather than the black laborer rate. The contract dropped the words 'white' and 'colored' from the pay scales, but maintained their segregation in all but name. "Part I" covered white workers in all of the production divisions. "Part II," into which all of Hughes's black unskilled and semi-skilled workers were grouped, never rose beyond labor classifications. The ceiling on black promotion perpetuated wage inequality even under the terms of the new contract's equal pay provision. White and black workers both started at 60

[89] The WMC thought it would be much easier to press employers to use the "ample supply" of female workers than it would be to get them to change their segregation policies. See "War Manpower Commission Labor Market Developments Report for the Houston, TX Area," Feb. 1, 1943. p.3, 6. Papers of Albert Thomas, Series 1, Box 1, Defense Housing, WRC

[90] Final Disposition Report, Case 10-BR-34, HT, FEPC Papers, reel 96FR.

cents, with 5 cent raises at the end of 30, 60 and 90 days of employment, and 6 cent bumps every three months thereafter. Pay, however, could only rise to the upper limit of a worker's classification. After nine months, a white worker would earn 87 cents an hour; the top black classification in Part II was limited to 86.5 cents, and the wage gap would only grow the longer an employee stayed on the job.[91]

The union accepted equal starting pay as a compromise with management on the discrimination issue, but the parties reached no accord on matters of union security and exclusivity. Those issues were left out of the contract and submitted to the regional War Labor Board for consideration. In July 1943 hearings, Hughes attorneys made a forceful case for their continued relationship with the IMW and their refusal to implement maintenance-of-membership. Pointing to the close December election result as evidence that neither the CIO nor the IMW was the clear preference of Hughes workers, the lawyers argued that automatically assigning new employees to one union rather than the other would violate their right to free choice. More ominously, Hughes claimed that IMW members might walk off the job or take other actions to threaten war production if the Board ended the IMW grievance process and forced them to submit to CIO stewards. Swayed by Hughes's argument in favor of minority union rights and its warning of production disruptions, the regional board (on which Hughes personnel director Mobley served as a management representative) rejected the CIO's request for maintenance-of-membership and declined to rule on the grievance and dues matters, declaring those to be the purview of the NLRB.[92]

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[91] Ellinger to Mobley July 12, 1944, HT, FEPC Papers, reel 96FR; "Contract Covering Wages, Hours and Conditions of Employment Between USWA Locals 1742 and 2457 and the Hughes Tool Company," April 6, 1943, IMWU, HMRC; *Informer*, April 10, 1943.

[92] Hughes Tool Co., NWLB No. VIII D-78, 11 War Lab. Rep. 447 (1943). The case set the WLB's precedent for giving the NLRB exclusive jurisdiction over failure to bargain and unfair labor practice charges. See Sidney Sherman, "The National War Labor Board and the Wagner Act," *The George Washington Law Review* 13, no. 4 (June 1945): 401. See Malsow to Ellinger, Nov. 4, 1944, HT, FEPC Papers, reel 96FR on Mobley's WLB position.

CIO leaders, furious that the regional board had refused to recognize what they believed to be their rightful privileges of exclusive representation, quickly appealed the maintenance of membership decision to the full WLB and filed unfair labor practice charges with the NLRB on the issues of grievances and dues collection. The government's labor agencies were flooded with cases during the war; decisions on the Hughes matters would not come until the new year. In the meantime, frustration was building among the CIO rank and file. Management's continued relationship with the independent union enabled IMW workers to ignore CIO stewards and circumvent CIO work rules, and allowed supervisors to use the IMW grievance process as a way to reward favored workers with plum assignments and promotions.[93] Rumors of a walkout circulated in the main plant in late 1943, as CIO members expressed their belief that the WLB's failure to enforce maintenance of membership relieved them of their no-strike pledge. The possibility of a wildcat strike placed CIO leaders in a difficult position between rank and file discontent and the WLB, which had a general policy of denying maintenance of membership where the no-strike pledge was broken. As the Board considered the Hughes case, it became convinced the company was taking a hard line on the security and recognition issues in order to provoke a walkout of the CIO membership. Hughes, the Board believed, wanted to discredit the union, even if it meant shutting down lines at the nation's leading producer of oil drilling equipment and putting the government's petroleum production program at risk.[94]

Over the first six months of 1944 Hughes Tool became entangled in a series of orders from and appeals to government labor agencies that would lock the company in a standoff with the CIO and the government over the rights and power of the union. On February 10, 1944 the

[93] See trial examiner's report, In the Matter of Hughes Tool Co. and United Steelworkers of America Locals Nos. 1742 and 2457, CIO, 56 N.L.R.B. 981, 991–993 (1944).
[94] Oil exploration in the United States was highly dependent on Hughes, which produced 75% of the the industry's rotary bits and 40% of its tool joints. Ohly, *Industrialists in Olive Drab*, 6; Botson, *Hughes Tool Company*, 132.

WLB instructed Hughes to implement maintenance of membership.[95] The company refused. At the same time, the IMW joined the pending NLRB case, claiming that it now held the support of a majority of workers. The assertion gave Hughes a justification to avoid compliance with the WLB order. It would be an unfair labor practice to grant maintenance of membership to the Steelworkers, company lawyers informed the WLB, while that union's status as exclusive bargaining agent was in doubt.[96] In April the USWA's contract expired. The company showed no interest in negotiating a new one.

Pending representation claims, the continued recognition of the IMW, management's open defiance of the WLB and, now, the lack of a contract all together put the CIO on shaky ground. The situation was especially worrisome for black workers and the leaders of Local 2457, who saw their chances of challenging segregation through union bargaining and WLB mediation fading as those institutions were undermined by management obduracy. In the environment of labor uncertainty, one thing was clear: Hughes would never back off its segregation policy without being pushed. In the year under the Steelworkers contract, the exclusion of blacks from jobs above laborer had become even more pronounced, as the hiring and training program for female employees was expanded from the strut facility to the main plant. There, the company now employed 1,218 women, many of them in clerical and unskilled positions, but significant numbers in semi-skilled craft roles as well. In contrast, Hughes had added less than one hundred African American workers at the main plant since the beginning of the war. With the number of women in the plant (27% of the total) now surpassing that of black workers (22%), it was clear that the company had succeeded in finding a way to prevent wartime

[95] Hughes Tool Co., NWLB No. 111-2083-D, 14 War Lab. Rep. 81 (1944).
[96] U.S. Department of Labor, *Termination Report of the National War Labor Board*, vol. 2 (Washington, D.C.: U.S. G.P.O., 1948), Appendix J, 715.

shortages of welders, machine operators and other semi-skilled workers from becoming an occasion for experienced black workers to break out of the labor division.[97]

In late April 1944, Local 2457 President Ernest Martin and a group of fifty black union members looked outside for help. Martin filed two complaints with the FEPC. The first accused Hughes Tool of discrimination in its hiring, classification, and wage policies. The second complaint was directed at the USWA, alleging that the union had become a partner in discrimination against its black members by consenting to segregated lines of promotion in the contract it signed with the company in April 1943. Martin's two complaints landed at the regional office of the FEPC in Dallas, which dispatched field examiner Don Ellinger to Houston to investigate. There was, of course, little question about the validity of the complaint against the company. In a meeting with Ellinger, Hughes personnel director Mobley "freely admitted" to the FEPC investigator "that the upgrading policy was discriminatory and jobs were allocated by race." Mobley offered Ellinger a positive defense of the company's policy: segregation had been an organizing principle of work relations at Hughes since its founding, was favored by both management and workers, and, he warned the examiner, any move to breach it would invite reprisals from whites.[98]

The issue of discrimination by the Steelworkers union was less clear-cut. Local 2457, after all, had made up half of the committee that had negotiated and accepted the 1943 contract. Ellinger's preliminary inquiry only revealed what everyone already knew: although Part I and Part II employees began on equal terms, white Part I workers could rise up the skill ladder, black Part II laborers could not. The union had accepted those conditions, which included at least equal starting pay, as the best available terms that could be extracted from a company ardently

[97] Final Disposition Report, Case 10-BR-34, HT, FEPC Papers, reel 96FR.
[98] Ellinger to Brin, May 16, 1944; Ellinger to Burns, June 2, 1944, HT, FEPC Papers, reel 96FR.

opposed to breaching the color line. Now, with that contract expired, Local 2457 hoped that an FEPC investigation might drive a different result.

The FEPC process was lengthy. After a preliminary inquiry found evidence to substantiate a complaint, the agency could open a full investigation into the nature of discrimination in an industry or at a specific plant which would only then become the basis for negotiating terms of remedy with involved parties and issuing specific orders for employer compliance. Local 1742 and state CIO staff were determined to keep the process from getting that far. A full FEPC case, they warned, would give the IMW a way back into power. The rump union could use the threat of integration to provoke a white worker revolt that might set the two USWA unions against each other, or at least use the existence of the case initiated by Local 2457 to discredit the CIO in the eyes of some white workers and swing them to the IMW. Any defections, CIO leaders worried, might imperil the union's majority and give weight to the IMW's claim, still pending before the NLRB, that there should be a new representation election at Hughes.[99]

Local 2457 had to take the white union leaders' warnings seriously. Despite their charge against the union contract, black CIO members knew the company was the primary driver of discrimination, and it would be impossible to attack job segregation if the SWOC lost bargaining rights.[100] This was the paradox of industrial democracy facing black workers at Hughes. They needed to be part of a strong union in order to advance their rights, but the very act of pressing those rights could undermine the worker majority on which union power rested. Representatives from the CIO's regional office proposed a deal that offered a way forward: Local 2457 would

[99] Ellinger to Brin, May 16, 1944; Ellinger to Branch, May 17, 1944, HT, FEPC Papers, reel 96FR.

[100] Despite the FEPC complaint, the black local rarely offered a separate path during the war. See, for example Martin's statement to white USWA officials at the 1943 Texas CIO Convention ("I want to say for the colored boys… that we stand 100% behind you in your campaign.") In *Proceedings of the Seventh Annual Convention of the Texas State Industrial Union Council* (1943) 63.

withdraw both FEPC charges in exchange for a promise from Local 1742 and CIO officials that they would bring the discrimination issue to the WLB once the maintenance of membership, dues and grievances controversies were settled. Union security, the CIO staff men argued, had to come first. With maintenance of membership in place, the USWA could press for unpopular desegregation and upgrading measures without fear that it would lose its majority. [101]

Local 2457 had good reasons to trust that white CIO officials would follow through on their promise. In mid-May, Martin, Grovey, and two other black union leaders traveled to the Steelworkers national convention in Cleveland, where they heard USWA President Philip Murray warn delegates that "discrimination would destroy this union" and instruct them to "fight to drive discrimination against Negro steel workers out of the steel industry." Even before Murray's pronouncement, the Steelworkers enjoyed a reputation as one of the most racially-progressive unions.[102] Black delegates at the convention testified to the gains that came through the USWA. Unionization had allowed them to get promotions to higher skilled jobs and provided them with seniority protections. Where discrimination persisted, the *Chicago Defender* reported, it was because locals were "too weak" to put the union's policies in place.[103] Upon their return to Houston, the Local 2457 delegation accepted the white CIO leaders' plan to obtain union security before pursuing desegregation.[104] By agreeing to drop the FEPC complaints,

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[101] Ellinger to Branch, May 17, 1944, Ellinger to Burns, June 2, 1944, HT, FEPC Papers, reel 96FR; *Informer*, Mar. 3, 1945; *Negro Labor News*, Mar. 10, 1945; Botson, *Hughes Tool Company*, 135–136; Obadele-Starks, *Black Unionism in the Industrial South*, 120.

[102] See Dennis C. Dickerson, *Out of the Crucible: Black Steelworkers in Western Pennsylvania, 1875-1980* (SUNY Press, 1986), 135, 168; Paul Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton University Press, 2011), 54.

[103] *Chicago Defender* (National Edition), May 20, 1944. The *Defender*'s assessment that union weakness was responsible for discrimination was based on testimony from unnamed delegates of two southern local offered at a meeting of the black USWA membership. The black Houston delegation, one of three from the South, was comprised of Grovey, Martin, Forrest Henry, Avan Winn and Alphonse Gertenberg. It is unclear if one of the Houston delegates was among the two linking local union weakness and discrimination.

[104] Martin to FEPC, May 29, 1944, Ellinger to Maslow, Nov. 7, 1944, HT, FEPC Papers, reel 96FR.

Local 2457 leaders embraced the idea that the cause of Hughes's black workers was inseparable from that of union power.

Rulings from the federal labor agencies quickly returned the union security issue to the forefront. In late May, the NLRB handed down a sweeping victory for the CIO in its challenge to Hughes's policy of withholding dues for and handling grievances through the IMW. The ruling set out a broad view of the rights and powers of majority unions. The USWA, it found, "has been and is now" the exclusive bargaining agent in the plant, and as such, should have been given exclusive purview over grievances. By continuing to work through IMW stewards and collecting IMW dues, Hughes had failed to bargain with the CIO on the terms envisioned by the Wagner Act. The implications of the NLRB ruling were two-fold. First, Hughes was ordered to break its relationship with the IMW. Second, the Board ruled that it would not permit a challenge to the CIO's status based on the IMW's claim to hold majority support. Any new election would have to come in the future, once Hughes workers had an opportunity to evaluate the Steelworkers union based on a "fair test" of its worth, free from company efforts to favor the IMW and undermine the CIO.[105]

By removing any doubt about which union held bargaining rights at Hughes, the NLRB decision finally freed the WLB to act. On June 16, it ordered Hughes to comply with the February directive granting the CIO maintenance of membership.[106] Hughes management, keeping with its recent pattern, declined to obey either agency. It informed the NLRB that it would not abridge its open shop policies without being compelled by court order.[107] Thomas

[105] In the Matter of Hughes Tool Co. and United Steelworkers of America Locals Nos. 1742 and 2457, CIO, 56 N.L.R.B. 981, 984–987 (1944).
[106] U.S. Department of Labor, *Termination Report of the NWLB*, 1948, 2: Appendix J, 715.
[107] The NLRB's ruling in the Hughes grievance matter set a new precedent restricting the rights of both minority unions and individuals acting without representation to air and dispose of grievances without the participation of the exclusive bargaining agent. The NLRB secured its court order, which the Fifth Circuit upheld on appeal with a

Mobley was even more defiant of the WLB, which, he declared, "has no authority to enforce any order they may have." In fact, the WLB was endowed with several options for enforcing orders in the case of management non-compliance. It could deny the company access to materials or to labor through the War Manpower Commission, or it could cancel its government contracts. Given Hughes's importance to the war effort, however, those choices were not practical. As a third option, the WLB could ask the President to order the War Department to seize and operate the plant with Army personnel.[108] Such a course of action was viewed as a last resort by the Board, only to be undertaken where essential war production was threatened.

As the Board contemplated how to respond to Hughes's intransigence, frustrated CIO members forced its hand. On Thursday, June 22, a handful of CIO militants walked off the job in protest of the company's refusal to break its relationship with the IMW or implement maintenance of membership. The next morning Houston CIO director Frank Hardesty convened a meeting across the street from the main plant at Stonewall Jackson Junior High. There, he urged workers to honor the union's no-strike pledge, but passionate union members chanting "no contract, no work" made it clear their patience had expired. The company announced that it would pay double wages to all workers who reported for Sunday shifts, but the wildcat strike continued to grow, spreading to the strut plant over the weekend. "The steelworkers are not interested in double time," Local 1742 President R.O. Nelson told a reporter for the *Post* – "job security is more important." Meanwhile, more than 1,500 USWA members wired WLB

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ruling that the exclusive power to represent grievances carried with it a duty to fairly represent all workers, whether members of the union or not. See Hughes Tool Co. v. NLRB, 147 F.2d 69 (5th Cir. 1945). For a full discussion of the Hughes ruling, see Bernard Dunau, "Employee Participation in the Grievance Aspect of Collective Bargaining," *Columbia Law Review* 50 (1950): 742–745.

[108] The remedies were provided by the 1943 Smith-Connally War Labor Disputes Act. See U.S. Department of Labor, *Termination Report of the NWLB*, 1948, 1:10; Botson, *Hughes Tool Company*, 129.

Chairman William Davis asking for the federal government to intervene in the Hughes situation.[109]

The strike reached its peak on Monday, June 26, as more than 3,000 members of Locals 1742 and 2457 skipped their shifts. That evening an integrated crowd of an estimated 3,500 to 4,000 steelworkers gathered at the City Coliseum for a mass rally to publicize the union's reasons for the walkout.[110] CIO staff man Hardesty accused the company of sacrificing peaceful labor relations and smooth war production so that it could keep its anti-union policies and the IMW in place until the war was over. While criticizing the company, Hardesty was also there to assure union members that the WLB would enforce its orders once the men went back to work. Hughes might think it was "bigger than the government," but the company's bosses, he promised, would soon find themselves in the position of "labor hater" Sewell Avery, the Montgomery Ward chief executive who had recently been hauled away from his desk by Army personnel for disobeying a WLB maintenance of membership order. The "most effective speech" at the Coliseum, reported the *Post*, came from Richard Grovey, who celebrated the biracial nature of the walkout and reminded black and white workers of the mutual gain that came from united action. "In the old days every time there was trouble and the white men walked off the job the boss would sidle up to the negro. 'That's poor white trash you see going out the gate,' the boss would say. 'Now you just be loyal to the company and we will pay you 50 cents for that job the poor white trash used to work for 75cents.'" But the Steelworkers were

[109] Houston *Post*, June 26, 1944.
[110] Houston *Post*, June 27, 1944. The integrated union rally was a break from regular practice at the city-owned coliseum, which normally hosted only one race of occupant at a time. When the 1928 Democratic National Convention was hosted there, black delegates from the North were outraged to find that operators had prepared for the 'mixed' audience by fencing off a 'colored' area with chicken wire.

breaking that exploitative pattern. "If they hang us this time," he concluded, "they will have to hang us, black and white, together!"[111]

All of the Steelworkers returned to their jobs by Thursday, June 29. The week-long strike brought no change to company policy, however. As Hughes continued to ignore its order, the WLB became convinced that it had lost control of the situation. Production of drill bits and tool joints had fallen behind schedule, and talk of another walkout circulated through the plant. In late August, the WLB asked the President to seize all three of the company's production facilities. With an executive order issued on September 2, Roosevelt authorized the takeover, tasking the Army with the dual mission of maintaining production and implementing all standing government orders against the company. Hughes bosses decided to cede control of the plants without making a scene, handing over keys to the personnel and payroll offices on September 6 to a contingent of Army accountants, lawyers, and industrial relations specialists led by Col. Frank Cawthon, a procurement officer.[112]

Hughes's acceptance of the Army's presence did not mean acceptance of the government's labor orders. Even under occupation, company officials and the IMW fought to keep the essentials of the open shop and segregation policies in place. With the Army in control of the payroll office, there was little that could be done to stop implementation of the NLRB order barring IMW dues withholding, and Army industrial relations specialists ensured all grievance meetings included a CIO steward.[113] On maintenance of membership, however, the IMW had means to reduce the impact of the WLB's order. Management and the independent union both hated the policy. By locking CIO members into the union, it rendered moot the

[111] Ibid.
[112] Ohly, *Industrialists in Olive Drab*, 347; U.S. Department of Labor, *Termination Report of the NWLB*, 1948, 2:Appendix J, 715.
[113] Houston *Post*, Sept. 10, 1944.

IMW's attempts to raid their rival's ranks. IMW president R.M. Epperson vowed to fight any attempt by the army to force the "un-American maintenance of membership clause down the throats of Hughes employees," who, he argued, had tired of a union that had led an "illegal walkout" and that "does not even now have a legal contract."[114] Local 2 mouthpiece C.W. Rice similarly inveighed against the plan "to force workers to stay in a union… against their wishes," calling it "the worst type of dictatorship… worse than Hitlerism."[115]

Despite Rice's vitriol, few of the CIO's 800 black members wanted to leave their union, but Local 1 had identified a group of three to four hundred white, "highly skilled and irreplaceable craftsmen" who were delinquent in their CIO dues and wanted to join the independent union. If the order were enforced, the Army feared, these vital employees would refuse to pay dues, which would result in their termination and might provoke a wildcat strike by IMW members in protest. Facing this dilemma, Col. Cawthon wrote to the War Department asking for instructions should a situation arise in which it had to choose between his order to continue production and his order to enforce WLB policy. The War Department then brought the issue to officers at USWA headquarters. Perhaps suspecting that the government would favor war production over WLB policy, USWA general counsel Lee Pressman suggested a compromise providing for involuntary dues check-off for all current members of the USWA in good standing. Under the plan, current CIO members could technically leave the union if they wished, but they would continue paying dues for the duration of the war. Although aware of the resentment the policy might bring, the Army deemed it less likely to offend CIO opponents than

[114] Houston *Post*, Sept. 7, 1944.
[115] *Negro Labor News*, Jan. 2, 1943.

a pure maintenance of membership policy. For the Steelworkers it offered stable finances, if not a stable membership, and was the best deal the union believed it could get.[116]

With the modified maintenance of membership policy in effect, the USWA made good on its promise to Local 2457 to press for desegregation. In early 1945, Lee Pressman filed a petition with the WLB, asking it to use its authority to ensure the maximum efficient allocation of manpower to cancel discriminatory provisions in the union contract that blocked black workers from upgrading into high-demand skilled positions, and to apply the standard it set in the Southport case to demand job classifications and pay rates that accurately reflected the work done by African Americans.[117] In response, the WLB sent a mediator to the plant to begin consultations with the union, Hughes management, and the Army over possible options for upgrading black workers into skilled jobs. The company offered its usual response. Mobley warned the WLB that any black upgrading would result in "decreased production and friction," and was adamant that he would not undertake any steps towards desegregation, saying the he did not want "blood on his hands."[118] Although not as dramatic, representatives of both the WLB and the Army were also unenthusiastic about putting in place an integration plan. The WLB mediator suggested a slow approach, beginning with studies to identify positions where black workers might be able to perform jobs comparable to those done by whites. The Army, for its part, was wary of upsetting the relative peace it had achieved in the plant. Under its operation, production delays had subsided and output had increased. Col. Cawthon worried that attempts to upgrade black workers would bring on "racial hatred," and the possibility of renewed challenges to union security policies led by a significant group of white workers who were "thinking of

[116] Ohly, *Industrialists in Olive Drab*, 263–264.
[117] Petition to the NWLB, In the Matter of Hughes Tool Company and USWA Locals 1742 and 2457, Feb. 14, 1945, HT, FEPC Papers, reel 96FR.
[118] Weekly Report, March 3, 1945; Frank Donner to Hardesty, May 23, 1945; Ellinger to Maslow, Request for Further Action, Nov 4, 1944. All in HT, FEPC Papers, reel 96FR.

splitting" from the CIO and "joining up with the Independents."[119] The Army's charge at Hughes bound Col. Cawthon to maintain production and implement the NLRB and WLB orders that were standing at the time the Army took possession of the plant. Cawthon had carried out these orders, but he insisted that any WLB upgrading policy, because it would be new, would require a new executive order from the President before the Army could enforce it.[120]

Hughes management, however, ensured that Roosevelt would never need to consider the issue. Army control at Hughes extended only to the payroll and personnel office. All of the other divisions remained under the operation of Hughes superintendents and foremen. Hughes's attorneys reminded the WLB and Cawthon that the plants ran with the cooperation of company supervisors. But if the Army were to enforce a desegregation policy, the lawyers warned, that cooperation would end. The foremen would resign en masse, walking off the job and leaving the Army's accountants and lawyers to figure out how to run the complex manufacturing facilities that were essential to the war effort. The threat of a wildcat management strike was novel and audacious; it was also effective. Neither the WLB nor the Army was under any requirement to take action on the union's request to start upgrading African Americans, and with the output of Hughes's vital war plants on the line, neither would.[121]

White CIO leaders were perhaps not too disappointed that the attempt to mediate a program to end job segregation had met a brick wall of management opposition. The union's policy of racial fairness had helped gain and hold the support of black workers, but calling for

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[119] See supplemental report of Col. Cawthon, in Ohly, *Industrialists in Olive Drab*, 358, Appendix EE, item 14. Cawthon is quoted in Botson, *Hughes Tool Company*, 141.
[120] Ellinger conference with Bellinger and Shay, March 3, 1945, HT, FEPC Papers, reel 96FR
[121] The legality of management's threat to resign en masse was murky. The Smith-Connally War Labor Disputes Act empowered the War Department to seize plants where war production was endangered, but that step had already been taken. In cases where workers walked off the job to protest integration programs, as in the 1944 Philadelphia transit strike, the Army, acting under the law, had arrested wildcat strike leaders and made striking workers available to draft boards. It is hard to imagine such a course being taken in the case of supervisory employees, most of whom were undoubtedly beyond draft age and able to afford skillful lawyers.

black upgrading had undoubtedly alienated some of its white membership. With that failed effort now behind it, the CIO directed its energies towards shoring up white support by pursuing benefits that would be realized by the whole of the union's membership. In the summer of 1945, the union pressed Hughes for a contract that would commit the company to give big pay increases once the war ended and wage controls were relaxed. Hughes management deflected the negotiations, happy to continue on without a contract until the eventual departure of the Army and the anticipated expiration of the maintenance of membership policy at the end of the war would allow it to do battle with a weakened CIO.[122]

The majority of Hughes's black employees had entered the war era as members of an independent union based, in part, on the conviction of its biggest backer, C.W. Rice, that the CIO promised equality but harbored malign intent towards African Americans. The USWA's actions during the war suggested otherwise. Although the gains produced were limited, the biracial CIO had secured equal starting wages for black workers, and white union officials had made good on their promise to pursue integration, even if that goal was not shared by all of the union's white rank-and-file. However, the union's commitment to the interests of its black members had not been matched by the federal government's wartime labor agencies, which predictably put the smooth operation of the plants above fighting discrimination, and had been stymied by management, which had killed any possibility of union-backed desegregation with its threat of non-cooperation in production. For black workers at Hughes, the segregated unionism of the USWA offered the best chance to fight discrimination. Though union leaders recognized the tension that could exist between pursuing black gains and holding the support of white workers, the failure of the USWA to begin desegregating Hughes owed less to the hesitance of the union than it did to its lack of power to push through its program.

[122] Botson, *Hughes Tool Company*, 141.

Rank-and-File Democracy Against Desegregation: the FEPC at Shell Oil

As a general trend, the rise to power of CIO unions in the Gulf Coast steel and oil industries during World War II had gone hand-in-hand with preliminary steps towards equality for black workers. Where the CIO had prevailed in representation elections it had done so on the basis of building biracial majorities and pledging to secure equal pay for equal work standards in contracts. Steps to end job segregation, while rarer, also demonstrated the positive relationship between union power and anti-discrimination goals. At Pan American, the OWIU integrated seniority lines as part of its broader move to install union rules for governing promotions and layoffs, and at Hughes, both black and white union leaders recognized the need to build union security as a precondition to pressing for equality. For black CIO backers, the labor developments of the war years seemed to confirm their belief that discrimination was best combated through the labor movement, where union democracy gave black workers a say in union policies and white union leaders an incentive to advance the interests of their black members. In April 1945, Carter Wesley, surveying the past four years of labor progress in the *Informer*, could declare that black workers "have discerned the shadow which the era in which there will be no discrimination in employment is casting before it."[123]

Although Wesley believed such an era was near, he cautioned against complacency. Employment discrimination would not be eliminated automatically through the workings of labor; the process needed prodding. In the spring of 1945, Wesley entreated his readers to join the NAACP's campaign to extend the life of the FEPC beyond the end of the war.[124] In

[123] *Informer*, April 14, 1945.
[124] See, for example, *Informer*, April 14, April 21, April 28, May 5, 1945.

Houston, the effort was spearheaded by Lulu White, who had been appointed executive secretary of the local NAACP branch in 1943.[125] Under her leadership, the Houston NAACP chapter had grown to more than 12,000 members, making it the largest in the South.[126] White directed much of her energies to the problem of employment discrimination, leading a successful fight to equalize the salaries of white and black teachers in the city's public schools and pushing area companies to hire African American workers.[127] Along with Wesley and Richard Grovey, she also provided the regional FEPC with information on employment conditions and names of potential complainants in cases involving the railroad and shipbuilding industries. In support of the FEPC, White wrote officials in Washington, organized rallies and raised $30,000 for the national NAACP's lobbying effort, much of it coming in the form of small donations from the local chapter's members in labor unions.[128] Although the enforcement powers of the FEPC were limited, White, Wesley and other black labor backers believed that the agency had an important role to play confronting employers with evidence of discrimination, negotiating remedies, and cajoling unions to live up to their commitments to equality.

Those commitments had been affirmed in January 1945 by a unanimous vote of the state CIO legislative council on a resolution supporting the permanent FEPC. While the endorsement was in line with official CIO policy, labor leaders also had strategic reasons to want the agency to continue. As evidenced by the existence of segregated unions at Hughes Tool and in the Jefferson County refineries, union higher-ups were reluctant to push the policies of the International unions onto their Texas locals. Wage equality had come in the organizing

[125] Pitre, *In Struggle Against Jim Crow*, 58.
[126] Gillette, "The NAACP in Texas, 1937-1957," 25–26.
[127] On securing employment, see, for example, Lulu White to J. Sigler, June 22, 1943; Lulu White to Walter White, July 9, 1943 in NAACP Papers, Series 12 A. On teacher pay, see Pitre, *In Struggle Against Jim Crow*, 56–61.
[128] *Informer* April 14, April 28, 1945. See, for example, White to Ellinger, June 28, 1945. Papers of the FEPC, reel 99FR.

campaigns of 1942 and 1943. Now, CIO leaders believed, their locals would inevitably have to confront the issue of job segregation as black workers pushed against the barriers keeping them from skilled positions. By putting the onus of anti-discrimination on the government, union leaders hoped to shift some of the burden of formulating and carrying out equality measures away from locals whose membership was often divided on the issue. Better that the FEPC bear down on employers and unions to accept desegregation plans, CIO leaders thought, than leave locals to advance them.[129]

But segments of the white rank-and-file were not ready to accept anti-discrimination as part of their union mission, even if the impetus for that change came from outside their own local. In the most prominent FEPC action involving the CIO in Texas, officials of Oilworkers Local 367 at the Shell refinery in Pasadena would find themselves facing a revolt by their members over plans to upgrade minority workers.[130] The FEPC's involvement at Shell began in May 1943, when thirty-four Mexican nationals complained to the agency that minority workers received unequal pay and were barred from promotion to the better, more skilled positions at the refinery. The group had first asked Local 367 to take up their case. When the union refused, the group dropped their memberships and contacted the Mexican consul in Houston, who forwarded their charges of discrimination on to the FEPC.[131] The Shell case was part of a broad, two and a half year investigation led by regional FEPC administrator Carlos Casteneda into the conditions of Mexican workers in Texas refineries. The focus of Casteneda's work was driven in part by

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[129] *Informer*, Jan. 13, 1945. The State CIO had been on record in support of the FEPC since its 1942 convention. The tensions inherent in the discrimination issue were apparent at the 1945 gathering, where a resolution opposing segregated "Jim Crow" locals failed to come to a vote. See Murray Polakoff, "Internal Pressures on the Texas State CIO Council, 1937-1955," *Industrial and Labor Relations Review* 12, no. 2 (January 1959): 232–234.

[130] Emilio Zamora, "The Failed Promise of Wartime Opportunity for Mexicans in the Texas Oil Industry," *The Southwestern Historical Quarterly* 95, no. 3 (January 1992): 323–350 and Zamora, *Claiming Rights and Righting Wrongs* detail the efforts of the FEPC in Texas refineries, with special attention to Shell.. The Shell case is also considered in Murray Polakoff, "The Development of the Texas State CIO Council," 165–166.

[131] Emilio Zamora, "Failed Promise," 341. "Request for Further Action, Shell Oil Refinery, Houston, TX." March 1, 1944. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 240–241.

pressure exerted by the Mexican government on the United States to apply the tenets of its Good Neighbor policy domestically to ensure fair treatment for Mexican workers, and in part by the administrator's belief, seconded by the Houston NAACP, that taking on refinery discrimination initially on behalf of Mexican workers would meet less white opposition than challenging the color line with cases involving African Americans.[132]

The OWIU had gained bargaining rights at Shell in 1938, the union's only Gulf Coast organizing victory in the first years of its affiliation with the CIO. Partly because Shell did not have a company union to oppose it, Local 367 had enjoyed the support of a sizeable majority of workers when it came to power. While minorities had been strong union backers in 1938, the large margin of white support had given them a peripheral role in the organizing process. In the years since, Local 367 had done nothing to advance the interests of their minority members. In 1945, the refinery employed roughly 140 African Americans and 30 Mexicans in a total force of 1,800 workers; none of the minority members were in the union.[133]

Work at Shell was strictly segregated, with separate and unequal lines of progression for white and minority workers; the only non-labor division positions available to minority workers were gardener and janitor. Unlike other refineries organized by the OWIU, Shell continued to pay a discriminatory starting wage. White laborers began at 78 cents; black and Mexican workers started at 67.5 cents. Misclassification also maintained pay discrimination. Although more senior minority workers often performed work on par with whites in the lower ranks of the

[132] Zamora, *Claiming Rights and Righting Wrongs*, 63–96, 159–160; Maslow to Ellinger, Aug. 30, 1944, Shell Oil file (hereinafter, SO), FEPC Papers, Reel 101FR.
[133] At the time the initial FEPC contact was made in 1943 there were an estimated 40 Mexican workers at Shell, including the 34 complainants. The total number had dropped to 30 by 1945. See "Memorandum on Shell Oil Company, Houston, TX." March 26, 1945. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 487.

production divisions, they earned about ten percent less than whites did for similar work.[134] FEPC investigators met with Shell management and Local 367 officials on several occasions in 1943 and 1944 to discuss possible ways to remedy the company's discriminatory pay and promotional practices. In these early negotiations, the company and the union managed to hold off the FEPC with promises to accept any orders it gave if the agency secured similar agreements with the other refiners in the region, where job segregation, with limited exception, also remained standard practice. By mid-1944, the regional FEPC, facing the impossibility of obtaining such an accord, made clear its intent to proceed with a stand-alone case. Shell, after all, presented the issue of discrimination in stark relief. While CIO refineries organized during the first two years of the war had made at least some progress towards equality, Shell and Local 367 had not.[135]

In fact, company and union officials admitted to the FEPC that they were "both in violation of the Executive Order [prohibiting discrimination in war contracts]," but the two parties balked at the FEPC's proposal to begin desegregation by advancing a small number of Mexican workers out of the labor division.[136] White employees, they argued, would recognize Mexican upgrading as opening the door for the integration of African Americans into the skilled divisions. Neither party wanted to bear the brunt of white anger by taking the first step towards compliance. The company, predicting "far reaching… and detrimental results" from Mexican upgrading, refused to make changes to the line of promotion unless the union first agreed to

[134] "Memo to File," Oct 28, 1944, SO, FEPC Papers, reel 101FR. Pay disparity based on rates to Mexican pipe gang helpers compared to similar white workers. See Request for Further Action, Shell Oil Refinery, Houston, TX." March 1, 1944. In Ibid., 240–241.
[135] Summary of Shell Oil Case, May 5, 1945, SO, FEPC Papers, reel 21. The FEPC also brought specific complaints against Humble and Sinclair. Not coincidentally, these were the three major refineries that had not signed new CIO contracts during the War. The CIO had gained bargaining rights at Shell and Sinclair in the 1930s and the EF prevailed at Humble. While none of the three cases produced significant upgrading, only Shell experienced dramatic worker activism in opposition to integration.
[136] "Request for Further Action, Shell Oil Refinery, Houston, TX." March 1, 1944. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 242.

