

## Chapter Five

### 1966: A Terrible Year for George Johns

*San Francisco Labor* was a weekly newspaper, published by the San Francisco Labor Council. Every week it was distributed, free of charge, to more than 100,000 union members in the city of San Francisco. Each issue contained a mixture of news (usually concerning contract negotiations, strikes, local and state-wide politics, and economic issues that might be of concern to working families), announcements (“do not patronize” lists, union meeting times) and editorials, reflecting, of course, the political opinions of the Council: pro-union, anti-“big business,” gently chiding California Democrats to do better by their union constituents, vociferously attacking the Republican Party for betraying the principals of their glorious founder, Abraham Lincoln. The paper’s editor, David Selvin, also frequently commissioned and published cartoons that illustrated the Council’s editorial opinions.<sup>1</sup> One cartoon that Selvin commissioned in early 1967, however, struck a different chord.<sup>2</sup> A figure, looking not unlike the Labor Council’s Secretary-Treasurer, George Johns, was dressed like a drum major in a marching band. In his hand he held a short staff from which was flying a flag that read “San Francisco Labor Council.” The figure was running, terrified. His feathered cap had blown off his head. Sweat poured from his face. Aghast, he looked over his shoulder, eyes wide, eyebrows arched, his mouth open in a scream. Directly on his heels were three vicious dogs, fangs bared, tongues lolling out of their mouths. They were moving so fast that their hind-quarters were invisible, surrounded by a cloud of dust. Upon closer examination, the viewer sees that a dog had already taken a bite out of the seat of the man’s pants.

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<sup>1</sup> For a nice selection of these cartoons, see Selvin Collection, Box 29, LARC.

<sup>2</sup> Selvin Collection, Box 29, Folder 27. LARC.

This cartoon never ran in *San Francisco Labor*, and the reason Selvin commissioned it is lost to history. It does, however, nicely encapsulate how the City's labor leaders felt by the end of 1966, a year that was truly a terrible one for organized labor in San Francisco. It was the year that African American patience with labor's half measures on fair employment practices finally ran out, forcing the Labor Council to defend two of its most precious legal entitlements: the sanctity of collective bargaining agreements ("CBAs") and the right to be the exclusive representative of employees in unionized workplaces. For years civil rights groups had downplayed the deleterious effect that these entitlements had on the ability of African Americans to find and retain good jobs, even as they griped about the problem. By 1966, this was no longer the case. The City's civil rights groups began a direct assault on these pillars of postwar labor law. It was an assault that they lost. Local politics and legal doctrine favored the labor movement. But labor's victory was quintessentially pyrrhic. Its cost was substantial, sundering the tenuous alliance between civil rights organizations and the labor movement, and illustrating that, by the mid-1960s, communication between the two groups had become nearly impossible.

It is tempting to view this conflict as nothing more than the result of the changed political dynamics of the 1960s: as civil rights groups demanded more effective remedies to employment discrimination, labor unions resisted, lest their ox be gored. This view, however, is too simple. The Civil Rights Movement and the labor movement had based their fights for social justice on very different legal premises. The labor movement depended on a legal regime designed to promote the will of the workplace majority and maintain the autonomy of labor unions from the incursions of both management and the state. The Civil Rights Movement's legal strategy, on the other hand, was based on antithetical premises: counter-majoritarianism; and the need for the state to police unions and to insert its judicial and administrative mechanism into the workplace.

Thus, two key elements of postwar liberalism – racial egalitarianism and economic egalitarianism – were dependent on legal regimes that conflicted. In San Francisco in 1966, that conflict could no longer be contained.

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San Francisco does not have its “civil rights” moment. No iconic event, good or bad, links the black freedom struggle to San Francisco in the popular imagination: no boycotts, no sit-ins, no marches, no mass arrests, no riots, no bombings. San Francisco had all these things, but the Bay Area is famous for other prominent (indeed, clichéd) manifestations of change in postwar society: the Beats, the counter-culture, the Free Speech Movement, Altamont. People who lived in San Francisco during the early 1960s, however, will quickly point out that the City had a lot of civil rights activity. The first thing they will mention is the March, 1964 sit-in at the Sheraton-Palace Hotel on Market Street. Several thousand people – most of them white students from the Berkeley campus of the University of California, and San Francisco State College – picketed the luxury hotel, demanding that the Sheraton increase the number of African Americans it employed and that it promote what black workers it had to jobs other than the most menial ones. The protesters eventually entered the hotel and peacefully blocked the ornate lobby doors. After being entertained by Dick Gregory and Malvina Reynolds, several hundred were arrested. The pressure that the protests placed on the hotel and San Francisco Mayor John Shelley led to an agreement between the activists and all the hotels in the City to dramatically increase employment opportunities for African Americans in the City’s tourism industry.

The Sheraton-Palace agreement was something of a last hurrah for the alliance of civil rights organizations and labor unions in the City.<sup>3</sup> It was Shelley's allies in the labor movement, particularly Richard Lyden, the head of Local 6 of the ILWU, who pressured him into hashing out the agreement. The agreement itself was drafted by Lyden and Terry Francois, who would become, in September of that year, the first African American to serve on the City's Board of Supervisors. In the agreement, the Hotel Employers Association affirmed its commitment to fair employment practices and promised to hire more minority workers so as to reach a goal of 15 to 20 percent of its workforce. It also agreed to provide civil rights organizations with statistical information about its workforce so that they could monitor its attempts to comply with the agreement.

The sit-in also generated changes in city government. The Sheraton Palace protest was only one in a series of civil rights actions that CORE, the NAACP, the W.E.B. DuBois Club, and various student groups undertook in late 1963 and early 1964 in the name of equal employment opportunity: picketing at Mel's Drive-In and Bank of America, a "shop-in" at Lucky Supermarkets, sit-ins at auto dealers on San Francisco's auto row.<sup>4</sup> While Mayor Shelley supported civil rights and equal employment opportunity in principle, these events caused him considerable political difficulties. For many white San Franciscans they created an impression of lawlessness in the City and thus generated political opposition to Shelley. They also stirred up what contemporaries called "intergroup hostilities and anti-social behavior," phenomena very much on the mind of white Americans as a wave of race riots swept over America during the summer of 1964. Consequently, on the heels of the Sheraton Palace sit-ins, Shelley and the

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<sup>3</sup> For details about the agreement see Freeman, pp. 99-100, 301n.11; and NEWSPAPER REPORTS.

<sup>4</sup> Freeman, pp. 84-107; SF state website. HRC first annual report, pp. 7-8; Paul T. Miller, *The Postwar Struggle for Civil Rights: African Americans in San Francisco, 1945-1975* (2010), pp. 75-87.

Board of Supervisors sought ways to defuse these tensions. Their first step was to create a city Human Rights Commission.<sup>5</sup> Shelley's marching orders were clear: "Put out fires. Prevent fires." The Commission was to recommend policies to the Mayor and the Board of Supervisors, "to study race relations problems, [and] to work with interested citizens to develop programs to reduce tensions...."<sup>6</sup>

By the middle of 1964, the Commission (frequently referred to as the "HRC") was up and running, chaired by none other than Edgar Osgood, the liberal, Republican business leader who had been the public face of the campaign to create the City's Commission on Equal Employment Opportunity in 1957. For its first eighteen months of existence, the HRC was exceptionally busy. While it had many issues on its plate (combating discriminatory real estate practices; promoting integrated urban renewal programs; investigating, mediating, and calming "intergroup tensions" in schools and neighborhoods), its members believed that "the key to tranquil and equitable racial and ethnic relations lies in full economic opportunity for all."<sup>7</sup> Consequently, the bulk of its resources were spent on trying to increase employment opportunities for African Americans. It collected data on minority employment, pressured unions and employers to recruit and hire minority workers, held job fairs, publicized training programs in minority communities, and mediated individual employment disputes.<sup>8</sup>

By the end of 1965, all this poking, prodding, and cajoling seemed insignificant in the face of the increasing racial tensions. Statistics collected by the Commission demonstrated that,

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<sup>5</sup> Russ Cone, "Shelley's Anti-Bias Group," *Examiner*, March 19, 1964, pp. 1, 18. HRC First Annual Report, p. 1.

<sup>6</sup> First Annual Report, p. 1.

<sup>7</sup> First Annual Report, p. 16.

<sup>8</sup> First Annual Report, pp. 3-4, 16-18; Second Annual Report, pp. 8-11.

as in the rest of the United States, the economic condition of African Americans in San Francisco was deteriorating. Black unemployment rates were twice those of whites, and those blacks who did have jobs were stuck in low-paid, unskilled, menial positions.<sup>9</sup> Two of the industries specifically targeted by protests the previous year – hotels and auto dealerships – had made little progress towards opening up higher paying jobs to African American workers.<sup>10</sup> Such dismal statistics, when combined with the massive rioting in Los Angeles that summer (referred to by the HRC as “the recent explosion in Watts”), lit a fire under the Commission to be more aggressive in “averting such an eruption in San Francisco.”<sup>11</sup> After all, Osgood ominously warned as he requested the doubling of his budget, “similar conditions are present in San Francisco as in Los Angeles.”<sup>12</sup>

Recognizing the complexity of the problem, the Commission’s strategy had many components – eliminating housing discrimination, ending the de facto segregation of San Francisco’s public schools, encouraging better communication among the City’s increasingly diverse population – but creating equal employment opportunity was the issue upon which the Commission focused most aggressively. In the Commission’s view, “[t]he central factor in intergroup relations is still the problem of equal job opportunity” and that until the problem was addressed, the “explosive frustration” in the African American community would not dissipate.<sup>13</sup>

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<sup>9</sup> Human Rights Commission of the City of San Francisco, Press Release, August 30, 1965, NAACP, Region I Papers, Carton 72, Folder 44; Human Rights Commission, Notes, October 1966, NAACP, Region I Papers, Carton 23, Folder 43.

<sup>10</sup> San Francisco Hotel Employers Association, “Racial Composition of Employees,” July 27, 1966, NAACP, Region I Papers, Carton 23, Folder 42; Letter Leonard H. Carter to Joseph Wellington, May 6, 1966, NAACP, Region I Papers, Carton 93, Folder 9.

<sup>11</sup> Human Rights Commission of the City of San Francisco, Press Release, August 30, 1965, NAACP, Region I Papers, Carton 72, Folder 44.

<sup>12</sup> Id.

<sup>13</sup> Second Annual Report, p. 3.

To address this issue, the Commission decided it needed more than just the power to persuade. It needed some form of coercive authority. Thus, in December of 1965, the Commission asked the Board of Supervisors to pass an ordinance imposing non-discrimination obligations on all businesses that entered into contracts with the City.<sup>14</sup> The Commission would enforce the ordinance.

The proposed ordinance required every business that contracted with the City to include in its contracts a promise not to discriminate based on race. This requirement simply restated state law, since such discrimination had been illegal since the creation of the state fair employment practices commission in 1960. However, the ordinance then went on to require each City contractor to “take affirmative action to insure that [job] applicants are treated . . . without regard to their race. . . .” This “affirmative action” was to apply to “employment, upgrading, demotion or transfer; recruitment or recruitment advertizing; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.” If the contractor’s workers were represented by a union, it was supposed to “develop an agreement” that implemented “an affirmative antidiscrimination program in terms of the unions’ specific areas of skill and geography, such as an apprenticeship program, to the end that qualified minority workers will be available . . . .” The ordinance gave the HRC substantial enforcement powers over the contractors. They had to demonstrate the ability to meet the requirements of the ordinance prior to being allowed to bid on City contracts. Contractors that violated the ordinance would be have their contracts terminated, would be fined, and would be ineligible for additional City contracts for two years.

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<sup>14</sup> Human Rights Commission, Press Release, December 10, 1965, NAACP, Region I Papers, Carton 72, Folder 44

The Human Rights Commission did not invent this mechanism of using government contracts to promote equal employment opportunity. Indeed, the ordinance mirrored the attempts made by both the Kennedy and the Johnson Administrations to use federal contracts and federal funds as leverage to promote fair employment practices, particularly in the construction industry.<sup>15</sup> The language in the ordinance was similar to executive orders issued by both administrations, particularly Johnson's Executive Order 11246 that the President had signed in September of 1965, three months before the HRC sent its proposal to the Board of Supervisors.<sup>16</sup> Like E.O. 11246, the ordinance required that contractors do more than simply obey existing anti-discrimination law. They had to take "affirmative action" and create an "affirmative antidiscrimination program."

In the mid-1960s, the phrase "affirmative action" had no single meaning.<sup>17</sup> When it was coined by Abe Fortas, Arthur Goldberg, and Hobart Taylor as they drafted Kennedy's fair employment practices executive order in 1961, its purpose was essentially political – to assert that the Democrats planned to work harder than the Republicans to increase employment opportunities for African Americans. As such, for many white liberals, affirmative action simply meant "active recruitment" of black workers and aggressive attempts to combat employment discrimination. Like Kennedy and Johnson's executive orders, the HRC's ordinance explicitly eschewed racial preferences. Employment decisions were to be made "without regard to race" from among "all qualified applicants."

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<sup>15</sup> See Terry H. Anderson, *The Pursuit of Fairness: A History of Affirmative Action*, pp. 60-66, 72-74, 90-93; Thomas J. Sugrue, "Affirmative Action from Below: Civil Rights, the Building Trades, and the Politics of Racial Equality in the Urban North, 1945-1969," *JAH*, pp. 164, 169-70 (June 2004).

<sup>16</sup> 30 Federal Register 12319 (September 28, 1965)

<sup>17</sup> Anderson, pp. 49-109; Sugrue, *passim*; Steven M. Gillon, "That's Not What We Meant to Do," pp. 120-41.

By the mid-1960s, however, the notion that attempts to combat employment discrimination might require preferences for African Americans had entered the public consciousness from two widely divergent sources. The first source was the civil rights community. The idea that African American employment levels should reflect the percentage of blacks in a given community was one that a small number of radical civil rights groups had advocated since the 1930s.<sup>18</sup> By the early 1960s, however, these ideas were receiving a much wider airing as they were forcefully advocated by CORE, which began demanding “compensatory,” proportional hiring. Even more staid organizations, like the NAACP and the Urban League, began to move away from their traditional commitment to color-blind hiring.<sup>19</sup>

At the same time, opponents of federal civil rights legislation were raising the specter of such race-conscious hiring with increasing frequency. In their efforts to derail the passage of the Civil Rights Act of 1964, its opponents claimed that Title VII of the Act, which prohibited employment discrimination, would, in fact, either require employers to meet specific employment quotas or have that effect. While the congressional sponsors of Title VII repeatedly denied that the statute would require proportionalism, the statute’s opponents succeeded in airing their fears widely, thus placing the issue of racial quotas squarely within the policy debate about equal employment opportunity. Additionally, the fact that urban unrest continued unabated during 1965 and 1966 caused policymakers to creep towards increasingly race-conscious methods of placing African Americans in good jobs. While policymakers and politicians still rejected proportionalism, recruiting programs and training programs that specifically targeted

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<sup>18</sup> Paul D. Moreno, *From Direct Action to Affirmative Action*, pp. 30-65, pp. 84-106.

<sup>19</sup> Moreno 145-48; Anderson, pp. 76-78.

minority communities became increasingly common attributes of affirmative action programs.<sup>20</sup> Indeed, this happened in San Francisco. By 1966 the Human Rights Commission was insisting that San Francisco employers do more than simply engage in the “Affirmative Recruitment” of “qualified people within the minority community.”<sup>21</sup> Instead, employers should seek out “qualifiable people in the minority community” and train them for high-paying, skilled jobs.<sup>22</sup> Thus, in late 1965, the phrase “affirmative action” that the Commission had placed in its proposed ordinance had enough ambiguity to generate opposition, or at least an attempt to lock the phrase’s meaning into its mildest form. This opposition came from San Francisco’s unions.

At the end of December, 1965, Ted Schenk, the Labor Council’s liaison to the Board of Supervisors, forwarded a copy of the proposed ordinance to George Johns. He attached a brief, but emphatic note, typed, rather sloppily, in all caps.<sup>23</sup> “I THINK THAT YOU SHOULD BE BEWARE [sic] OF THIS IMPEDNING ORDINANCE. . . . IT APPEARS ON THE SURFACE TO BE A BACKDOOR EFFORT TO SABOTAGE IXISTING [sic] UNION CONTRACTS.” Though the Labor Council had supported the creation of the Commission,<sup>24</sup> its eighteen months as a gadfly had not endeared it to San Francisco’s labor unions: “IF ANY ADDITIONAL POWERS ARE GRANTED TO THIS AGENCY IT MAY BECOME DIFFICULT TO LIVE WITH THEM.”