"take full responsibility for whatever results might follow." Union leaders, however, were unwilling to take that step unilaterally. "A lot of the white membership," recalled Local 367 founder John Crossland, "didn't want [blacks] to have a line of progression."[137] Consenting to any minority upgrading, it was feared, would split the union between segregationist members and those willing to conform to the CIO's anti-discrimination policy. Instead, the top officers of Local 367 wanted the FEPC to force the issue. "If the Committee issues a directive," they suggested, the union could provisionally "offer compliance," and "the Company will feel obligated to fall in line." Presented this way, they hoped, the membership would begrudgingly accept compliance.[138]

Union leaders got the form they wanted, but not the result. On December 31, 1944, Shell officials and the union agreed to comply with two orders from the FEPC. First, the union pledged to submit a request to the WLB to bring wages earned by minorities up to the rate paid to whites doing equivalent work (albeit in separate divisions), bringing Shell in line with all of the other CIO refineries on the Gulf Coast. Second, both parties agreed to abandon segregated lines of progression by modifying their contract to allow minority workers to bid into jobs above the labor division. The stipulation that Shell and Local 367 signed with the FEPC laid out a blueprint for upgrading workers gradually, with the hope of minimizing white reaction. The company would begin by posting job notices for a small number of helper positions, the entry job in the formerly all-white lines of progression. The three parties also agreed that the first two workers to be promoted would be J. Calas and R.R. Flores, senior Mexican laborers who would upgraded into jobs in the automotive department. Only after measuring the response to those

[137] Crossland interview with George Green, 1971. Quoted in Obadele-Starks, *Black Unionism in the Industrial South*, 76.
[138] Casteneda to Maslow, Dec. 4, 1944; Casteneda to Knight, Jan. 1, 1945, SO, FEPC Papers, reel 101FR; "Request for Further Action, Shell Oil Refinery, Houston, TX." March 1, 1944. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 242; Zamora, *Claiming Rights and Righting Wrongs*, 176–177.

two preliminary promotions would the company accept any more job bids from Mexican or African American workers.[139]

On March 8, 1945, Flores began work as a car repair helper. There was little reaction from whites in his division. A week later, Calas was upgraded to a truck driver position, again with no protest. On March 20, Shell posted acceptances for bids from seven African Americans and one Mexican worker for helper positions in the refinery's eight production division, areas with "more critical jobs," where the company earlier told the FEPC that it "feared trouble." The bid announcement brought an immediate reaction. Two Local 367 vice presidents resigned their offices to protest the union's consent to the integration plan. But the FEPC urged the company to stay the course. On March 22, the eight workers reported for their new jobs. Almost immediately, white workers from several divisions gathered in a "stand around" strike to discuss the break in the color line. A group of segregation-minded employees led by the two recently resigned vice presidents announced they would walk off their jobs unless the company removed the black workers. By the afternoon, the seven African American workers were back in the labor pool, promoted and demoted without ever picking up a tool as divisional men. Shell's swift capitulation only emboldened the segregationist contingent, who gave the company a deadline of midnight on the following day to downgrade the three Mexican workers or face a walkout of the white membership.[140]

The president and executive secretary of Local 367 scrambled to prevent a hate strike and the collapse of the upgrading plan. A call to International president O.A. Knight secured the suspension of the two former vice presidents responsible for stirring up walkout talk. Next, they

[139] Stipulation in the Matter of Shell Oil and OWIU Local 367, Case #68, SO, FEPC Papers, reel 101FR.
[140] Weekly Report, March 3, 1945, SO, FEPC Papers, reel 101FR; Summary of Shell Oil Case, May 5, 1945, SO, FEPC Papers, reel 21; "Memorandum on Shell Oil Company, Houston, TX." March 26, 1945. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 487.

got an agreement from the company not to remove the Mexican workers before they had an opportunity to address the membership at a union hall meeting to take place before the midnight deadline. But the company, having no faith that the union officials could calm their membership, folded before the meeting began. With the threat of a walkout temporarily quelled by the removal of the Mexican workers, the union gathering became an opportunity for the rank-and-file to exert control over Local 367's position on desegregation. Regional FEPC head Don Ellinger reported that the seven hundred workers in the OWIU hall that night "vigorously opposed" the upgrading program. In retaliation for Knight's suspensions, the membership voted out two lower level Local officials who supported integration and moved to bypass the Local leadership by forming a rank-and-file committee to negotiate with the company and the FEPC.[141]

The rank-and-file group became the lead union voice in negotiations with the FEPC. The committee insisted that the white membership was not opposed to the promotion of minority workers, but they would not abide by full integration of the job ranks. At issue, Crossland would later lament, was the refusal expressed by many Local 367 men to "work with niggers" or "have a nigger foreman."[142] So the committee put forward a plan that it believed would square minority upgrading with the racism of white union members. Under the proposal, black and Mexican workers would be covered by a separate line of progression and seniority list. As minorities rose out of the labor department, they would be placed in segregated departments within each refinery division. Minority workers could, in theory, rise to foreman rank and command a segregated crew, but the minority job ladder would "dead end," providing a "future

[141] Ibid.
[142] Crossland interview with George Green, 1971. Quoted in Obadele-Starks, *Black Unionism in the Industrial South*, 115.

safeguard" against the possibility of African American or Mexican workers having authority over whites.[143]

As the rank-and-file asserted its position, Ellinger signaled weakness, telling the committee that while the FEPC could "have nothing to do with this [proposed] settlement," if the plan could both assuage the membership and "not interfere with the rights" of upgraded minority workers, "it might get done."[144] Still, the FEPC was not ready to give up entirely on its original plan. Ellinger gave Shell an April 27 deadline to re-upgrade the Mexican car repair helper and truck driver, threatening to begin proceedings to cancel the refinery's war contracts if it failed to comply.[145] The threat was within the FEPC's authority, but the agency had never actually cancelled a contract over racial discrimination in a Southern war plant.[146] Nevertheless, the FEPC's pressure succeeded in producing a last attempt to carry out its upgrading order. At the last minute, the company reinstated the Mexican workers, and whites in the automotive division promptly walked off the job.[147]

The strike brought a representative from the WLB into the dispute, who warned striking workers that their action violated the Smith-Connally War Labor Disputes Act, which created criminal penalties for wildcat strikers who walked off the job without first filing a notice to strike and waiting out a thirty day "cooling off" period. Whether it was his intention or not, the WLB representative had provided the strikers with advice as much as he had given them a scolding. The men from the automotive division agreed to come back to work, and Local 367 set about following the proper government procedure for a hate strike, filing a petition asking the NLRB to

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[143] *Informer*, May 5, 1945.
[144] "Memorandum of Clarence Mitchell's Telephone Conversation with Mr. Ellinger." March 31, 1945. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 492.
[145] "Memorandum of Conference with Oil Workers Regarding Shell Oil." April 12, 1945. In Ibid., 500–501.
[146] Reed, *Seedtime for the Modern Civil Rights Movement* stresses the FEPC's preference for negotiation over enforcement.
[147] *Informer*, May 5, 1945. Zamora, *Claiming Rights and Righting Wrongs*, 177.

oversee a strike vote in thirty days' time. The implication was clear: the FEPC and the company could sign on to the rank-and-file's segregated upgrading proposal or face a walkout by the union. On June 6, a majority of Local 367 voted to authorize a strike. Facing the prospect of a production shutdown, Ellinger and the company accepted the union proposal, and the FEPC closed its case on Shell.[148]

Despite caving to union pressure, Ellinger declared that the FEPC had won a "victory… by the skin of our teeth." The two Mexican workers remained in their positions in the automotive department, and the settlement with Local 367 created a pathway for advancing more minority workers out of the labor department in the future. The original Mexican complainants, however, were disappointed that the FEPC had accepted a bargain short of full integration of the line of promotion and in the physical workplace, and there was talk in the group that they might have achieved their full purpose had the FEPC not linked their situation to that of African Americans.[149]

The refinery's black employees were more ambivalent about the settlement. Unlike Shell's Mexican workers, African Americans placed little importance on the integration of the physical workplace. Segregated upgrading, although well short of an integrated line of promotion, brought access to better jobs at wages equal to those earned by whites. But it was plainly an uncertain and temporary solution. The agreement contained no assurances that a significant number of positions in segregated units would be created. There were currently forty African Americans with sufficient seniority to advance to helper rank or higher under a unified progression system.[150] As Carter Wesley pointed out in a survey of the settlement, black

[148] *Informer*, May 5, 1945; Dubofsky, *State and Labor*, 190.
[149] Zamora, *Claiming Rights and Righting Wrongs*, 178–179.
[150] "Memorandum of Clarence Mitchell's Telephone Conversation with Mr. Ellinger." March 31, 1945. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 492.

workers would quickly fill whatever limited number of spots were made available to them in segregated departments, creating a backlog of workers eligible for promotion but unable to advance. Moreover, segregated units left black jobs the subject of traditional pressures and union politics. Every expansion in their number would, in all likelihood, require a fight with the white membership, and their segregated units, with a separate seniority from white workers, would be obvious targets for elimination during layoffs.

Although Wesley acknowledged the shortcomings of the deal, it did not shake his belief in the CIO program. In the Shell situation, the CIO's leaders, he wrote, had been "compelled to resort to expedience in compromise between enforcing [their] rule of no discrimination on the one hand and the possibility of a split on the other." Given the risk to the union, Wesley told his readers that he "hesitate[d] to say" that acceptance of the segregated upgrading plan was "indefensible in this instance." It was better to accept a "partial and limited" plan now, he concluded, "in the hope of ultimately getting full up-grading" at a time when the union could "avoid a split." Indeed, Houston's most outspoken black CIO backer was optimistic that the hate strike at Shell was less a sign of entrenched white opposition to desegregation than it was a "growing pain" on the path to black economic equality, and he had faith that the CIO's "statesmen" would be able to bring white workers around to the union's official equality position.[151]

But the editor could not offer a vision for how such a change in the stance of white workers might be brought about. The limited steps towards equality taken by the CIO during the war in both refining and steel had come when local unions had incentives to appeal to black workers. At Shell, where the position of the union was secured by strong worker support and a WLB-supervised contract, segregationist members of Local 367 had used the union's own

[151] *Informer*, June 24, 1945.

democratic processes, and their power to strike, to thwart integration. There also did not appear to be any external forces that might provide an impetus for change. The OWIU might be officially against discrimination, but, as Clarence Mitchell, the FEPC director of field operations noted in his review of the Shell case, the "International officers were considerably ahead of the local union" on the issue and unwilling to dictate policy to them.[152] The FEPC, while lacking the power to force integration on local unions, had at least been able to force the issue at Shell, but its efforts at the refinery would be the last major case that it undertook in Texas. Despite efforts by the NAACP and the national CIO leadership to make the agency permanent, the FEPC would die at the hands of Southern Congressmen in early 1946.[153]

The end of the war would mean not only the end of federal involvement in matters of racial discrimination in industry, but the withdrawal of the powerful wartime system of federal labor supervision. In the oil and steel industries, newly-elected CIO unions had been incubated by the federal government. The WLB and, at Hughes Tool, the Army, had compelled recalcitrant employers to recognize the place and rights of duly-elected labor organizations. Federal involvement had also assisted the efforts of black workers to advance anti-discrimination ends, either in concert with union demands, or, at Shell, against the wishes of the local union and its membership. However, the prospect of reduced federal economic control left the significant progress of the CIO and the concurrent, if less pronounced, gains of black workers anything but certain. Economic reconversion and the relaxation of government labor supervision in peacetime would test, for the first time, the ability of Houston's young oil and steel unions to survive in the face of concerted management opposition.

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[152] "Memorandum on OWIU for Malcolm Ross," April 8, 1946. In Denton Watson and Elizabeth Nuxoll, *The Papers of Clarence Mitchell Jr.*, 556–557.

[153] Southern Senators were able to hamper the operation of the Agency during the war, defeat its extension in 1946 and prevent permanent FEPC bills from reaching the President in 1948 and 1950. See Keith M. Finley, *Delaying the Dream: Southern Senators and the Fight Against Civil Rights, 1938-1965* (LSU Press, 2008), 56–137.

Chapter Four: Denying the "Rights of Others:" White Majority Rule in Oil and Steel

Texas employers eagerly eyed the end of the war as an opportunity to shake free of government supervision and reassert their traditional prerogative in labor matters. At the federal and state level, pro-business forces mobilized in support of legal measures to limit the growth and power of labor.[1] Of particular concern was the spread of union security agreements like maintenance of membership that unions, with the assistance of the federal government, had been able to foist upon employers during the war. In Austin, conservative politicians and the business lobby put their efforts in the 1945 legislative session into advancing a right-to-work law prohibiting any union contract provisions that would "discriminate" against workers who were not members of the union that held bargaining rights in their workplace. Chief among the organizations pressing for the law was the Christian Americans. Headed by Vance Muse, the Houston-based oil lobbyist and anti-labor propagandist who had warned the city's workers in 1937 of the CIO's plan to force "white men and women into organizations with black African apes," the Christian Americans had successfully promoted similar right-to-work legislation in Arkansas and Florida during the war.[2]

In Texas, the racist Muse found an unlikely ally in fellow CIO foe C.W. Rice. Starting in late 1944, Rice began filling the *Negro Labor News* with columns supporting the right to work legislation as a weapon to fight discrimination against blacks at the hands of labor unions eager

[1] On proposed amendments to NLRA offered at the end of the war, see Melvyn Dubofsky, *The State & Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994), 191–193. The mobilization of the business community to combat union power through political means after WWII is explored in Elizabeth A. Fones-Wolf, *Selling Free Enterprise: The Business Assault on Labor and Liberalism, 1945-60* (University of Illinois Press, 1994), 15–60.

[2] Muse's right to work advocacy is covered in the *Southern Patriot*, Dec. 1944 and *The Nation*, July 31, 1943. A comprehensive study of state right to work campaigns is Gilbert J. Gall, *The Politics of Right to Work: The Labor Federations as Special Interests, 1943-1979* (Greenwood Press, 1988).

to use the closed shop to monopolize jobs for whites. It was an old charge and one that Rice applied indiscriminately to racially-exclusive AFL unions and to the biracial CIO, but he added a new note of urgency to his warnings. As employers cut back in peacetime, even the CIO unions, he predicted, would try to squeeze blacks out of jobs.[3] For Muse, who began including *Negro Labor News* columns in his own material, Rice offered a supposedly responsible black pro-business voice to complement his own virulent race-baiting. It was an open shop partnership based on opposition to a common enemy. Rice's allegations – aimed at a black audience – that the CIO was duping black workers with promises of equality played right into the main line of Muse's attack – directed towards whites – on the racial menace of radical unionism.[4]

When Carter Wesley caught word of Rice's association with Muse, the "notorious enemy of Negroes," it gave him yet another opportunity to reignite his long running feud with his rival editor. Wesley and Rice clawed at each other in a long series of dueling columns in 1945. Wesley repeated his intimations that Rice was a puppet of conservative whites; Rice responded with new allegations that Wesley was a communist leading a "hate campaign against employers."[5] Arguments with Rice had always inspired Wesley's sharpest defenses of the labor movement, and their latest bout provided him with occasion to assess the changes in the status of black workers and unions brought about by the war. There was "an evolution going on in the South," he wrote, where "the masses of people are struggling for the right to fair and full employment." But "Mr. Rice's overlords" were intent on "hold[ing] on to the old era in which

[3] See, for example, *Negro Labor News*, Nov. 4, Dec 23, 1944.
[4] The link between Muse and Rice was publicized in the course of an investigation by the Texas legislature into the lobbying activities of the Christian Americans and other reactionary groups. Controversy surrounding the group led to the defeat of the right to work bill in the 1945 session, but it would easily pass in 1947 with the backing of the more respectable Texas Manufacturers Association. On the investigation, see *Informer*, Feb. 17, March 17, 1945. Lulu White disclosed the link to Walter White in an effort to get Rice thrown out of the Houston NAACP chapter. See Pitre, *In Struggle Against Jim Crow*, 68.
[5] The exchange was most heated in April and May 1945. On these charges, see *Informer*, April 14, May 5, and May 26, 1945. In countering Rice's charges of having communist leanings, Wesley took delight in pointing out that he was himself a major employer, and quite the capitalist to boot.

the working man could be exploited at will." By standing in the way of this evolution, Wesley charged, Rice "made himself an exponent of discrimination against Negro workers." Rice's continued hatred of unions, especially the biracial CIO, ignored the plain facts around him, Wesley argued. "Every Negro in the street knows that all of the gains that have been made by labor generally, and by Negro labor particularly, have been made through, by and because of bona fide unions."[6]

On the whole, the war had been good to Houston's industrial workers, expanding their ranks and providing job security to workers who had endured uncertainty and periodic cutbacks in the previous decade. For many white workers, wartime labor shortages presented an opportunity for quick promotion into skilled ranks, while black and Mexican workers benefitted from wage equalization early in the war, even as their opportunity for advance was stymied by the persistence of segregated labor systems and employer hiring practices meant to preserve the color line. In the last two years of the war, both minority and white workers grew restive under government labor controls. Aware of high corporate profits, workers strained against the reigns of NWLB policy. Unions sought creative ways to circumvent wage caps, filing claims for shift differentials (extra pay for evening and graveyard shifts), double pay for holidays, vacation and severance pay, up-classification of work, and meal and uniform allowances.[7] At Texaco in Port Arthur, Locals 23 and 254 – the most prodigious NWLB filers – staged a wildcat strike in June

[6] *Informer*, Feb. 17, April 14, May 26, 1945.
[7] Dozens of such requests filed by CIO unions are detailed in Kenneth R. Grobbs, "Disposition of Disputed Cases, Involving Non-Basic Wage, Union Security, and Non-Wage Issues of the Oil Refining Industry by the Eighth Regional War Labor Board" (M.S. Thesis, North Texas State Teachers College, 1947), 10–47. For NWLB policy on these "fringe issues," see U.S. Department of Labor, *Termination Report of the NWLB*, 1948, 1:306–400.

1945 to protest the Board's inaction on their more than eighty pending requests for pay and contract adjustments.[8]

The greatest pay boon came from the expansion of workers' hours under wartime production and time-and-a-half overtime pay. In Houston's refineries and steel shops, as in many war plants nationwide, round-the-clock production required workers to put in six full shifts a week, a total of 48 hours, giving them weekly earnings, with overtime, based on 52 hours of pay.[9] As the nation celebrated the end of hostilities, however, looming cuts to the workweek and price inflation threatened to catch workers in an economic pincer. Firms scaling back production would slash expensive overtime, taking a drastic bite out of workers' earnings. At the same time, the anticipated end of price controls raised fears that bottled up consumer demand would drive inflation. Leaders of most CIO unions made a defense of member paychecks their first post-war priority, setting their sights on a 30 percent wage hike – "52 hours pay for 40 hours work" – to prevent any erosion in the earning and buying power of workers.[10]

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[8] Kenneth R. Grobbs, "Disposition of Disputed Cases," 94–98. See Cases No. 8-D-337, 8-D-448, In the Matter of the Texas Company, Port Arthur, Texas, and Oil Workers International Union, Local No. 23 (1945). The refinery was seized twice by the Petroleum Administration for War in 1945.

[9] Nationally, the average length of the workweek reached a high of 45.2 hours in 1944, lagging not far behind oil and steel workers in Houston, almost all of whom clocked a full 48-hour week. For national figures, see Nelson Lichtenstein, *Labor's War at Home: The CIO in World War II* (Cambridge: Cambridge University Press, 1982), 111.

[10] A handful of labor leaders, most notably Walter Reuther of the UAW, looked towards the end of the war as an opportunity for labor, its ranks bolstered by union security agreements during the war, and now unbound by the wartime no-strike pledge, to revive the reform spirit and assertive posture of labor in the late 1930s. For these activists, bread-and-butter wage demands set the sights of the CIO too low, and unnecessarily abandoned the loftier goals of shop floor control, a stake in corporate management, and robust, independent political presence geared toward promoting the downward distribution of national wealth. For example, in the 1945-1946 GM strike, Reuther pressed the company to increase wages by 30% and to hold the price of cars constant, a demand aimed at promoting a national policy of price controls and rising working-class living standards. See Nelson Lichtenstein, *The Most Dangerous Man in Detroit: Walter Reuther and the Fate of American Labor* (New York, NY: Basic Books, 1995), 220–247, 270. For the outlook and designs of activist leaders, see Robert H Zieger, *The CIO, 1935-1955* (Chapel Hill: University of North Carolina Press, 1995), 219–220. Nelson Lichtenstein, *State of the Union: a Century of American Labor* (Princeton, N.J: Princeton University Press, 2002), 98–110 identifies possibilities for broadening labor's political and economic agenda in the years immediately after the war. Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (New York: Knopf, 1995), 224–226 concludes that the chances for this broader reform of the capitalist system were effectively foreclosed by the end of the war (although a Keynesian approach to redistribution was still possible). Citing labor's internal division, continuing state-dependence, and

Nationally, the more progressive elements of the business community accepted that industrial unions would play a significant role in determining wages and maintaining labor peace after the war. But in the fall of 1945, even progressive businessmen were unwilling to accept the CIO's 30 percent wage increase demand while price controls hindered their ability to pass along the increases to consumers.[11] The disagreements between industrial firms and CIO unions over the size and timing of wage increases precipitated a series of nationwide strikes in core industries in the winter of 1945 and 1946. In Houston, where conservative industrialists had dug in against CIO organizing and refused to recognize federal union security policies during the war, the wave of postwar strikes raised an existential question for unions. Could newly-established locals, often built on narrow biracial majorities, survive a strike, or would they prove only to be short-lived arrangements that owed their existence to the extraordinary circumstances of wartime? Indeed, Houston employers looked to the strikes of 1945 and 1946 as an opportunity to break CIO locals and usher in a return to the system of local independent unionism that had predominated before the war.

The Triumph of the OWIU and Refinery Segregation

A strike in the refining industry provided the first test of the CIO's ability to secure large wage increases for workers. Anticipating that peace in the Pacific would mean the imminent end

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conservative opposition, Dubofsky, *State and Labor*, 199–208 is similarly skeptical. In Houston, few, if any, labor officials bothered to consider such an aggressive, reformist agenda. The city's long-time labor men were veterans of Depression-era organizing campaigns broken by race and red baiting, intimidation, and the promise of benefits from company and independent unions, and knew that only the favorable political economy of WWII had enabled the CIO's measured successes. Houston's industrial unions had never survived without federal agencies to curb the worst instances of employer interference, enforce maintenance of membership, and pressure management to recognize and sign contracts with unions. Demands for wage increases, although only aimed at keeping paychecks at their current level, were hardly a step back for the young CIO locals in the city's refineries and steel shops, whose ability to represent workers in direct negotiations with management independent of the government's wartime institutions was unproven.

[11] Lichtenstein, *Labor's War at Home*, 218 – 221.

of lucrative overtime shifts in refineries, OWIU leaders took up the CIO's "52 for 40" standard with an announcement in early September 1945 that the union would press for an industry-wide thirty percent hourly pay increase in high-level negotiations with the major refining concerns.[12] The call for industry-wide collective bargaining was a new tactic for the Oilworkers. During the 1930s the industry had been covered by a patchwork of organizations, with workers in different firms or single plants represented variously by independent unions, consortiums of AFL craft unions, or the OWIU, making industry-wide negotiations impossible. As the OWIU expanded its reach over refining during the war, matters of representation, working conditions and wages were negotiated before the WLB, with settlements backed by the authority of the government. True collective bargaining at a national scale was therefore uncharted territory in refining, and oil executives were loath to grant the OWIU the new status of equal partner in industry-wide talks.

Oil companies instead preferred a return to the pre-war balance of power in the refining labor market, where the industry's wages were set with little input from worker organizations. In the old system, the labor market, like the refining industry itself, was dominated by the various outposts of Standard Oil of New Jersey. Standard traditionally negotiated wages with the friendly Employee Federations representing workers at its Humble refineries in Texas or ESSO plants in Louisiana and on the East Coast. Other refining companies then used the Jersey Standard wage as a target in their own negotiations. Worker organizations at these refineries almost always grudgingly accepted the Standard wage because they knew that management

[12] *International Oil Worker,* June 1945, p.1; Harvey O'Connor, *History of the Oil Workers International Union* (Denver: Oil Workers Intl. Union, 1950), 52. Ray Davidson, *Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union* (Denver: Oil, Chemical and Atomic Workers International Union, 1988), 158. Most histories of the CIO and postwar reconversion treat Reuther's late 1945 negotiations with GM or the early 1946 steel strike as the first important test of the new relationship between labor, management and the government, perhaps overlooking the oil strike in favor of the larger unions and more familiar CIO leadership in Detroit and Pittsburgh.

would fiercely fight any higher amount that would put the firm at a competitive disadvantage against the industry-leader. Union locals knew they would have little leverage in any fight with large, integrated refining companies, who could simply increase production at other refineries within the firm while waiting out workers at struck plants. By this logic, the wage agreements reached between Standard and its independent unions prevailed across the industry.[13]

To prevent a return to the pre-war system, the OWIU aimed to use its newfound strength to bargain nationally with oil companies, employing the threat of a coordinated strike at all refineries to protect smaller and weaker locals that might not survive a work stoppage on their own. But refiners ignored the OWIU's initial 30 percent demand, deferring to the old pattern by waiting for Standard to set its rates. Unlike the other major firms, Standard had repelled the OWIU's advance during the war. The sole exception to Standard's anti-CIO success had come at the small Humble refinery in Ingleside, Texas, a hundred miles south of Houston on the Gulf Coast. The Ingleside plant, which produced butadiene for the synthetic rubber program, had been organized by the OWIU in 1943; it was seized by the Petroleum Administration for War in 1944 to enforce a maintenance of membership order against the company's objections. After the war, Humble executives intended to continue the company's tradition of independent unionism and fierce CIO opposition, and the peacetime cancellation of the butadiene contract provided the opportunity to strike a blow against the OWIU by shuttering the Ingleside plant. Although the company's management explained the closure in terms of business efficiency – its capacity paled in comparison to Baytown, the world's largest refinery in 1945 – Humble was also eager to seal

[13] Joseph A Pratt, *The Growth of a Refining Region* (Greenwich, Conn: Jai Press, 1980), 183. For an approving treatment of the "Jersey Standard" system of unionism, see "Thirty Years of Labor Peace," *Fortune*, Nov. 1946.

the one breach in its corporate wall of independent unionism and send a signal to workers in its other plants that joining the CIO came with serious risks.[14]

Humble set the industry mark at Baytown with an agreement with the Employee Federation for a fifteen percent hourly increase.[15] The nation's other refiners soon followed suit, ignoring the International's call for an industry wide accord by offering the Baytown deal to OWIU locals on a take-it-or-leave-it basis. The low bid was motivated by a desire to combat the CIO as much as a need to protect profits. If the OWIU could be forced to accept the same fifteen percent increase secured by the Baytown Federation, union leaders might be hard pressed to justify to their own rank-and-file the risks and dues that came with the CIO.[16]

Oil worker locals overwhelmingly voted to reject the fifteen percent offer. With the refining industry still under federal labor controls in early September, national OWIU leaders steered clear of calling for a nationwide strike, but the instructions to locals to accept nothing less than a restoration of "full take home pay" guaranteed the same result. In the words of one labor reporter, the votes to reject the offer set up a "showdown on the Texas Gulf Coast" over the CIO's national thirty percent proposal.[17] "The fire is started," OWIU President O.A. Knight declared as the first wave of workers shut down refineries and walked off the job, "and I'm afraid it will spread rapidly." By mid-September almost every OWIU local had joined the nationwide strike.[18] Oil workers on the Texas Gulf Coast were enthusiastic strikers. With the exception of Baytown, they had voted for the walkout by large margins. In Port Arthur and

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[14] Henrietta M Larson and Kenneth Porter, *History of Humble Oil & Refining Company* (New York: Arno Press, 1959), 600 – 605. These generally friendly historians noted the efficiency advantages of closing Ingleside, but also note that Humble executives were "obviously annoyed" by the breach at the refinery. The signaling effect of the plant closure is considered in Pratt, *The Growth of a Refining Region*, 174.
[15] The Employee Federation had asked for the same 30% of the CIO, but begrudgingly accepted 15% when it was offered. Larson and Porter, *History of Humble Oil & Refining Company*, 605.
[16] Davidson, *Challenging the Giants*, 158.
[17] David Botter, "Labor Looks at Texas," *Southwest Review* XXXI, no. 2 (Spring 1946).
[18] Myron Hoch, "The Oil Strike of 1945," *Southern Economic Journal* 15, no. 2 (October 1948): 117. For "mid-September" see Davidson, *Challenging the Giants*, 158.

Beaumont, the segregated OWIU locals prepared by forging unity agreements to prevent one union from being played against the other.[19] Despite the tensions made apparent by the Shell hate strike months earlier, white and black oilworkers rallied in the streets of Houston, Pasadena, Texas City and Port Arthur under "52 - 40 or Fight" banners much as they had celebrated their promise to "boil Hitler in Texas oil" four years earlier.[20] Despite workers' displays of commitment, however, a long strike would stress the union's weak points. Union leaders had no way to know how long novice strikers, many of whom joined the union under maintenance of membership provisions, would forgo a paycheck.

The refinery strike, seen by both sides as a crucial first test of labor's peacetime heft, soon drew the federal government into the fight. Gasoline fueled both the American economy and military, and public outcry over shortages added to the pressure on the federal government to get workers back into refineries. The strike also threatened President Truman's plans for a smooth reconversion of the economy. Truman hoped that the price and wage controls used to hold off inflation during the war could be pared back gradually in a way that would satisfy producer desire for price increases and worker demands to maintain high wages without eroding consumer buying power. A strike so soon after the end of the war would disrupt this careful balancing act before it had even begun. Total victory by the strikers would produce irresistible demands for price increases by refiners, sending a wave of price hikes through the economy. A loss by the CIO might be even worse. Not only would a crucial Democratic constituency be damaged, but shrinking real wages might set the economy on a deflationary course and spark labor violence as it had in the aftermath of WWI.

[19] During a July wildcat strike at Gulf, a similar agreement held. Workers told management not "embarrass itself" by asking them to take jobs belonging to the opposite race. *Informer*, July 7, 1945.
[20] O'Connor, *History of the O.W.I.U.*, 311.

Determined to keep his reconversion policy in front of events, Truman directed Secretary of Labor Lewis Schwellanbach in late September to bring both sides to the bargaining table. Truman hoped that a settlement in oil might provide a template for heading off looming labor trouble in other major industries, but oil companies would not play ball, refusing to bargain on a national basis or to budge from the 15 percent offer to local unions. Corporate intransigence provoked the administration. Schwellanbach, exasperated by what he called the industry's "collective failure to bargain," recommended that Truman end the strike immediately by seizing the struck refineries.[21] On October 4th, the President, citing the danger to "direct military requirements" and his authority under the War Powers Act, ordered the Navy to take over the refineries and bring striking workers back to their jobs.[22]

Seizing the refineries extended the government's role as labor broker into peacetime, but Truman's order did not by itself solve the underlying impasse between oil companies and the OWIU. Union leaders, aware of the risks involved in the walkout, were relieved that Truman's actions had removed any chance of the worst case development – a strike defeat and a discredited union – but Navy operation brought them no closer to a contract and a pay raise.[23] Indeed, the rank-and-file resented being ordered back to work under existing terms by Navy officers who, because of their unfamiliarity with complex refinery systems, left day-to-day operation in the hands of plant management.[24] When the Secretary of the Navy announced that he would not force arbitration on the wage question, OWIU leaders worried publicly that

[21] Hoch, "The Oil Strike of 1945," 124; Davidson, *Challenging the Giants*, 159.
[22] Harry S. Truman, "Statement by the President Concerning Government Operation of Petroleum Refineries Closed by Strikes - October 4, 1945," *Public Papers of the Presidents of the United States* (1945): 372.
[23] The Navy operated the plants on the terms of pay and hours existing at the time of seizure. "Postwar Work Stoppages Caused by Labor-Management Disputes," *Monthly Labor Review* 63 (1946): 874.
[24] For rank and file attitude, see *International Oil Worker*, April 8, 1946.

"President Truman [had] shackled the hands of the Nation's oil workers" and broken the strike on industry's terms.[25]

In reality, Truman, facing the logistical and constitutional problems of perpetual Navy occupation, wanted the standoff settled as quickly as possible, and had the Secretary of Labor put extraordinary pressure on oil firms to reach national settlements with the OWIU. To bring around stubborn oil executives, Schwellanbach first opened secret side negotiations with Sinclair Oil, a company with a history of comparatively friendly relations with the OWIU. With the Secretary's cajoling, Sinclair and the union agreed on a blanket 18 percent raise, with four and six cent hourly bonuses paid to workers on the second and third shifts, which brought the average raise to just over twenty percent.[26] The administration then created a special Oil Panel to investigate the oil firms' claim that they could not absorb wage increases above 15 percent without a corresponding increase in prices. Because industry executives refused to provide private economic information to the government, the Panel proceeded using its own estimates of industry finances. The Panel concluded that the nation's refiners could comfortably offer an 18 percent raise without an impact on prices, a figure that just so happened to match Sinclair's agreement with the OWIU.[27] The Panel's efforts were the turning point in the strike. Without opening their books to disprove the Panel report, firms could not expect the OWIU to agree to anything less than the Sinclair settlement, nor could they hope to get a better deal under government supervised arbitration, which seemed an increasing likelihood the longer the Navy

[25] *International Oil Worker*, Nov. 15, 1945, p.7.
[26] The shift differentials were a key element in reaching an agreement. While compensating employees for working undesirable shifts, the differential also gave firms more maneuvering room within the contract because they could vary the relative sizes of the shifts in order to trim payroll.
[27] Hoch, "The Oil Strike of 1945," 126.

stayed in the refineries. Facing this reality and eager to regain control of their plants, oil companies began signing contracts with OWIU locals on the government's settlement terms.[28]

Both sides claimed success in the strike. Oil executives congratulated themselves for knocking back the CIO's demands, boasting in their trade paper that "the oil industry, and all Americans, can be proud that the industry stood up against this pressure, and finally got the first postwar wage increase… down to 18%."[29] With labor costs only a small part of overall production expenses, refiners ended the strike with confidence in healthy profit margins. Union leaders for their part knew that federal efforts had given them a better deal than they otherwise might have obtained. The walkouts had begun with little planning or coordinated strategy, and the oil companies had shown that they were loath to break from the industry's practice of wage collusion and local bargaining. In the words of one Gulf Coast OWIU official, "responsible leaders knew that the Oil Workers were lucky to emerge from the 1945 strike with a victory rather than a shellacking... President Truman had seized the struck plants and obliged the workers to go back to work so quickly that there was no real test of their picket-line mettle."[30]

The settlement locked into place the wartime wave of CIO organizing in refining and ushered in a new era in the industry's labor economy. "Now is the Springtime of our opportunity," trumpeted the OWIU newspaper at the end of the strike. "For the first time our Union has set the wage scale in oil, toppling Standard's 70 year reign over the wages of

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[28] *International Oil Worker*, March 11, 1946; April 8, 1946. Gulf resisted the January national settlement, hoping that it could break its segregated CIO unions. The company told workers that it would remain under Navy control, with no pay raise, until workers dropped the CIO in favor of a fifteen percent settlement being offered to the Independent Refinery Employees Association, a company union being proffered as a new CIO alternative. That attempt failed, as solid majorities of black and white workers, eyeing the larger raises flowing to CIO unions in neighboring plants, held firm in their support for OWIU locals 23 and 254. The Gulf plant remained under Navy control until April, when Gulf officials finally agreed to the national terms.

[29] *National Petroleum News*, July 1947.

[30] Davidson, *Challenging the Giants*, 175.

workers."[31] After the 1946 deal, the Standard Oil wage scale was displaced by a system of patterned bargaining, in which contracts at large OWIU-organized plants set the rates for the rest of the industry. On the Gulf Coast, Shell Local 367 was the trendsetter. In late 1946, 1947 and 1948, the Local walked out to secure large wage gains.[32] In the confident words of a union official, those victories proved that Local 367 "was not just a war-built paper union." Its members, he assured, "were willing to strike" and able to win.[33] The gains at Pasadena flowed to other OWIU locals, who were able to obtain similar terms from management without needing to strike.[34]

Strong unions helped oilworkers become the highest paid industrial laborers in the region. Local 367's contracts brought raises – 25 cents in 1947, 18 cents in 1948 – that surpassed the 15 cent and 11 cent increases secured in national contracts by other large CIO unions in those years.[35] Although refinery workers had always been near the top of the region's blue collar wage scale, the increases secured by the OWIU opened up a significant wage gap. By 1947, the average refinery production worker in Houston earned nearly $4,000 annually, thirty-eight percent more than their counterparts in the city's other industries.[36]

Straight hourly increases, rather than percentage raises, especially benefitted lower-paid employees, including black workers who still held the bulk of labor jobs in refineries. But while the system of patterned bargaining was effective at raising pay, it was limited in scope and anti-

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[31] *International Oil Worker*, March 11, 1946.
[32] Gene Bethel, "An Analysis of Collective Bargaining Agreements in the Texas Petroleum Refining Industry; 1945-1950" (M.A. Thesis, University of Texas, 1951), 12 – 17.
[33] Davidson, *Challenging the Giants*, 179.
[34] The patterned wage increases put the Standard Oil independents at Humble Baytown and ESSO in Baton Rouge on the defensive. In order to protect its Employee Federation from OWIU encroachment, Humble was forced after the 1945 strike to amend its contract to pay workers the new prevailing CIO wage. Subsequent contracts closely followed the wage and benefit terms obtained by Local 367. See F. Ray Marshall, "Independent Unions in the Gulf Coast Petroleum Refining Region - The ESSO Experience," *Labor Law Journal* (September 1961): 823 – 840; Larson and Porter, *History of Humble Oil & Refining Company*, 605.
[35] Bethel, "Collective Bargaining Agreements," 13.
[36] U.S. Census of Manufactures, 1949, v. 3, p. 589.

democratic. The uniform demands presented by separate OWIU locals in 1945 had enabled the national settlement, but wage increases had come at the exclusion of black interests. At the Beaumont Magnolia refinery, for example, black Local 229 had wanted to include provisions for upgrading black workers to truck driver and rigger jobs in the joint union demand, but the negotiating committee, with a majority of representatives from the white local, refused to press the case, reasoning that the national strike and the shape of any deal would be centered on wage issues alone. Any additional, and particular, demands might prolong a settlement with the company and risk breaking the united front presented by the segregated locals.[37]

The dominant role of Local 367 in Gulf Coast OWIU bargaining also helped lock discrimination into place. The union, which had proven hostile to black interests in the 1945 hate strike, negotiated wage-focused contracts that were easily transferrable to other firms. Once Local 367 reached an agreement with Shell, regional CIO officials presented the terms to other refiners for approval.[38] The process left little room for input from local bargaining committees, including those where African Americans had significant representation. With Local 367 taking the risks and regional CIO negotiators bringing the resulting big pay gains home to other locals as done deals, black workers had no grounds to convince local worker bargaining committees to open up contract talks to consider issues of seniority and promotion where African Americans might pursue opportunities for advance. In insecure times, the OWIU, needing black support in battles against companies and Employee Federations, had shown a willingness to chip away at inequality as part of a union challenge to management-controlled labor systems. After 1946, the OWIU's role in negotiating those systems was firmly established, but powerful and stable unions

[37] Ernest Obadele-Starks, *Black Unionism in the Industrial South* (College Station: Texas A & M University Press, 2000), 79.
[38] "Labor Organizations and Conferences," *Monthly Labor Review* 62 (1946): 608. After the OWIU's 1946 conference the union hired one black bargaining officer on the Gulf Coast.

did not provide an avenue for black workers to challenge discrimination in terms of employment; instead, they helped secure it.

The Revival of Independent Unionism at Hughes Tool and the End of Black CIO Support

Only a few months after the oil strike began, Steelworker unions walked off the job in their own push for wage increases. Houston's steelworkers, however, would not share in the oilworkers' across-the-board success. To avoid a repeat of the strike that had temporarily paralyzed refineries, the Truman administration worked through the fall of 1945 to bridge the gap between the CIO, who had lowered their wage target to an 18.5 cent hourly increase at the President's urging, and steel executives, who refused to budge from their offer of 15 cents. No amount of coaxing could move the steel firms, leading the Steelworkers membership to vote in November for a mid-January walkout if no settlement could be reached. The vote increased the pressure on Truman to head off another disruptive shutdown. Some within the administration wanted to seize the steel mills, but Truman opted for a more conciliatory approach. A potential shutdown of steel production, while disruptive, would not pose the sort of immediate national emergency that the refinery walkout had, and the President was wary of testing the limits of his powers by seizing a second major industry. [39] Instead, he promised a moderate steel price increase as a way to induce the steel companies to reach terms with the CIO. But steel manufacturers rebuffed the offer, pressing for either a strike that might break the union or a

[39] Truman's different response to the steel strike suggests the unique connection between the oil industry, oil workers and the federal government. The immediate need to keep gasoline pumping, some authors have suggested, gave oil companies a powerful bargaining advantage with the federal government in matters of regulation, taxation, and procurement. On this dynamic generally, see Robert Engler, *The Politics of Oil: A Study of Private Power and Democratic Directions* (Chicago: The University of Chicago Press, 1961). For this resource dependence perspective on the federal government in the 1940's see Bartholomew H Sparrow, *From the Outside in: World War II and the American State* (Princeton, N.J: Princeton University Press, 1996). Although the oil industry got much of what it wanted from the federal government after the war, the Truman administration's more aggressive handling of the oil strike offers a small counterpoint to Engler and Sparrow. Government dependence on oil helped oil workers, not firms, by giving the government justification to restrain the might of refiners in their anticipated battle with the CIO.

complete end to price controls, which would allow them to pass any future wage increases on to steel consumers.[40]

No settlement was reached by the strike deadline, prompting steelworkers nationwide, including some fifteen thousand in Houston, to walk off the job.[41] The national strike ended a month later when Truman ended the impasse by giving in to corporate demands to end price controls on bulk steel. The big steel companies, now able to compensate for wage increases with price hikes, quickly agreed to the CIO's 18.5 cent target, and workers began returning to their jobs on February 15. But the settlement did not completely end the strike in Houston. Seven of the city's struck steel shops, all of them outposts of national companies engaged in either primary production or the manufacture of pipe and containers, reached contracts with the Steelworkers based on the national terms. Four local firms – Hughes Tool, Reed Roller Bit, Mosher Steel, and the Dedman Foundry – resisted the settlement.[42]

Two factors separated these local holdouts from the national steel companies that implemented the 18.5 cent settlement at their Houston plants. First, the holdout firms made oilfield machinery, not raw steel, and thus were not covered by Truman's decree ending bulk steel price controls. Plant managers at the local Houston shops argued, with some justification, that Truman's order made it even more difficult to grant the full wage increase demanded by the CIO. Bulk steel now cost these firms more, while prices on finished machinery remained capped, leaving less margin to devote to wages. Second, the Houston machine shops had a different workforce and history of labor organization than the national firms. The seven Houston

[40] An overview of the strike and a critical appraisal of Truman's actions can be found in Barton J. Bernstein, "The Truman Administration and the Steel Strike of 1946," *Journal of American History* 52, no. 4 (March 1966): 791 – 803.
[41] Houston *Post*, Jan. 21, Jan. 22, 1946.
[42] *Informer*, April 13, 1946. American Can, Continental Can, Tennessee Coal and Iron, American Chain and Cable, Sheffield Steel, Rheem Manufacturing, and Texas Electric Casing all implemented the settlement.

plants that implemented the national settlement all relied primarily on unskilled and semi-skilled labor. In contrast, machine fabrication required many more skilled workers. The USWA had organized Houston plants from the bottom up, building support among the black and white workers in the unskilled and semi-skilled positions. The CIO had weak support among the more skilled workers, many of whom remained members of independent unions like the IMW or AFL units. Facing weak USWA locals, managers in the holdout firms hoped to force their unions to take a lower wage hike, or even to break the USWA with a prolonged strike.

Keeping with company history, the USWA faced the strongest opposition at Hughes Tool. Hughes management ended the war spoiling for a fight with the CIO. When the Army vacated the plant on August 29, Col. Ira Baldinger, the officer in charge at Hughes, warned his superiors in the War Department that the tentative labor peace at the plant would soon fall apart.[43] The IMW had claimed, beginning in 1944, that it held the majority at Hughes, and its position was only aided by the unpopularity of maintenance of membership among non-CIO members and by the CIO's failed push to upgrade black workers in the last year of the war. Other steel firms had contested the legality of the January 1946 strike, claiming that existing contracts with their unions barred the walkout. But USWA 1742 and 2457 at Hughes had no contract. In a push to demonstrate the CIO's value to production workers, especially to white ones, union negotiators had tried to secure a contract in the summer of 1945 while the plant was still under Army control, but Hughes had been content to run out the clock, knowing that the union's bargaining position would be weakened in peacetime.

Throughout negotiations in the fall of 1945, management worked to separate bargaining at Hughes from the ongoing national talks in Pittsburgh. While Houston CIO head Frank

[43] Col. Baldinger had taken over for Col. Cawthon towards the end of the occupation. Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), 142.

Hardesty, who controlled negotiations on behalf of Locals 1742 and 2457, would hold fast to the national Steelworkers demand for an 18.5 cent raise, Hughes charted its own course. Departing from the industry's 15 cent offer, Hughes instead proffered a 12.5 percent increase in hourly wages. The percentage-based offer was a strategic ploy to divide the company's highly stratified workforce. Overall, the company proposal would net a smaller increase in payroll, but workers who made more than $1.50 an hour, including the machinists, pattern makers and other highly-skilled workers who traditionally backed the IMW, would fare better under the Hughes plan than under the CIO's straight 18.5 cent increase. On the other hand, the percentage raise would punish the CIO's base of lesser-skilled and paid white and black workers. Employees earning less than $1.20, in fact, would be better off even under the industry's low 15 cent offer than under Hughes's polarizing plan.[44]

The division of Hughes' workforce had been apparent in the November 1945 vote to authorize participation in the USWA's planned January national walkout. The CIO had carried the election by a narrow plurality – 42 percent to 39 percent – with many of the high skilled IMW members favoring acceptance of the company's 12.5 percent offer.[45] Hughes management and IMW leaders saw the weak vote as a sign that the CIO could be defeated in a strike that might provide the IMW with a path back into power. Days before the national walkout, the IMW announced that its members would cross USWA picket lines. Despite the signs of weakness, however, Hardesty signaled that he would hold fast to the national bargaining target, and when the call came from Pittsburgh notifying the union that talks had failed, Locals 1242

[44] Houston *Post*, Nov. 30, 1945, *Informer*, July 27, 1946. Also see wage scales in Ibid., 126.
[45] In NLRB-monitored strike votes all employees in the bargaining unit are eligible the cast a ballot, not only members of the union with bargaining rights. Of the 5,590 production workers at Hughes, 2,239 supported the walkout. 19 percent of the eligible workers failed to cast a ballot. Although there was no accounting of union membership or race in the election, the vote results mirrored the approximate split in the plant between the CIO and the Independent Metal Workers unions, and both union and company sources estimated that some 900 of the plant's 1,100 African American workers supported the strike. See Ibid., 143.

and 2457 walked off the job, beginning a fight that would determine the fate of the CIO at Hughes.[46]

The Hughes strike was probably doomed from the start.[47] While other Houston plants made plans to shut down during the walkout, Hughes and its sizeable company union vowed to keep the plant running.[48] Tension ran high on the picket line during the strike's duration. Scuffles involving drivers and workers entering the plant provided an opportunity for union opponents to scold the CIO in Houston's business-friendly dailies, which put accounts of labor violence and threats against workers on the front page. Hughes executives took up the familiar open shop mantle, casting themselves and the IMW as protectors of "the right of employees to work and support their families" against a self-serving union intent on consolidating its power, even if that meant threatening law-abiding workers.[49]

Although many workers who voted against the strike initially honored the picket line, more than 1,000 of the plant's 6,000 employees – mostly management and IMW members – reported for duty on January 22, allowing the company to operate one of its three regular production shifts at partial capacity.[50] Keeping the plant open was a symbolic victory for Hughes and added weight to its claim that many workers preferred the IMW's non-confrontational approach to collective bargaining. The company had been able to count on many of its high skilled workers to remain loyal to the IMW. Now managers moved to broaden

[46] Houston *Post*, Jan. 22, 1946.
[47] Historian Michael Botson faults Hardesty's "misguided" decision to send a divided workforce out on strike in the face of strong and proven management opposition for setting up a "decisive showdown" that the Steelworkers were destined to lose. See Botson, *Hughes Tool Company*, 145 – 146. While the outcome of the strike certainly validates this position, it is hard to see how Hardesty could have accepted terms that shortchanged the CIO's core supporters before trying to get the 18.5 cent raise through a possible national settlement. As the strike weakened, there would be opportunities for Hardesty to take a better deal. That he would fail to do so was certainly a strategic, and costly, blunder.
[48] Houston *Post*, Jan. 21; Jan. 22, 1946.
[49] Houston *Chronicle*, Jan. 22; Jan. 30, 1946.
[50] Hughes management claimed that 1406 employees reported to work by the end of the strike's first week. Houston *Chronicle*, Feb., 2, 1946.

support for a settlement by guaranteeing a minimum increase of 15 cents an hour to all workers once the plant returned to full operating capacity and promised to consider an increase to the full 18.5 cent raise when price controls were lifted. If the first wage offer had been designed to reward the most loyal and highest-skilled workers, the second aimed to peel away support from the CIO picket lines. Hughes, it appears, was willing to essentially meet the CIO's wage target, but it would only do so on its own terms, not by way of union demands and a USWA contract.

At the end of the strike's first week, Ralph Neuhaus, Hughes's general manager, wrote to all of the workers outside the plant, urging them to accept the new offer: "Over 1,900 of your fellow employees are now working. Attendance has increased every day of the strike. Your job is ready and so is a wage increase."[51] Neuhaus's appeal seemed to work. On February 2, a week and a half after the strike began, Hughes took out full page ads bragging that 2,571 employees were now on the job and the company was adding a second partial shift.[52] Vice President Noah Dietrich fed anti-union sentiment among workers within the plant by making the CIO appear responsible for holding back pay increases. "Employees will get the same wage increases they would have received if there had been no strike," he announced, "with the exception that the raise would have been granted earlier if the union had not prevented it."[53] On February 14, some 3,500 employees crossed Steelworker lines, allowing the company to add a third shift and operate the plant around-the-clock at 65 percent of its full capacity.[54] The national steel strike ended the next day. At Hughes and the three other holdout steel plants, USWA locals were now torn between the reality of a failing strike and the orders of the International not to settle for less than a guaranteed 18.5 cent increase. Leaders of 1742 and 2457, in fact, asked Hardesty if they

[51] Letter quoted in Botson, *Hughes Tool Company*, 148.
[52] Houston *Chronicle*, Feb. 2, 1946.
[53] Houston *Chronicle*, Feb. 5, 1946.
[54] Houston *Post*, Feb. 14, 1946.

should submit the company's offer to a vote of the membership, but the CIO negotiator urged them to hold firm.[55] With the company gaining strength and the union lines thinning, Hardesty's absolute position would prove to be a crucial miscalculation.[56]

The steel strike in Houston was built on a foundation of black support. At its beginning, Carter Wesley had boasted in the *Informer* that blacks were proving themselves to be the most disciplined and loyal labor men. When managers at Reed Roller Bit, one of the struck manufacturers, threatened to replace white workers with African Americans, Wesley reported that none had stepped forward. "Now we have the test for all to see," he crowed. "It is next to impossible to break them out of their unions, or to find non-union Negroes who will go on a job where… unions are striking."[57] Approximately one-third of the workers who stuck with the strike past its first week were African American. That proportion rose as management inducements chipped away at the CIO's support. The considerable majority of workers that abandoned the strike were white, and the longer the work stoppage dragged on the more apparent it became that black workers were stronger CIO men than their white counterparts.[58]

The strength of support that Wesley celebrated became cause for alarm for the leaders of IMW Local 2. Whites were abandoning blacks on the picket line. Was this not the betrayal that Guess and Rice had long warned would come? As the strike became smaller and blacker, Guess wrote Houston's black ministers, asking them to encourage the members of 2457 to give up on the CIO before it was too late. "The colored employees at Hughes Tool are being double

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[55] Botson, *Hughes Tool Company*, 149.
[56] Here, Hardesty might have accepted the deal, and used Pittsburg's clout to convince the Truman administration, which had already caved on bulk steel prices, to condition the removal of price controls on finished steel products on a commitment from Hughes and other machine tools plants to honor the 18.5 cent settlement.
[57] *Informer*, Jan. 26, 1946. Wesley not only celebrated black picket-line unity; he helped enforce it. On the first day of the strike, he published the names of all 22 non-union black workers who entered the Hughes plant under the headline "These Crashed the Line." (One of the twenty-two endured only temporary ignominy- he was later revealed to be spying on internal plant operations for the CIO). See Houston *Informer*, Jan. 22, 1946.
[58] Houston *Chronicle*, Jan. 25, 1946.

crossed," he told the ministers. Black CIO stalwarts were bearing more than their share of the risk. When the strike was inevitably broken, Guess warned, the company would extract a price from the union men still out on the line, and the CIO would do nothing to protect "the colored people who have good jobs at Hughes… [from] losing them."[59]

Guess's letter provoked a heated response from Local 2457 officer Forrest Henry. Like Guess, Henry was well known outside of Hughes, especially in the Fifth Ward, where he was an officer in the Civic Club, the superintendent of the Sunday school at the Ward's venerable Pleasant Grove Baptist church, and president of the Wheatley High alumni association.[60] In his own letter to the ministers, Henry directly attacked the black labor conservatives behind IMW 2. Guess, he alleged, was no friend of black labor, but part of an "Unholy Alliance… of a pitifully few colored men," including C.W. Rice, "who for their own personal good, advocate for management."[61] The exchange was yet another episode in the long back and forth between black CIO backers and their independent union opponents. Compared to some of the personal and physical attacks that had transpired between the two factions in the past decade, the fight for the allegiance of the ministers scarcely demanded notice. But this latest flare-up in the running conflict took a tragic turn. On February 17, 1946, Richard Guess was murdered on an evening walk home from church, shot six times at the corner of Trulley and Briley in the Third Ward. There were no witnesses. Suspicion immediately turned towards Olin Dunfred, a vocal black Steelworker who had visited Guess a week earlier to tell him that he was a "marked man." Dunfred told police he had been warning Guess with his visit, not threatening him, a story that was later confirmed by Guess's wife Katherine. Although police arrested Dunfred and five other

[59] *Informer*, Feb. 16, 1946.
[60] *Informer*, July 27, 1946.
[61] *Informer*, Feb. 12, 1946.

men, they all were released after questioning produced no evidence linking them with the attack. Guess's murder would never be solved.[62]

Three thousand members of the city's black community filled Guess's church, Fourth Missionary Baptist, for his funeral. Although Guess's killing seemed connected to his role in the Hughes strike, his memorial service sought to transcend the bitterness of the labor fight, and his deep involvement in community organizations brought out a crowd that spanned the ideological division of black Houston. Lulu White, an ardent opponent of Guess's labor activities, was tapped to deliver one of the eulogies. The funeral's order of service, however, was interrupted when a white man – the only white man in the church, in fact – stood up during a break between orators and temporarily commandeered the pulpit. The interloper was Vance Muse, the notorious race-baiting anti-labor propagandist, and he had come to memorialize Guess, a man he had never met.[63] Muse's attendance at the otherwise all-black funeral and his ensuing speech were a stunning display of personal and racial privilege, but entirely in line with his career as a provocateur and shameless self-promoter, and his speech was less a eulogy than a tirade against the evils of organized labor. Although Muse confessed that he had never known Guess personally, the veteran racist assured listeners that the two men were linked by a shared belief in "the God-given right of every man and woman to work regardless of color, creed, or union or nonunion membership." Muse did make a small effort to personalize his eulogy, praising Guess and other black IMW members for defying the Steelworkers at Hughes, but much of his speech

[62] Accounts of the murder and arrests are in *Houston Post*, Feb. 19, 1946; *Houston Chronicle*, Feb. 18, 1946; and *Houston Informer*, Feb. 19, 1946. See also *Negro Labor News*, Feb. 22, 1947.

[63] Although the funeral was covered extensively in both the Informer and Rice's *Negro Labor News*, no explanation was ever provided for Muse's appearance. In a written statement submitted to the *Informer*, Muse claimed he spoke "because I was the only white person among some 3000 Negro faces at the funeral, [and] I was called upon to make a few remarks." Although there is nothing concrete to prove it, it is likely that Rice encouraged Muse's attendance and speech. See *Informer*, Feb. 26, 1946.

was filled with boilerplate vitriol directed against the "CIO, Communist Party, and other radical groups [who] got rid of a powerful foe when Richard Guess was murdered in the dark."[64]

While Muse's celebration of the rights of black workers was certainly disingenuous, his central message – that the CIO was an enemy of black labor – echoed the charge that Guess and Rice had levied for nearly a decade. Despite this shared conviction, however, Muse's appearance could have only damaged support for their conservative approach to black labor unionism. As one might suspect, Muse did not provide the audience at the Fourth Baptist Church with his full resume of anti-union and white supremacist activities. He identified himself at Guess' funeral only as the secretary of the Christian Americans. But many in the crowd surely knew of Muse's career from Wesley's printed expose of his ties to Rice and the right-to-work campaign in the state capital, and many at the funeral must have questioned Muse's motives for praising the dead leader of Hughes's black IMW local.

After the service, Carter Wesley took to the pages of his *Informer* newspaper to caution that "the presence of Muse gives Negroes something to think about, despite their sadness and shock."[65] Indeed, Muse's appearance demonstrated why most of Houston's black community stood with the CIO in its battle against Hughes and the IMW. At its heart, the disagreement between conservatives like Rice and Guess and CIO backers was about finding white allies. The CIO at Hughes Tool may have faltered at times in its commitment to equality, but the alternative to working with whites in the CIO was to build closer relationships with white management, who had consistently opposed moves for workplace equality and who had relied on professional racists like Muse to serve as the public face of their war against organized labor. By 1946, the majority of black Houstonians had rejected this conservative course. Despite suspicion that the

[64] *Informer*, Feb. 26, 1946.
[65] *Informer*, Feb. 26, 1946.

CIO might be connected to Guess's murder, black support for the Steelworkers continued. Workers held firm on the picket line, and the black middle class continued to support the strike in the press, in public statements, and through contributions to the Steelworker strike fund.[66] Even Rice was forced to reluctantly admit that the community remained committed to the CIO.[67]

Black support, however, was not enough for the union to win its battle at Hughes. By the strike's eighth week, an estimated 4,300 of Hughes's 6,000 employees were reporting to work. The company's ability to operate all of its shifts and the dwindling number of strikers made it increasingly clear that the union would not be able to bring management around to its wage demand. Meanwhile, management's efforts to make the Steelworkers appear responsible for holding up a wage increase were having their intended effect. During the strike, 1,300 workers withdrew from the Steelworkers union. In the same period, the IMW signed up just over a thousand workers from the pool of CIO dropouts and unaligned men.[68] The writing was on the wall for the Hughes Steelworkers. Unions at the three other holdout plants in Houston had already settled for contracts with 16 cent raises, with the possibility of a further 2.5 cent increase. In return, union members at those plants were able to keep their jobs and the companies agreed to continue recognizing the CIO.[69]

The Hughes Steelworkers settled last, ending their strike on April 8 by accepting an offer for a seventeen cent raise. The contract included a pair of deadly concessions. As a condition for strikers getting their jobs back, the union consented to an IMW request for an NLRB

[66] *Informer*, April 13, 1946.
[67] *Negro Labor News*, March 2, 1946.
[68] Botson, *Hughes Tool Company*, 154.
[69] *Informer*, April 13, 1946. Workers at these three plants were also able to get union security agreements in their contracts, although within a year new Texas labor laws made such arrangements illegal.

representation election within six months.[70] The union also was forced to give in to a company demand that the new contract re-affirm Jim Crow. It codified the existing system of segregated job classifications and promotion ladders and rolled back the limited gains black workers had made under the CIO in 1943 by applying different wage rates to the small number of jobs performed by both black and white workers. Local 2457 reluctantly agreed to the concessions so that their members could return to work. Hughes managers were skillful manipulators of racial division. They knew that segregation in the plant would help keep the CIO out of it. Black workers were the heart of the Steelworkers union – at the end of the strike there were 600 African Americans and only 300 whites still holding out – and workplace division, by keeping whites advantaged in matters of pay and promotion, would help prevent the resurrection of the biracial CIO coalition. By taking the lead role in defending segregation, the company also improved its reputation with white workers before the impending representation election. The August vote was a landslide, with the IMW garnering 1,865 votes to the Steelworkers' 1,105.[71] The CIO era at Hughes was over.

C. W. Rice could not resist getting in a few licks after the bell. As the editor had long predicted would happen, black CIO men had been "given a kick in the britches and thrown to the wolves" by the union. Richard Grovey, who had rained vitriol on Rice for years, now had the tables turned on him. The organizer had been exposed as a "CIO stooge" and an "Uncle Tom," Rice wrote, when he and other Local 2457 leaders had put their names to a contract re-affirming segregation and rolling back pay gains as a condition for crawling back into the plant.[72] The

[70] The USWA had filed failure to bargain charges against the company in September 1945 which were still pending in April 1946. Because pending charges were a bar to NLRB elections, the agreement ending the strike compelled the USWA to withdrawal them.
[71] *Informer*, Aug. 3, 1946; Houston *Post*, Aug. 2, 1946. Low participation in the representation election suggests that while many Hughes workers abandoned the CIO after the strike, their support did not necessarily swing over to the company-friendly IMW.
[72] *Negro Labor News*, April 20, 1946.

collapse of the Steelworkers union at Hughes also cost the CIO its most vocal black supporter in Houston. After advancing the union line for almost a decade in his paper, Carter Wesley declared in an August 1946 editorial that "for the first time… the *Informer* takes the position of desisting from criticism of the Independent union." Wesley's editorial remove betrayed the sting he must have felt. Despite the CIO's formal commitment to equality, Wesley lamented, the union had proven itself unable, and perhaps unwilling, to defend black workers. Hughes's black employees had been stout supporters of the union. Even after it had failed to advance desegregation during the war, black workers had stood by the union on the picket line. The problem, Wesley concluded, was white workers.

By his reckoning, the USWA should have won both the strike and the election in 1946. The CIO, after all, had major advantages. It had been in the plant for three years, had benefitted from maintenance of membership during the war, and it had, through the April 1946 settlement, secured the largest raise in Hughes history. The only factor that could explain the weakness of the union on the strike line and the exodus of workers into the IMW was lingering white resentment over the CIO's failed push to upgrade black workers. If whites were incapable of accepting "the rights of others," Wesley reasoned, then the promise of pursuing black rights through CIO union democracy, a dream that he had once promoted and defended, was illusory. Although he would never concede to the model of company-friendly unionism advanced by his hated rival, Wesley recommended that black CIO men "should give the Independent union a fair chance." If coalition with whites could bring only disappointment, Wesley mused, blacks would need to chart their own course and look after their own interests.[73]

The defeat of the Hughes Steelworkers also marked the beginning of the end of the community of black activists centered on the Houston NAACP that had seen in organized labor

[73] *Informer*, Aug. 10, 1946.

an opportunity to begin breaking down the economic and political barriers to first class citizenship for African Americans. Led by Wesley, Lulu White, and Richard Grovey, that group had been united by its support of the CIO and their collective efforts to fund and plan the lawsuit against the white primary. Although the voting rights effort was a success, the dream of black advance through coalition with the white working class failed to materialize. Working class unity was supposed to have been forged on the shopfloor and in labor unions. Instead, union power and discrimination had proven to be perfectly compatible.

Rotten at its CIO core, Houston's cadre of black labor and civil rights activists began to fall apart after 1946. While Richard Grovey continued to run the Third Ward Civic Club, the defeat of the black Steelworker local at Hughes ended his career as an organizer. Carter Wesley broke from the NAACP after falling out with Thurgood Marshall over the direction of the organization's lawsuit to desegregate higher education in Texas. Although Wesley had supported the *Sweatt* case in his paper, he had insisted on charting his own course, using the lawsuit as leverage in a campaign to secure greater funding for segregated black colleges from the state's political leaders. Fearing that Wesley's activities would endanger his legal campaign against separate-but-equal, Marshall publicly accused the *Informer* editor of pursuing an "Uncle Tom" course on the education issue. Never one to shrink from a fight, Wesley struck back at the NAACP. Rather than come after Marshall, who was beyond the reach of Wesley's influence, he opted to strike closer to home.[74]

Wesley quit the board of the local NAACP and began a nasty editorial campaign against the leadership of the Houston chapter. In July 1947, Wesley took direct aim at NAACP chairwoman Lulu White, announcing to his *Informer* readers that "through the stupidity and

[74] On the education fight and the split between Wesley and the NAACP, see Gillette, "The NAACP in Texas, 1937-1957"; Pitre, *In Struggle Against Jim Crow.*

nearsightedness of our leaders… our NAACP [has been] taken over by the infiltration of the Communists."[75] Lulu White had made no secret of her willingness to include Houston's small community of sympathetic white radicals in the activities of the branch. Longer than other black leaders in Houston, White had continued to believe that progress would come through coalition with the white working class, and while leftists had long been marginalized from the leadership of Houston's industrial unions, she counted among her social circle a handful of labor radicals committed to the idea that the pursuit of racial equality was an essential component of liberal social and political change in the South. Although national NAACP leaders stood firm behind White, a constant campaign of red-baiting in the *Informer* undermined her support locally. In 1949, the local NAACP board voted to accept White's resignation after Wesley confronted them with flimsy evidence linking her to Communist groups.[76]

The end of CIO support among Houston's black activist community hardly meant a victory for C.W. Rice's independent union crusade. In many ways, the tradition of black independent unionism at Hughes died with Richard Guess. The NLRB certified IMW Local 1 and IMW Local 2 as joint bargaining agents after the August 1946 election at Hughes. Most members of the black Steelworkers local joined Local 2, which elected new leaders who had no ties to the old HTC or association with C.W. Rice. Guess and Rice had always held onto their conviction, dating from the founding of the HTC in the 1920s, that the best path for black workers was one of self-sufficiency, independent leadership, and a close relationship with

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[75] *Informer*, July 19, 1947 To substantiate his claim, Wesley pointed to Herman Wright and Arthur Mandell, two radical white labor lawyers who had joined the Houston NAACP chapter a month earlier. Although both men denied being Communists, they were associated the small, far-left element of Houston's labor ranks, and were the legal representatives of the Communist splinter faction of the Galveston NMU local. Mandell had served as counsel for the Hughes SWOC in the late 1930s and early 1940s, and would represent black workers in discriminations suits against the steelworkers union in the early 1970s. Both lawyer's careers and involvement with Houston's labor left are detailed in Don E Carleton, *Red Scare!: Right-Wing Hysteria, Fifties Fanaticism, and Their Legacy in Texas* (Austin: Texas Monthly Press, 1985).

[76] *Informer*, June 11, 1949. Pitre, *In Struggle Against Jim Crow*, 78.

management. The segregated set-up of the IMW assured that Local 2 would continue to have its own leadership and represent black grievances, but the union's new leaders harbored no illusions about the possibilities of advance through a close relationship with Hughes management. The company dominated both IMW locals, and the structure of the union ensured that what little power the IMW had would not be used to combat discrimination against IMW 2's black members. The rules of the joint bargaining process required proposals to meet the mutual consent of Local 1 and Local 2 representatives. Bargaining committee decisions were then subject to a vote of the combined membership, which was seventy-five percent white, before being presented to the company. The imbalance of power was so apparent that from the late 1940s until 1961 only the leaders of IMW 1 actually sat down to talks with the company. The black position, after all, was wholly determined by the white union.[77]

The lopsided structure of IMW bargaining was evident in the union's contracts. Black workers were confined to the lowest five out of twelve labor grades, with unequal pay in the two grades where white and black workers performed similar work. IMW 1 members had superseding seniority: in the event of layoffs, whites could bump African Americans from their jobs, although the three lowest labor grades were black-only, conforming to the historical practice of "guaranteeing" these jobs for the members of the black independent union. Comparatively, black oilworkers were better off. The OWIU was much stronger than the independent unions at Hughes. Oil workers earned more than their counterparts in steel, and their unions had a greater say in grievance proceedings, the handling of layoffs and promotions, and job classifications. But the OWIU was just as impervious to black interests and just as unlikely to combat discrimination as the IMW. In refineries and steel shops, the defining feature

[77] On union bylaws, see Trial Examiner's Report in IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1595 (1964). Botson, *Hughes Tool Company*, 160–161.

of the labor system, both where the CIO had triumphed after the war and where it had been defeated, was segregation.