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<sup>20</sup> John David Skrentny, *The Ironies of Affirmative Action*, pp. 67-110; Gillon, pp. 137-39; Anderson, pp. 91-92

<sup>21</sup> Second Annual Report, p. 8, emphasis in original.

<sup>22</sup> *Id.*

<sup>23</sup> Papers of the San Francisco Labor Council, Box 20, Folder: “Human Rights Commission.” LARC.

<sup>24</sup> CITE.

Labor's initial public statements about the ordinance were, of course, more measured. Indeed, the Labor Council's first reaction was to avoid commenting at all. It simply told the Board of Supervisors that it was studying the matter and that it would comment later.<sup>25</sup> The City's Building Trades Council (BTC) – the umbrella organization for San Francisco's construction industry unions – was not so reluctant. Because of the importance of government contracts for the construction industry, the BTC's member unions would be among those most affected by the ordinance. At the same time, unions in the building trades were notorious for their racially exclusionary practices.<sup>26</sup> Indeed, even as the BTC lobbied the Board of Supervisors, civil rights groups were protesting the lack of African American workers on the massive project to build the Bay Area Rapid Transit System (BART).<sup>27</sup> Because that project was receiving federal money, the contractors were already obligated under E.O. 11246 to document the "affirmative action" they were taking to promote minority employment on the project. By late 1966, the Federal Department of Labor had scolded the contractors and the unions for their failure to do so.<sup>28</sup>

This political context required the BTC to tread lightly in its critique of the ordinance, which it delivered to the Board at hearings held in February. It agreed with the "spirit" of the ordinance, thought its goals to be "commendable," and looked forward to supporting it once a

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<sup>25</sup> Records of the San Francisco Board of Supervisors, File No. 188-66, "Correspondance" Folder.

<sup>26</sup> Marshall, *The Negro and Organized Labor*, pp. 109-32; Zieger, *For Jobs and Freedom*, p. 149; William Gould, *Black Workers in White Unions*, pp. XX-XX.

<sup>27</sup> Sugrue, p. 170; stuff from NAACP papers.

<sup>28</sup> Sugrue, p. 170.

few “problems of draftsmanship” had been corrected.<sup>29</sup> In fact, the BTC’s suggestions were hardly corrections to “problems of draftsmanship.” Instead, they were attempts to maintain the autonomy of labor-management relations in the face of a potentially hostile administrative agency. Two of its amendments would have limited the HRC’s powers by forcing it to model its affirmative action requirements on E.O. 11246 and California State Division of Apprenticeship standards. More significantly, it sought to amend the ordinance to prevent the HRC from requiring the modification of existing collective bargaining agreements. “We are fearful that, under the hypocritical guise of seeking compliance with the provisions of the ordinance, certain employers might seek to evade their contractual obligations to respect contractual commitments to obtain employees through hiring hall sources. We are further fearful that the Human Rights Commission might seek to have employers make job-site hires rather than obtain employees through hiring hall sources.”<sup>30</sup> The BTC also worried that the ordinance might allow the HRC to require broader changes in the nature of specific collective bargaining agreements (such as the creation of new job categories) if it believed that doing so was necessary to promote equal employment opportunity.<sup>31</sup>

None of these arguments held any weight with the ordinance’s proponents. The by now familiar cast of liberal, inter-racial organizations (the NAACP, the Council for Civic Unity, the Catholic Interracial Council, the Anti-Defamation League), all enthusiastically supported the proposed ordinance as written.<sup>32</sup> Though employment discrimination was illegal under both

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<sup>29</sup> “Statement of the San Francisco Building Trades Council With Respect to the Proposed ordinance Requiring Nondiscriminatory Employment Provisions in City Contracts,” SFLC Papers, Box 20, Folder: “Human Rights Commission. LARC.

<sup>30</sup> *Id.*, p. 5.

<sup>31</sup> *Id.*, pp. 6-7.

<sup>32</sup> Letters, Board of Supervisors, File 188-66.

state and federal law, only by requiring “affirmative employment procedures” on publicly funded jobs could the serious problem of African American unemployment be addressed. Simply prohibiting employment discrimination was a start, but it was not enough to generate actual equal employment opportunity, the NAACP told Supervisor Leo McCarthy, chair of the Board’s Social Services Committee.<sup>33</sup> By using the leverage the City had as a consumer, the ordinance would add “teeth” to the principle of non-discrimination that existed in state and federal law.<sup>34</sup>

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On its face, the disagreement between the BTC and the City’s civil rights community looked like nothing more than a fight over which group could get more jobs for its constituents. This view, however, is an oversimplification. Each side’s position was, in fact, rooted in a different, and conflicting, aspect of the liberal, postwar legal order.<sup>35</sup> The BTC may have been motivated to amend the ordinance to protect the white workers in its hiring halls, but the notion that the government should not interfere with collective bargaining agreements was a fundamental principle of postwar labor law. As such, it had a much more respectable lineage than is implied by the assertion that the BTC was engaged in nothing more than racist protectionism. The creation of union-controlled hiring halls, unhindered by governmental or business interference, was a key development in the labor movement’s fight to create a more egalitarian economic order. Similarly, it would be wrong to attribute the BTC’s emphasis on the

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<sup>33</sup> “Rally for New SF Fair Employment ordinance,” Sun-Reporter, June 4, 1966, p.2.

<sup>34</sup> Id.

<sup>35</sup> For detailed descriptions of anti-statist, non-political nature of postwar labor law see Nelson Lichtenstein, *State of the Union*, pp. 98-177; Katherine Van Wezel Stone, “XXXX”, *Yale Law Journal*; Reuel E. Schiller, “From Group Rights to Individual Liberties,” 20 *Berk.J of Lab. And Employ. L.* 6 (1999). Of course, the classic judicial statement of this anti-statist labor law regime is the United States Supreme Court’s famous *Steelworkers Trilogy*: CITE.

sanctity of collective bargaining agreements simply to bigoted rent seeking. The recognition of rights within collectively bargained contracts, and the private adjudication of disputes under those contracts were the fundamental principles of postwar labor law. They were the methods by which the labor movement had committed itself to combating the power of business and improving the lives of its working-class membership.

The HRC and the City's civil rights groups, on the other hand, were promoting a different component of postwar liberalism: racial egalitarianism. This facet of liberalism had a very different set of legal mechanisms and substantive legal doctrines than did labor law. First of all, it was counter-majoritarian in its emphasis, as contrasted to the emphatically majoritarian premises of labor law. Fair employment practices laws, they argued, must have the power to trump contract rights that benefitted a majority of workers (and were ratified by them through a majoritarian process) if promoting equality of opportunity required it. Furthermore, the legal mechanisms of racial egalitarianism rejected labor law's focus on private dispute resolution, replacing arbitration with public agencies (like the HRC) that would police the employment relationship and define, unilaterally, the rights of the parties to the employment contract. Thus, as the political maneuvering over the ordinance advanced, each side's view of the legislation was shaped by divergent assumptions about the way that the law was supposed to work to promote fairness and social justice.

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In the midst of the haggling over the HRC ordinance, the conflict between the City's labor movement and civil rights community burst out into the open, triggered by a dispute

between the Hilton Hotel and its African American housekeeping employees.<sup>36</sup> In early April, a maid at the hotel contacted the business agent of the union that represented the housekeeping staff at the Hilton: Local 283 of the Hotel, Motel, and Club Service Workers Union. She made an appointment with him for the evening of Monday, April 11 in order to discuss the grievances that she and several of her co-workers had with the Hilton. On the 11<sup>th</sup> “between 30 and 40” housekeepers consisting “of Negroes, Latin-Americans and others” showed up for the meeting.<sup>37</sup> According to the union, none of the grievances raised at this meeting had anything to do with race of the maids. Indeed, from the union’s perspective, the complaints were run-of-the-mill: maids were being forced to clean too many rooms per shift; they were being severely disciplined for forgetting their locker keys; they were being refused light duty when injured; they were arbitrarily prevented from scheduling vacation time. By the next day, the union, with more than a hint of pride, claimed to have resolved all but one of the grievances in favor of the maids. The remaining grievance, that a housekeeper named Bertha Fitch had been docked a day’s pay when she missed a day of work to go to the doctor, was deferred until that Friday, the 14<sup>th</sup> of April.

At this point the events took on a Rashomon-like quality. According to the union, on Friday a large group of maids (almost 200 by one count) refused to punch into work. Local 283’s business agent told them that the contract with the Hilton required them to report to work while the union pursued any grievances they had. Consequently, if they had any additional

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<sup>36</sup> This narrative of the events leading up to the signing of the 1966 agreement is drawn from the arbitration decision that held the agreement to be void, as well as contemporary newspaper reports. See Hotel Employers Association, 47 Labor Arbitration Reports 873 (November 17, 1966); “Hilton Hotel Picketed For Discharging Maids,” Sun-Reporter, May 7, 1966, p. 3; “Hunters Point-Bayview YDC Urges Support of Hilton Pickets,” Sun-Reporter, May 7, 1966, p. 4; “NAACP in Hilton Dispute,” Examiner, May 13, 1966, p. XX; “Request Negroes Boycott Hotels,” Sun-Reporter, July 16, 1966, p. 5; Maitland Zane, “Two-Edged Protest in S.F. March,” Chronicle, July 18, 1966, pp. 1,7; “Hotel Arbitrator is Negro Cleric,” Examiner, July 19, 1966, p. XX; “Arbitrator for Hilton Job Dispute,” Chronicle, July 19, 1966, p. XX;

<sup>37</sup> Hotel Employers Association, 47 LA at 878.

grievances, he would like to hear about them, but they should return to work right away to avoid being disciplined. (“Work now/grieve later” was one of the fundamental maxims of staid, postwar labor law.)<sup>38</sup> In response, the housekeepers raised no other grievances and most returned to work. However, nineteen African American maids, including Bertha Fitch, refused. The business agent contacted these nineteen and “told them that if they walked off the job or picketed, the union could not help them and that if they were hoping to help Mrs. Fitch such action would not do so because her case was under negotiation.”<sup>39</sup> The maids refused to go back to work and the Hilton fired them.

While the union attempted to fit the maids’ actions into its traditional mechanisms for resolving disputes between workers and employers, it seemed completely oblivious to racial component their complaints. Whether this was because Local 283’s business agent had a particularly tin ear, or because he was misled by the multi-racial character of the initial group of housekeepers is impossible to say. From the perspective of the African American maids, however, their grievances were primarily about the way that the Hilton treated its black employees. The focus of their complaints was not the bread and butter grievances that the union was trying to resolve. Instead, it was the way that the black maids were subjected to “constant abusive language, including swearing, and a lack of dignity accorded them by all levels of management,” including a statement by the Hilton’s head of housekeeping that “she would like to work all Negro maids seven days a week, twenty-four hours a day.”<sup>40</sup> Fitch’s complaint was

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<sup>38</sup> See Stone, “The Postwar Paradigm in Labor Law, 90 Yale L.J. 1509, at XXXX n. 300.

<sup>39</sup> Id. at 879.

<sup>40</sup> “Hilton Hotel Picked For Discharging Maids,” Sun-Reporter, May 7, 1966, p. 3.

not simply that she was docked a day's pay because she went to the doctor. It was that only an African American worker would have been docked under those circumstances.<sup>41</sup>

The union's inability to fully understand the nature of the maid's complaints resulted in its complete exclusion from the resolution of the conflict between the women and the Hilton. Instead, the maids turned to three civil rights organizations in the City – the San Francisco chapters of the NAACP and CORE and a federally funded anti-poverty organization called Western Addition Area Action – to enforce their rights. These groups quickly related the treatment of the maids to the expiration of the Sheraton-Palace agreement two months earlier. “Here We Go Again,” read the flier the NAACP distributed in support of the maids.<sup>42</sup> “These firings followed barely a month after the death of the agreement negotiated by the civil rights groups and Hotel Owners Association as a result of the Sheraton-Palace.”<sup>43</sup> Thus, the civil rights groups sought not only to resolve the specific dispute between the maids and the Hilton, but also to use their discharge as the impetus to create another, more meaningful, agreement concerning fair employment practices in the hotel industry. To achieve this end they organized picketing of the Hilton beginning the week after the maids were fired.

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In late May, as the picketing at the Hilton entered its fourth week, the Board of Supervisors took up the HRC's ordinance again. An amended version of the ordinance was the

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<sup>41</sup> Id.

<sup>42</sup> NAACP, Region I Papers, Carton 93, Folder 9.

<sup>43</sup> Id.

subject of hearings held by the Board's Social Services Committee.<sup>44</sup> The suggestions made by Building Trade Council in February seem to have fallen of deaf ears. The May version of the ordinance made only the smallest concessions to the unions' desires.<sup>45</sup> The Committee had added no language to the ordinance that would have protected hiring halls or collective bargaining agreements. While it had added language to the effect that compliance with state or federal contracting regulations would constitute compliance with the ordinance, it went on to allow the HRC to "require further information if it so deems." Thus, what emerged from the Committee was exactly what civil rights groups wanted. Indeed, at the first of two scheduled hearings the NAACP declared, with almost delusional optimism, that "[p]assage of this proposed law will virtually eliminate discrimination among firms doing business with the city."<sup>46</sup> While others were a bit more cautious in their praise, no one spoke against the ordinance at the May hearing. The City's unions chose not to testify, waiting instead for the second hearing in June so that they could "study" the revised statute prior to commenting.

Labor's response to the proposal came in late June at the hearing and in early July in a letter to the Supervisors and the HRC.<sup>47</sup> Rather than letting BTC, with its awful record and its suspect motivations, continue lobbying the Board, the City's labor leaders gave that task to people with considerably better track records on issues of fair employment practices. Harry Bridges of the ILWU warned the Board that, under the existing language, the ordinance would be used by discriminating employers to pass the buck to innocent labor unions. "In such an event the union could then be required to prove its innocence, and . . . could be driven into the

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<sup>44</sup> Mel Wax, "A Tough City Law on Job Discrimination," Chronicle, May 20, 1966, pp. 1, 14.

<sup>45</sup> "Draft of May 18, 1966," NAACP, Region1 Papers, Carton 23, Folder 2.

<sup>46</sup> Mel Wax, "A Tough City Law on Job Discrimination," Chronicle, May 20, 1966 at 14.

<sup>47</sup> Mel Wax, "Unions Balk Over Anti-Job Bias Proposals," Chronicle, June 17, 1966, p. X.

courts – and all the way to the US Supreme Court at great expense – in order to overturn what possibly could be a wrong decision. . . .”<sup>48</sup> Writing for the Labor Council, George Johns voiced a preference for the resolution of issues of discrimination through arbitration under the antidiscrimination provisions of collective bargaining agreements.<sup>49</sup> Like the BTC, he also worried that affirmative action requirements “could lead to an extensive invasion of conditions now protected by collective bargaining agreements.” The rights established in collective bargaining agreements, and the ability to quickly and impartially enforce those rights “are a protection to majority and minority workers like.” Indeed, since all the collective bargaining agreements that San Francisco unions negotiated contained non-discrimination provisions, the sanctity of those agreements was “even more vital to the minority worker than the majority worker.”

In light of these concerns, the Labor Council, along with the BTC and the ILWU, proposed an amendment to the ordinance to protect these rights and to ensure that the resolution of a conflict between them and the dictates of the HRC be resolved by the mechanisms created by collective bargaining agreements: “Nothing in this ordinance shall require any employer or labor organization to take any action which would violate the provisions of any collective bargaining agreement. . . .”<sup>50</sup> The amendment was designed to guarantee not only the substantive rights in the CBA, but also the procedural mechanism for enforcing those rights. The

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<sup>48</sup> Bridges to Board of Supervisors, June 16, 1966. SFLC Papers, Box 20, “Human Rights Commission” Folder. LARC.

<sup>49</sup> Johns to “All AFL-CIO Unions and Delegates,” July 1, 1966. SFLC Papers, Box 20, “Human Rights Commission” Folder. See also, Johns to “All AFL-CIO Unions and Delegates,” July 6 18, 1966. SFLC Papers, Box 20, “Human Rights Commission” Folder. George Johns, “Collective Bargaining Involved?” San Francisco Labor Council Bulletin, July 13, 1966, p. 2.