Chapter Five: Forging a "Formidable Weapon:" Houston's Legal Campaign Against Union Discrimination, 1952 - 1964

The hardened pattern of occupational segregation in Gulf Coast oil refineries and the destruction of the CIO at Hughes Tool essentially foreclosed any real hope of fighting discrimination from within the institutions of organized labor. Industrial democracy had been shown to be lacking. The organizing battles of the first years of World War II had raised the hopes of black workers, as their white co-unionists embraced steps towards equality as the price of building biracial union coalitions. In subsequent years, however, white union members had proven themselves quite willing to set those commitments aside in pursuit of their own interests. At Hughes Tool, where the CIO had been most willing to press for an end to industrial segregation, the union had been undone by its stance, leaving black workers subject to discrimination at the hands of company management and the white company union. Where CIO unions were strong, they were impervious to black demands to negotiate an end to inequality and job segregation. The black middle class activists in the NAACP most committed to fighting discrimination through the labor movement had abandoned the CIO or were forced off the labor scene in the late 1940s. Meanwhile, black industrial workers on the Texas Gulf Coast continued to feel the effects of labor's failings.

In the 1950s, the challenge to employment discrimination would continue, not through union democracy, but through legal avenues taken by black workers frustrated with its limits. Facing recalcitrant unions and, increasingly, technology-driven job loss, black workers would take to the courts and to the NLRB to challenge union practices and contract provisions that kept them from advancing into the higher job ranks. In one sense, this legal campaign would mark a break from Houston's recent black labor history. Although some of the workers involved were

labor veterans, neither they nor their counsel and allies in the local NAACP were tied to the factions of CIO and independent union supporters that had clashed in the 1930s and 1940s. But while the fight against union discrimination in the 1950s was carried out on new legal ground by a new group of black workers and activists, it followed in a tradition of black unionism that thought white-led unions were incapable of being reformed through internal democratic means, and built upon legal arguments first offered by black independent union backers in the 1930s. Now, however, black workers would not seek separation and independence from white labor, but would instead work to bring rights protections into their shared unions, forcing them to live up to the labor movement's promise to secure opportunity and promote the collective wellbeing of all workers.

This legal path was not without controversy. While few black Houstonians would defend the CIO's racial record, national NAACP officials urged black oil and steel workers to carry on their fight against discrimination within their unions, hopeful that the CIO might make good on its anti-discrimination principles and mindful of the damage that legal action might do to organizations that were allies in the NAACP's broader civil rights mission. Eventually, NAACP officials would come to share the same conclusions drawn by black industrial workers about labor's unwillingness to promote black equality. From the mid-1950s until 1964, black Houstonians and the national NAACP would wage parallel legal and administrative campaigns against union discrimination. Together, they would put forward constitutional arguments designed to secure equal rights within the private domain of employment and work to bend federal labor law away from its emphasis on the rights and prerogative of worker majorities towards standards that could be used to protect minority workers. Their dual effort would meet roadblocks in the courts and in the NLRB, and would be undermined by unions and employers,

but it would eventually succeed in creating a body of law available to American workers facing discrimination in the workplace. As was so often the case in Houston's labor struggles, the climactic battle would be fought at Hughes Tool, where after nearly a half-century of fighting discrimination and segregation, black workers would win the right to equality on the job and in their union.

The Constraints of Coalition: the NAACP and the CIO

In March 1952, a small group of black Sheffield Steel employees, frustrated with their union's lack of effort to combat employment discrimination, reached out to Lee Lewis, Chairman of the Houston NAACP's labor committee, to see if he could help them gain access to the company's apprenticeship program.[1] Sheffield, a massive complex on the north side of the ship channel, employed 1,300 black and 1,700 white men, and as was customary, segregated work in a way that provided opportunities for whites that were denied African Americans. From its founding in 1942, the company had relied on the government to staff its mill. During the war, the U.S. Employment Service had sent only black workers to meet Sheffield's large demand for unskilled laborers, and provided only whites for the skilled positions. After 1946, the Texas Employment Agency had done the same. Sheffield was an integrated mill, processing scrap metal and raw ores into steel ingots in furnaces and shaping them into finished products in various rolling mills. Black employees were concentrated in the earlier stages of the production process, where work generally required less skill and involved less use of complex machinery. The coke mill and the furnaces were majority black. The rolling mills, which produced structural steel, plate, rod, wire, and rebar, were majority white.

[1] Report of Regional Counsel U. Simpson Tate to Herbert Hill, Dec. 11, 1953. NAACP Papers, Part 13, Series A, reel 13.

Within each department, work was divided into two separate lines of progression and seniority pools. In the Line 1 of progression, new white employees were hired as "utility men" in each of the mill's divisions, where they would apprentice until bidding into helper positions, then into operator jobs, and finally into the handful of highly skilled positions atop each division. Black workers began in the labor pool, where they were assigned as needed, and could rise along secondary lines of progression in each of the mill's divisions. Those black "Line 2" progressions quickly dead ended, never rising beyond assistant or semi-skilled labor positions. While the most senior black workers in many departments worked jobs requiring more skill and paying higher wages than the lowest, newly-hired whites, the segregated lines of progression denied blacks the long-term opportunity for advance presented to white apprentices. In the blast furnace, for example, African Americans labored at the physical bottom of the furnace, alongside the trough, separators and slag pots through which molten metal flowed. The most senior positions on Line 2 were cinder snappers and furnace keepers, jobs that involved heat, danger and required considerable skill. They were also better paid than the white utility men in Line 1. But a black furnace keeper had reached the pinnacle of his industrial career; a young white utility man had nowhere to go but up, and could look forward to advancing on to more remunerative, less backbreaking and safer work higher up on the furnace, first as transfer car and pig machine operators, then as ore bridge crane men, and finally on to the top rank of stove tender.[2]

The system of separate and unequal lines of progression was laid out in the contract between USWA Local 2708 and the company. Local 2708 was an integrated union, in which black Sheffield men, who made up 40% of the workforce, had a significant presence. It had several black officers, including Grievance Chairman J.L. Ross, who was elected by the

[2] A history of the lines of progression in each of Sheffield's departments is provided in Taylor v Armco Steel Corp., 373 F. Supp 885, 894–905 (U.S. District Court, S.D. Texas, Houston Div. 1973). Despite the name, the stove tender at Sheffield was a top job; he tended the department, not a stove.

membership at large to process complaints on their behalf. The 1945 contract first codifying Sheffield's segregated lines of promotion had been negotiated by a committee with black representatives, and the union's black members had largely supported it, both out of an acknowledgement that whites in the union were unwilling to challenge the existing pattern of segregation and on the theory that having separate seniority and lines of promotion would protect top black jobs from encroachment by whites during layoffs that were sure to come with economic de-mobilization.[3] But Sheffield had expanded after the war, and by 1952 it was obvious to many black workers that they were stuck with a bad deal. When new contracts were negotiated in 1948 and 1950 to cover expanding divisions, the company and the union had refused to open Line 1 to job bids from blacks or to admit them into apprenticeships.

With the union and the company unwilling to entertain desegregation, Houston NAACP labor committee head Lewis advised the Sheffield men that came to him in 1952 to appeal directly to the USWA International. Lewis wrote USWA president Philip Murray on their behalf, informing him that the men "struggling at Sheffield for their rights to work as Americans" were not getting any help from their local.[4] In reply, Murray assured Lewis that the USWA would not shirk from its position "in the forefront of the fight to eliminate discrimination," and informed him that USWA district director Martin Burns had been asked to investigate the situation.[5] In late April 1952, Burns met with the Sheffield complainants, Local 2708 grievance chairman Ross, and Christia Adair, executive secretary of the local NAACP. The workers left the meeting feeling that Burns's investigation had been more focused on them

[3] See testimony offered in Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 156 F. Supp 430, 431–434 (U.S. District Court S.D. Texas, Houston Division 1957). Also see Report of Regional Counsel, Dec. 11, 1953. NAACP Papers, Part 13, Series A, reel 13.
[4] Lee Lewis to Philip Murray, March 10, 1952. In Report of Regional Counsel, Dec. 11, 1953. NAACP Papers, Part 13, Series A, reel 13.
[5] Murray to Lewis, April 17, 1952. In Ibid.

than it was on discrimination at Sheffield. Indeed, in a follow up letter to Lewis, Burns conveyed his displeasure with the workers for having gone outside the union without first trying to adjust their complaint about exclusion from apprenticeships through the local grievance process. Had they done so, Burns told Lewis, they would have found that the "unfavorable conditions" at the plant were "scheduled for discussion during the present contract negotiations," and, he curtly added, "you probably would not have written the letter of complaint to Mr. Murray."[6]

However, Burns's 1952 contract negotiations with Texas steel producers produced nothing in the way of relief for black workers. A year later, in September 1953, the same group of Sheffield men returned to the Houston NAACP, this time requesting legal advice. Executive Secretary Adair asked U. Simpson Tate, the Dallas-based regional counsel for the NAACP Legal Defense and Education Fund (LDF), to come to Houston to meet with the workers. The LDF was a closely linked, but distinct, organization from the NAACP, led by Thurgood Marshall and separated from the main NAACP's organizing and lobbying activities for tax purposes. After World War II, Marshall's energies were centered on the legal fight to overturn government-sanctioned segregation through the education cases that would culminate in *Brown*. The economic rights of African Americans and their place within organized labor, areas in which the NAACP's legal team was greatly interested in the 1930s and early 1940s, had been left to the main organization after the war.[7] Before Tate made any legal moves in the Sheffield matter, he

[6] Burns to Lewis, April 29, 1952. In Ibid.
[7] Risa Goluboff, *The Lost Promise of Civil Rights* (Cambridge, Mass: Harvard University Press, 2007), 12. As explored later in this chapter, the main NAACP had its own lawyers and officials who were intent on pursuing legal remedy against discrimination in unions and the private labor market during the 1950s. On legal and administrative challenges to discrimination in the oil industry, see Sophia Z. Lee, "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948-1964," *Law and History Review* 26 (2008): 327.

would first consult with the state NAACP body, which had its own commitments to organized labor that demanded delicate handling.

In the late 1940s and early 1950s, the state NAACP and the CIO were taking steps to rebuild a relationship based on mutual interest and mutual enemies. It was a far cry from the heyday of black CIO enthusiasm a decade earlier, when Carter Wesley, Richard Grovey and Lulu White had seen in organized labor an opportunity to build a biracial working class movement from the shopfloor up. What had stalled, or even fractured at the bottom, state CIO and NAACP leaders were now trying to rebuild at the top. In 1947, the Texas State CIO Council adopted a rule that ensured minority representation in the state body by requiring that all unions, including the all-black locals, should have a representative on at least one committee. Two years later, the Texas CIO and NAACP began sending representatives to each other's conventions, and in 1951 the state CIO established a human rights committee, charged with outreach to Mexican American groups like LULAC and the GI Forum, and to the NAACP, which began receiving funding from the state CIO.[8]

The bridge-building efforts were politically focused. CIO regional director Carl McPeak argued in favor of outreach at the 1951 state convention, saying "just as we cannot win elections in plants and factories in most instances without the support of these individuals, we can never be successful in the fields of politics without their undivided and enthusiastic support and cooperation."[9] Much as shopfloor coalitions had been forged in opposition to management and company unions, the political alliance of labor and minority groups was held together by opposition to conservative Democrats, especially Governor Alan Shivers, who engineered the

[8] Murray Polakoff, "The Development of the Texas State CIO Council" (Ph.D. dissertation, Columbia University, 1955), 366–396. Labor-led efforts to build cross-racial political coalitions, haltingly in the 1950s and more fruitfully in the 1960s, are explored in Max Krochmal, "Labor, Civil Rights, and the Struggle for Democracy in Texas, 1935-1965" (Ph.D. dissertation, Duke University, 2011).

[9] *Proceedings of the Fifteenth Annual Convention of the Texas State Industrial Union Council*, 1951, 60.

Texas for Eisenhower movement in 1952 and positioned the state party as a force to "fight to the last ditch and the last breath… Walter Reuther of the CIO… and Walter White of the NAACP."[10]

Outside of politics, the two organizations made efforts to support each other's agendas where possible. The CIO provided financial support for the *Sweatt* lawsuit to desegregate higher education and offered to pay the plaintiff's law school tuition if the suit was won. In 1952, the state body pledged to "extend assistance and cooperation" to the NAACP's efforts to combat discrimination in the labor movement and went on record in support of "the immediate elimination of all forms of segregation in the public schools of Texas," a position that put it ahead of the national CIO and brought significant blowback from the membership after the 1954 *Brown* decision.[11] The NAACP, for its part, was mindful that black advance could be a powerful weapon in the hands of the CIO's enemies. State NAACP president Maceo Smith earned the gratitude of the CIO in 1952 by thwarting an attempt to use the promotion of black workers to break the USWA at the Reynolds Aluminum plant in Corpus Christi. A rival AFL union had contacted Smith, asking him to help identify fifty good candidates from the Corpus Christi chapter for promotion to skilled positions at Reynolds. Sensing a trap, Smith contacted officials of the state CIO, who warned that the promotions would be used by management to sow discord among white CIO members. Smith, in turn, advised the black workers, who were themselves suspicious that the proposed upgrades were only temporary union-busting measures, to hold firm and insist that they would only accept promotions that came through a CIO contract.[12]

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[10] Austin *American Statesman*, June 22, 1954. Shivers succeeded in placing Eisenhower on the state ballot in 1952 as both a Democrat and a Republican. Shivers threw the weight of the state party behind the Republican candidate, who carried the state that year and again in 1956.

[11] NAACP Press Release, Dec. 18, 1952. In NAACP Papers, Part 13, Series A, reel 13; *Proceedings of the Sixteenth Annual Convention of the Texas State CIO Council*, 1952, 17.

[12] Murray Polakoff, "The Development of the Texas State CIO Council," 376.

The key link between the Texas NAACP and the state CIO was Andrew Hardesty, who was both head of the CIO's human rights committee and a vice president of the Texas NAACP committee on labor and industry.[13] As U. Simpson Tate contemplated ways to address the complaints of black Sheffield workers in the fall of 1953, Hardesty met with the regional counsel to convey the CIO's position. Ending segregation at Sheffield, Hardesty cautioned, could not be accomplished quickly or easily through the stroke of a pen. Allowing black workers with accumulated seniority into the apprenticeship program, and thus into the white line of progression, would upset the workings of the seniority system that lay at the "very foundation" of the "basic steel contract." If the system was going to change, Hardesty told Tate, it would have to come through extensive negotiation.[14] Tate incorporated Hardesty's advice into the report on the Sheffield situation he presented to the state NAACP at its 1953 annual meeting. Acknowledging that the state and national NAACP were "committed to a policy of support of democratic unionism," Tate recommended that changes to the Sheffield contract, which the local union had so far resisted, be pursued first through state CIO officials and the USWA district director, and failing that, through the International and national CIO leadership. But the NAACP lawyer was unwilling to defer completely to the union, ending his report with a pledge to bring the matter of discrimination at Sheffield "finally to the Courts, if necessity demands."[15]

When Martin Burns, the USWA district director who had headed off the first complaint by black Sheffield workers in 1952, got word of Tate's presentation and threat of eventual legal action, he looked to the national NAACP to put the brakes on its Texas regional counsel. At the CIO national convention in late November 1953, Burns complained to NAACP labor director

[13] Ibid., 372–377. Examples of Hardesty's work linking the two organizations can be found in Maceo Smith to Herbert Hill, Oct. 2, 1952; Hardesty to Hill, Aug 18, 1952. NAACP Papers, Part 13, Series A, reel 20.
[14] Report of Regional Counsel, Dec. 11, 1953. NAACP Papers, Part 13, Series A, reel 13.
[15] Report of Regional Counsel, Dec. 11, 1953. NAACP Papers, Part 13, Series A, reel 13.

Herbert Hill that Tate's public airing of the USWA's dirty laundry would upset any effort to address discrimination through the union.[16] Hill, a former Steelworkers organizer, had close ties to the labor movement and was deeply committed to the idea that unions, if they could be made to live up to their anti-discrimination principles, offered African Americans the best chance for economic equality. Hill had been hired by the NAACP in 1951 after convincing the organization that it could build its strength by developing ties to organized labor at the local level. In the early 1950s, he travelled the country urging black union members to join or start local NAACP chapters and counseling black NAACP members to join unions.[17] As part of its alliance with labor, the national NAACP took the stance that CIO unions, with their formal commitment to non-discrimination, be given a "chance to clean up their own houses wherever possible," and counseled black lawyers in its local chapters to take discrimination claims first to union officials before contemplating legal steps.[18]

Hill had no real authority over the LDF regional counsel, but he urged Tate to run any issues involving the Steelworkers union through him, so that he might pursue them through his "close working relationship" with officers in the International and the Steelworkers Civil Rights Committee. The USWA, Hill reminded Tate, was one of the most racially progressive unions, having eliminated "Jim Crow situations" in most of its locals, and should therefore be given the

[16] Hill to Tate, Dec. 8, 1953. NAACP Papers, Part 13, Series A, reel 13.
[17] Hill, "A Plan to Secure the Full Integration of Negro Workers Within the Organized Labor Movement As A Means of Eliminating the Limitations on Negro Employment in American Industry," Oct 6, 1953. NAACP Papers, Part 13, Series A, reel 20. See also, Nancy MacLean, "Achieving the Promise of the Civil Rights Act: Herbert Hill and the NAACP's Fight for Jobs and Justice," *Labor* 3, no. 2 (June 2006): 13–19; Lee, "Hotspots in a Cold War," 339–340. On Hill's work fighting discrimination in the steel industry and his relationship with the USWA, see Bruce Nelson, *Divided We Stand - American Workers and the Struggle for Black Equality* (Princeton University Press, 2001), 205–218.
[18] 1954 NAACP legal strategy workshop, quoted in Lee, "Hotspots in a Cold War," 340.

opportunity to handle the matter internally.[19] Tate initially balked at what he saw as an order to back off the Sheffield case, but Hill pointed out that Tate had himself recommended pursuing desegregation first through all the available union channels. Together, they decided that the best course would be to apply pressure on the union – Hill on International officers and Tate on local and regional USWA officials – to address discrimination in upcoming contract talks.[20]

That pressure had mixed results. The USWA signed a national contract with steel producers in 1954 that left segregation at Sheffield in place, but black workers there were successful in convincing the company to begin talks with a Joint Union Security Committee composed of two black and two white members of Local 2708. Those negotiations, however, could make no changes to the contract until it was up for renewal in 1956.[21] Before that time, the terms governing the relationship between unions and their black members would shift significantly, as black refinery workers, frustrated with their inability to challenge discrimination through their unions, turned to legal and administrative tools to open a crack in the area's industrial color line.

Challenging the CIO: Legal and Administrative Pathways to Antidiscrimination

Segregation in the refining industry, initially the creation of management, had been codified in union contracts after the biracial organizing campaign of World War II gave the OWIU equal power over the terms of work. By 1946, with union locals secure in their position and focused narrowly on wages and benefits, the prospects of challenging discrimination through

[19] Hill to Tate, Dec. 8, Dec. 17, 1953. While Hill was corresponding with Tate, he was mending fences with Burns by offering his "sincere apologies" for Tate's presentation at the Texas NAACP convention. Hill to Burns, Dec. 8, 1953. NAACP Papers, Part 13, Series A, reel 13.
[20] Tate to Hill, Dec. 14, 1953; Hill to Tate, Dec. 17, 1953. NAACP Papers, Part 13, Series A, reel 13.
[21] Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 156 F. Supp 430, 434 (U.S. District Court S.D. Texas, Houston Division 1957).

unions appeared slim. Even at Pan American, where contract changes in 1942 had opened previously all-white jobs to bidding by African Americans, the vast majority of black workers continued to be employed as laborers or in the lower-skilled building maintenance and yard departments.[22] In the early 1950s black workers at Pasadena Shell and Port Arthur Gulf began a renewed effort to press their OWIU locals to break down dual classification systems. The impetus for their challenge was provided by changes in refinery technology and workforce management that disproportionately harmed black workers and hardened barriers to upward mobility.

In the decades after World War II, the growth of automobile and airplane transportation and a revolution in petrochemical manufacturing drove remarkable increases in demand for refinery products.[23] Gulf Coast refineries responded with a massive program of expansion, investing heavily in technologically advanced continuous-flow processing units capable of boosting both capacity and yields.[24] In 1947, the refineries on the ship channel processed 539,300 barrels of crude a day. In 1956, that figure stood at 925,600. In Jefferson County, capacity rose from 580,800 barrels per day to 845,900 over the same period.[25] More production, however, did not mean more union jobs. Total refinery employment in Texas grew only slightly

[22] Rev. M.J. Kimble (Pan American laborer) to Hill, March 5, June 2, 1953. NAACP Papers, Part 13 Series A, reel 20. It is unclear whether formal post-1942 contract changes or some combination of company and union resistance and refusal to provide skills training stymied black upgrading. Kimble, in his letters to Hill, laid the blame on the union.

[23] Aggregate U.S. demand for petroleum products rose from 5.3 million barrels per day in 1946 to 9.2 million a decade later. See Joseph A Pratt, *The Growth of a Refining Region* (Greenwich, Conn: Jai Press, 1980), 91, tbl.4.1. The sharp rise in demand resulted from both a tripling of the total automobile miles driven by Americans from 1946 to 1969 and from a nine percent decline in average vehicle fuel efficiency in the same period. See American Petroleum Institute, *Petroleum Facts and Figures* (Washington, D.C., 1971), 307.

[24] John E. Williams, "The Impact of Technology On Employment in the Petroleum Refining Industry in Texas: 1947-1966" (Ph.D. dissertation, University of Texas, 1971), 61–99.

[25] Pratt, *The Growth of a Refining Region*, 96, tbl.4.4.

during the late 1940s; by the early 1950s job numbers at the major refineries on the Gulf Coast were essentially flat.[26]

Three factors accounted for this leveling off. First, although construction and upgrading programs ran almost continuously at the major refineries, most of the work was performed by outside contractors. At any one time there might be hundreds of outside laborers, bricklayers, carpenters, insulators, painters and pipefitters at work on new units, but none of them were employed by the refinery, nor were they members of the union. Second, more efficient production processes meant that output could be boosted without the need to hire additional skilled operators. Lastly, advanced materials and the adoption of labor-saving machinery reduced the need for both unskilled and skilled labor. To take one small example, the introduction of cathodic protection of underground pipes reduced corrosion, meaning fewer pipefitters were needed to lay replacement lines. When pipeline leaks did occur, a two man backhoe team now took the place of a twenty-five man shovel crew. Similarly, the use of chemical detergents allowed for longer operation of equipment and less manual cleaning; other additives extended the lives of pumps and compressors. Improved alloy piping and refractory linings in vessels reduced the need for welders and boilermakers to make repairs, while straddle buggies, mobile cranes and cherry-pickers did the lifting and muscle work of riggers and labor gangs.[27]

Although the substitution of technology for labor reduced employment growth at all levels, black workers felt the hardest squeeze.[28] On a 1952 tour of Southern industrial plants,

[26] John E. Williams, "The Impact of Technology," 107–113.
[27] L. D. Belzung, John F. MacNaughton, and John P. Owen, *The Anatomy of a Workforce Reduction; an Analytical Case Study of the Social, Psychological, and Economic Impact of Job Displacement in a Major Gulf Coast Petroleum Refinery* (Houston: Center for Research in Business and Economics, University of Houston, 1966), 110–111; John E. Williams, "The Impact of Technology," 75–81.
[28] Marshall, "Upgrading of Negroes."

Herbert Hill noted the danger that technological change posed to black refinery workers. "One can cite many instances where a white man and a machine have replaced large groups of Negro workers," he wrote to his superiors in New York. Occupation segregation compounded the threat by denying black workers access to apprenticeships and on-the-job training. "In a period when the unskilled worker is rapidly being eliminated," he observed, "jim crow lines of promotion are a vicious device which eventually would eliminate Negroes entirely from… oil refining."[29] While visiting refineries in Texas and Louisiana, Hill was surprised to find that the OWIU in several places still maintained segregated locals. To Hill, integrating local unions was an obvious first step towards eliminating separate lines of progression and seniority in union contracts. It was unlikely, he thought, that a union would negotiate an elimination of racial distinctions if it continued to maintain them as the organizing principle of its own membership. In Beaumont, Hill arranged a meeting with the OWIU's regional director and the officers of the black union at Magnolia Petroleum to discuss the possibility of combining local memberships. No progress was made. Although the OWIU staff was committed in principle to integration, they deferred to the wishes of their locals. Black union leaders, meanwhile, were reluctant to submerge their organization into the larger white local without any guarantees that the resulting integrated union would represent black interests on par with those of whites.

The experience of black Local 254 at nearby Port Arthur Gulf confirmed black leaders' skepticism of union integration. Segregation at Gulf was maintained not through formal contract, but by a "gentleman's agreement" between the black local and white Local 23 reserving all jobs in the operating-mechanical division for whites and those in the labor division for blacks. The arrangement locked Local 254 men out of the lines of progression leading to more desirable

[29] Hill to White, Oct. 6, 1953, NAACP Papers, Part 13, Series A, reel 20. Hill to Merriwether, May 2, 1956, Part 13, Supplemental Series, reel 5.

and better-paying operating positions, but it included certain semi-skilled and skilled construction and maintenance jobs within the labor division, keeping them for top black men even in times when whites were being laid-off. The terms of the OWIUs contract with Gulf made no mention of race, nor did it create the sort of separate system of divisional seniority that was commonly used to lock blacks out of white jobs. Instead, the "gentleman's agreement" was maintained through the company job board. Managers posted open white positions on white paper; bid announcements for black jobs were printed on blue.

In 1953, black workers, facing pressure from mechanization of manual work and outsourcing of traditional black construction jobs, broke the agreement by bidding on ten open "white" positions. Local 23 asked the applicants to withdraw the bids, but they refused. With no formal racial bar in place, the terms of the union contract would give the jobs to the black applicants as the most senior bidders. Gulf management, worried about potential white reaction, worked out a new bargain among the company and the two locals. Gulf would upgrade the workers if the leaders of Local 23 pledged to keep their membership in line if trouble developed. In return, Local 254 agreed to limit black job bidding to a small number of lateral moves from black jobs to similarly-skilled ones in the white lines of progression.[30]

Neither local could hold up their end of the deal. Black workers applied to open positions above their current rank, claiming a right to promotion by virtue of their controlling seniority. White senior craftsmen refused to accept black workers on their crews. Tensions rose in the refinery and cars were vandalized in the parking lot. With the informal agreement between Locals 23 and 254 breaking down under the pressure of black aspiration and white

[30] Background on the failed amalgamation plan is contained in the complaint filed in Syres v. Oil Workers International Union, Local No.23 (1954). NAACP Papers Part 13, Series C, reel 4. See also decision in Syres v. Oil Workers International Union, Local No. 23, 223 F.2d 739, 745 (5th Cir. 1955); Murray Polakoff, "The Development of the Texas State CIO Council," 378; Marshall, "Upgrading of Negroes," 189.

protectionism, leaders of the white local suggested taking steps to integrate the union, beginning with an election of a new bargaining committee to negotiate a new formal contract covering upgrades. It was a step that Local 254 had long resisted, with good reason. The old committee was filled proportionately by each local, with eight white and four black representatives, reflecting the rough racial division of the workforce. Before agreeing to select a new committee by a vote of the combined membership, the leaders of Local 254 extracted an assurance from their white counterparts that any new contract would still allow for some black upward mobility into skilled positions. The all-white committee elected by a majority vote of the combined membership, however, broke Local 23's promise, negotiating a contract with Shell that froze black upgrading by formalizing segregated seniority and lines of promotion.[31] As an added insult, it also excluded laborers from a wage increase that went to all whites in the operating-mechanical division.[32]

Black workers at Pasadena Shell encountered similar intransigency from white union members. The segregated upgrading plan adopted under the 1945 FEPC settlement at the refinery had gone nowhere. Few black positions had been created above the labor division, the result both of stalled job growth and the unwillingness of Local 367 or Shell management to designate any existing positions for black promotions. Frustrated with the lack of progress, Shell's black workers looked to break free of the unsuccessful segregated upgrading program. They asked Local 367 to represent a grievance to the company challenging the exclusion of black workers from jobs to which they would otherwise be entitled by virtue of their seniority. Predictably, the union's white leaders refused to take up the complaint, and they were similarly

[31] The new contract inserted the following clause: "Promotions, demotions, lay-offs, bidding, and other applications of seniority shall be made separately by division – i.e., Labor Division and Operating-Mechanical Division."
[32] Marshall, "Upgrading of Negroes," 189; Syres v. Oil Workers International Union, Local No. 23, 223 F.2d 739, 740, 745 (5th Cir. 1955); Chris J. Dixie, "Racial Discrimination - An Employer's Problem (From the Labor or Union Viewpoint)," *American Bar Association, Section of Labor Relations Law, Proceedings* (1956): 37–38.

unresponsive to requests to advance a provision in the next round of contract talks removing the racial qualifications on job bidding.[33]

Stymied in their attempts to address segregation through their unions, black workers from Shell, and later their counterparts at Gulf, would look to the courts for relief. In late 1953, John Holt, Vertis Harris and Quincy Bess, all members of Shell Local 367, approached the Houston NAACP labor committee for advice on how to sue their union. Just months earlier, Herbert Hill had convinced U. Simpson Tate to handle a similar request from Sheffield Steel workers through the union hierarchy. But while national NAACP officials still wanted to give the more progressive Steelworkers union a chance to "clean their own house," no one within the local Houston branch of the NAACP believed the that OWIU, and especially Local 367, would lift a finger to aid black workers. Thus, when the Shell workers reached out to the local branch, no one suggested further negotiation. Instead, the Shell workers were directed to Roberson King, a young professor of law at Texas Southern University and member of the local branch's legal redress committee, who agreed to take their case against Local 367.[34]

There was some irony that a challenge to employment segregation would reach the courts by way of the legal faculty at Texas Southern. The law school had been hastily created by Governor Beaufort Jester in 1948 to provide a "separate but equal" defense against Thurgood Marshall's suit to integrate the University of Texas School of Law. The state had at first been unable to find faculty for the school. Black lawyers in Texas declined offers of appointment,

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[33] Chris J. Dixie, "Racial Discrimination," 42–43; Murray Polakoff, "The Development of the Texas State CIO Council," 378; Marshall, "Upgrading of Negroes," 190. Dixie was a CIO attorney and liberal Harris County Democratic Party operative. He served as lead defense counsel in the suits against both the OWIU and the Steelworkers discussed in this chapter.

[34] Houston, TX Annual Report of Branch Activities, April 19, 1954. NAACP Papers, Group II, Series 3, reel 23; Lulu White to Hill, May 1, 1953, NAACP Papers, Part 13, Series A, reel 6 (on redress committee). See also, Murray Polakoff interview with Maceo Smith, Aug. 2, 1954, in Murray Polakoff, "The Development of the Texas State CIO Council," 377–378; Ray Davidson, *Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union* (Denver: Oil, Chemical and Atomic Workers International Union, 1988), 267.

refusing to play into Jester's naked ploy to keep UT segregated. All five of TSU's original faculty members were recruited from out of state, most of them with little to no legal experience. Roberson King was offered his position while still in his final year at the University of Chicago Law School, and reported for duty in Houston soon after graduation.[35] That history caused some older civil rights hands to doubt King's bona-fides. Lulu White, no longer officially part of the Houston chapter, derisively identified King in a 1953 letter to Herbert Hill as "that lawyer who went to the law school when we filed the Sweatt case." In the mid-1950s, not only Lulu White, but also many within the staff of the state and national NAACP, questioned the effectiveness of the Houston chapter and its commitment to the NAACP mission. Membership numbers in Houston had fallen under the leadership of Christia Adair and Rev. L.S. Simpson, and the chapter, once an important fundraising hub, failed to meet its financial obligations to the national office. Most national leaders though that Adair and Simpson had sacrificed the health of the chapter to their personal obsessions with excluding leftists from the membership and heading off challenges to their leadership from more activist factions. The rift with the national leadership, however, had an upside. Freed from the need to carefully manage relations with the CIO, the local chapter and Roberson King – young and with no connection to national labor or civil rights leaders – was happy to sue the oilworkers union.[36]

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[35] Marguerite L. Butler, "History of Texas Southern University, Thurgood Marshall School of Law: The House That *Sweatt* Built," *Thurgood Marshall Law Review* 23 (1997): 45–54. On King, see McKen Carrington, "Dedication," *Thurgood Marshall Law Review* 12 (1986): ix–x. King was not alone in challenging segregation. In the early 1950's some of TSU Law School's first graduates brought cases against segregation in Houston, including successful suits to open the city's golf courses and the Harris County courthouse cafeteria to black patrons. Those actions earned the ire of Thurgood Marshall, who disapproved of cases that might lead to the establishment of separate but actually equal facilities, endangering the grand strategy he was pursuing on the road to *Brown*. See Judge Mark Davidson, "The Desegregation of the Harris County Courthouse Cafeteria," *Houston Lawyer* (August 2010); Gillette, "The NAACP in Texas, 1937-1957," 194–195.

[36] Lulu White to Hill, May 1, 1953, NAACP Papers, Part 13, Series A, reel 6. The factional politics in the Houston chapter and tensions with the national leadership receive a comprehensive treatment in Gillette, "The NAACP in Texas, 1937-1957."

Although King would eventually become an expert labor litigator, the case he took up on behalf of Shell's black workers was his first foray into the subject. In January 1954, King filed suit against Local 367, asking a state district court in Houston to bar enforcement of the union's discriminatory contract and to award damages to Shell's black workers. He presented a mix of legal claims, influenced, perhaps, by his relative inexperience, but also by the generally unsettled nature of the law relating to labor unions and racial discrimination in the 1950s.[37] In the main, the case rested on a substantive argument: Local 367 had done economic harm to Shell's black workers by preventing them from exercising their seniority, a "valuable property right belonging to each individual employee… which enable[s] them to be promoted from lesser to more remunerative jobs." The suit did not dwell on the specific contractual mechanisms that kept Shell segregated, arguing broadly that Local 367 had acted "willfully, maliciously and unjustifiably" to "maintain" black workers with skills and seniority "within the labor department." King asked the court to find the union liable for actual damages in the amount of $500,000 (a rough figure he calculated by comparing the earnings of black and white workers with similar seniority over the term of Shell's latest contract with the union) and a further $500,000 in exemplary damages.[38]

King leavened his substantive case with a more ambitious claim grounded in rights "both expressed and implicit" in the Constitution. Discrimination in the union contract, he argued, "deprived plaintiffs of property without due process of law" in violation of the Fifth Amendment, and the union's bargaining history and handling of grievances ran afoul of further

[37] See the following discussion of the *Steele* precedent for the uncertain state of labor law, specifically the limited and technical nature of unions' "duty of fair representation," and questions about the proper remedy for racial discrimination.