<sup>50</sup> Johns to “All AFL-CIO Unions and Delegates,” July 1, 1966, p. 4. SFLC Papers, Box 20, “Human Rights Commission” Folder.

question of whether a requirement imposed by the HRC on an employer or a union violated the CBA would be arbitrated under the CBA. The result of that arbitration would be binding on the HRC.

Johns emphatically argued that these sorts of protections for rights under the CBA were not antithetical to the rights of African American workers. To contrary, “the economic protection afforded by collective bargaining for the great mass of workers, of every color and creed, is a fundamental safeguard against exploitation. The very groups who are the intended beneficiaries of the [ordinance] would be the first injured” by a weakening of the rights contained in collective bargaining agreements. Johns even argued that “this fact was recognized” by civil rights advocates themselves. After all, the 1964 Sheraton Palace non-discrimination agreement contained explicit protections for such rights.

The intensity of San Francisco labor’s objections to the ordinance had its intended effect. Unlike the BTC’s February objections, which seem to have been written off as the self-interested complaints of racist unions, labor’s broad-based offensive in June and July was extremely effective. The HRC and the Social Services Committee of the Board had underestimated the power of organized labor in the City. Indeed, from the moment the original draft was introduced, Mayor Shelley, whose entire career had been built on the power of San Francisco’s unions, had warned the HRC, rather coyly, that the strength of the proposal was sure to “create resistance from certain civil groups.”<sup>51</sup> (Presumably he was not referring to the NAACP.) By the end of July, the HRC and the Social Services Committee discovered that they did not have the votes on the Board to pass their version of the ordinance.<sup>52</sup> Instead, a compromise was

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<sup>51</sup> “Shelley, Rights Commission Disagree,” Examiner January 27, 1966, p. 9.

<sup>52</sup> HRC Press Release, August 1, 1966.

hammered out.<sup>53</sup> The unions got their amendment shielding collective bargaining agreements from HRC meddling. In an attempt to blunt criticism from the civil rights community, the Board also added a provision that gave the HRC and labor union officials six months to “endeavor to arrive at an affirmative action non-discrimination program.”<sup>54</sup> If they were unable to agree on such a program, the ordinance created a seven member committee, consisting of three members of the HRC, three representative of organized labor, and a “neutral chairman.” This committee’s job was to craft an affirmative action program for the Board’s approval.

Only the most naïve member of the Board of Supervisors could have possibly imagined that this “compromise,” such as it was, would have satisfied the City’s civil rights community. Though the NAACP’s response was typically staid -- the new amendments, noted a spokesman, “can be used to continue existing practices” – more militant African American leaders were less circumspect.<sup>55</sup> Foremost among these was William Bradley, the leader of the San Francisco chapter of CORE. The amendments were an obvious attempt to protect “the sacred rights of lily-white unions. . . The only result is to whip back on our heads the old seniority rights issue.”<sup>56</sup> The creation of the committee to develop affirmative action plans was a meaningless gesture since civil rights groups would not be represented on it. One of CORE’s witnesses at the Board’s hearing blamed labor unions for his inability to find work after moving to San Francisco from Mississippi: “These unions are the ones that kept me down.” In the next breath he raised the specter of urban unrest, a subject very much on the minds of most Americans in the summer

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<sup>53</sup> JULY VERSION OF THE ORDINANCE.

<sup>54</sup> Id., section 12B.4.

<sup>55</sup> “Major Changes in Job Bias Plan,” Chronicle, July 22, 1966, p. X. “Negroes Distrust Union Bias Ban,” Examiner, July 22, 1966, p.X.

<sup>56</sup> “Negroes Distrust Union Bias Ban,” p. X.

of 1966: “We don’t want to burn, we want to work – but time is running out.”<sup>57</sup> As the Board retired to consider the reaction to the most recent draft of the ordinance, these words would turn out to be remarkably prescient.

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As the Board of Supervisors held hearings on the ordinance in June and July, attempts to resolve the dispute at the Hilton continued. In early July, the three civil rights groups representing the maids initiated several meetings with the Hilton, the Hotel Employers Association, and the Human Rights Commission. Notably absent from these meetings were any representatives from Local 283, or any labor union. Indeed, when the president of the Employers Association indicated some reluctance to negotiate a new agreement without the unions’ involvement, William Bradley, informed him that he did not “give a damn about the labor unions or the collective bargaining agreement” and that that was a problem for the hotels and the union to work out.<sup>58</sup> When the Human Rights Commission invited the unions to participate in meetings to negotiate a new agreement, the civil rights groups threatened to walk out. The Commission gave in, and labor’s representatives were unceremoniously ejected.<sup>59</sup>

By mid-July San Francisco city officials were pressuring the Employers Association to resolve the situation at the Hilton. The tone of the dispute had taken a decidedly nasty turn, particularly as compared to Sheraton-Palace protests. While the vast majority of the participants

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<sup>57</sup> Major Changes In Job Bias Plan, Chronicle, July 22, 1966.

<sup>58</sup> 47 LA at 879, 880.

<sup>59</sup> Id. at 881. “Rights of Workers Threatened,” Official Bulletin of the San Francisco Labor Council, August 24<sup>th</sup>, 1966, p. 2.

in those demonstrations were white college students, the protests in 1966 had a Black Power feel to them that white city officials found to be considerably more threatening. That Bradley, who was working to turn the San Francisco chapter of CORE in a black nationalist direction, threatened to bring “troops” from the City’s African American neighborhoods to “settle” the dispute with the Hilton only served to inflame the fears of white San Franciscans, already put on edge by the previous summer’s riots in Los Angeles.<sup>60</sup> When the Hilton’s management met with Thomas Cahill, San Francisco’s police chief, in mid-June, he informed them that he “did not have the manpower to protect the hotel” because the City was “about to go up in flames.”<sup>61</sup>

In this context, the hotel owners capitulated. On July 18 the Hilton’s management suggested that the dismissal of the maids be arbitrated outside of the mechanisms provided by Local 283’s contract with the hotel. CORE, the NAACP, the HRC, and the Hilton’s representatives asked George L. Bedford, the president of the Baptist Ministers Union of San Francisco, to arbitrate the dispute, and the next day he issued an opinion ordering the Hilton rehire the maids and pay them wages for the three months since they had been fired. He also established a committee consisting of himself, Bradley, San Francisco NAACP branch President Arthur Lathan, and representatives of the Hilton to investigate the maids’ complaints about the Hilton’s head of housekeeping.

Four days later, after a noisy but peaceful protest and march from City Hall to the Hilton, the Hotel Employers Association signed a new agreement “to affirm the Equal Employment Opportunity policy of the Member Hotels . . . and to establish implementation of that policy.” The agreement had much in common with the 1964 agreement. As with the earlier agreement,

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<sup>60</sup> Id. at 880-81; Maitland Zane, “Two-Edged Protest in S.F. March,” *Chronicle*, July 18, 1966, pp. 1,7. For Bradley and the San Francisco chapter of CORE, see Crowe, *Prophets of Rage*, pp. 127-28.

<sup>61</sup> 47 LA at 880.

the hotels declared their commitment to fair employment practices and agreed to periodically submit information about the racial composition of their workforce to the HRC. They also agreed to engage in a good faith effort to hire more African Americans. The agreement explicitly disavowed the use of racial quotas in hiring and, with similar explicitness, stated that the agreement was not intended to conflict with any collective bargaining agreement that the Hotel Employers Association was party to.

For all they had in common, however, there were two differences between the agreements that were quite significant to San Francisco's unions.<sup>62</sup> First of all, unlike the 1964 agreement, which simply established an overall goal of 15 to 20 percent minority employment in the hotel industry, the 1966 agreement set specific goals that the hotels were to try to meet within a year in seven different job categories: non-union executive, supervisory and management, office and clerical, waitresses, bartenders, doormen and pages, and bellmen. Additionally, the agreement contained a quid pro quo that was typical of union-negotiated collective bargaining agreements. Civil rights groups would agree to refrain from picketing and boycotting the hotels during the ten years that the agreement was to be in effect so long as the hotels would agree to arbitrate any dispute over whether they were abiding by the terms of the agreement.