[38] Holt v. Oil Workers International Union, No. 430-707, complaint, District Court, Harris County, TX (Jan. 12, 1954). Copy in possession of author. Because the Shell case was settled before trial, King's damage claims were never heard. King's rough method of calculating damages is revealed in testimony given in a later case. See Syres v OWIU Local 23, et al 257 F.2d 479 (Court of Appeals, Fifth Circuit, 1958).

constitutional requirements that union "representation be non-discriminatory, without difference as to race or color."[39] In seeking to apply due process and equal protection standards to union representation, King was, in a way, resurrecting the claims that C.W. Rice had offered on behalf of black workers in the late 1930s. Rice's 1937 lawsuit challenging the certification of a discriminatory railroad union and his proposed amendments to the Wagner Act had asked the government to secure the rights of black workers by prohibiting discriminatory unions from claiming the right to represent them. As a matter of legal doctrine, courts in the late 1930s had been unresponsive to efforts to hold private labor organizations to any antidiscrimination standard, and Rice's proposals to let black workers demand a separate bargaining unit were received unfavorably by pro-labor Congressmen concerned that divided representation would undermine the collective bargaining power conferred by exclusive representation. In the two decades since Rice's failed efforts, the experiences of Houston's black industrial workers had largely confirmed his warnings about white union "allies." Unlike the independent black union evangelist, however, King's plaintiffs had no plans for forging a separate bargaining relationship with Shell. Instead, the suit's request that Local 367's contract be enjoined "so long as… acts of discrimination continue" and until it agreed to "give… the negro employees… equality of representation," was aimed at reforming the union under court pressure.[40] Shell's black employees didn't want to destroy Local 367. Rather, they wanted to ensure they were accorded the equal benefits of its bargaining power by extending constitutional protections for black workers into the workings of the union itself.

To do so, of course, King would have to establish that Local 367 was not a private organization, but a state actor. His suit took a simple approach to meeting the burden. Because

[39] Ibid.
[40] Ibid.

the "rights, privileges, duties and obligations of [Local 367] are granted by the NLRA [National Labor Relations Act]," he submitted, the union should be "subject to constitutional safeguards and limitations" in their exercise. King was hardly the first lawyer to make the argument. In a 1944 case, the Supreme Court had considered the relationship between unions and the government and the restraints that might be imposed on unions' treatment of black workers. The case, *Steele v. Louisville & N.R. Co.*, was brought by one-time NAACP chief counsel Charles Houston on behalf of members of an independent black railroad union who had been included in a bargaining unit represented by an all-white railroad Brotherhood, which had used its exclusive status to bind black workers to a contract locking them out of desirable jobs.[41] The arguments Houston made in *Steele* built on those offered by C.W. Rice and his learned legal counsel James Cobb in their 1937 suit involving similarly-situated black coach cleaners in Houston.[42] Like Rice and Cobb, Charles Houston also based his challenge on Fifth and Fourteenth Amendment grounds, but he took the argument a step further. Instead of challenging the right of the government to certify a discriminatory union, Houston contended that the authority given railroad unions by federal law made them state actors themselves, and thus subject to constitutional limitation.[43]

In *Steele*, the Supreme Court gave Charles Houston half of what he wanted. Although the discriminatory union in question gained its power to contract on behalf of black workers from federal law, the Court decided that the workings and policies of the Brotherhood itself did not rise to the level of state action. At the same time, the Court held that unions had a "duty of

[41] Steele v. Louisville & N.R. Co., 323 U.S. 192 (1944).
[42] Houston acknowledged this link in a 1945 speech on railroad discrimination given at the Cuney Homes housing development in Houston's Third Ward. See *Informer*, July 21, 1945.
[43] Case background in Eric Arnesen, *Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality* (Cambridge, Mass: Harvard University Press, 2001), 206–209; Herbert Hill, *Black Labor and the American Legal System: Race, Work, and the Law* (Madison: University of Wisconsin Press, 1977), 106–112.

fair representation" that prohibited them from discriminating against black workers that were excluded from membership. Unions could draw distinctions in contracts related to seniority, types of work performed and skill, as these were all "relevant to the authorized purposes of the contract," but "discriminations based on race alone are obviously irrelevant and invidious," and thus could not be considered within the scope of "fair" union bargaining.[44] The Court offered a very particular grounding for its ruling. The duty not to discriminate again black non-members, it reasoned, was implied in the labor statutes that granted exclusive representation; it did not come from a constitutional source. Federal law had given unions powers "not unlike that of a legislature which is subject to constitutional limitations on its power to deny, restrict, destroy or discriminate against the rights of those for whom it legislates."[45] Unions, in the Court's logic, were thus analogous to state actors, and the duty of fair representation was something akin to due process and equal protection, but unions themselves were private actors not bound by the Constitution. The subtle distinction between a constitutional grounding and a statutory one created uncertainty about the applicability of the Court's decision. If the duty to represent workers fairly stemmed from labor statutes, did it only apply where unions gained their authority to contract on behalf of workers from the force of statute? In *Steele*, the black plaintiffs had been discriminated against by a union that had power over them but which they could not join by virtue of its whites-only policy. The union at issue had a duty to represent the black workers in the bargaining unit fairly in large part because the excluded black workers had no way to influence the decisions of the union that affected them. Would the duty of fair representation apply where black workers were eligible for union membership? What if they were covered by a

[44] Steele v. Louisville & N.R. Co., 323 U.S. 192, 192, 203 (1944).
[45] Ibid., 323:202. On the same day, the Court announced Wallace Corp. v. Labor Board, 323 US 248 (1944), which applied the *Steele* precedent to unions deriving their authority from the National Labor Relations Act.

discriminatory union contract by virtue of having actually joined the union, rather than by being included in a bargaining unit created by federal law?[46]

Although the Court had created a limited counterpoise to the power of majority rule and exclusive representation, it had stopped short of bringing the Constitution into union matters, and *Steele* represented only a short retreat from the general doctrine that federal labor law did not regulate the internal workings of private unions. In the late 1940s and early 1950s, lower courts had issued differing opinions on the extent of the duty of fair representation, and the plaintiffs in King's suit against Local 367 existed right in the middle of that doctrinal gray area.[47] Shell's black employees were represented unfairly by the union, but eligible for membership (some of them were in fact dues-paying members) and given full and equal voting rights in internal union elections. King was not deterred by the uncertainty. In addition to his constitutional arguments, King asked the state court to consider the union's statutory "duty… to represent all employees irrespective of race or color, without discrimination or the denial of substantial employment rights," stretching the *Steele* precedent to cover Shell's black employees "whether members or non-members of … Local 367."[48]

In the first suit filed against one of Houston's CIO unions by black workers, then, Roberson King had put forward a variety of arguments for barring racial discrimination by unions. All of them were on shaky doctrinal ground; none of them had any track record of success in other courts. Perhaps because of this uncertainty, King paired his legal approach to fighting discrimination with an administrative one, submitted a claim on behalf of Shell's black

[46] For a critical discussion of the limitations of *Steele*, see Herbert Hill, *Black Labor and the American Legal System*, 110–111. Although of no direct concern to Houston's black industrial workers, *Steele* also did not apply to unions that gained their position through market power, rather than through NLRB certification. The all-white building trades unions, for example, had no duty to admit black members, or not to discriminate against black workers by shutting them out of jobs.
[47] See, for example, Brotherhood of Railway Trainmen v. Howard 343 U.S. 768 (1952) partially expanding the duty; Williams v. Yellow Cab Co., 200 F. 2d 302 (3rd Cir. 1952) limiting it.
[48] Holt v. Oil Workers International Union, No. 430-707, complaint.

workers with the newly-created President's Commission on Government Contracts (PCGC).[49] Established by executive order in August 1953, the PCGC was a small outfit charged with receiving complaints and encouraging federal agencies and corporations to comply with non-discrimination clauses in federal contracts, including those held by most refiners to deliver gasoline and aviation fuel to the military.[50] Non-discrimination clauses were universal in federal contracts, but they were, according to a 1953 government study on the issue, "almost forgotten, dead and buried under thousands of words."[51] Much like the early FEPC, the PCGC lacked enforcement powers. With little formal authority, its director committed the Commission to using "methods of persuasion, education and conciliation" to convince executives to enforce non-discrimination within their own companies.[52] The NAACP had welcomed the PCGC's creation, but remained skeptical of its ability to produce any meaningful change. At the time King brought the Shell complaint, the PCGC had yet to take action on any case.[53]

Texas CIO officials were upset that King and Shell's black workers had circumvented the union by taking their complaints to the courts and to the federal government. The executive secretary of the state CIO thought that black workers had only encountered opposition from Local 367 because they had insisted on "full equality or nothing." In the same vein, John Crossland, who was a named defendant in the suit, argued that Shell's white workers were willing to accept slow changes, but he worried that the desegregation contemplated in the lawsuit

[49] Chris J. Dixie, "Racial Discrimination," 42–43.
[50] Exec. Order 10479. 18 Fed 4899. A dismissive view of the PCGC is Paul Norgren, "Government Contracts and Fair Employment Practices," *Law and Contemporary Problems* 29, no. 1 (Winter 1964): 225–237. A slightly more positive assessment is made by Timothy Thurber, "Racial Liberalism, Affirmative Action, and the Troubled History of the President's Committee on Government Contracts," *Journal of Policy History* 18, no. 4 (November 2006): 446–476.
[51] "Bias Held General in Federal Units" *New York Times*, Jan. 17, 1953. Quoting report on Committee on Government Contract Compliance, the predecessor to the PCGC.
[52] Comments of PCGC head Jacob Seidenberg at meeting of Texas Bar Association Labor Law Section, in Texas Bar Association, "Labor Law Report," *Texas Bar Journal* 19 (August 1956): 520.
[53] Timothy Thurber, "Troubled History of the PCGC," 449.

would spark a backlash. Crossland had been issuing the same call for gradual change for the past decade. Whatever his personal leanings, it was functionally a call for no change at all. Crossland was correct, however, in his insistence that Shell was just as complicit in segregation as was Local 367. Texas CIO leaders were particularly dismayed, then, that King's suit had only targeted the union and not the company. They worried that a court order binding Local 367 to negotiate a non-discriminatory contract, without a matching determination against Shell, would leave the union vulnerable to raiding by the AFL, which in the years since World War II had occasionally, although unsuccessfully, sought to peel away skilled workers from OWIU locals on the Gulf Coast. Crossland even speculated that Shell might use a court victory by black workers to build support for a company-friendly independent like the one that held the bargaining rights at Shell's Norco refinery outside New Orleans.[54]

The Shell case also caught the attention of top leaders in the CIO and NAACP. George Weaver, head of the CIO Civil Rights Committee, forwarded a copy of King's complaint to LDF lawyer Robert Carter with a covering note expressing interest in the case as "an unexplored route [that] could be used with effect in eliminating discrimination against up-grading and promotion." Of course, Weaver recognized the danger in black workers suing their own union. To prevent "the possibility of a group of workers in Shell Oil from agitating to go independent or into the AFL," Weaver thought it would be necessary to take "similar action" against the OWIU's rival unions operating in other refineries. In fact, over the past year Carter, Herbert Hill, and other NAACP officials, having noted the lack of progress in the refineries Hill visited on his 1952 tour, had been contemplating just such a blanket challenge to union discrimination in the oil industry. Instead of court action, however, the NAACP favored an approach that would ask the NLRB to

[54] Murray Polakoff interviews with Crossland and Texas CIO Executive Secretary Harrington, May 26, 1954, quoted in Murray Polakoff, "The Development of the Texas State CIO Council," 378.

declare discrimination practiced by either companies or unions an unfair labor practice that could be remedied through a cease-and-desist order issued by the Board.[55]

The NAACP's preference for bringing cases to the NLRB rather than to the courts owed in part to changes in federal labor law. The Taft-Hartley Act of 1947 had given the NLRB the authority to charge unions, in addition to employers, with unfair labor practices. That new power convinced courts that Congress had intended the NLRB to have the primary responsibility for regulating unions. In the handful of cases brought in the late 1940s and early 1950s that sought to challenge union discrimination under the *Steele* fair representation doctrine, judges had insisted that plaintiffs first seek relief through the NLRB.[56] The Board, however, had shown no interest in applying the duty to the labor unions in its jurisdiction.[57] Racial discrimination was not, after all, one of the unfair labor practices that federal law had specifically empowered (or required) the NLRB to stamp out. Despite this hurdle, the NAACP saw some advantage in pursuing claims through the NLRB instead of through the courts. The NLRB process, where the work of investigating complaints and bringing cases was conducted by Board lawyers at government expense, was accessible to cash-poor workers who might not be able to afford legal counsel. If the NLRB could be convinced that racial discrimination was indeed an unfair labor practice, it would immediately become a national standard that could be enforced by relatively simple petitions, rather than through drawn-out court challenges. The NLRB was also thought to

[55] Weaver to Carter, March 5, 1954. NAACP Papers, Part 13, Series C, reel 4. The description of Hill's NLRB suites against Southern refineries draws from Lee, "Hotspots in a Cold War," 349–355.
[56] NLRA Section 8(b)(3) established the right to "bargain collectively," in theory giving the NLRB jurisdiction over the duty of fair representation, which stemmed from the statutory collective bargaining power. The statue creating the National Mediation Board for the railroad industry did not have an equivalent of the "bargain collectively" language in the NLRA, leaving jurisdiction for railroad fair representation cases with the courts. See Archibald Cox, "The Duty of Fair Representation," *Villanova Law Review* 2 (1957): 169–174. On the exhaustion requirement and other complications posed by the Taft Hartley Act for fair representation claims, see Archibald Cox, "Labor-Management Relations Law in the Supreme Court October Term 1955," *American Bar Association, Section of Labor Relations Law, Proceedings* (1956): 19–20.
[57] Cox, "The Duty of Fair Representation," 174.

be a preferable route for the NAACP's union allies. Unfair labor practice complaints could be settled by implementing specific, tailored Labor Board orders, without exposing unions to the risks that would come with judicial decisions throwing out or enjoining enforcement of existing union contracts.[58]

In 1953 and 1954, Herbert Hill and his NAACP colleagues began planning their NLRB challenge to union discrimination in the refining industry. Hill was well aware that taking action against CIO unions had the potential to "negate the intent of NAACP objectives" by opening them up to raiding by the OWIU's AFL and independent union rivals, which held bargaining rights at several major refineries outside of the OWIU's Texas stronghold. Those union alternatives tended to be less open to desegregation than the OWIU, and in some cases excluded blacks from membership. Without union representation, black workers would have no recourse against racial discrimination practiced by employers, which was clearly legal. The solution, Hill believed, was for the NAACP to take "simultaneous action against all three groups of unions." Doing so would require convincing the NLRB that racial discrimination was a union practice demanding Board remedy. Hill and the NAACP's lawyers planned on presenting the Board with two arguments towards that end. First, they would assert that union discrimination violated black workers' statutory labor rights, including the right to fair representation, and was thus an unfair labor practice within the Board's purview. Second, the NAACP would maintain that unions were state actors subject to the Fifth and Fourteenth Amendment. That constitutional argument was ambitious - it asked an administrative agency to recognize a state action claim that had not been accepted in the courts – but it would add weight and breadth to the NAACP's case. Together, the two avenues of argument, if accepted by the Board, would cover a wide range of discriminatory practices. The duty of fair representation would bar unions from discriminating

[58] Lee, "Hotspots in a Cold War," 348–349.

against black workers in the bargaining unit. The constitutional argument, which built on the NAACP's cases challenging segregation in education, would prohibit unions from discriminating in terms of membership or operating segregated locals. "A victory in these cases," Hill predicted, "would mean much in eliminating all this [discrimination] throughout the South and would be a historic step forward in creating a new body of labor law to protect the rights of Negro workers." Before complaints could reach the NLRB, however, there was much preparation to do. While NAACP lawyers wrote briefs, Hill returned to Texas, Louisiana and Arkansas to locate plaintiffs from all three types of refinery unions and to begin the process of exhausting internal union remedies, which the NLRB required before it would hear worker complaints.[59]

While Hill was laying the groundwork for his NLRB filings, Roberson King and black refinery workers pushed ahead with their effort to fight union discrimination through the courts. Since filing his state court lawsuit against Shell Local 367 in January 1954, King had been studying the complex labor law landscape and consulting with U. Simpson Tate, who brought him up to speed with the NAACP's legal strategy.[60] NAACP staff in New York had expressed several concerns with King's Shell case. It opened the OWIU up to raiding, and by not also suing the company, the NAACP felt that King was putting all of the blame for discrimination on the organization's CIO allies. Moreover, the NAACP lawyers doubted that a Texas state court would stretch the duty of fair representation to include black workers who were members of the offending union, and were "considerably worried" that a loss in the suit would "make the actual

[59] Hill to Walter White, Sept. 3, 1954. NAACP Papers, Part 13, Series A, reel 13. Hill to William Pollard, June 7, 1955. Ibid. Pollard, an official with the NAACP's Los Angeles branch, watched the refinery cases closely, as CIO unions in Southern California refineries subjected black members to similar discriminatory measures. As a general rule, refineries in the upper Midwest and on the East Coast did not hire African Americans.
[60] Houston, TX Annual Report of Branch Activities, April 19, 1954. NAACP Papers, Group II, Series 3, reel 23.

practical problem of stopping these [discriminatory] practices harder than it was before."[61] The Shell litigation was presently on hold at the request of the state judge hearing the case, who wanted to see if talks with the PCGC might produce a settlement before going any further. In April 1954, while the Shell case was still in limbo, John Syres, secretary of Local 254 in Port Arthur, approached King about representing black Gulf workers facing discrimination under the terms of the contract that had just been negotiated by the OWIU's all-white bargaining committee. Herbert Hill wanted King to delay action on the new Port Arthur Gulf matter until he could make his blanket NLRB cases, worried that the Labor Board might point to King's suit and the possibility of legal remedy as a justification for continuing to ignore racial discrimination. Even worse, Hill feared that a legal ruling narrowly defining the duty of fair representation would blow a hole in the arguments the NAACP planned on offering the NLRB. King, however, would not wait on Hill and the NAACP.[62] In May 1954, he filed a class suit against both Gulf Oil and Local 23 on behalf of the membership of Local 254, seeking damages, a judgment voiding the discriminatory contract, and an order guaranteeing Local 254 a voice in future negotiations.[63]

King's brief reflected some of the NAACP's concerns with his previous case. This time he filed in federal court, where there was a greater chance of obtaining a far-reaching precedent, and he sued the company as well as the union, reducing the chances that white workers might avoid any judgment by disbanding their union. Again, he asked the court for damages and an order barring enforcement of the discriminatory contract, repeating his argument that segregated lines of promotion deprived black workers of their "valuable employment rights… solely on

[61] Memo from Jack Greenberg [undated], NAACP Papers, Part 13, Series C, reel 4; Alfred Lewis to LDF staff, Jan. 4, 1955, Ibid.
[62] Hill to Walter White, Sept. 3, 1954. NAACP Papers, Part 13, Series A, reel 13.
[63] Complaint, Syres v. Oil Workers International Union, Local 23 (May 25, 1954, Eastern District, Texas, Beaumont Division). King's filing is in NAACP Papers, Part 13, Series C, reel 4.

account of race and/or color… without due process of law." Now, however, King made a stronger argument for applying the duty of fair representation, placing much greater emphasis on the ways in which white members of Local 23 had used the power granted by the NLRA to violate black workers' rights to representation. If King were to convince a federal judge to extend the duty of fair representation to cover the members of Local 254, it would be important to demonstrate just how unfairly Local 23 had conducted the business of the joint bargaining committee. Despite assurances given to Local 254 that a bargaining committee elected by the full (white-majority) membership would not discriminate, the resulting contract clearly harmed black workers and rewarded whites. The power of exclusive representation conveyed to the joint committee by statute, King argued, had enabled a "conspiracy" by white union leaders and the company to "refuse to allow the properly designated representatives of Local 254, a component of the unit certified, the right and privilege of negotiating."[64] Black union members were thus powerless to influence the negotiation of the contract that governed their work, precisely the condition that the Supreme Court had sought to prevent with its ruling in *Steele*.

The trial court dismissed King's suit for want of jurisdiction, finding that there was no federal statute or constitutional question involved in a private union discriminating against its own members.[65] As King prepared an appeal to the Fifth Circuit, he received unexpected assistance. The OWIU International joined the case with an *amicus* brief urging the court to treat the union as a state actor bound by the Fifth and Fourteenth Amendments. King's two suits against Gulf Coast oil unions had convinced the OWIU general counsel that locals might in the future be found liable for damages for discriminating against members. In June 1954, soon after

[64] Ibid.
[65] The court also greeted favorably arguments made by Gulf that jurisdiction belonged exclusively to the NLRB and that the plaintiffs had not exhausted remedies provided by the union's own by-laws (presumably, appeals through grievance proceedings).

the Gulf Oil case had been filed, the general counsel had written all OWIU locals instructing them to get ahead of potential court rulings. "Steps should be taken immediately," he instructed, "to eliminate racially discriminatory practices… in employment, upgrading, demotion or transfer, recruitment, layoff or termination, rates of pay, or other conditions of employment."[66] Now, the case against the all-white Local 23, which existed in violation of the International's own rule against segregation, provided an opportunity for the International to seek the assistance of the court in enforcing that policy, hoping that it would do so, as urged in the brief, on constitutional grounds that would apply equally to the OWIU and to any potential union rivals.

If the OWIU wanted its locals to eliminate discrimination, it would get no help from the Fifth Circuit, which in June 1955 affirmed the district court's dismissal of the Gulf case. The Circuit majority based its decision on a limited reading of the duty of fair representation, drawing a distinction between *Steele* and the situation at Gulf, where members of Local 254 had been able to vote in the election that selected the joint bargaining committee. Where members had given their "voluntary consent," the court reasoned, a union's power to enact a contract that discriminated against them did not flow from the law, but from the members themselves. The Gulf bargaining committee, therefore, had no duty to represent the black members of the joint union without discrimination.[67] Although a very technical interpretation, the decision comported with the general thrust of existing labor law doctrine, which accorded unions broad discretion to negotiate on behalf of all workers. The logic of the decision put Gulf's black workers in a bind: they could remain in their union and have no legal protections against discrimination as practiced

[66] "Liability of Union for Racial Discrimination in Bargaining," letter from Lindsay Walden to locals, June 22, 1954. NAACP Papers Part 13, Series A, reel 13.
[67] Syres v. Oil Workers International Union, Local No. 23, 223 F.2d 739, 743 (5th Cir. 1955). This logic first appeared in Williams v. Yellow Cab Co., 200 F. 2d 302 (3rd Cir. 1952).

by the all-white bargaining committee, or they could withdraw their support, potentially leaving them with no union at all.

The decision came with a forceful dissent from Judge Richard Rives, a liberal Alabaman appointed by Harry Truman.[68] Judge Rives endorsed both the fair representation position originally presented by King and the state action arguments in the OWIU's amicus brief. Rives, in fact, saw state action at the very heart of collective bargaining. It was a union right guaranteed by the NLRA, which also provided automatic sanctions for the enforcement of union contracts and restricted the self-help options of black workers to negotiate independently of the union. Where unions drew such powers from the state, he argued, the Constitution required that "there can be no discrimination based on race or color;" nor could the law "lend its aid to keep any man down, or to prevent his advancement or promotion."[69]

Rives also doubted that a majority-white union could fairly represent black members without that duty being imposed by the court. The Fifth Circuit majority's distinction between non-members bound by force of statute to union contracts and members who had given their consent to be governed by the union, was, in Rives's dissenting view, rendered moot by the reality of racial division. Sounding much like C.W. Rice testifying in favor of amendments to the Wagner Act in 1940, Rives critiqued the system of union majority rule as inadequate to protect black rights. The NLRB, he wrote, by determining a bargaining unit "composed mostly of white persons," had put "a member of a local union who finds himself in the minority" in a position where he was "almost, if not quite, as powerless to protect himself as is a nonunion member." Surely Congress, when drafting the NLRA, had not asked a worker, "by his consent to union representation," to "forfeit his right to redress unconstitutionally discriminatory

[68] Rives was the former campaign manager for New Deal Senator and later Supreme Court Justice Hugo Black.
[69] Syres v. Oil Workers International Union, Local No. 23, 223 F.2d 739, 745 (5th Cir. 1955).

practices which he would have retained had he refrained from union membership." Only the courts, Rives opined at the end of his dissent, by bringing the Constitution into the workings of labor unions, could guarantee black workers both their labor rights to effective collective bargaining and their civil rights to be free from discrimination "solely because of race or color."[70]

Judge Rives's strong dissent in favor of enforcing both constitutional rights and a statutory fair representation duty against union discrimination – issues which seemed to call out for judicial clarification in the mid-1950s – gave King and Local 254 hope that the Supreme Court might hear an appeal.[71] While King petitioned the Court, Herbert Hill, having completed the lengthy process of locating plaintiffs in AFL and independent oil unions, was ready to advance his NLRB cases. In June 1955, Hill filed a raft of complaints on behalf of black workers at ESSO in Baton Rouge, represented by the Independent Industrial Workers Association, Cities Service in Lake Charles and the Carbide and Chemical Co. in Texas City, both organized by the AFL, and Lion Oil in El Dorado, Arkansas, where the OWIU had bargaining rights. Hill's cases presented the NLRB with the same constitutional and fair representation questions that King was asking the Supreme Court to consider, but they also contained lengthy descriptions of discrimination in hiring, training, promotion and pay, included in the hopes that the NLRB would create a full catalogue of prohibited practices. At the same time, Hill logged similar complaints involving the same refineries with the PCGC.[72] In the summer of 1955, then, only a year and a half from the filing of the first legal claim on behalf of

[70] Ibid., 223:746–7. Rives's recognition that black laborers faced barriers to democratic representation that were not faced by economic minorities put him at odds with the mostly color-blind body of labor law, although it was directly in line with a larger, evolving legal doctrine that justified counter-majoritarian judicial intervention in cases involving discrete and insular minorities.
[71] On the uncertainty in labor and discrimination law, see Cox, "Labor-Relations Management Law."
[72] NAACP Press release, June 1, 1955, NAACP Papers Part 13, Series A, reel 13. The PCGC complaints were filed April 20, 1955.

black refinery workers, Roberson King and the national NAACP, working in parallel, had brought the issue of union discrimination to the highest levels of judicial and administrative law making.

At the time, much of the attention of the civil rights community was on Thurgood Marshall's successful legal campaign against education segregation and the Supreme Court's May 1955 decision in *Brown II* ordering desegregation of the nation's public schools with "all deliberate speed." Soon, direct action movements to combat Jim Crow public accommodations in the Deep South would also fill headlines. On the Gulf Coast, however, a less visible war against economic discrimination was being waged. That this legal campaign remains in relative obscurity owes much to the actions of the Supreme Court and the NLRB, who would do their best to hide from the pressing issues of racial discrimination presented to them by black oilworkers, Roberson King, and the NAACP.

In November 1955, the Supreme Court granted King's writ of certiorari. In a curious move, on the same day it accepted the case the Court issued a one page decision reversing the Fifth Circuit, all without receiving briefs or hearing arguments.[73] The Court offered no opinion, only a reversal order citing *Steele* and related duty of fair representation cases. The per curiam decision left observers to guess at the full meaning of the Court's action. Presumably, the nine justices had accepted Judge Rives's dissenting position on fair representation, extending the bar on racial discrimination first outlined in *Steele* to cover all workers in unionized workplaces, whether they were members of the union or not. This alone was a meaningful victory, as it gave black workers a legal tool to begin attacking the most obvious forms of discriminatory representation, including separate black and white wage scales and promotion ladders. Beyond that, however, the Court provided little guidance. Did unions have an affirmative obligation to

[73] Syres v. Local 23, Oil Workers International Union, 350 U.S. 892 (1955).

do away with segregation when imposed by an employer? Was a union fairly representing black members if it made only incremental progress towards desegregation?[74]

In addition, the decision said nothing about remedy. Could fair representation claims be pursued through the courts, or did workers first have to take their complaints to the NLRB, which was charged with enforcing the rights granted under federal labor law? If it was the latter, black workers would find their complaints falling on deaf ears. In March 1956, the NLRB declined, without comment, to take action on any of the charges filed by Herbert Hill on behalf of refinery workers in Texas, Louisiana and Arkansas. A few months before, the NAACP had received encouraging reports that NLRB investigators had confirmed many of the discriminatory practices outlined in Hill's complaints, but the Labor Board, presumably, had decided that it had no grounds to act against those practices, continuing its long policy of refusing to consider cases involving fair representation and racial discrimination.[75]

Color-Blind Discrimination and the Limits of "Fair Representation"

While the outcomes of the legal and NLRB cases left King and the national NAACP without the strong national precedent they had hoped to achieve, a combination of pressure from lawsuits, the recent bare-bones Supreme Court ruling, and negotiations among the government, employers and unions began to produce progress on the Gulf Coast. In the summer of 1955, the chairman of the PCGC brought together top officials from the OWIU, Army contract officers,

[74] Harvard labor law expert Archibald Cox, considering the Court's "unusual" handling of the case, speculated that it had wanted to "bury a decision touching racial matters," and lamented that the Court "seems unnecessarily to have foreclosed an opportunity to clarify an important problem of federal labor law." See Cox, "Labor-Relations Management Law," 21.

[75] Lee, "Hotspots in a Cold War," 360–361; Legal Department Report, March 1956, NAACP Papers, Supplement to Part 1, reel 1.

and Shell Oil executives at the company's midtown Manhattan headquarters to discuss the discrimination complaint lodged by Shell's black employees in Houston. Both the local union and refinery management had provided a hostile greeting to the PCGC suit, but the top brass of the International, which was still facing legal action and damage claims in King's state court suit, and top Shell executives, who wanted to avoid even a slim chance of losing lucrative government contracts, were keen to push a settlement that would avoid sanction by outside parties.[76]

The higher-ups signed a memorandum of understanding in New York calling for the elimination of the most obvious forms of segregation at the refinery. The details of the new contract were hashed out in Pasadena, in negotiations between refinery bosses and the Local 367 bargaining committee, a group that contained no black representatives. The new union contract removed all formal elements of segregation, including the "white" and "colored" designations from segregated cafeteria areas, break rooms, pay windows and bathrooms, and created a "one line" system of pay and promotion. The all-black labor division was eliminated, as was the "general helper" classification that had been the starting job of all whites hired into the skilled departments of the operating and mechanical division. Under the new contract, the refinery was comprised of two divisions. All the Shell's existing black laborers were assigned to a new "service division," into which all new employees, black and white, would be placed when first hired. Current white workers remained in their lines of progression within the operating and mechanical division. Employees could advance out of the service division into one of the skilled lines on the basis of their seniority, in theory giving current black workers priority over new employees, but there was a catch. Shell's upper management was concerned that the "one line" system of promotion would privilege existing seniority above job qualifications. Specifically, they wanted to prevent senior black workers from moving into the skilled departments and rising

[76] Marshall, "Upgrading of Negroes," 190.

rapidly up the job ladder, leaping over whites with less seniority but greater existing skill levels. The contract between Shell and Local 367 contained two provisions that hampered the rise of senior black employees into the skilled ranks. First, management insisted that any employee making the jump from the service department – whether a newly-hired white worker or a black employee – have a high school diploma and pass a company-developed aptitude test. Second, the contract created a dual seniority system. Plant-wide seniority, representing the total number of years in the refinery, governed lay-offs, but promotions were based on seniority accrued only within a specific department. Workers promoting out of the service department would begin at the bottom of a new job ladder with a re-set seniority clock, ensuring that black transfers, no matter how long they had been with Shell, would remain behind whites currently in the skilled lines of progression.[77]

In its basic form, the Shell contract – with single lines of progression, tests and degree requirements to enter skilled departments, and dual seniority – became the model for the Gulf Coast refining industry. The Oilworkers International, which had been nagging its locals to eliminate facially discriminatory contract provisions for over a year, now took a harder line, refusing to sign off on any contract with segregated lines of promotion. The new stance was motivated not only by the recent Supreme Court decision and the desire to avoid liability, but also by a change in the landscape of American organized labor. At the end of 1955, the AFL and CIO announced that they would merge into a single body, relieving some of the fear that enforcing the CIO's more liberal racial policies would trigger a defection of white workers into

[77] Hill to Roy Wilkins and Robert Carter, April 1956, NAACP Papers, Supplement to Part 13, reel 12; Ibid. The settlement led to a mutually-agreed upon dismissal of the pending suit against Local 367. King's damage claims were never heard. See Holt v Oil Workers International Union, No. 430-707, judgment, District Court, Harris County, TX (September 22, 1955).

competing unions.[78] When the white members of the joint bargaining committee at Beaumont Magnolia walked out of November 1955 contract talks after black representatives advanced a "one line" plan, the union's district director forced the white local to accept the measure. Similar contracts were adopted with less white resistance in other locals. By April 1956Oilworkers president O.A. Knight was able to announce at a conference in Houston that the "one line" system was now the standard in the OWIU's Gulf Coast unions.[79] And the trend extended beyond CIO plants – even Humble Baytown consented to the one line system in PCGC negotiations initiated by a group of black employees.[80]

Although white union members in some instances objected to the new contracts, the speed with which they were adopted was an indicator of whose interests they served. Many black refinery workers balked at color-blind contracts they suspected would do little in practice to end segregation. In complaints to the NAACP and to black union leaders, they raised several issues. Particularly objectionable was the dual seniority system. Senior black workers bristled at the idea that a move into a higher division would leave them with less standing than a white worker who may have only recently been hired. In some cases, a promotion from the highest ranks of a refinery's labor department to the bottom level of the operating and mechanical division would also mean a decrease in pay. As many black workers saw it, the chance to transfer into the skilled division under the terms of the new contract was less a move up than it was starting over. The written aptitude tests raised similar objections. Why did black workers who had acquired years of on-the-job skills need to take a test to enter low-level training

[78] Robert H Zieger, *The CIO, 1935-1955* (Chapel Hill: University of North Carolina Press, 1995), 360–364. The merger, and the changing energy industry, prompted the OWIU to change its name to the Oil, Chemical and Atomic Workers Union (OCAW).
[79] Hill to Lee Merriwether, May 2, 1956; Hill to Roy Wilkins and Robert Carter, April 1956, NAACP Papers, Supplement to Part 13, reel 12.
[80] Marshall, "Upgrading of Negroes," 193.

positions in the skilled lines when those spots had previously been the entry point for new white employees, who usually arrived with no refinery experience at all?[81]

Perhaps the most concrete impediment to black upgrading was the high school degree requirement. Completion of high school had never been a prerequisite for employment in refinery labor departments, and for the many black workers without a degree, the new contract provision presented a barrier as insurmountable as the old racial bar and created a significant class of black workers who, as under segregation, would remain permanently confined to labor work. At the Beaumont Magnolia refinery, Herbert Hill and local black union leaders convinced the company to lessen the impact of the requirement over time by committing to a new policy of only hiring workers, black and white, with high school diplomas. Of the Gulf Coast refineries, Magnolia, which had only begun employing black workers during the war, was among the most committed to desegregation. In the first two months under the new "one line" contract, thirty-two of the refinery's 525 African American employees had qualified for the mechanical pool, the first step in the skilled lines of promotion.