Not surprisingly, the leaders of Local 283 and the San Francisco Labor Council were furious about the agreement. They were insulted that the HRC excluded them from the negotiating sessions ("This is the first instance in my recollection of thirty years of representing organized labor . . . that a public agency in the City and County of San Francisco has acted in such an arbitrary and insulting manner to organized labor," wrote the Local's attorney, Roland Davis), and appalled by the outcome. The agreement was an "intrusion into collective

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<sup>62</sup> For the text of the 1964 agreement see "The Hotel Hiring Agreement," *Chronicle*, March 8, 1964, p. 1C. For the terms of the 1966 agreement see 47 LA at 889-891.

bargaining” that violated the contract between the hotels and the unions that represented their workers. Accordingly, they intended to “resist” it, though the nature of that resistance was left unspecified.<sup>63</sup> At the end of September they issued a provocative “Statement of Policy of Organized Labor in San Francisco with Respect to Equal Employment Opportunities.”

The Statement, which was signed by Johns, Dan DelCarlo and Joseph Diviny, of the Building Trades Council and the Teamsters, respectively, and Bridges, reaffirmed the labor movement’s commitment to fair employment practices. The statement argued, as had the entire labor movement since the late 1940s, that the solution to African American un- and under-employment was a governmental commitment to job creation and improving the qualifications of black workers through education and training programs.<sup>64</sup> The bulk of the Statement, however, was a thinly veiled attack on the agreement. While the Labor Council would cooperate with “responsible civil rights groups” to “secure more and better jobs for all,” it “expects and demands complete respect for its collective bargaining agreements, and the rights of its members thereunder to employment according to their qualifications . . . .” Particularly troubling to the Council was the possibility of “other private group[s] or organization[s]” inserting themselves into the relationship between a union and the employer it had negotiated a contract with. Equally horrifying was the idea that a government agency would sanction an agreement between an employer and these other groups. The labor movement had worked long and hard to ensure that

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<sup>63</sup> “Rights of Workers Threatened,” Official Bulletin of the San Francisco Labor Council, August 24<sup>th</sup>, 1966, p. 2.

<sup>64</sup> “Statement . . . .” Bulletin of the San Francisco Labor Council, September 21, 1966, p. 2. For the Council’s repeated calls for solving African American employment problems through job creation and improved training see: “The Main Target: Jobs for 17,000,” San Francisco Labor, August 3, 1963, p. 1; “How Can We Create More Jobs?” Bulletin of the San Francisco Labor Council, November 9, 1966; “We Need More Jobs,” San Francisco Labor, November 11, 1966, p. 1; “Affirmative Action: Job Training Threatened,” Official Bulletin San Francisco Labor Council, September 21, 1966, p.1; “Affirmative Action: Report and Recommendations,” Official Bulletin of the San Francisco Labor Council, April 5, 1967, pp. 1-2.

it had the exclusive power to represent workers in their negotiations with an employer. Similarly, it had crafted a regime of labor relations that depended on particular institutions – mutually chosen arbitrators and the National Labor Relations Board – to resolve disputes. According to the Labor Council, by subverting this regime, groups that sought to further their interests through side agreements with employers simply played into the hands of the enemies of organized labor and thus undermined the rights of all workers, regardless of their race.

The NAACP's response was rapid and bitter. In a letter that he also sent to the press, San Francisco branch president Arthur Lathan, wrote to Johns, informing him that he was "perplexed" by the Statement's implication that civil rights organizations sought to involve themselves in union business.<sup>65</sup> The NAACP, quite frankly, did not have the resources to address all the complaints that African American workers had about workplace discrimination. Indeed, when he received such complaints from workers in union shops (which he did, "almost daily"), Lathan claimed that he simply informed them of their rights under the CBA. The only reason that the NAACP would become involved in labor/management relations at all was "because your members . . . have received less than adequate representation." According to Lathan, the quality of representation that black workers received in the City's unions was little different from what they might have expected in a Jim Crow auxiliary:

Most members are bitter and feel their membership is only to enrich the coffers of the union with bare minimum services intended. They complain that these services consist primarily of occasionally renegotiating a contract that hardly covers the cost of living increase since the last contract, and this without even the threat of a strike. Almost unanimously, they sincerely believe that the union is in collusion with the employer at the member's expense. They remark that they are not made aware of any fringe benefits and seldom know even when meetings are scheduled.

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<sup>65</sup> Arthur Lathan to George Johns, October 3, 1966, Papers of the San Francisco Labor Council, Box 23, Folder "NAACP"; "NAACP Complaint On Unions," Chronicle, October 8, 1966, p. X.

Lathan then touched on a subject sure to get Johns' attention. A number of workers "have offered the opinion that they would fare better under "Right-to-Work" laws where at least the saving of their union dues can supplement their meager wages." He concluded with a sarcastic offer: "we would be most happy, even delighted, to abdicate this responsibility [to fight employer discrimination] to you and cease our questionable involvement any time the unions are ready to fill this void."

Lathan's letter was provocative, to say the least. Besides raising the right-to-work specter, it implied that unions were incapable of performing even their most basic functions for African American workers. They couldn't even get them a decent wage. Cleverly, it avoided the obvious criticism that civil rights groups leveled against unions – that the unions themselves refused to admit black workers – and instead focused on a problem that was less easy to dodge with simple pledges to reform a few "deviant" locals: namely, that even unions with substantial black memberships were unresponsive to the needs of that membership. The members of the Labor Council clearly believed that such claims were untrue, and Johns, frantically trying to preserve good relations with the NAACP, labor's most consistent ally within the Civil Rights Movement, repeatedly tried to meet with Lathan, who, curiously, never seemed to be in the office when Johns called.<sup>66</sup>

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The outcome of the Hilton Hotel dispute had serious repercussions on the negotiations over the HRC's ordinance. The 1966 agreement was, of course, the Labor Council's nightmare

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<sup>66</sup> Johns wrote "invite" next to Lathan's name on the October 3<sup>rd</sup> letter and the Council asked him to "sit down" with its executive committee to discuss the issues the latter raised. "Council to Ask Talks on NAACP Stand," San Francisco Labor, October 14, 1966, p. 7. For Johns' unsuccessful attempt to reach Lathan, see XXXXX.

come to life – the resolution of a civil rights dispute in a unionized workplace in which the union was pushed aside and in which the rights established by the collective bargaining agreement, including its arbitration mechanisms, were ignored. This was exactly the type of situation the Council was trying to avoid with its amendments to the ordinance. Furthermore, the behavior of the HRC in brokering the deal at the same time that it was resisting those amendments poisoned the relationship between the Council and the HRC. Johns alleged that the HRC’s negotiations with the Council over the ordinance had not been in good faith because all along the HRC had as its goal the “intrusion into collective bargaining” and a “challenge to the rights of workers” under their collective bargaining agreements.<sup>67</sup> The HRC had become nothing more than a pawn not only of the City’s civil rights groups, but also of the Chamber of Commerce in its goal of weakening the City’s unions.<sup>68</sup> This impression was confirmed by HRC chair Edgar Osgood’s public condemnation of the Council’s resistance to the original ordinance, delivered as he conceded that there were not enough votes on the Board to pass it.<sup>69</sup>

The Council’s new suspicions of the HRC’s good faith caused it to request, in early August, that the Board of Supervisors delay voting on the ordinance, even with the amendments the Council favored.<sup>70</sup> Until the Council and the HRC could reestablish trust, Johns believed it would be impossible for the two to work together as the amended ordinance required. A two or three month delay would give time for “improvements in relationships” and allow the “present

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<sup>67</sup> “Rights of Workers Threatened,” San Francisco Labor Council Bulletin, August 24, 1966, p. 1; Johns to Leo T. McCarthy, August 3, 1966. SFLC Papers, Box 20, “Board of Supervisors” Folder. LARC.

<sup>68</sup> “Rights of Workers Threatened,” San Francisco Labor Council Bulletin, August 24, 1966, p. 1

<sup>69</sup> HRC Statement.

<sup>70</sup> “Council Asks Delay on Job Bias,” San Francisco Labor, August 12, 1966, p. 3. “Council Backs Delay in Action on Bias Bill,” San Francisco Labor, September 9, 1966. ; Johns to Leo T. McCarthy, August 3, 1966. SFLC Papers, Box 20, “Board of Supervisors” Folder. LARC.

disturbing aspects” of the relationship between the Council and the HRC to be resolved.<sup>71</sup>

Though the HRC objected to the delay, the Board agreed to it, and in late August, the vote on the ordinance was put off until October.<sup>72</sup>

For reasons it could not have anticipated, the Council’s request for the delay turned out to be a tactical error. On September 27<sup>th</sup> its political leverage over the Board of Supervisors vanished. That afternoon a San Francisco police officer shot and killed an African American teenager while trying to arrest him in connection with an auto theft.<sup>73</sup> By that evening a full-scale riot had broken out. San Francisco’s long hot summer had arrived, albeit a few weeks into the fall.