At Pasadena Shell, in contrast, nearly a year under a new union contract produced only a single promotion of a black worker. After a meeting in Houston with black oilworkers, Hill wrote to his superiors in New York that "substantially, the segregated Labor Department remains," and the company's hiring policies, he reported, showed its clear "intent to evade the new agreement." Since 1949, Shell had required all new white employees to have completed high school. At the same time, the company had stopped hiring black workers with degrees. In negotiations with the PCGC over the new contract in 1955, Shell had argued that the degree requirement was simply a continuation of its existing policy for all workers entering the operating and mechanical division. But for any black worker hired since 1949, the diploma

[81] Hill to Roy Wilkins and Robert Carter, April 1956, NAACP Papers, Supplement to Part 13, reel 12.

requirement functioned exactly like segregated lines of promotion. Moreover, since the contract had gone into place, Shell had continued its policy. The two black workers it hired in 1956 lacked diplomas. In contrast, Hill was informed that Shell had hired several whites, who were "in labor positions for only two or three days; then they move up."[82]

Both Local 367 and Shell worked to subvert the supposed spirit of the new contract. Union meetings remained segregated, and black participation dropped as the local refused to represent black workers' complaints. The facility remained segregated as well. Shell managers asked black workers to continue eating in the separate black cafeteria, or, as a "compromise," accept food at the back door of the white facility. Local 367 wrote the refinery supervisor on the workers' behalf, reminding the company that segregated facilities violated the letter of the contract, but union efforts went no further. In protest of continued Jim Crow facilities, black employees began eating their lunches on a picket line at the plant gate. Quincy Bess, one of the original three complainants in the lawsuit against Shell, took it a step further and used the white bathrooms. He was removed from the refinery by a foreman and taken to the guard shack. While demanding to contact his union steward, a confrontation ensued – the company claimed Bess struck a guard; Bess said the guard had been hit by the door of the closet in which he had been detained – and Bess was fired for insubordination. Despite pleas from the NAACP, the company would not reinstate him, nor would Local 367 represent his grievance.[83]

While black Shell workers found their union characteristically unwilling to advance their interests, the members of Local 254 at Gulf did their best to push against the restrictive terms of the one-line contract. Relations between the black and white locals at Gulf, which had been hostile ever since the formation of the all-white bargaining committee in 1954, grew even worse

[82] Ibid.
[83] Keegan to Bess, June 25, 1956; Adair to Hill, July 11, 1956; King to Hill, July 17, 1956; Hill to Adair, July 23, 1956, NAACP Papers, Supplement to Part 13, reel 12.

in the aftermath of the Supreme Court decision. Local 23 was furious that King and Local 254 continued to press the damages portion of their lawsuit.[84] The case was no longer about ending discrimination, the white union protested, but a "vindictive" move aimed at bringing on bankruptcy. For its part, Local 254 charged the white union with continuing to shut its concerns out of contract negotiations. When the committee and the company came to terms on a one line system for the refinery, John Syres, Local 254 secretary-treasurer and lead plaintiff in the Gulf case, refused to ratify the agreement. Syres wrote International president O.A. Knight, asking him not to sign off on the contract until more favorable terms respecting experienced black workers' seniority could be negotiated. The Oilworkers international leadership, however, had no interest in pushing Local 23, confident that the new color-blind contract would immunize the union from any liability. "The situation has now changed," Knight wrote Syres, "and although the contract has not been approved to the full satisfaction of your group, it does show decided improvement… and conform[s] to the [OWIU's] stated policy [of non-discrimination]."[85]

With white-led unions unwilling to entertain black complaints, it was perhaps inevitable that the contracts would end up back in court. In 1957, Roberson King filed a lawsuit challenging discriminatory seniority provisions and qualifying tests in the union contract at Sheffield Steel.[86] From 1954 until May 1956, the two black members of Local 2708's four man

[84] King's Gulf litigation dragged on for another two years. By reversing the Fifth Circuit, the Supreme Court decision in *Syres* had cleared the way for the suit to be heard in district court. After the signing of the agreement between the union and Shell, King dropped the fair representation portion of his suit but continued to press for damages arising from discrimination under the terms of the previous contract. The case was tried before a jury. At the conclusion of the evidence, Local 254 withdrew as a party plaintiff, and the case went to the jury on behalf of the two named plaintiffs, Syres and Louis Warrick. The jury found for the defendants. King appealed to the Fifth Circuit, which turned him down, ruling that there was no basis for a damage claim because neither plaintiff had actually bid on (and been rejected from) a job in the operating division. See Syres v OWIU Local 23, et al 257 F.2d 479 (5th Cir., 1958). A year before, King had been more successful in a different damages suit involving a blatantly discriminatory contract. See Richardson v. Texas & N.O.R.R., 242 F.2d 230 (5th Cir. 1957).

[85] Hill to Roy Wilkins and Robert Carter, April 1956, NAACP Papers, Supplement to Part 13, reel 12. Hill distanced himself from King's damage suit, assuring Knight that it was "not the work of the NAACP."

[86] Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 156 F. Supp 430 (U.S. District Court S.D. Texas, Houston Division 1957).

Joint Security Committee had worked to dismantle Sheffield's segregated two-line system of job assignments and seniority. In mid-1955, Sheffield management had agreed to the basics of a one-line system that would allow employees on the formerly all-black Line 2 in each of the steel mill's divisions to transfer into the more skilled Line 1, but contract talks dragged on for months over the familiar and controversial issues of seniority and transfer qualifications.[87] Despite their obvious potential to hinder the promotion of senior Line 2 men, the black bargaining representatives had agreed to a testing requirement. The company had initially insisted on retaining an unimpeded right of selection and a probationary period for all transfers, both conditions that had applied when the bottom of Line 1 had been the arriving point for newly-hired whites. The union committee had accepted testing as a compromise. Better to have a testing system that was subject to collective bargaining, they reasoned, than cede to management the right to play favorites. The tests, however, proved less palatable to the black rank-and-file. Ninety black workers passed the test when it was first administered, with forty-five finding open Line 1 spots, but the majority of the mill's 1,300 African Americans declined to sit for the exam, refusing on the principle that tests had never been a requirement for white hires into the line, and, perhaps, also in the hopes that litigation might dispense with the measure.[88]

Black workers raised even more of an objection to the proposal for line-specific seniority put forward by white union representatives and the company. More so than in refineries, the loss of seniority and the requirement that Line 2 transfers start at the bottom of Line 1 would deter black Sheffield workers from moving into job ladders that could eventually take them to top jobs. In Sheffield's smaller and less skill-stratified divisions such as the wire mill, the difference between the lines was largely racial, with substantial overlap between Line 2 jobs and all but the

[87] Sheffield had no high school degree requirement.
[88] Bargaining history and worker testimony concerning tests are recounted in Ibid., 438-9.

top positions on Line 1, meaning senior black workers would face a significant drop in pay and status upon transfer into the bottom of the white line. Black representatives put forward a plan for allowing senior blacks to move into Line 1 mid-stream on the basis of relevant skills and plant seniority, but it was rejected, leading them to walk out of negotiations and withhold their endorsement of the final contract proposal. The contract was submitted to a vote of the roughly 1,700 white and 1,300 black union members in late May, 1956. It passed by a tally of 1,417 to 202, with most black members boycotting the vote.[89]

Even after passage of the contract, black workers challenged the new seniority and transfer system. Alfred James, a locomotive switchman in the open hearth division applied for an open locomotive engineer position, the next logical step up from his present job. Switchman was a black job, however, while engineer was on the crane line, the Line 1 progression in the open hearth. Although James argued that he met the skill qualifications for engineer, and had more seniority than any white worker eligible for the position, the company rejected his job bid. Locomotive engineers, it maintained, required knowledge of the related positions lower on the crane line. James would have to begin at the bottom if he wanted to transfer. Rather than start anew as a helper, James remained in Line 2, choosing long-term occupational immobility over demotion.[90]

The suit Roberson King filed against Sheffield and Local 2708 was the first to test the applicability of the fair representation standard endorsed by the Supreme Court two years earlier to color-blind contract terms that continued to keep black workers like Alfred James from

[89] Ibid., 434.
[90] Taylor v Armco Steel Corp., 373 F. Supp 885, 900, 911 (U.S. District Court, S.D. Texas, Houston Div. 1973). James was an intervenor plaintiff in the case.

enjoying opportunity on par with their white counterparts.[91] The exact meaning of fair representation remained murky. *Steele* had prohibited "obviously irrelevant and invidious" policies that discriminated "based on race alone," not simply measures that harmed black workers.[92] Although not established as a matter of doctrine, proving a violation of the fair representation duty would seem to require showing intent on the part of the union and the company to harm black workers, or at least demonstrating that contract terms burdened blacks where they did not burden whites. King's suit aimed at the latter, arguing that the testing requirement and line-specific seniority system violated the fair representation duty by hindering incumbent black employees while leaving incumbent whites untouched. No white worker hired before the date of the agreement would ever be subject to an aptitude test, the suit pointed out. In contrast, all black workers desiring to advance into one of the positions now filled by non-tested whites would have to first become test-qualified. The same logic applied to the loss of seniority upon transfer between lines. Although testing and line-specific seniority would in theory also apply to new white employees hired into Line 2, the proper comparison for assessing discrimination, King maintained, was between incumbents of different races. When making this evaluation, the history of now-prohibited discrimination could not be ignored. Because the policies in question only affected workers at the point of transfer between Line 2 and Line 1, they were inseparable from the old definition of the two lines, which was based on race alone. Moreover, because a newly-hired white employee would presumably never rise to a senior

[91] In one sense, even the old union contracts (prior to *Syres*) had been color-blind, in that they separated divisions as "labor" and "operating," rather than "black" and "white." Here, "color-blind" is not used to describe such euphemistic devices, but contract terms that could potentially apply to both black and white workers.
[92] Steele v. Louisville & N.R. Co., 323 U.S. 192, 203 (1944).

position in Line 2 before promoting into Line 1, it was exclusively senior black workers that would face the prospect of a drop in wages for accepting transfer.[93]

The fair representation duty, however, was narrow ground on which to build a claim of unlawful discrimination. The contract provisions that black workers viewed as discriminatory, Sheffield argued in district court, were instead undertaken solely with business purposes in mind. Tests were accepted in lieu of hiring discretion and probationary periods for new Line 1 workers, the company maintained, because they also would provide a measure of workers' "potential ability" to rise along the line of progression. Admitting any Line 2 worker into the skilled ranks without a test would risk clogging the skilled lines with workers who had been originally hired only for labor jobs, without the aptitude to progress in skilled work. Incumbent whites, although exempt from the test, had already been subject to screening and a probationary period akin to the aptitude tests now required of transfers. Likewise, the requirement that black workers begin at the bottom of Line 1 with a new seniority clock was justified by the company's professed need to ensure that workers had the proper skills to do their jobs. Sheffield managers testified that black workers could not be permitted to transfer mid-line on the basis of seniority because all of the positions on number one lines were "logically interrelated," with each job depending on experience with all the jobs underneath it. The district court agreed with Sheffield. The disputed contract elements, it ruled, were "based upon… compelling reasons of efficiency of operation," and thus were "essentially 'relevant' factors as defined by the Supreme Court" in *Steele.*[94]

Sheffield's justification of its policies in terms of business efficiency, and the district court's acceptance of them, was part of a general view that saw the issue of fair representation as a standard of process and intent rather than one concerned with discriminatory treatment. This

[93] Arguments discerned from district court decision.
[94] Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 156 F. Supp 430, 432, 434 (U.S. District Court S.D. Texas, Houston Division 1957).

understanding of fair representation fit nicely with Local 2708's claims that black interests were faithfully represented by the union and had been advanced by the current contract. The facts put forward by the union – that federal and state employment agencies had begun the segregation of the Sheffield workforce, that the union had continuously elected some black officers, that test-qualified black incumbents had transfer priority over new white hires, and that black union representatives had endorsed the bargain on aptitude tests – allowed the district court to laud the "excellent history of both the Union and the Company in the matter of protection of Negro employees' rights." The disputed provisions, it declared, "constitute the good faith exercise of the functions, powers and authorities of Sheffield and of the Union, are not in any way motivated by or tainted with any bad faith or racial discrimination, and are in all respects lawful."[95]

On appeal, the Fifth Circuit accepted the district court's judgments that the current contract was non-discriminatory and that Local 2708 had "act[ed] in good faith in [the] exercise of its discretion." Judge Minor Wisdom, author of the unanimous majority opinion, acknowledged that "it is undeniable that negroes in Line Number 2, ambitious to advance themselves to skilled jobs, are at disadvantage compared with white incumbents in Line Number 1," but he believed that "the Company and the Union went about as far as they could go… consistent with being fair to [white] incumbents and consistent with efficient management." There certainly existed ways that the contract could have helped remedy the impact of past discrimination on black workers and reduced the disincentives to transfer. Black transfers could have been placed along the Line 1 of progression in positions judged commensurate with their skills, even if that required the company to provide supplemental task-specific training. Alternately, they could have retained their rate of pay if it was higher than that accorded new workers at the bottom of Line 1, a proposal comporting with the general union principle that

[95] Ibid., 156:439–440.

more senior workers deserved greater compensation. Both measures would have shifted the burden of past discrimination from black workers and placed it on the company, a party that had profited from segregation and had effectively denied Line 2 workers training that was provided to whites in Line 1. Judge Wisdom, however, deferred to the company and the union. "Courts," he wrote, "when called upon to eye such agreements, should not be quick to substitute their judgment for that of the bargaining agency…" Not that the judge thought any such interference was justified. Placing black transfers into Line 1 mid-stream would "treat the white incumbents unfairly" and compromise "efficiency" by "giving negro applicants… job advantages unrelated to their qualifications." Rate retention was also uncalled for, as "a lower salary… is not discrimination on the ground of race." The pay in the bottom Line 1 job, he reasoned, was "the same for whites and negroes," and a black worker, no matter how senior was "certainly… not entitled to receive more than others in the same job."[96]

Judge Wisdom – who would gain acclaim in the late 1960s for rulings advancing school desegregation and tough anti-discrimination standards – left little doubt in his 1959 opinion that so long as there was not an absolute racial bar on promotion, black workers would find little remedy in the courts for ongoing job discrimination. "The problem before us is not unique," he wrote. "It is bound to come up every time a large company substitutes a program of equal job opportunity for previous discriminatory practices." Wisdom's understanding of "equal job opportunity" compared incumbent black workers to newly-hired whites, without grappling with the present effects of policies that had created divergent opportunities for longer-serving black and white employees. The court, however, "[could] not turn back the clock," and Wisdom would not allow "unfair treatment… in the past" to give black workers "claim now to be paid

[96] Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 263 F.2d 546, 550, 551 (5th Cir. 1959), *cert. denied*, 360 U.S. 902 (1959). Emphasis in original.

back by unfair treatment in their favor." Instead, he advised "time and tolerance, patience and forbearance, compromise and accommodation," to solve "a problem rooted deeply in custom." The union and Sheffield Steel had "made a fresh start for the future," he declared approvingly. "They have a contract that *from now on* is free from any discrimination based on race. Angels could do no more."[97]

Judge Wisdom's ruling clipped the wings of fair representation. It had been a weak and ambiguous standard to begin with, drawn out of labor statutes by the Supreme Court in order to stop all-white unions from abusing the power they could claim over black non-members. Black railroad workers had achieved considerable success convincing courts to apply the doctrine to block railroad Brotherhoods from enforcing contracts that muscled them out of jobs.[98] Outside of that industry, however, the fair representation doctrine lay fallow. It was routinely ignored by the NLRB, and had been given the weakest possible endorsement by the Supreme Court's per curiam opinion in the Gulf case. Although theoretically providing legal grounds for challenging racial bars to promotion, fair representation was rarely used towards that end. It remained uncertain whether the courts or the NLRB had primary responsibility for enforcing the duty, while black workers facing union discrimination lacked the funds or access to counsel necessary to pursue an uncertain fair representation claim through the courts. Where Roberson King and the Sheffield steelworkers had done so, they encountered a Fifth Circuit that prized incremental progress over real equality of opportunity, and that had given judicial blessing to testing and seniority rules that blocked or imposed high costs on black workers seeking greater reward for their work.

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[97] Ibid., 263:551.

[98] See Arnesen, *Brotherhoods of Color*, 209–215. Roberson King brought two such successful cases in Houston, Richardson v. Texas & N.O.R.R., 242 F.2d 230 (5th Cir. 1957); Conley v. Gibson, 355 U.S. 41 (1957).

Seen from the perspective of Houston's black industrial workers, Judge Wisdom's praise of angelic unions and employers rang hollow. At Sheffield, most new Line 1 jobs were filled by newly-hired whites, the result of both disincentives to black transfers and the company's informal policy of channeling new hires by race: whites to Line 1, blacks to Line 2.[99] A similar pattern prevailed in the refineries. In the early 1960s, University of Texas economist Ray Marshall undertook a survey of black upgrading in the Gulf Coast oil industry. Although the degree of black advance varied significantly by refinery, in general he found meager progress towards integration. Houston's Sinclair refinery was a standout. In 1958, three years after formal segregation ended, eighteen percent of Sinclair's black workers had advanced into skilled positions. Elsewhere, the record was dismal. At Humble, aptitude tests constituted the main barrier. One hundred and thirty of the refinery's roughly three hundred black workers had taken the test. Six had passed. At Pasadena Shell, the continuation of management's malicious 1949 policy of refusing to hire black workers with high school diplomas made black advance nearly impossible. Only eleven of two hundred and fifty black workers had high school degrees. Precisely three had risen to higher job categories by 1960.[100]

Adding to the impact of discriminatory employment provisions were technology and employment trends in the refining industry. Employment of production workers in Texas refineries peaked in 1953, as outsourcing, more efficient production processes and the substitution of machinery for muscle, allowed refineries to increase output with the same number of production workers. Those technological and organizational changes had particularly affected low-skilled labor. Now, in the mid and late 1950s, a wave of capital investment in new, self-regulating process-control technology began to automate production and threaten the jobs of

[99] See divisional and channeling data in Taylor v Armco Steel Corp., 373 F. Supp 885, 888 (U.S. District Court, S.D. Texas, Houston Div. 1973).
[100] Marshall, "Upgrading of Negroes," 190–192.

skilled refinery workers.[101] Hardest hit were workers in the operating divisions. The introduction of automatic instruments and continuous analyzers depleted the ranks of gaugers, and automatic temperature and flow controls reduced the need for various operators. Remote operation and data reporting killed off unionized clerks, and complex oil movement control centers rendered obsolete men in the pump houses.[102]

Between 1948 and 1960, the labor productivity of the average blue-collar refinery worker doubled; by 1966 it would triple.[103] The great enabler of these gains was the digital computer. In early 1959, the Texaco refinery in Port Arthur made industrial history by installing the first computer to control production processes. Developed in a Defense Department competition, the RW-300 monitored 50 gauges in the catalytic polymerization unit simultaneously, calculated optimum values, and readjusted controls on the fly. On March 15, 1959, Texaco executives proudly announced that their computer had achieved "closed loop control." What had previously taken a network of union men climbing over machinery to operate was now run silently in a room. Human intervention, if needed, was summoned by an alarm.[104] Texaco's RW-300 preceded by several years the widespread use of computers in refineries, but it was an ominous sign for skilled production workers. It also bode ill for the integration of the skilled workforce. Although perhaps lacking the dramatic impact of the aloof judge, abusive union, or racist hiring director, the advanced technology introduced into refineries posed just as much of a barrier to African Americans seeking to advance out of labor work. Not only did new technology reduce the demand for skilled workers (and thus the number of open positions at the bottom of the

[101] John E. Williams, "The Impact of Technology," 70–74.
[102] Belzung, MacNaughton, and Owen, *Anatomy of a Workforce Reduction*, 110–111.
[103] John E. Williams, "The Impact of Technology," 104–107.
[104] "Computer Runs Refinery Unit for Texaco," *Business Week*, April 4, 1959; "Processing Closes the Automation Loop," *Petroleum Week*, April 10, 1959. The RW-300 was developed by the Ramo-Wooldridge Company.

skilled departments), it put a premium on new skill acquisition, which was unavailable to workers stuck in the labor division.

The relationship between declining refinery employment and persistent segregation was highlighted by Ray Marshall, the UT economist, in his analysis of black employment at Gulf. During World War II, about thirty percent of the Port Arthur refinery's workforce was African American. By 1957, decreased demand for unskilled labor had reduced that figure to sixteen percent. The end of racially-distinct divisions in the refinery's 1956 employment agreement had allowed forty-six black workers into previously-white jobs by 1958, and a total of seventy-eight a year later. In the two year period from 1957 to 1958, however, total employment dropped from 5,567 to 4,827, and there were few openings in the lines of progression. Black upgrading subsequently came to a standstill, leaving ninety percent of black workers in the labor division. The numbers at Gulf were representative of the larger trends in the industry. In refining, the introduction of new technology had begun to stall the engine of upward occupational mobility, and occupational stasis in the workforce meant the persistence of segregation.[105]

A "Formidable Weapon" Against Union Discrimination

The NAACP had been watching the progress of industrial desegregation on the Gulf Coast. In 1956, Hill had declared the end of separate lines of progression in area refineries the "first significant breakthrough" in the "jim crow pattern" of Southern industry.[106] By the end of the decade, however, the enthusiasm of the NAACP's labor director had turned to bitter disappointment. Scant black upgrading pushed Hill to reverse his assessment of the Oilworkers International. He now accused the union he once thought to be among the most progressive in

[105] Marshall, "Upgrading of Negroes," 190.
[106] Muriel Outlaw to Moon (enclosing Hill comments), April 9, 1956, NAACP Papers, Supplement to Part 13, reel 12.

the South of "collaborat[ing] with employers in discrimination against Negro workers."[107] The charge was indicative of a larger shift in the NAACP's opinion of organized labor. In January 1958, Hill sent a batch of letters to the leaders of major unions and civil rights organizations, accusing labor of using participation in government programs like the PCGC to provide a "façade of action and responsibility" while doing nothing to counter the racism still prevalent in its ranks. A report he prepared for the NAACP's 1959 convention attacked the "significant disparity between the declared public policy of the National AFL-CIO and the day to day reality as experienced by Negro wage earners in the North as well as in the South." Hill's 1961 study, "Racism Within the Organized Labor Movement: A Report of Five Years of the AFL-CIO," was the most thorough and widely-distributed criticism, detailing "the institutionalized pattern of anti-Negro employment practices" existing in "many unions" in a "wide variety of occupations" in all areas of the country: segregated unions on the nation's railroads, all-white construction unions that kept black tradesmen off job sites, hiring hall discrimination in the nation's ports, segregated lines of progression in the paper, chemical, auto, steel, tobacco and other industries, and restricted apprenticeships and training programs – access to which, in an increasingly technological, high-skilled economy, would need to be put "at the heart of fair employment practice."[108]

Although Hill acknowledged a "few isolated actions… having eliminated separate seniority lines," including the 1955-1956 contracts at Houston area refineries and Sheffield Steel,

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[107] Ed Lashman (OCAW) to Hill, December 13, 1961, NAACP Papers, Supplement to Part 13, reel 12. Oilworker officials were taken aback by the accusation. An angry Lashman asked "why the hell are you taking pot shots at your friends," and warned Hill to look around and realize who the NAACP's allies were. "This is no kid's game we're involved in, and the harm you cause to your active supporters by it is mighty serious."

[108] Hill to Zimmerman, Jan. 8, 1958, NAACP Papers, Supplement to Part 13, reel 12; Hill memorandum for 1959 Annual Convention, Jan. 5, 1959, NAACP Papers, Supplement to Part 1, reel 2; Hill's 1961 report was reprinted in Herbert Hill, "Racism Within Organized Labor: A Report of Five Years of the AFL-CIO, 1955-1960," *The Journal of Negro Education* 30, no. 2 (Spring 1961): 109–118. See p. 109, 117.

strict segregation remained the rule in Southern industry.[109] Outside of the Gulf Coast, labor's record, if anything, had gotten worse in the second half of the decade. In the era of "massive resistance," local union leadership in some places did double duty in White Citizens Councils or the Ku Klux Klan. Racist organizations were well-represented in unions in Alabama and in Atlanta's steel and auto plants, where the UAW counted Georgia's Grand Dragon on its membership roll.[110] Black workers, often the strongest CIO supporters in the 1940s, had in several notable cases in the late 1950s turned against their locals, casting deciding block votes in favor of decertification.[111] In October 1962, the NAACP announced that they too were ready to challenge union discrimination, announcing a "legal attack on trade union bias" that would be waged, as the organization had tried to do in the mid-1950s, though the NLRB.[112]

This time, the NAACP planned a more aggressive legal strategy. Growing frustration with the AFL-CIO freed Hill and NAACP chief counsel Robert Carter from the need to carefully mind relations with organized labor. While the NAACP had previously only asked the NLRB to declare discrimination an unfair labor practice, which could be corrected without nullifying contracts or upsetting the position of locals, Hill and Carter now planned to ask the NLRB to rescind the certification of discriminatory unions. Decertification, the NAACP hoped, would become a sword over the head of American unions, compelling them to finally make good on their professed policies of non-discrimination.

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[109] Ibid., 115.

[110] Bruce Nelson, "'CIO Meant One Thing for the Whites and Another Thing for Us': Steelworkers and Civil Rights, 1936-1974," in *Southern Labor in Transition, 1940-195*, ed. Robert H. Zieger (Knoxville: University of Tennessee Press, 1997), 119–125.

[111] See decertification elections involving the IBEW at the South Wire Company, Carrollton, Georgia, and the AFL-CIO Metal Trades Department at the Savannah River Atomic Energy Project in Aiken, South Carolina. Detailed in Herbert Hill, "Racism Within Organized Labor," 111.

[112] "NAACP in Legal Attack on Trade Union Bias," press release. Sept. 1962, NAACP Papers, Supplement to Part 13, reel 11. The NAACP's shifting attitude and its role in driving the new round of NLRB complaints is also considered in Bruce Nelson, "Steelworkers and Civil Rights," 129–136; Lee, "Hotspots in a Cold War," 365–366.

The Labor Board, however, remained reluctant to take on racial matters. The NAACP's first major charge was aimed at the Steelworker local at Atlanta's Atlantic Steel. At Atlantic, the union local, under pressure from the USWA International and the threat of a lawsuit from black workers, had agreed in its 1962 contract to partially open the skilled lines of progression on the familiar prohibitive terms of departmental seniority. (In a sign of the contract's spirit, the company had kept non-production areas segregated and stopped hiring African Americans once it went into effect.) The NAACP asked the NLRB to decertify the local, arguing that it had abridged its duty of fair representation in negotiating a contract that did not safeguard black seniority on par with that of white workers. The NAACP's position was much like that advanced by King in his case against the Sheffield steelworkers, and the NLRB, just like the Fifth Circuit, would use the end of formal segregation as a way to avoid coming to terms with the discriminatory effect of union rules. The NLRB, in fact, declined to even hear the Atlantic Steel case, issuing a press release declaring its position that "it is not the function of the Board to sit in judgment over the substantive terms of a collective agreement, absent evidence that such agreement is… discriminatory on its face."[113]

If the NAACP were to make its case, then, it would need to find black workers willing to advance a complaint against a union that was so blatantly discriminatory, so obviously unfair in its representation, that the NLRB would find it impossible to look the other way. That need would take the NAACP back to Houston. As the other industrial unions on the Gulf Coast had dropped the formal racial restrictions in their contracts, the Independent Metal Workers union at Hughes Tool had held fast to its arch-segregationist policies. From 1946, when the IMW had ousted the CIO, until 1961, little had changed in Hughes's industrial relations regime. White

[113] NLRB Press Release, April 9, 1963, quoted in Herbert Hill, *Black Labor and the American Legal System*, 128. For case background, see Ibid., 127–128; Bruce Nelson, "Steelworkers and Civil Rights," 127–128.

IMW Local 1 controlled the union side of the negotiation process through bylaws that effectively gave it veto power over proposals from black Local 2. Nothing could be done without the approval of the white leadership and a vote of the combined membership. The company's workforce remained similarly divided into separate job ladders, pay rates, and seniority units. Local 1, in fact, had recently torpedoed a management proposal to open a small new sub-unit of the forge department with a single line of progression, insisting that no exemption to the plant's color line could be tolerated in the union contract. In the IMW, the NAACP would find just the sort of segregationist dinosaur it would need to bring before the Labor Board.

Two events in 1961 began to shift the landscape at Hughes in ways that would bring the IMW to the attention of the NAACP. First, in the IMW's 1961 re-certification, the NLRB had included a small, but important, provision: because the two locals represented a single bargaining unit, the board required that both the white and black unions sign off on contracts before they went into effect. Second, Hughes Tool agreed to boilerplate non-discrimination clauses in a pair of federal contracts awarded to the company to refurbish equipment for the space program and to manufacture specialized products for the Atomic Energy Commission.[114] Those two changes helped convince the long-powerless leadership of IMW 2 that it was time to make a move. During contract talks in the fall of 1961, Local 2 president Lorane Ashley, treasurer Ivory Davis, and councilors Columbus Henry and Alison Alton suggested the inclusion of language requiring the union, "within a period of two years or sooner," to "correct [the segregation of promotion lines] and provide greater and more equitable opportunities for all employees." Local 1 president T.B. Everitt refused to present the proposal to the company. Instead, the white local

[114] See trial examiner's report included in IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1596 (1964). The IMW had been recertified after defeating a representation challenge from the IAM. On government contracts, see Michael R Botson, *Labor, Civil Rights, and the Hughes Tool Company* (College Station: Texas A&M University Press, 2005), 163.

and Hughes bosses reached their own agreement extending all of the essential features of the old contract. Local 2 refused to sign. Despite the NLRB's joint signature requirement, the company put the new contract into effect in December 1961.[115]

The Local 2 leadership, many of whom kept abreast of the NAACP's legal work through their participation in the Houston chapter, devised a plan to build an NLRB case against the white local. In February 1962, the company invited bids for six new apprenticeships in the high-skill, high-paying Tool and Die department. Although the 1961 contract specified that the apprenticeships would be available only to whites, Ivory Davis nonetheless applied. When his name was not on the acceptance list, Davis, whose twenty-four years of Hughes service made him easily the most senior bidder, knew that he had been rejected because of his race. Because Local 2 was not formally a party to the union contract, Davis wrote Local 1 president Everitt requesting that the white local represent a grievance against the company for rejecting his bid. It was a clever method for setting up a challenge to the white local. The NLRB required unions to process grievances for all workers in the bargaining unit, whether they were members or not.[116] On the off chance that Local 1 might actually take up Davis's complaint, it would force Hughes management to defend the racially-exclusive apprenticeships, giving black workers an opportunity to confront the company with the non-discrimination pledge in its federal contract. It was more likely, however, that Everitt would refuse to take up Davis's cause, and thus provide grounds for a NLRB complaint.

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[115] IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1596 (1964). IMW 2 leadership roster is in McGlon to Hill, Oct. 14, 1957, NAACP Papers, Supplement to Part 13, reel 12.

[116] The Fifth Circuit had imposed this duty in 1945 in a case involving Hughes, holding that the USWA had in most cases an exclusive right, but also an obligation under the fair representation doctrine, to process all grievances in the bargaining unit, regardless of membership. See Hughes Tool Co. v. N.L.R.B., 147 F.2d 69 (5th Cir. 1945). The NLRB first interpreted this non-racial application of the fair representation principle as an unfair labor practice in Miranda Fuel, 140 N.L.R.B. 181 (1962). That precedent would help build the eventual NLRB case filed by Hughes workers.

That is precisely what happened. After a month without hearing back from Everitt, the black local filed an unfair labor practice charge with the Houston NLRB office, alleging that Local 1 had discriminated against Davis because of his race and his non-membership in Local 1. Following an investigation by NLRB staff, the Board's general counsel announced in August 1962 that it would take the cause of Ivory Davis and Local 2 before a board trial examiner. It was the first case based on racial discrimination that the NLRB had agreed to hear in its twenty-seven year history. A week later, Local 2, lacking its own counsel, asked Robert Carter and the NAACP to come on board. Carter jumped on the case. In the blatant discrimination evident at Hughes, Carter saw an opportunity to go well beyond the narrow grievance issue presented in Local 2's original complaint. The situation at Hughes Tool, he believed, provided an opportunity to demonstrate that "basic constitutional principle[s]" established a "right to equality in job opportunity" that was "equally as basic, if not more so, than the right to an unsegregated education."[117]

A mere finding by the Board that Local 1 had failed in its duty to represent Davis, however, might produce only a limited and specific remedy. To bring the big finding Carter wanted, he would need to expand the case. Carter amended the original unfair labor practice complaint to include a request that the NLRB decertify the IMW. The brief he presented to the Board trial examiner struck at a range of union discrimination. Unions with segregated locals or that discriminated in membership, the NAACP filing maintained, could *never* meet the duty of fair representation because they denied black workers the right to "participate in the selection,

[117] "NAACP in Legal Attack on Trade Union Bias," press release. Sept. 1962, NAACP Papers, Supplement to Part 13, reel 11. The parallel to *Brown* was widely noted. After publication of the trial examiner's report, for example, the American Jewish Congress commented that "the Hughes Tool case will… mark a development in the field of labor relations comparable to that achieved in the school desegregation cases decided by the Supreme Court in 1954." See, American Jewish Congress newsletter, March 14, 1963, NAACP Papers, Supplement to Part 13, reel 11.

instruction and supervision" of the "officers of the white local, which is the actual policy maker and bargaining agent." If a union was structurally incapable of providing fair representation, Carter argued, it obviously should not keep its NLRB certification. Discriminatory practices also required decertification. Fair representation, in the NAACP's view, imposed upon unions an "affirmative duty" to oppose contract terms or employer practices that "discriminated against [black workers] in their status as employees." Where separate lines of promotion, all-white apprenticeships and training programs, or discrimination in hiring existed, it was evidence, Carter argued, that unions were hostile to minority members and were unwilling or unable to provide fair representation. Again, the remedy suggested was decertification, so that a new bargaining agent willing to meet its obligation to minority members might be elected instead.[118]

Carter knew that the duty of fair representation, even in this aggressive presentation, was a weak foundation upon which to build a major antidiscrimination precedent. It raised questions of intent and good faith that might provide cover for unions eliminating some, but not all, racial restrictions, or unions that advanced bargaining positions that were less discriminatory than those preferred by management, but stopped short of securing equality of opportunity. A constitutional finding would be much stronger. Carter offered two theories by which the NLRB might apply constitutional limitations to unions: First, a positive theory arguing that the NLRB was obligated to prevent unconstitutional acts by unions, which gained their exclusive authority from the federal government and were "thus bound by the Fifth Amendment not to violate the rights of Negro employees it represents." Second, that the NLRB was itself "governed by the

[118] Brief of the Charging Party, Cases No. 23-CB-429 and 23-RC-1758, in NAACP Papers, Supplement to Part 13, reel 11. Acceptance of this interpretation of the fair representation duty would bring the NLRB in line with the standard implied by the Supreme Court in its per curiam *Syres* decision.