The rioting, which was concentrated in San Francisco two most impoverished African American neighborhoods, Bayview and Hunter’s Point, lasted until October 1<sup>st</sup>. Compared to the riot in Watts the previous year, the San Francisco riot was small, but it had a substantial effect on the City’s politics.<sup>74</sup> With respect to the HRC’s ordinance, the rioting essentially reversed the political dynamic. When the Social Service Committee reported the ordinance to the entire Board in mid-October, there was not a single Supervisor who would introduce the Labor Council’s amendments.<sup>75</sup> Instead, the version that the Board passed contained the section requiring the HRC and unions to develop affirmative action guidelines within six months, but not

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<sup>71</sup> Johns to Leo T. McCarthy, August 3, 1966. SFLC Papers, Box 20, “Board of Supervisors” Folder. LARC.

<sup>72</sup> “Quick Passage of Anti-Bias Law on City Jobs is Urged,” Examiner, August 12, 1966, p. X. Board of Supervisors File 188-66, p.XX.

<sup>73</sup>San Francisco Police Department, “128 Hours: A Report of the Civil Disturbance in the City and County of San Francisco (1967); Prophets of Rage, pp.204-05.

<sup>74</sup> Prophets of Rage, pp XX..

<sup>75</sup> Mel Wax, “Giant S.F. Step For Job Equality,” Chronicle, October 11, 1966, pp. X,X. Russ, Cone, “Supervisors Approve ordinance To Ban Bias on City Contracts,” Examiner, October 11, 1966, p. 18.

the Council's amendment to shield CBAs from the HRC's meddling. Instead, the Board added some particularly anemic language that purported to protect collective bargaining agreements: "Until and unless otherwise required by the affirmative action nondiscrimination program provide for herein . . . nothing in this ordinance will require any employer or labor organization to take any action that would violate or modify the provisions of any existing collective bargaining agreement. . . ."76 Even these meager protections were attacked in the Board, as Terry Francois tried, unsuccessfully, to have them stripped from the ordinance.

The Labor Council was obviously appalled by the ordinance, but in the aftermath of the riot, it could not direct its anger at the civil rights groups that had supported it.<sup>77</sup> At the end of October, the Council, announced that it had "attempted in good faith to lend its knowledge" to the drafting of the ordinance. Furthermore, it looked forward to going ahead with the planning of affirmative action programs as required by the ordinance. Indeed, doing so was simply "a continuation . . . of our programs of many years." Nevertheless, villains needed to be identified, and since the racial climate prevented attacks on civil rights groups, "responsible" or otherwise, the Council targeted more traditional foes while emphasizing its objection to outsiders meddling in the internal affairs of unions. "Since the Chamber of Commerce and City Hall have involved themselves in this ordinance defining Labor's responsibilities we think we have the right to demand an ordinance outlining **their** responsibilities." The root cause of the recent riots was the lack of decent jobs in the City. The "speculative real estate boys" and "financial institutions which dominate our town" had been blocking the development of skilled, blue collar, industrial jobs in order to "change the economic pattern" of the City. Until they were stopped from doing

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<sup>76</sup> Ordinance 261-66, sections 12B.4 and 12B.5.

<sup>77</sup> San Francisco Labor Council Official Bulletin, October 26, 1966. "City Adopts Anti-Bias Contract ordinance," San Francisco Labor, November 11, 1966, p. 2.

this, “unemployment, poverty, and frustration” were inevitable. “So we ask the City Hall and the Chamber of Commerce – What’s **your** program for affirmative action?”

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This theme – that the creation of industrial jobs was the secret to solving the persistent problem of African American unemployment – was one that San Francisco’s labor community frequently touched on.<sup>78</sup> In the aftermath of highly racialized urban disturbances, it was also the safest tack to take. By focusing on economic development (increasing the size of the pie, so to speak), labor unions avoided the more contentious issues related to both the racially exclusionary practices of certain unions, and to facially neutral practices, like seniority, that appeared to black and white workers alike to generate a zero-sum struggle over jobs. Indeed, if the Labor Council had continued emphasizing job growth exclusively, it might have been able to repair the rift that was developing between it and the City’s civil rights community. This, however, was not the path it chose.

While it appeared to the HRC and civil rights organizations that the conflict over the 1966 hotel agreement had ended with the signing of the agreement, the Labor Council’s “Statement of Policy . . . With Respect to Equal Employment Opportunities,” and Lathan’s acerbic reply, the fight had, in fact, just begun. In late July, the Hotel, Motel, and Club Workers Union had set in motion events that would overturn the agreement and reestablish its legal rights under the CBA. Nothing in the Council’s public statements, other than the vague assertion that it would “resist” attempts to undermine collective bargaining agreements, indicated that the Labor

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<sup>78</sup> See supra, note XX..

Council or Local 283 would do anything other than loudly complain about the 1966 hotel agreement. Yet just days after the agreement had been signed, the union quietly sought to have it voided by filing a grievance with the arbitration board established by its contract with the hotel owners. On November 17, the board issued its decision, nullifying the agreement.

The collective bargaining agreement between the Hotel Employers Association and the union dictated that grievances be adjudicated by a Board of Arbitration made up of five people: two union representatives, two employer representatives, and a fifth person chosen by the other four. Because the two management representatives dissented from the decision, the Board's opinion was drafted by the three other members: the neutral arbitrator, Robert Burns, and the two union representatives, Earl Payne, the president of the union that represented the cooks at the Hilton, and Joseph Belardi, the president of the Labor Council and the head of Joint Executive Board of all the unions that represented workers in the City's hotels. Thus, it was not surprising that the decision read more like a brief for the union than an objective assessment of the merits of the case.

The decision gave five separate reasons for voiding the hotel agreement. The first, and most basic, problem with the agreement was that it violated the doctrine of exclusive representation. Not only did the civil rights groups negotiate terms and conditions of employment with the hotel owners, they even had the temerity to arbitrate a dispute. Both of these activities were the exclusive responsibility of the union. Yet Local 283 had been rudely thrown out of the negotiating sessions and was not invited to participate in the arbitration of the 19 maids' claims.

The defenders of the agreement argued that the doctrine of exclusive representation was not violated because the agreement did not dictate terms and conditions of employment. It

simply laid-out precatory guidelines that the employers would have to meet within the constraints of the collective bargaining agreement.<sup>79</sup> As far as the arbitrators were concerned, such claims were absurd. Even if one ignored the agreement's arbitration clause, which was meaningless unless the agreement established enforceable rights, the arbitrators believed that specific terms of the agreement directly conflicted with the CBA. Indeed, that was their second reason for voiding the agreement. The union argued, and the arbitrators agreed, that the purpose of the agreement was to establish specific, enforceable quotas for the hiring and promotion of African American workers, regardless of the criteria for hiring and promotion contained in the CBA. Though the agreement explicitly disclaimed such a purpose, the arbitrators thought it impossible to view the obligation to collect data on the racial composition of various job categories, or the very specific "goal figures" ("between 14.26% and 16% of all persons employed as waitresses") contained in the agreement in any other way. Such quotas were in direct conflict with the CBA's hiring and seniority provisions.

The arbitrators' next two arguments for nullifying the agreement were based directly upon the assumption that it created this racial preference for hiring and promotion. First of all, such race-based preferences violated both the non-discrimination provisions of the CBA and the union's statutory duty of fair representation, which required it to administer the contract in a racially neutral, non-discriminatory manner. Secondly, the 1966 agreement violated both federal and state public policy, both of which stood, undisputedly, in the view of the arbitrators, for the principle that any type of race discrimination, against African Americans or "against non-Negroes and those who do not belong to some minority group" was impermissible. Particularly relevant, the arbitrators wrote, was the California Supreme Court's 1948 opinion in *Hughes v.*

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<sup>79</sup> Human Rights Commission, Press Release, November 25, 1966, p. 3, SFLC Papers, Box 22, "Human Rights Commission" Folder; "No Negro Layoffs in Hotel Pact," Examiner, November 25, 1966, pX.