Constitution" and therefore barred from certifying unions that discriminated on the bases of race.[119]

As the date of the trial examiner's hearing approached, Local 1 attorney Tom Davis worked to avoid a showdown that might result in the decertification of the union. At his urging, Local 1 proposed merging the two unions into one combined membership with a commitment to eliminate segregation in the next contract. Seeing signs of a settlement, the NLRB pushed back the date of the hearing until December 1962. Carter counseled Local 2 not to accept the deal. The merger proposal, he warned, had no concrete plans for eliminating segregated lines of promotion or for advancing black workers into apprenticeships.[120] The black local met in November to consider the offer. Lorane Ashley wanted to accept the pro forma proposal, but Ivory Davis and Columbus Henry gave the membership reason to suspect Local 1's intentions. The merger proposal, they pointed out, included plans to provide proportional representation to blacks in the resulting union – four seats on a twelve member council, three seats on an eight man grievance committee, and three on a nine person negotiating body – all numbers that assured Local 1 would remain in control. The membership heeded the warnings of Carter, Davis, and Henry and voted to provide a counteroffer to Local 1 to negotiate an agreement, cosigned by the NLRB, containing "methods, means, assurances and guarantees that discrimination and segregation in the union and in the union's treatment and representation of employees… be eliminated." The white local turned down the offer. The experience confirmed Local 2's suspicions and hardened its stance. In January 1963, Henry ousted Ashley from the presidency of the black union, ending the risk that it would settle.[121]

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[119] Memorandum Supporting Motion, Case No. 23-RC-1753, in NAACP Papers, Supplement to Part 13, reel 11.
[120] Houston *Chronicle*, Nov. 1, 1962; Carter to Ashley, Nov. 28, 1962, NAACP Papers, Part 23, Series A, reel 41.
[121] Trial examiner's report, IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1596 (1964).

Local 1's attorney used the December 1962 hearing to urge the trial examiner to limit his ruling to the grievance matter, sparing the union's certification. His position played to the ambiguities of the fair representation standard. The segregation of the IMW, he argued, was not the product of malice on the part of Local 1; it had long been preferred by Hughes's black workers, dating back to the founding of the HTC in the 1920s. And when the leadership of Local 2 brought their NLRB complaint, Local 1 had acted in good faith to remedy discrimination with its offer to integrate the union. It was a case where "angels could do no more," Davis argued, quoting Judge Wisdom's opinion in the Sheffield Steel case three years prior, and showed Local 1's efforts to satisfy the standard of fair representation. The NLRB, he suggested, should not decertify the union but uphold that effort by ordering the two unions to combine and begin discussion on a new contract. In a sense, Davis was correct about the history of segregated unionism at Hughes. The HTC had bitterly opposed the integrated CIO in 1940, and only after splitting its own locals along racial lines did the Steelworkers gain a majority of black support. But black Hughes workers had always based their preference for segregated representation on the principle of preventing white domination of a combined union. Since the IMW resumed bargaining rights at Hughes in 1946, segregation had never provided an independent voice. In fact, the structure of the IMW had provided black workers with no effective representation at all, leading them to demand that the NLRB provide protections from discrimination that could never be achieved working within the IMW's current structure.[122]

The trial examiner issued his findings on February 28, 1963. In short, it was a complete victory for the NAACP and Local 2. On the narrowest issue, the examiner found that Local 1's failure to grieve Davis's complaint, regardless of his membership in Local 2, was an unfair labor practice. More importantly, he brushed aside the white local's claims of acting in good faith,

[122] Ibid., 1599, 1606.

instead endorsing the NAACP's position that segregated locals, discrimination in membership and discrimination in contract terms all violated Local 1's affirmative duty to fairly represent the black workers in the bargaining unit, and should result in the decertification of the IMW. The trial examiner reached his conclusions on the basis of the statutory duty of fair representation. Whether the NLRB was bound to withhold certification from, or otherwise discipline a union that "uses its power in racially discriminatory ways [in] violat[ion] of the Federal Constitution as recently construed in recent Supreme Court decision," was a matter for the full Labor Board to decide, although, he added, "I incline to view that this argument has merit."[123]

Robert Carter greeted the release of the trial examiner's report with great excitement, calling it "a most significant legal development in the field of race discrimination." In a letter to the NAACP board, he predicted that it was "quite likely that the Board will follow in toto [the] recommendation" of the trial examiner. A strong precedent in the Hughes case, he wrote, would allow the NAACP to "take a very firm position" against facially neutral devices that limited integration, including "contracts… [in] which Negroes still remain in lower job categories, but are permitted to move onto the general promotional line, but at the cost of loss of seniority." In any event, he assured, "we are presently on top."[124]

Carter's confidence was aided by a growing recognition in Washington that something had to be done about employment discrimination. On the same day the trial examiner's report was issued, President Kennedy presented a special message on civil rights, in which he drew attention to economic inequality and informed Congress that he had "directed the Department of Justice to participate in [the NLRB] cases" and "urge[d] the National Labor Relations Board to take appropriate action against racial discrimination in unions." The focus on economic injustice

[123] Ibid., 1601.
[124] Carter to Wilkins et al., Feb 28, 1963, NAACP Papers, Supplement to Part 13, reel 5.

continued throughout 1963. On August 28, thousands gathered in Washington for the March for Jobs and Freedom, where speakers pressed Congress and the President to take action against employment discrimination. The following day, Kennedy swore in Howard Jenkins, Jr., a former Howard Law School professor, as the first African American member of the NLRB.[125]

More than a year would pass between the release of the trial examiner's report and the full Board's ruling in the Hughes case. Local 1 had protested the examiner's finding, requiring a new round of briefs to be drawn up.[126] As time passed in the summer and fall of 1963 with no news coming out of the NLRB, Carter feared that the Board was delaying in hopes that Local 1 and 2 might come to a settlement.[127] Back in Houston, Local 1 was also eager for a resolution. The Steelworkers had filed notice that they intended to challenge the IMW for representation rights at Hughes once the outstanding NLRB case had been decided. In the meantime, the union's 1961 contract was nearing its expiration and Hughes management was using the pending case to avoid negotiations with the union. In October, Tom Davis wrote Houston Congressman Albert Thomas and Texas Senator John Tower asking them to press the NLRB to demand a settlement. The IMW, he told them, was being "used as a political football by the top echelons of the [Kennedy] administration" to demonstrate its commitment to civil rights. Meanwhile, Davis complained, "this political pussyfooting around has stripped the union of its usefulness as a bargaining agent."[128]

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[125] Lee, "Hotspots in a Cold War," 369; "White House Special Message on Civil Rights," Feb 28, 1963. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. http://www.presidency.ucsb.edu/ws/?pid=9581; *New York Times*, Aug. 30, 1963.

[126] The Department of Justice, the UAW and the ACLU all joined Local 2's side as amici. The ACLU in particular argued for a far-reaching constitutional determination, and asked the NLRB to take the lead in antidiscrimination practice in order to provide relief for workers who might otherwise be deterred by the time and expense of litigation. See Brief of ACLU as Amicus Curiae before the NLRB, Case Nos. 23-CB-429 and 23-RC-1759, filed July 15, 1963. Quoted in Herbert Hill, *Black Labor and the American Legal System*, 130–131.

[127] Carter to NLRB, Dec. 2, 1963, NAACP papers, Part 23, Series A, reel 41.

[128] Henry to Carter, Oct. 28, 1963, NAACP papers, Part 23, Series A, reel 41.

The impending contract expiration increased the pressure on Local 2 to accept a settlement. Local 1 sweetened its offer to integrate the unions by promising to open the white lines of promotion, but the proposal was filled with discriminatory measures, including the requirement that all black workers, but not newly-hired whites, pass aptitude tests before transferring or moving into apprenticeships. Carter again asked Local 2 to stand firm. In a November 8 letter to Columbus Henry, the NAACP lawyer acknowledged that it was now possible to get a decent contract out of Local 1 and the company, but he urged Henry and his men "to hold out for a little longer so that we can make some law that will be helpful to Negro workers throughout the country."[129]

As Henry continued to resist a settlement, the political issues surrounding the case in Washington grew more complex. To help improve the chance of passage of his proposed civil rights act, President Kennedy had introduced the bill to Congress in June of 1963 without controversial employment discrimination provisions. In September, the House Judiciary Committee amended the bill to include them. As Lyndon Johnson worked to secure passage of the Civil Rights Act after the death of President Kennedy, worry appeared that a ruling by the NLRB prohibiting union discrimination might reduce support for a new federal agency to accomplish a similar goal, upsetting the carefully-orchestrated campaign by the President and Congressional leaders to shepherd the bill past determined Southern opposition.[130] In the end, both would come to pass. The Civil Rights Act cleared a Senate filibuster on June 19 and conference committee soon after. On July 2, the same day President Johnson put his pen to the landmark bill, the NLRB announced its ruling in the Hughes case.

[129] Carter to Henry Nov 8, 1963, NAACP papers, Part 23, Series A, reel 41
[130] Lee, "Hotspots in a Cold War," 371.

The *Hughes Tool* decision ended nearly three decades of NLRB inaction on racial discrimination in American industry. On the most basic issues, the Board was in unanimous agreement: Local 1 had committed an unfair labor practice by refusing to represent Ivory Davis's grievance, and the union's certification should be rescinded. But the five member panel was split on how far the Board should go in establishing a precedent against racial discrimination. Convinced that "the Board should not undertake to police a union's administration of its duties without a clear mandate from Congress," a two member minority of the Board argued for finding against Local 1 on the narrowest of grounds. Nothing in the labor statutes, they insisted, bound the NLRB to enforce the duty of fair representation as divined by the courts, nor were there grounds for the Board to assume an anti-discrimination mandate. In an obstinately colorblind opinion, the minority laid out a path by which the NLRB could continue to ignore union racism. Local 1, it argued, was guilty of an unfair labor practice because it had turned down Ivory Davis on the basis of his non-membership in the union, not because of his race. Likewise, it believed that Local 1's certification should be revoked because it had negotiated a contract separately from Local 2, in violation of the NLRB's 1961 requirement that both locals must consent to all agreements. The fact that the locals were segregated by race was irrelevant.[131]

Had it carried the day, the minority opinion would have continued the NLRB's long-standing inattention to the problems of black workers. But the majority, led by new appointee Howard Jenkins, Jr., was ready to expand the NLRB's reach. Befitting the administrative setting and the nature of labor law, Jenkins's majority opinion was technical and sparse, with little acknowledgement of the decision's historical import. The breadth of the ruling, however,

[131] IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1589, 1578–1593 passim (1964).

ensured that it would reach black Americans facing a range of discrimination in unions regulated by the NLRB. By accepting the trial examiner's report in full, the NLRB in effect wrote the anti-discrimination theories presented by Robert Carter and the NAACP into administrative law, holding for the first time that union discrimination in membership, segregation of locals, and "the negotiation of racially discriminatory terms or conditions of employment," were unfair labor practices. That finding gave the Board grounds to use all the tools it had available, including cease-and-desist and back pay orders, various affirmative remedies, and if necessary, decertification, to purge discrimination from unions. But Jenkins did not stop there. The majority opinion acknowledged "certain constitutional limitation upon the Board's powers… specifically that the Board cannot validly render aid… to a labor organization which discriminates racially when acting as a collective bargaining agent." In accepting that discrimination, "when engaged in by such a representative, cannot be countenanced by a Federal agency," the majority opinion implied that the NLRB not only had the power to act against union discrimination, it now had a constitutional obligation to do so wherever it was found to exist.[132]

On the day of the decision, Robert Carter declared *Hughes Tool* "almost revolutionary," and praised the NLRB for "giving Negroes a new tool in their quest for equal opportunity." He wasted little time on a victory lap. Over the next month, Carter made plans to put the new precedent into wide use. In letters sent to all of the NAACP branches, he informed local leaders of the recent victory "mak[ing] it unlawful for labor unions to discriminate against Negroes on the grounds of race and in terms or conditions of employment." Carter instructed the branches to publicize the new standard and to send complaints from workers to NAACP headquarters in New

[132] Ibid., 1574, 1577. The decision cited recent state action and segregation cases to support its constitutional finding: Shelley v. Kraemer, 334 U.S. 1; Brown v. Board of Education 347 U.S. 483; Hurd v Hodge, 334 U.S. 24; Bolling v. Sharpe, 347 U.S. 497. Several commentators noted the technical nature of the opinion. In fact, the majority's reasoning and its implications are in important places left to be divined from the supporting cases named footnotes.

York, where "we are prepared to spend a major part of our time assisting employees who desire representation before the Board and in helping them file complaints." Carter saw *Hughes Tool* as an instrument to attack obvious discrimination where it existed and as a foundation upon which he would build a doctrine prohibiting additional practices that kept black workers from advancing into skilled work. "This is a formidable weapon for the NAACP," he assured branch leaders. "With it we can seek to eliminate employment discrimination."[133]

If *Hughes Tool* marked the beginning of a new chapter in Carter's campaign against discrimination, back in Houston it would bring to an end a long chapter in the history of unionism at Hughes Tool. With the NLRB case finally decided, Hughes workers would soon vote in a representation election pitting the Steelworkers union against a new, integrated IMW. The long battle with Local 2 had damaged the IMW in the eyes of many Hughes workers. Over the final year of proceedings, Hughes had operated without a valid contract in place, leaving workers guessing how they would be affected by changes in the lines of promotion and seniority that were clearly on the horizon. Declining employment at Hughes added to workers' insecurities. Mechanization and automation had reduced the company's ranks dramatically. In 1946 the company had employed about 6,000 workers, a figure still somewhat inflated by military production. In 1957, the payroll had fallen to 2,600. Battered by shocks in the oil market, that number dropped to 2,000 by 1960, where it leveled off.[134]

Perhaps just as important, the NLRB ruling ensured that whichever union prevailed in the August 1964 representation election would be integrated. Segregation had always been a central principle of the IMW, one that white workers could count on both the union and the company to defend. Just days after the July 2 decision, the NLRB had ordered flyers posted around the plant

[133] Carter to branch presidents, August 31, 1964, NAACP Papers, Supplement to Part 13, reel 11.
[134] Botson, *Hughes Tool Company*, 163.

announcing the new rules of labor relations at Hughes. Signed by old Local 1 president Everitt, the notices declared that "in the event [the IMW] should become the bargaining representative of the employees: WE WILL NOT execute any contract which discriminates among employees as to job opportunities, or any other term or condition of employment, because of race or color." Despite these changes in the labor landscape at Hughes, the IMW had still managed to hold the support of a good number of workers – but not enough to survive. Well over ninety percent of hourly Hughes workers voted in the representation election on August 2, 1964. The Steelworkers won by only seventy-five votes.[135]

Hughes Tool had long been the focal point of the union question in black Houston. From its founding, the Hughes Tool Colored Club had been the centerpiece of black independent unionism in the city, and from the New Deal onward, it and its Independent Metal Workers successor had been a target of black workers and activists convinced that it, alongside its white counterpart, was a tool of management and an institution guaranteed to maintain black subordination in the workplace. The demise of the segregated IMW had been precipitated by the efforts of black workers, not only by Ivory Davis and his Local 2 brethren, but by the scores of black refinery and steel workers who had laid legal groundwork in their fight for economic equality in the 1950s. It was perhaps ironic that the Hughes union had produced the precedent-setting case against union discrimination. From the beginning, the independent black union at Hughes had been built on the conviction that black workers would never find equality in union with white workers. Independence and segregation had been the HTC's response to exclusion. History, however, had shown that a segregated independence was no match for employers and white union members who reaped advantages from maintaining the color line. And so it was

[135] See Appendix, IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574, 1608 (1964).

another principle of black independent unionism – that the white-dominated labor movement could only be reformed from outside its ranks – that had brought about the end of workplace segregation at Hughes, and with it the destruction of both Local 1 and Local 2, the last remaining independent industrial unions in the city. With their actions helping to write anti-discrimination into the nation's labor policy, Hughes's black workers now had, for the first time since that company's founding, a real union where they had equal standing and an equal claim on the right to realize the just gains of their work.

Conclusion: *Hughes Tool*, Title VII, and Equal Opportunity in an Era of Union Decline

For a decade, Houston's black refinery and steel workers, Roberson King, and the NAACP had endeavored to craft a workable remedy for employment discrimination from the materials of constitutional and labor law. That effort had been born from black workers' frustrations, as they found their own locals – institutions built to protect workers' rights and advance their material well-being – content to let them labor under an inequality of both. To be sure, the oil and steel unions had produced real material advances. Even as black oil and steel workers were segregated on the job, they, just like their white co-unionists, were part of a Gulf Coast labor aristocracy that earned significantly more than many of their counterparts in other industries. At times, these CIO unions had even shown a willingness to use their bargaining power on behalf of black equality. And even as discrimination and industrial segregation remained the overriding rule in the 1930s and 1940s, Houston's black CIO members and boosters had recognized a need to balance their quest for equality against the need to hold the support of white workers, optimistically chalking up the unwillingness of white union leaders and members to integrate the job ranks to "growing pains" along the way to realizing the CIO's official philosophy of nondiscrimination.

The belief that equality could be achieved through strong CIO unions was not just a hope; it was a conviction grounded in a view of industrial democracy as a force that would align the interests of white and black workers. Unions needed members, and equality would be the price of black workers' support. Carter Wesley, Richard Grovey, and black CIO members, however, had misread the incentives facing labor unions and white workers. Their optimism proved unfounded. The democratic imperative that had prompted union leaders to offer steps towards

desegregation during organizing campaigns faded as unions consolidated their positions after the war, and union democracy became a tool to thwart desegregation, not a force to further it. Where white workers were in the privileged majority, as they were in all of Houston's industrial plants, union discrimination was the predictable outcome of federal labor law and policy.

From the beginning of the federal government's majority rule policy and the first appearance of integrated CIO unions in Houston, factions of black workers had taken steps to alter the institutional designs that put white majorities in control. Independent union advocates pressed for statutory exemptions allowing black workers to organize and negotiate separately from their white co-workers. Black CIO members experimented with various segregated set-ups and joint bargaining structures that would allow them to maintain a voice and leadership separate from white majorities. Neither of these efforts proved successful in breaking through the industrial color line supported by employers and by most of the white rank-and file. Not until black workers secured court and administrative guarantees of equal rights and opportunity did union democracy gain the potential to live up to its promise to promote the collective wellbeing of all workers.

Although eventually successful, the legal and administrative course taken by Houston's black industrial workers took more than a decade before producing equality standards that were in any way meaningful. Even nominal victories, such as the Supreme Court ruling Roberson King obtained barring formally segregated lines of promotion, did little to bring about integration of the skilled ranks. Nor did it inspire a wave of action against formal employment segregation. Lawsuits like those filed by oilworkers at Shell and Gulf were relatively uncommon; court fights were expensive and time consuming. Meanwhile, the NLRB's refusal to police racial discrimination during the 1950s and early 1960s shut down an alternative course of action. Prior

to 1964, most black industrial workers in the South had few available legal tools by which they could assert a right to equal treatment.

After July 1964, there appeared a relative abundance of possible remedies. While Houston's black industrial workers had been fighting through the courts and the NLRB, black labor and civil rights leaders had been waging a long campaign for a federal fair employment law, culminating in the passage of the 1964 Civil Rights Act, Title VII of which prohibited racial discrimination by most private employers and unions. Workers in unions regulated by the NLRB were thus covered by both the *Hughes Tool* standard and the new civil rights law. In the immediate aftermath of *Hughes Tool* the NAACP urged black union members to pursue discrimination claims through the NLRB. Title VII would not go into effect until a year after its passage, and it mandated that all complaints first be mediated through the Equal Employment Opportunity Commission, an agency with no independent enforcement powers. Workers could only pursue legal claims under Title VII if and when the EEOC deemed conciliation efforts to have failed. Given the poor track record of previous federal fair employment efforts, the NAACP was less than optimistic about prospects for fighting discrimination through the EEOC. The NLRB, in contrast, paid for investigations, provided counsel, and boasted a range of relatively quick and effective remedies. In addition, NAACP attorneys were very familiar with the decades of administrative precedent that had led up to *Hughes Tool* and saw in it a basis for expanding the Labor Board's scope of prohibited discriminatory practices.

Early NLRB cases under the *Hughes Tool* doctrine continued along this line, classifying various arrangements that restricted black access to jobs as unfair labor practices, clarifying the affirmative duty of both unions and employers to oppose discrimination in collective bargaining agreements, and prohibiting unilateral discriminatory practices by employers undertaken outside

of bargaining agreements.[1] But the focus of anti-discrimination action soon began to move to Title VII. The overlapping jurisdictions were originally intended to be complementary, not competing. As early as 1965, however, the NLRB general counsel declared the Board's belief that "the National Labor Relations Act is primarily designed as a law concerned with problems of labor-management relations and organizational rights rather than racial discrimination. On the other hand, Title VII… is aimed directly at racial discrimination."[2] Despite finding in *Hughes Tool* that it was constitutionally bound to act against racial discrimination, the Board began refusing to issue complaints where remedy under Title VII was available. By the mid-1970s, the NLRB's reversion to its old hands-off position on racial matters prompted former NAACP labor director Herbert Hill to criticize the Board for "fail[ing] to use its powers to attack discriminatory racial practices." Indeed, by turning away from the mandate it set for itself in *Hughes Tool*, the Board had left a legacy of "great possibility and little practical effect."[3]

The shift to Title VII as the basis for employment discrimination claims owed in large part to the incentives it created for lawyers. Although workers taking cases to the NLRB could involve their own counsel (as the Hughes workers did), much of the complaint process was driven by Board lawyers, investigators and trial examiners who tended to stay within established precedent. In contrast, under Title VII once a discrimination claim had cleared the EEOC, the law provided strong incentives in the form of damages for lawyers to pursue cases aggressively. In the late 1960s and 1970s, Title VII became fertile ground for novel anti-discrimination theories challenging a range of facially neutral union practices that continued to deny African

[1] See, for example, Local 1367, International Longshoremen's Association, 148 N.L.R.B. 897 (1964); Local 12, United Rubber Workers v. NLRB, 368 F.2d 12 (5th Cir. 1966); Farmers' Cooperative Compress, 169 N.L.R.B. 290 (1968).
[2] Quoted in Herbert Hill, *Black Labor and the American Legal System: Race, Work, and the Law* (Madison: University of Wisconsin Press, 1977), 135.
[3] Ibid., 95, 162. Sophia Z. Lee, "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948-1964," *Law and History Review* 26 (2008) similarly considers the NLRB's anti-discrimination doctrine to be a "lost path" in civil rights history.

American workers equal opportunity. Courts struck down departmental seniority systems that penalized long-standing black employees and kept them at a permanent disadvantage to more junior white workers, mandating instead the use of plant-wide (date-of-hire) seniority, giving senior black workers the first opportunity to move up the job ladder toward their "rightful place" when open positions appeared.[4] In other cases, job qualifications found to have a disproportionate impact on minority workers, such as aptitude tests or high school degree requirements, were prohibited where employers could not demonstrate that the qualifications were tailored to meet specific business necessities.[5]

Many of these cases were decided by the Fifth Circuit, the same court that a decade before had upheld discriminatory seniority rules and job qualifications at Sheffield Steel that continued to burden black employees.[6] In his 1959 opinion in the Sheffield case, Judge Minor Wisdom had lauded the progress made by union and employer and praised the system that was "from now on" free from formal racial barriers. Now, under Title VII the judicial touchstone was equality, not fairness. Courts considered impact, not intent, and aimed to prevent past discrimination from being perpetuated by present policies. Judge Wisdom, in fact, had been a significant contributor to this new anti-discrimination doctrine, having authored the opinion in a key Fifth Circuit case barring the use of departmental seniority in promotions and layoffs.[7] In a

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[4] See, notably, Quarles v. Philip Morris, Inc., 279 F. Supp. 505 (E.D. Va. 1968); Papermakers Local 189 v. United States, 416 F.2d 980 (5th Cir. 1969), cert. denied, 397 U.S. 919 (1970).

[5] See Griggs v Duke Power Co., 401 U.S. 424 (1971).

[6] The important role of the Fifth Circuit in advancing employment discrimination law is explored in Alfred Blumrosen, "The Law Transmission System and Southern Jurisprudence of Employment Discrimination," *Industrial Relations Law Journal* 6, no. 3 (1984): 313– 52. Union discrimination cases were hardly confined to the Fifth Circuit. As pointed out in US v Bethlehem Steel Corp 446 F.2d 652 (2nd Circuit, 1971), there existed a pattern of "classic job discrimination in the north" that looked much like that in Southern industry and called out for judicial remedy.

[7] Papermakers Local 189 v. United States, 416 F.2d 980 (5th Cir. 1969). Wisdom was most well-known as a member of the "Fifth Circuit Four" group of judges who issued strong rulings enforcing civil rights and school desegregation in the 1960s. See Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court's Brown Decision into a Revolution for Equality* (New York: Simon and Schuster, 1981).

1973 case involving the seniority system at Sheffield, a Houston federal district court judge emphasized the possibilities that Title VII had created for remedying the effects of past discrimination. When the steel mill's labor policies had been challenged more than a decade before, he noted, they had been upheld by "saying 'angels could do no more,'" to which he retorted, "angels cannot, but the Congress of the United States can."[8]

Congress and the courts had indeed provided a more effective standard for countering inequality in employment than the fair representation doctrine at the heart of union discrimination litigation in the 1950s. For a generation of black refinery and steelworkers, however, it may have come too late. Unionized workforces in both industries continued to decline in the 1960s, the result of widespread adoption of computer controlled automated systems in refineries and increasingly mechanized processes in steel plants. In the refining industry, technological change produced intense labor-management conflict. If corporate investment in new automation equipment were to pay off, management would need to rework union contracts to allow for a smaller, more flexible, and more efficient workforce. Beginning in the late 1950s, refiners took an increasingly hard line with their unions, precipitating several long strikes on the Texas Gulf Coast from 1959 to 1963. In earlier walkouts, plants had shut down during the course of negotiations. Now, companies announced that they would attempt to operate the refineries without union workers. At Pan American, Gulf, and Shell, teams of supervisors, engineers, chemists, accountants, secretaries and other non-production workers succeeded in restarting and operating refineries while union workers manned the picket lines outside. The oilworkers did not give up easily – Local 367 stayed off the job for an entire year – but the terms of the strike settlements made clear that the balance of power in the industry had

[8] Judge Woodrow Seals opinion in Taylor v Armco Steel Corp., 373 F. Supp 885, 890 (U.S. District Court, S.D. Texas, Houston Div. 1973), 373:890.

tilted towards management. Unions won important concessions, including less use of outside contractors, long advance notices of layoffs, rate retention for reassigned workers, severance pay, and early retirement programs, but management prevailed on the major issues involving the size and structure of the workforce. In the aftermath of the strikes, refiners cut employment and simplified the organization of work, reducing the number of labor grades, combining job assignments, and reassigning workers made redundant by automation into new departments.[9]

Workforce reduction and reorganization affected black and white workers alike, but the long legacy of discrimination in industry ensured that African Americans felt the impact disproportionately. Black workers in the skilled departments tended to occupy the lowest rungs of the job ladder and have the least departmental seniority, making them the first to be bumped down into labor work or laid off when higher positions were eliminated, and they were less likely to have the skills that would make them eligible to transfer into different departments. The burden of past discrimination was readily apparent in the restructuring plans put in place in refineries in the mid-1960s. In 1967, Gulf management began a comprehensive reorganization of its workforce by shrinking and simplifying the lines of progression in the operating and mechanical divisions. Most mid-level positions were eliminated, with their occupants enrolled in an accelerated training program that upon completion would place them into top craftsmen jobs. In contrast, those at the bottom of the lines of progression, many of them senior black workers, were reclassified as "utility men," a designation that overlapped with the labor department. By basing the reorganization on the current position of workers, rather than on their overall

[9] Often this meant reassigning employees from operating departments into maintenance work and "cross crafting" – combining two or more maintenance jobs into one position. On automation and refinery strikes, see Sethuraman Srinivasan, "The Struggle for Control: Technology and Organized Labor in Gulf Coast Refineries, 1913-1973" (Ph.D. dissertation, University of Houston, 2001), 138–170; Tyler Priest, "Labor's Last Stand in the Refinery: The Shell Oil Strike of 1962-1963," *Houston History* 5, no. 2 (Spring 2008): 7–15.

seniority, the training program built on the historical advantage of white workers and helped lock blacks out of the top jobs at Gulf for the next decade.[10]

In the late 1960s and 1970s, Houston's black industrial workers returned to the courts to challenge seniority systems and reorganization schemes that perpetuated past discrimination. The lawsuits they filed often bore fruit in the form of settlements or judicial orders providing for back pay, damages, seniority credit, and modifications to seniority and other employment policies. But litigation was no one's ideal solution. In several instances, the suits became massive, drawn-out and expensive undertakings. One lawsuit filed by Gulf workers in 1976 seeking remedy for discrimination suffered in the 1950s and 1960s wound its way through the courts until the late 1980s, by which point all of the plaintiffs were retired. Although the remedy provided was very real, courts could not instantly impart skills to workers who had been denied an opportunity to learn, nor could they create job openings which black workers with restored seniority could automatically take. Court remedy was certainly a poor substitute for a life of work that should have provided opportunity and reward matching effort.[11] The difficulties of working out appropriate relief drove one judge to wax philosophic on the problem inherent in litigating the sins of the past: "Righting the wrongs of history is never an easy task. It might be that if Wilberforce had been born one hundred years earlier this case would not be here. Be that as it may, the case is here and some remedy must be provided — every wrong should have a remedy."[12]

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[10] Only 9 of 203 workers placed in the training programs were black. The program was at issue in Bernard v. Gulf Oil Corporation, 841 F.2d 547 (5th Cir. 1988).

[11] In *Quarles*, the court had considered a more assertive "freedom now" formula that would have placed black workers in jobs commensurate with their seniority, but rejected it on the grounds that it would interfere with efficient operation and discriminate against white workers by demoting them from their present positions.

[12] See Taylor v. Armco Steel Corp., 373 F. Supp 885, at 912.

Cases seeking relief under Title VII from the present effects of past racial discrimination required lawyers and judges to dig through old union bargaining histories, work rules, and employment records, in some instances moving worker by worker to calculate seniority that would have been accrued had workers not been barred by race, or deterred or disqualified from promotion. What is striking about the record is just how little upward mobility there was in the job ranks by the 1960s and 1970s. Senior white workers hired in the years around World War II had advanced to occupy most of the skilled positions, while senior African Americans, who only became eligible for promotion out of the labor department in the mid-1950s, and even white workers hired in the late 1950s, had been stuck for years in the lowest ranks. Restoration of plant-wide seniority in many cases gave longer-tenured black workers first priority for advance, but in an era of automation and workforce contraction, promotions would be few and far between. The full opening of opportunity to black industrial workers came at a time when many job opportunities in industry were closing.

That unfortunate timing only highlights the failure of unions and the government to promote equality in the three decades following the passage of the Wagner Act. Union discrimination was not a product of intractable white racism; it happened within an institutional context that gave white majorities the power and the incentive to promote their own racial and economic interest over that of black workers. While outside efforts to begin integrating the job ranks met fierce, concerted white resistance, it is not impossible to imagine changes that union higher-ups or the government could have made to union democracy – for example, by instituting a rule requiring all work divisions to approve contracts – that might have produced negotiated progress towards ending discrimination. Much of the blame for union discrimination in the post-war era can be laid upon the NLRB, which after 1947 had the authority, a legal rationale, and the

knowledge of union practices necessary to protect the interests of black union members. What it lacked, even after seeming to embrace this responsibility in 1964, was the will to do so.

Inaction on these fronts left black workers to pursue equality in union workplaces through the courts. The fact that legal success came in a period of shrinking industrial employment not only prevented black workers from fully realizing the promise of equal opportunity, it also engendered in many white workers resentment of black advance. Where court interpretations of Title VII allowed senior black workers to progress towards their rightful place in the job hierarchy, white workers saw an increasingly rare opportunity disappear. That white workers' expectations were the product of unearned advantage could hardly be expected to lessen the sense that there was a tradeoff between racial equality and white well-being. Meanwhile, employers, who had benefitted from and encouraged job discrimination, bore little of the burden of righting past wrongs.

The decline in industrial employment permanently altered the landscape of labor and shrank the opportunities of America's workers. Job growth continued, but often in areas that were not accessible to blue collar workers. In the refining industry, for example, technical, engineering and managerial employment rose while the number of production workers fell. But there was no union line of progression that a worker starting in a production division could follow to reach these new positions. They had different points of entry, and usually educational qualifications that most union oilworkers could not meet. One can imagine a strong union fighting to ensure that workers who started at the bottom could, through hard work, time on the job, and training, advance into technical positions. However, in the refining industry, as with many others, union power had begun to wane. Today, labor unions are much weaker. The institutions charged with safeguarding equality and those that promote opportunity for workers

have taken very different paths since midcentury. There now exists a decent legal framework for countering racial discrimination in employment, but, for much of America's working class, there are few robust institutions aimed at securing the opportunity for economic advance. Real equality requires both.

Bibliography

Unpublished Sources

Albert Thomas Papers, Woodson Research Center, Rice University
C. W. Rice Collection, Houston Metropolitan Research Center, Houston Public Library
Christia V. Adair Collection, Houston Metropolitan Research Center, Houston Public Library
Fair Employment Practice Committee Records, 1941-1946 [microform edition]
Independent Metal Workers Union Papers, Houston Metropolitan Research Center, Houston Public Library
Labor Movement in Texas Collection, 1845-1954, Dolph Briscoe Center for American History, The University of Texas at Austin
NAACP Papers [microform edition]
Oil, Chemical and Atomic Workers International Union Collection, Houston Metropolitan Research Center, Houston Public Library
W. Lee O'Daniel Records, Texas State Library and Archive

Newspapers and Magazines

Austin American-Statesman
Chicago Defender
Houston (Chamber of Commerce Journal)
Houston Chronicle
Houston Post
Houston Chronicle
Houston Informer
Houston Labor Messenger
International Oil Worker
National Petroleum News
Negro Labor News
New York Times

Legal and Administrative Cases

A.L.A. Schechter Poultry Corporation, et al. v. United States, 295 U.S. 495 (1935).
American Petroleum Co. and O.W.I.U., Local No. 227, 12 N.L.R.B. 688 (1939).
Crown Central Petroleum Corporation and O.W.I.U., Local 227, 24 N.L.R.B. 217 (1940).
Eastern States Petroleum Co., Inc. and O.W.I.U. Local 227, 15 N.L.R.B. 450 (1939).
Grovey v. Townsend, 295 U.S. 45 (1935)
Holt v. Oil Workers International Union, No. 430-707, District Court, Harris County, TX (1954)
Hughes Tool Co. (Dickson Gun Plant) and USWA Locals 1742 and 2457, CIO, 53 N.L.R.B. 547 (1943).

Hughes Tool Co. and United Steelworkers of America Locals Nos. 1742 and 2457, CIO, 56 N.L.R.B. 981 (1944).
Hughes Tool Company and Independent Metal Workers Union Locals Nos. 1 and 2, 33 N.L.R.B. 1089 (1941).
Hughes Tool Company and Independent Metal Workers Union Locals Nos. 1 and 2, 36 N.L.R.B. 904 (1941).
Hughes Tool Company and Steel Workers Organizing Committee Lodge #1742 and Employees Welfare Organization of Hughes Tool Company and H.T.C. Club of Hughes Tool Company, 27 N.L.R.B. 836 (1940).
Hughes Tool Company and United Steelworkers of America, Local Unions Nos. 1742 and 2457, CIO, 45 N.L.R.B. 821 (1942).
Hughes Tool Co., NWLB No. VIII D-78, 11 War Lab. Rep. 447 (1943).
Hughes Tool Co., NWLB No. 111-2083-D, 14 War Lab. Rep. 81 (1944).
Hughes Tool Co. v. N.L.R.B., 147 F.2d 69 (5th Cir. 1945).
Humble Oil and Refining Co. v N.L.R.B., 113 F.2d 85 (5 Cir. 1940).
IMW, Local 1 and IMW, Local 2 and Hughes Tool Company, party of interest., 147 N.L.R.B. 1574 (1964).
Humble Oil & Refining and Local 1002, OWIU (CIO), 54 N.L.R.B. 78 (1943).
Humble Oil & Refining Co. and Oil Workers International Union, Locals 333 and 316, 16 N.L.R.B. 112 (1939).
Humble Oil & Refining Company and Local No. 1002, O.W.I.U and Brotherhood of Railroad Trainmen and International Association of Machinists, District #37 and International Brotherhood of Electrical Workers, Local No. 6, 53 N.L.R.B. 116 (1943).
Humble Oil & Refining Company and O.W.I.U., Local 1002, and Oil Workers Organizing Campaign (CIO), 48 N.L.R.B. 1118 (1943).
Miranda Fuel, 140 N.L.R.B. 181 (1962).
National Federation of Railway Workers v. National Mediation Board, 110 F.2d 529 (1940).
N.L.R.B. v. Jones & Laughlin Steel Co., 301 U.S. 1 (1937)
Pan American Refiing Corporation and I.A.M. Local No. 1446, 41 N.L.R.B. 161 (1942).
Pan American Refining Corp. and Texas City Employees Federation, Unaffiliated, 35 N.L.R.B. 725 (1941).
Reed Roller Bit Co. and USWA, 60 N.L.R.B. 73 (1945).
Sheffield Steel Corp. of Texas and USWA, Local 2708, 44 N.L.R.B. 955 (1942).
Shell Petroleum Corp. and O.W.I.U., Local No. 367, 9 N.L.R.B. 831 (1938).
Shell Petroleum Corp. and O.W.I.U., Local No. 367, 10 N.L.R.B. 1107 (1939).
Shell Petroleum Corp. and O.W.I.U., Local No. 367, 11 N.L.R.B. 572 (1939).
Smith v. Allwright, 321 U.S. 648 (1944)
Southport Petroleum Co. and O.W.I.U., Local No. 227, 8 N.L.R.B. 792 (1938).
Southport Petroleum Company of Delaware and O.W.I.U, Local 449, 30 N.L.R.B. 257 (1942).
Syres v. Local 23, Oil Workers International Union, 350 U.S. 892 (1955).
Syres v. Oil Workers International Union, Local No. 23, 223 F.2d 739 (5th Cir. 1955).
Steele v. Louisville & N.R. Co., 323 U.S. 192 (1944).
Taylor v. Armco Steel Corp., 373 F. Supp 885 (U.S. District Court, S.D. Texas, Houston Div. 1973).
Texas Company and O.W.I.U. Local 367, 33 N.L.R.B. 1214 (1941).

Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 156 F. Supp 430 (U.S. District Court S.D. Texas, Houston Division 1957).
Whitfield v. United Steelworkers of America, Local No. 2708 and Sheffield Steel Corporation, 263 F.2d 546 (5th Cir. 1959).
Williams v. Yellow Cab Co., 200 F. 2d 302 (3rd Cir. 1952).

Published Sources

Allen, Ruth. Chapters in the History of Organized Labor in Texas. Austin, Tex: The University of Texas, 1941.
American Association of Independent Labor Unions. Constitution and By-Laws. Houston, 1938.
American Federation of Labor. Report of Proceedings of the Fifty-Sixth Annual Convention. A.F.L., 1936.
American Petroleum Institute. Petroleum Facts and Figures. Washington, D.C., 1971.
Andrews, Gregg. Thyra J. Edwards, Black Activist in the Global Freedom Struggle. Columbia, Mo: University of Missouri Press, 2011.
Arnesen, Eric. Brotherhoods of Color: Black Railroad Workers and the Struggle for Equality. Cambridge, Mass: Harvard University Press, 2001.
Arnold, Frank. "Humberto Silex: CIO Organizer from Nicaragua." Southwest Economy and Society 4 (Fall 1978).
Auerbach, Jerold S. Labor and Liberty: The La Follette Committee and the New Deal. Indianapolis: Bobbs-Merrill Co, 1966.
Bass, Jack. Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court's Brown Decision into a Revolution for Equality. New York: Simon and Schuster, 1981.
Bell, Derrick. "Serving Two Masters: Integration Ideas and Client Interest in School Desegregation Litigation." Yale Law Journal 85, no. 4 (March 1976): 470–516.
Bellush, Bernard. The Failure of the NRA. New York: Norton, 1975.
Belzung, L. D., John F. MacNaughton, and John P. Owen. The Anatomy of a Workforce Reduction; an Analytical Case Study of the Social, Psychological, and Economic Impact of Job Displacement in a Major Gulf Coast Petroleum Refinery. Houston: Center for Research in Business and Economics, University of Houston, 1966.
Berg, Manfred. "Black Civil Rights and Liberal Anticommunism: The NAACP in the Early Cold War," The Journal of American History 94, no. 1 (June 2007): 75–96.
Bernstein, Barton J. "The Truman Administration and the Steel Strike of 1946." Journal of American History 52, no. 4 (March 1966): 791 – 803.
Bessent, Nancy Ruth Eckols. "The Publisher: a Biography of Carter W. Wesley." M.A. Thesis, University of Texas, 1981.
Bethel, Gene. "An Analysis of Collective Bargaining Agreements in the Texas Petroleum Refining Industry; 1945-1950." M.A. Thesis, University of Texas, 1951.
Biles, Roger. The South and the New Deal. Lexington: University Press of Kentucky, 1994.
Blumrosen, Alfred. "The Law Transmission System and Southern Jurisprudence of Employment Discrimination." Industrial Relations Law Journal 6, no. 3 (1984): 313– 52.
Botson, Michael R. Labor, Civil Rights, and the Hughes Tool Company. College Station: Texas A&M University Press, 2005.

———. “We’re Sticking by Our Union: The Battle for Baytown, 1942-1943.” Houston History 8, no. 2 (2011).
Botter, David. “Labor Looks at Texas.” Southwest Review XXXI, no. 2 (Spring 1946).
Boyd, Sutton J. “Appeals Made to Employees to Influence Their Decision Regarding Collective Bargaining.” MA Thesis, North Texas State Teachers College, 1945.
Robert D. Bullard, Invisible Houston: The Black Experience in Boom and Bust. College Station: Texas A&M University Press, 1987.
Brewer, Thomas B. “State Anti-Labor Legislation: Texas - a Case Study.” Labor History 11, no. 1 (1970): 58–76.
Brinkley, Alan. Liberalism and Its Discontents. Cambridge, Mass: Harvard University Press, 1998.
———. The End of Reform: New Deal Liberalism in Recession and War. 1st ed. New York: Knopf, 1995.
Burawoy, Michael. The Politics of Production: Factory Regimes Under Capitalism and Socialism. London: Verso, 1985.
Bureau of Labor Statistics. Monthly Labor Review. Vol. 44. Washington: G.P.O, 1937.
Burran, James A. “Violence in an ‘Arsenal of Democracy’.” East Texas Historical Journal 14 (1976).
Burrough, Bryan. The Big Rich: The Rise and Fall of the Greatest Texas Oil Fortunes. New York: Penguin Press, 2009.
Butler, Marguerite L. “History of Texas Southern University, Thurgood Marshall School of Law: The House That Sweatt Built.” Thurgood Marshall Law Review 23 (1997): 45–54.
Carleton, Don E. Red Scare!: Right-Wing Hysteria, Fifties Fanaticism, and Their Legacy in Texas. Austin: Texas Monthly Press, 1985.
“Computer Runs Refinery Unit for Texaco.” Business Week, April 4, 1959.
Cox, Archibald. “Labor-Management Relations Law in the Supreme Court October Term 1955.” American Bar Association, Section of Labor Relations Law, Proceedings (1956): 5.
———. “The Duty of Fair Representation.” Villanova Law Review 2 (1957): 151.
Cullen, David O’Donald, and Kyle Grant Wilkison, eds. The Texas Left: The Radical Roots of Lone Star Liberalism. College Station: Texas A&M University Press, 2010.
Cushman, Barry. Rethinking the New Deal Court: The Structure of a Constitutional Revolution. New York: Oxford University Press, 1998.
Davidson, Chandler. Race and Class in Texas Politics. Princeton, N.J: Princeton University Press, 1990.
Davidson, Mark. “The Desegregation of the Harris County Courthouse Cafeteria.” Houston Lawyer (August 2010).
Davidson, Ray. Challenging the Giants: A History of the Oil, Chemical and Atomic Workers International Union. Denver: Oil, Chemical and Atomic Workers International Union, 1988.
De León, Arnoldo. Ethnicity in the Sunbelt: Mexican Americans in Houston. College Station: Texas A&M University Press, 2001.
Decisions of the Petroleum Labor Policy Board: Feb 6, 1934 to March 13, 1935. U.S. G.P.O., 1935.
Dickerson, Dennis C. Out of the Crucible: Black Steelworkers in Western Pennsylvania, 1875-1980. SUNY Press, 1986.

Dixie, Chris J. “Racial Discrimination - An Employer’s Problem (From the Labor or Union Viewpoint).” American Bar Association, Section of Labor Relations Law, Proceedings (1956): 35–43.
Dixon, Marc. “Limiting Labor: Business Political Mobilization and Union Setback in the States.” Journal of Policy History 19, no. 3 (2007): 313–344.
Dobbin, Frank. Inventing Equal Opportunity. Princeton University Press, 2009.
Dobbin, Frank, John R. Sutton, John W. Meyer, and Richard Scott. “Equal Opportunity Law and the Construction of Internal Labor Markets.” American Journal of Sociology 99, no. 2 (September 1993): 396–427.
Draper, Alan. Conflict of Interests: Organized Labor and the Civil Rights Movement in the South, 1954-1968. Ithaca, N.Y: ILR Press, 1994.
Dubofsky, Melvyn. The State & Labor in Modern America. Chapel Hill: University of North Carolina Press, 1994.
Dunau, Bernard. “Employee Participation in the Grievance Aspect of Collective Bargaining.” Columbia Law Review 50 (1950).
Engler, Robert. The Politics of Oil: A Study of Private Power and Democratic Directions. Chicago: The University of Chicago Press, 1961.
Enos, John L. Technical Progress and Profits: Process Improvements in Petroleum Refining. New York: Oxford University Press, 2002.
Estlund, Cynthia L. “The Ossification of American Labor Law,” Columbia Law Review 102, no. 6 (October 2002): 1527–1612
Fairclough, Adam. “The Costs of Brown: Black Teachers and School Integration.” The Journal of American History 91, no. 1 (2004): 43–55.
Fairris, David. “From Exit to Voice in Shopfloor Governance: The Case of Company Unions.” The Business History Review 69, no. 4 (December 1995): 494–529.
Feagin, Joe R. Free Enterprise City: Houston in Political-economic Perspective. New Brunswick: Rutgers University Press, 1988.
Federal Reserve Bank of Dallas, Houston Branch. “Houston in 1900, Part 2: Houston and the Texas Oil Industry.” Houston Business (July 2002).
Fine, Sidney. Sit-down: The General Motors Strike of 1936-1937. Ann Arbor: University of Michigan Press, 1969.
Finley, Keith M. Delaying the Dream: Southern Senators and the Fight Against Civil Rights, 1938-1965. LSU Press, 2008.
Fones-Wolf, Elizabeth A. Selling Free Enterprise: The Business Assault on Labor and Liberalism, 1945-60. University of Illinois Press, 1994.
Fones-Wolf, Elizabeth and Ken Fones-Wolf. “Cold War Americanism: Business, Pageantry, and Antiunionism in Weirton, West Virginia.” Business History Review 77 (Spring 2003): 61–91.
Frankfurter, Felix. “Mr. Justice Roberts.” University of Pennsylvania Law Review 104, no. 3 (1955): 311–317.
Frymer, Paul. Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party. Princeton University Press, 2011.
———. Uneasy Alliances: Race and Party Competition in America. Princeton, N.J: Princeton University Press, 1999.
Fuermann, George. Houston: Land of the Big Rich. Garden City, N. Y: Doubleday, 1951.

Gall, Gilbert J. The Politics of Right to Work: The Labor Federations as Special Interests, 1943-1979. Greenwood Press, 1988.
Garrison, Lloyd K.. "The National Labor Boards." Annals of American Academy of Political and Social Science 184 (March 1936).
Gibb, George Sweet, and Evelyn H Knowlton. History of the Standard Oil Company of New Jersey, Volume 2: The Resurgent Years, 1911-1927. New York: Harper, 1956.
Gilje, Paul A. Rioting in America. Bloomington: Indiana University Press, 1996.
Gillette, Michael Lowery. "The NAACP in Texas, 1937-1957." Ph.D. dissertation, The University of Texas at Austin, 1984.
Gilmore, Glenda E. Defying Dixie: The Radical Roots of Civil Rights, 1919-1950. New York: W.W. Norton & Co, 2008.
Goluboff, Risa. The Lost Promise of Civil Rights. Cambridge, Mass: Harvard University Press, 2007.
Goodwyn, Lawrence C. "Populist Dreams and Negro Rights: East Texas as a Case Study." The American Historical Review 76, no. 5 (December 1971): 1435–1456.
Green, George N. The Establishment in Texas Politics: The Primitive Years, 1938-1957. Norman: University of Oklahoma Press, 1979.
Green, Laurie B. Battling the Plantation Mentality: Memphis and the Black Freedom Struggle. Chapel Hill: University of North Carolina Press, 2007.
Gregory, James N. The Southern Diaspora: How the Great Migrations of Black and White Southerners Transformed America. Chapel Hill: The University of North Carolina Press, 2006.
Grobbs, Kenneth R. "Disposition of Disputed Cases, Involving Non-Basic Wage, Union Security, and Non-Wage Issues of the Oil Refining Industry by the Eighth Regional War Labor Board." M.S. Thesis, North Texas State Teachers College, 1947.
Grose, Charles William. "Black Newspapers in Texas, 1868-1970." M.A. Thesis, University of Texas, 1972.
Gross, James A. The Making of the National Labor Relations Board; a Study in Economics, Politics, and the Law. Albany: State University of New York Press, 1974.
Guinier, Lani. The Tyranny of the Majority: Fundamental Fairness and Representative Democracy. New York: Free Press, 1994.
Gutman, Herbert. "The Negro and the United Mine Workers of America." In The Negro and the American Labor Movement, edited by Julius Jacobson, 49–127. Garden City, N. Y: Anchor, 1968.
Hall, Jacquelyn Dowd. "The Long Civil Rights Movement and the Political Uses of the Past." The Journal of American History 91, no. 4 (March 2005): 1233–1263.
Halpern, Rick. "Interracial Unionism in the Southwest: Fort Worth's Packinghouse Workers, 1937-1954." In Organized Labor in the Twentieth-Century South, edited by Robert H Zieger, 158–182. Knoxville: University of Tennessee Press, 1991.
Hansen, Drew D. "The Sit-Down Strikes and the Switch in Time." Wayne Law Review 46 (2000).
Harlan, Lewis R.. Booker T. Washington : Volume 2: The Wizard Of Tuskegee, 1901-1915. Oxford University Press, 1983.
Hicks, Clarence J. My Life in Industrial Relations; Fifty Years in the Growth of a Profession. New York and London: Harper & Brothers, 1941.

Hield, Melissa, et al., "'Union-Minded': Women in the Texas ILGWU, 1933-50," Frontiers: A Journal of Women Studies 4, no. 2 (July 1, 1979): 59–70.
Hill, Herbert. Black Labor and the American Legal System: Race, Work, and the Law. Madison: University of Wisconsin Press, 1977.
———. "Lichtenstein's Fictions: Meany, Reuther, and the 1964 Civil Rights Act"." New Politics 7 (Summer 1998): 82–107.
———. "Myth-Making as Labor History: Herbert Gutman and the United Mine Workers of America." International Journal of Politics, Culture, and Society 2 (1988): 123–200.
———. "Race and the Steelworkers Union: White Privilege and Black Struggles, Review Essay of Judith Stein's Running Steel, Running America." New Politics 8, no. 4 (Winter 2002).
———. "Racism Within Organized Labor: A Report of Five Years of the AFL-CIO, 1955-1960." The Journal of Negro Education 30, no. 2 (Spring 1961): 109–118.
———. "The National Labor Relations Act and the Emergence of Civil Rights Law: A New Priority in Federal Labor Policy." Harvard Civil Rights-Civil Liberties Law Review 11 (1976): 299.
Hill, T. Arnold. "Old Settings in New Scenes." Opportunity (February 1934).
Hine, Darlene Clark. Black Victory: The Rise and Fall of the White Primary in Texas. Millwood, N.Y: KTO Press, 1979.
Hoch, Myron. "The Oil Strike of 1945." Southern Economic Journal 15, no. 2 (October 1948).
Honey, Michael K. Going down Jericho Road: The Memphis Strike, Martin Luther King's Last Campaign. New York: W.W. Norton, 2007.
———. "Operation Dixie, the Red Scare, and the Defeat of Southern Labor Organizing." In American Labor and the Cold War, edited by Robert Cherny, William Issel, and Kiernan Walsh Taylor, 216–244. Rutgers University Press, 2004.
———. Southern Labor and Black Civil Rights: Organizing Memphis Workers. Urbana: University of Illinois Press, 1993.
Issacharoff, Samuel and Richard H. Pildes, "Politics As Markets: Partisan Lockups of the Democratic Process," Stanford Law Review 50, no. 3 (February 1998): 643–717.
Johnson, Clyde. "CIO Oil Workers' Organizing Campaign in Texas, 1942-1943." In Essays in Southern Labor History, edited by Gary Fink and Merl E. Reed. Westport, Conn: Greenwood Press, 1977.
Johnston, Marguerite. Houston, the Unknown City, 1836-1946. College Station: Texas A&M University Press, 1991.
Jones, William P. The March on Washington: Jobs, Freedom and the Forgotten History of Civil Rights. New York: W.W. Norton & Co, 2013.
———. "The Unknown Origins of the March on Washington: Civil Rights Politics and the Black Working Class," *Labor* 7, no. 3 (Fall 2010)
Journal of the Senate of Texas, Regular Session, 47th Legislature. Vol. 1. Austin, 1941.
Kelley, Robin D. G. "A Lifelong Radical: Clyde L. Johnson, 1908–1994." Radical History Review 1995, no. 62 (March 1995): 255–258.
Kennedy, David M. Freedom from Fear: The American People in Depression and War, 1929-1945. New York: Oxford University Press, 1999.
Kennedy, Stetson. Southern Exposure. Garden City, N.Y: Doubleday, 1946.
Kessler-Harris, Alice. In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America. New York: Oxford University Press, 2001

King, John O. Joseph Stephen Cullinan: a Study of Leadership in the Texas Petroleum Industry, 1897-1937. Nashville: Vanderbilt University Press, 1970.
Klarman, Michael J. From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality. New York: Oxford University Press, 2004.
Korstad, Robert. Civil Rights Unionism: Tobacco Workers and the Struggle for Democracy in the Mid-twentieth-century South. Chapel Hill: University of North Carolina Press, 2003.
Korstad, Robert, and Nelson Lichtenstein. "Opportunities Found and Lost: Labor, Radicals, and the Early Civil Rights Movement." The Journal of American History 75, no. 3 (December 1988): 786–811.
Krenek, Harry. "Jake Wolters: An Iron Fist in a Velvet Glove." Houston Review 7 (1985).
Krochmal, Max. "Labor, Civil Rights, and the Struggle for Democracy in Texas, 1935-1965." Ph.D. dissertation, Duke University, 2011.
"Labor Organizations and Conferences." Monthly Labor Review 62 (1946): 608.
Larson, Henrietta M, and Kenneth Porter. History of Humble Oil & Refining Company. New York: Arno Press, 1959.
Lee, Sophia Z. "Hotspots in a Cold War: The NAACP's Postwar Workplace Constitutionalism, 1948-1964." Law and History Review 26 (2008): 327.
Letwin, Daniel. The Challenge of Interracial Unionism: Alabama Coal Miners, 1878-1921. Chapel Hill: University of North Carolina Press, 1998.
Leuchtenburg, William Edward. The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt. New York: Oxford University Press, 1995.
Lichtenstein, Nelson. Labor's War at Home: The CIO in World War II. Cambridge: Cambridge University Press, 1982.
———. State of the Union: a Century of American Labor. Princeton, N.J: Princeton University Press, 2002.
———. The Most Dangerous Man in Detroit: Walter Reuther and the Fate of American Labor. New York, NY: Basic Books, 1995.
———. "Walter Reuther in Black and White: A Rejoinder to Herbert Hill." New Politics 7 (Winter 1999): 133–47.
Lovell, E. Thomas. "Houston's Reaction to the New Deal: 1932 - 1936." Master's Thesis, University of Houston, 1964.
Lowitt, Richard, and Maurine Hoffman Beasley, eds. One-Third of a Nation: Lorena Hickok Reports on the Great Depression. Urbana: University of Illinois Press, 1981.
Mack, Kenneth W. "Law and Mass Politics in the Making of the Civil Rights Lawyer, 1931-1941." The Journal of American History 93, no. 1 (June 2006): 37–62.
———."Rethinking Civil Rights Lawyering and Politics in the Era Before Brown." The Yale Law Journal 115 (2005).
MacLean, Nancy. "Achieving the Promise of the Civil Rights Act: Herbert Hill and the NAACP's Fight for Jobs and Justice." Labor 3, no. 2 (June 2006): 13–19.
———. Freedom Is Not Enough: The Opening of the American Workplace. Cambridge, Mass: Harvard University Press, 2006.
Marshall, F. Ray. "Independent Unions in the Gulf Coast Petroleum Refining Region - The ESSO Experience." Labor Law Journal (September 1961): 823 – 840.
———. "Some Factors Influencing the Upgrading of Negroes in the Southern Petroleum Refining Industry." Social Forces 42, no. 2 (December 1963): 186–195.
McComb, David G. Houston, a History. Austin: University of Texas Press, 1981.

McKay, Seth Shepard. Texas Politics, 1906-1944. Lubbock: Texas Tech Press, 1952.
McKen Carrington. “Dedication.” Thurgood Marshall Law Review 12 (1986): ix–xiii.
Mers, Gilbert. Working the Waterfront: The Ups and Downs of a Rebel Longshoreman. Austin: University of Texas Press, 1988.
Minchin, Timothy J. The Color of Work: The Struggle for Civil Rights in the Southern Paper Industry, 1945-1980. Chapel Hill: University of North Carolina Press, 2001.
Montes, Rebecca Anne. “Working for American Rights: Black, White and Mexican American Dockworkers in Texas During the Great Depression.” Ph.D. dissertation, University of Texas, 2005.
Montgomery, David. The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865-1925. Cambridge [Eng.]: Cambridge University Press, 1987.
Moreno, Paul D. From Direct Action to Affirmative Action: Fair Employment Law and Policy in America, 1933-1972. Baton Rouge: Louisiana State University Press, 1997.
Motley, Constance Baker. Equal Justice - Under Law: An Autobiography. 1st ed. New York: Farrar, Straus and Giroux, 1998.
Nelson, Bruce. “‘CIO Meant One Thing for the Whites and Another Thing for Us’: Steelworkers and Civil Rights, 1936-1974.” In Southern Labor in Transition, 1940-195, edited by Robert H. Zieger, 113–145. Knoxville: University of Tennessee Press, 1997.
———.Divided We Stand - American Workers and the Struggle for Black Equality. Princeton University Press, 2001.
Norgren, Paul. “Government Contracts and Fair Employment Practices.” Law and Contemporary Problems 29, no. 1 (Winter 1964): 225–237.
Norrell, Robert J. “Booker T. Washington: Understanding the Wizard of Tuskegee.” The Journal of Blacks in Higher Education no. 42 (December 1, 2003): 96–109.
O’Connor, Harvey. History of the Oil Workers International Union. Denver: Oil Workers Intl. Union, 1950.
Obadele-Starks, Ernest. Black Unionism in the Industrial South. College Station: Texas A & M University Press, 2000.
Ohly, John H. Industrialists in Olive Drab: The Emergency Operation of Private Industries During World War II. Washington, D.C: Center of Military History, U.S. Army, 1999.
Olien, Diana Davids, and Roger M. Olien. Oil in Texas: The Gusher Age, 1895-1945. Austin: University of Texas Press, 2002.
Patton, Winona. United States Petroleum Refining, War and Postwar. Washington: U. S. Govt. Print. Off, 1947.
Peterson, Florence. Strikes in the United States, 1880-1936. Bulletin of the United States Bureau of Labor Statistics no. 651. Washington: U.S. G.P.O., 1938.
Pfeffer, Paula F. A. Philip Randolph, Pioneer of the Civil Rights Movement. Baton Rouge: Louisiana State University Press, 1990.
Pickens, William. “NRA - Negro Removal Act?” The World Tomorrow 16 (1933).
Pitre, Merline. “At the Crossroads, Black Texas Women, 1930-1954,” in Black Women in Texas History, ed. Merline Pitre and Bruce A. Glasrud. College Station: Texas A&M University Press, 2008, 129–158.
———. In Struggle Against Jim Crow: Lulu B. White and the NAACP, 1900-1957. College Station: Texas A&M University Press, 1999.
Platt, Harold L. “Energy and Urban Growth: A Comparison of Houston and Chicago.” The Southwestern Historical Quarterly 91, no. 1 (July 1987): 1–18.

Polakoff, Murray. “Internal Pressures on the Texas State CIO Council, 1937-1955.” Industrial and Labor Relations Review 12, no. 2 (January 1959): 227–242.
———. “The Development of the Texas State CIO Council.” Ph.D. dissertation, Columbia University, 1955.
Pope, James. “How American Workers Lost the Right to Strike, and Other Tales.” Michigan Law Review 103 (December 2004).
———. “The Thirteenth Amendment Versus the Commerce Clause: Labor and the Shaping of American Constitutional Law, 1921 - 1957.” Columbia Law Review 102 (January 2002).
“Postwar Work Stoppages Caused by Labor-Management Disputes.” Monthly Labor Review 63 (1946): 872.
Pratt, Joseph A. The Growth of a Refining Region. Greenwich, Conn: Jai Press, 1980.
Priest, Tyler. “Labor’s Last Stand in the Refinery: The Shell Oil Strike of 1962-1963.” Houston History 5, no. 2 (Spring 2008): 7–15.
Priest, Tyler, and Michael Botson. “Bucking the Odds: Organized Labor in Gulf Coast Oil Refining.” Journal of American History 99, no. 1 (June 2012): 100–110.
Proceedings of the Fifteenth Annual Convention of the Texas State Industrial Union Council, 1951.
Proceedings of the Sixteenth Annual Convention of the Texas State CIO Council, 1952.
“Processing Closes the Automation Loop.” Petroleum Week, April 10, 1959.
Pruitt, Bernadette “‘For the Advancement of the Race’: The Great Migrations to Houston, Texas, 1914 - 1941,” Journal of Urban History 31, no. 4 (May 2005).
———. “In Search of Freedom: Black Migration to Houston, 1914-1945,” The Houston Review of History and Culture 3, no. 1 (Fall 2005).
Reed, Merl Elwyn. Seedtime for the Modern Civil Rights Movement: The President’s Committee on Fair Employment Practice, 1941-1946. Baton Rouge: Louisiana State University Press, 1991.
Rice, C.W. Proposed Amendments to the National Labor Relations Act. 4 vols. Washington, D.C: G.P.O., 1939.
Roosevelt, Franklin D. The Public Papers and Addresses of Franklin D. Roosevelt. Vol. 12. New York: Random House, 1950.
Rosenberg, Gerald N. The Hollow Hope: Can Courts Bring About Social Change? Chicago: University of Chicago, 1991.
Rustin, Bayard. “The Blacks and the Unions.” Harpers, May 1971.
Shabazz, Amilcar. “The Opening of the Southern Mind: The Desegregation of Higher Education in Texas, 1865-1965.” Ph.D. dissertation, University of Houston, 1996.
Shapiro, Harold. “The Pecan Shellers of San Antonio.” Southwestern Social Science Quarterly 32 (1951): 229.
Sherman, Sidney. “The National War Labor Board and the Wagner Act.” The George Washington Law Review 13, no. 4 (June 1945).
Sibley, Marilyn McAdams. The Port of Houston; a History. Austin: University of Texas Press, 1968.
Sitkoff, Harvard. “African American Militancy in the World War II South.” In Remaking Dixie: The Impact of World War II on the American South, edited by McMillan, Neil R. Jackson: University Press of Mississippi, 1997.

Smith, Robert Samuel. Race, Labor & Civil Rights: Griggs Versus Duke Power and the Struggle for Equal Employment Opportunity. Baton Rouge: Louisiana State University Press, 2008.
Sparrow, Bartholomew H. From the Outside in: World War II and the American State. Princeton, N.J: Princeton University Press, 1996.
Srinivasan, Sethuraman. "The Struggle for Control: Technology and Organized Labor in Gulf Coast Refineries, 1913-1973." Ph.D. dissertation, University of Houston, 2001.
Stein, Judith. Running Steel, Running America: Race, Economic Policy and the Decline of Liberalism. Chapel Hill: University of North Carolina Press, 1998.
Sugrue, Thomas. Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North. New York: Random House, 2008.
Sullivan, Patricia. Days of Hope: Race and Democracy in the New Deal Era. Chapel Hill: University of North Carolina Press, 1996.
Taylor, Hobart, Jr. "C.W. Rice - Labor Leader." B.A. Thesis, Prairie View State Normal and Industrial College, 1939.
Texas Bar Association. "Labor Law Report." Texas Bar Journal 19 (August 1956).
"The Decisions of the National Labor Relations Board." Harvard Law Review 48, no. 4 (February 1935).
Thomas, Richard Walter. Life for Us Is What We Make It: Building Black Community in Detroit, 1915-1945. Bloomington: Indiana University Press, 1992.
Thurber, Timothy. "Racial Liberalism, Affirmative Action, and the Troubled History of the President's Committee on Government Contracts." Journal of Policy History 18, no. 4 (November 2006): 446–476.
Truman, Harry S. "Statement by the President Concerning Government Operation of Petroleum Refineries Closed by Strikes - October 4, 1945." Public Papers of the Presidents of the United States (1945): 372.
Tushnet, Mark V. The NAACP's Legal Strategy Against Segregated Education, 1925-1950. Chapel Hill: The University of North Carolina Press, 1990.
U.S. Department of Labor. Termination Report of the National War Labor Board. Vol. 1. Washington: U.S. G.P.O., 1948.
———. Termination Report of the National War Labor Board. Vol. 2. Washington, D.C.: U.S. G.P.O., 1948.
United States Bureau of the Census. Fifteenth Census of the United States: Manufactures, 1929. U.S. Government Printing Office, 1933.
United States. Legislative History of the National Labor Relations Act, 1935. Washington: National Labor Relations Board : U.S. G.P.O, 1949.
Vargas, Zaragosa. Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-century America. Princeton, N.J: Princeton University Press, 2005.
Walker, Vanessa Siddle. Their Highest Potential: An African American School Community in the Segregated South. Chapel Hill: University of North Carolina Press, 1996.
Washington, Booker T. "The Negro and the Labor Unions." Atlantic Monthly (June 1913).
Watson, Denton and Nuxoll, Elizabeth, eds. The Papers of Clarence Mitchell Jr: Volume 2, 1944-1946. Athens, OH: Ohio University Press, 2005.
Welch, Darrell G. "Union Activity in the Petroleum Industry of Texas." M.A. Thesis, University of Texas, 1950.

William P. Jones. The March on Washington: Jobs, Freedom and the Forgotten History of Civil Rights. New York: W.W. Norton & Co, 2013.
Williams, John E.. “The Impact of Technology On Employment in the Petroleum Refining Industry in Texas: 1947-1966.” Ph.D. dissertation, University of Texas, 1971.
Wilson, Daniel. “Employee Representation in Historical Perspective.” In Employee Representation: Alternatives and Future Directions, edited by Bruce Kaufman and Morris Kleiner, 371–390. Madison: IRRA, 1993.
Wolters, Jacob F. Martial Law and Its Administration. Austin, Texas: Gammel’s Book Store, 1930.
Wolters, Raymond. Negroes and the Great Depression: The Problem of Economic Recovery. Westport, Conn: Greenwood Pub. Corp, 1970.
Yergin, Daniel. The Prize: The Epic Quest for Oil, Money, and Power. New York: Simon and Schuster, 1991.
Zamora, Emilio. Claiming Rights and Righting Wrongs in Texas: Mexican Workers and Job Politics During World War II. College Station: Texas A&M University Press, 2009.
———. “The Failed Promise of Wartime Opportunity for Mexicans in the Texas Oil Industry.” The Southwestern Historical Quarterly 95, no. 3 (January 1992): 323–350.
Zieger, Robert H. The CIO, 1935-1955. Chapel Hill: University of North Carolina Press, 1995.