*Superior Court*, which declared that picketing by a civil rights group to “force a store to hire Negro clerks in proportion to Negro patronage” was unlawful.<sup>80</sup>

Finally, the arbitrators held that the agreement was void because it was “procured by force, menace, duress, and unlawful means.” The members of the Hotel Association “were threatened with invasion of the hotel premises and destruction of hotel property by the ‘troops’, a euphemism for hoodlums, which Mr. Bradley threatened to call.”<sup>81</sup> The association knew the “threats were not idle ones” and once Chief Cahill told the Association he could not guarantee the safety of their premises or property, “the association had no choice but to sign the agreement.” (“It is indeed a sad commentary on the status of affairs in San Francisco,” the arbitrators could not resist editorializing, “when the Chief of Police informs a citizen that he is unable to protect his person or property against unlawful attack and destruction by mob actions. . . .”)<sup>82</sup>

The breadth of the arbitration decision demonstrates just how furious the union was. It seems as if it was written specifically to antagonize civil rights advocates. There is no doubt that the agreement itself was legally problematic – it is difficult to see how the principle of exclusive representation would allow employees to claim rights under two separate agreements, each with its own arbitration provision, each implemented by different arbitrators. (Indeed, after the agreement was nullified, Robert Carter, the NAACP’s General Counsel, castigated the local branch for not consulting a lawyer before drafting it.)<sup>83</sup> But the arbitrators could have easily

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<sup>80</sup> 47 LA at 886.

<sup>81</sup> *Id.* at 887.

<sup>82</sup> *Id.*

<sup>83</sup> Minutes of the West Coast Regional Board Meeting, December 17, 1966, p. 6. NAACP Papers, Region 1, Carton 1, Folder 8. Even a contemporary scholar who was extremely sympathetic to the goals of the African American workers believed the decision was correct to throw out an agreement that was negotiated without any

drafted a narrow opinion focusing entirely on the exclusivity issue without repeatedly referring to all the civil rights activity surrounding the negotiations as unlawful and the protesters as “hoodlums.” Indeed, there was very little reason to address the substance of the agreement at all, let alone to score smarmy debaters points by lecturing civil rights advocates about the evils of discrimination. The section holding that the agreement was void because it was signed under duress was entirely dicta, unnecessary except as a vehicle for Belardi, Payne, and Burns to vent their fear and anger over the increasing militancy of the Civil Rights Movement.

Not surprisingly, this anger was flung back at the labor movement by the African American community. “The destruction of the 1966 Civil Rights Agreement,” William Bradley stated “prove[s] that under a smoke screen of lies, labor and management are deliberately working to remove black people from the few jobs we have, and to deny entry to the rest of us.”<sup>84</sup> Thomas Burbridge, who, as president of the local chapter of the NAACP in 1964, was one of the leaders of the Sheraton-Palace sit-in, called the union’s decision to pursue the arbitration “a scandal” that demonstrated “the bigotry of some San Francisco labor unions.”<sup>85</sup> The decision, Arthur Lathan told the San Francisco Chronicle, “put the unions in a position of calling for discrimination.”<sup>86</sup> The NAACP’s leadership joined more radical organizations, like CORE and

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input from the exclusive bargaining representative. William B. Gould, “Black Power in the Unions: The Impact Upon Collective Bargaining Relationships,” 79 Yale L.J. 46, 74 (1969).

<sup>84</sup> “Afro-American Institute to Intensify Hotel Boycott,” Sun Reporter, January 7, 1967, p. 5.

<sup>85</sup> “There May be New Sit-Ins at S.F. Hotels,” Chronicle, November 25, 1966, pp. 1, 20.

<sup>86</sup> Id.

the Afro-American Institute, in calling for another round of pickets and a boycott of the hotel industry in the City.<sup>87</sup>

Carlton Goodlett was particularly outspoken in his attacks on the decision. On the editorial page of the *Sun-Reporter* he placed a cartoon entitled “S.F. Labor Council Takes a Giant Step Backwards.” It showed an enormous white worker, holding a sign that read “collective bargaining rights,” glaring over his shoulder as he stepped backwards, crushing tiny African American figures clutching “civil rights” and “equal rights” banners.<sup>88</sup> Next to the cartoon Goodlett ran an editorial under the headline “LABOR UNION DISCRIMINATION.” After reminding his readers of a host of racially discriminatory actions by labor unions, he drew a line in the sand: “The Negroes of San Francisco will not continue to allow organized labor, based upon decades of flagrant racial discrimination, to now plead the sanctity of collective bargaining agreements which were . . . covertly discriminatory against racial minorities.”<sup>89</sup> Goodlett then explicitly called for an end to the alliance between African Americans and organized labor: “If the present attitude expressed by Ballard [sic], George Johns, and his associates represents labor’s constructive contribution to a solution of the economic crisis threatening racial minorities in San Francisco, . . . [it] leads to one conclusion, namely, that labor is not a friend of the Negro in California.”<sup>90</sup> He concluded with a twist of the knife: “At this time, we can see no reason why the Negroes of California, both members of organized labor and unorganized labor, should not find solutions of their dilemma in the job market in a study

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<sup>87</sup> SF Hotel Boycott Urged by AAI,” *Sun-Reporter*, December 3, 1966, p. 6; “Hotel Boycott Gaining, AAI Says,” *Sun-Reporter*, December 17, 1966, p. 4; “Afro-American Institute to Intensify Hotel Boycott,” *Sun Reporter*, January 7, 1967, p. 5; “There May be New Sit-Ins at S.F. Hotels,” *Chronicle*, November 25, 1966, pp. 1, 20.

<sup>88</sup> “S.F. Labor Council Takes a Giant Step Backwards,” *Sun-Reporter*, December 3, 1966, p. 10.

<sup>89</sup> LABOR UNION DISCRIMINATION,” *Id.*

<sup>90</sup> “LABOR UNION DISCRIMINATION,” *Id.*

and support of Right to Work Laws.”<sup>91</sup> Indeed, two months later, Goodlett invited Reed Larson of the National Right-to-Work Committee to debate Bayard Rustin, the famous African American labor activist, at the California Negro Leadership Conference. He then editorialized that Reed had got the upper hand in the debate because Rustin incorrectly assumed that a powerful labor movement would help black workers.<sup>92</sup>

Perhaps the most scathing attack on the decision came from the national office of the NAACP, launched by its labor secretary, Herbert Hill. Hill dismissed Goodlett’s call for right-to-work legislation as contrary to the interests of black workers (“The record clearly indicates that such laws have no benefits to Negro workers”), but then lit into local, state-wide, and national union leaders for allowing the nullification of the 1966 agreement. It was “a national outrage, a national scandal,” he said.<sup>93</sup> “The AFL remained silent, George Meaney has remained silent, the entire American labor movement has remained silent on this.”<sup>94</sup> This silence in the face of “union irresponsibility”<sup>95</sup> on issues of race was typical of the way the AFL-CIO maintained “a public policy of support for civil rights but a private policy of racial discrimination.”<sup>96</sup> Hill then went on to list several examples of union discrimination in the Bay Area, including “adamantly racist” construction unions, the exclusion of blacks from the unions involved in building BART, the failure of the Labor Council to encourage organizing in

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<sup>91</sup> Id.

<sup>92</sup> “A Landmark Negro Conference,” Sun-Report, February 25, 1967, p. 10; Dick Meister, “The Times Are Really Changing,” Chronicle, February 18, 1967, p. 4; Letter Hugh C. Newton to “Sir,” undated, Box 108, Folder 10, Papers of the Central Labor Council of Alameda County. LARC.

<sup>93</sup> Dick Meister, “NAACP Plans for Negro Unions, Chronicle, December 18, 1966, pp. 1, 18.

<sup>94</sup> “NAACP Proposes Freedom Labor Movement,” Sun Reporter December 24, 1966, pp. 6, 46.

<sup>95</sup> Meister, “NAACP Plans for Negro Unions, Chronicle, December 18, 1966 at p. 18.

<sup>96</sup> “Freedom Unions’ To Fight Bias,” Examiner, December 19, 1966, p. X

Chinatown or the Fillmore, and its creation of training programs for African American workers that were nothing more than a “hoax” because they taught no new skills that would allow black workers to actually get decent jobs.<sup>97</sup>

While right-to-work laws were not the solution to the problem of union race discrimination, Hill announced several initiatives that were equally bone-chilling to the labor movement. The NAACP was prepared to take legal action to insure that infrastructure projects, like BART, that received federal money were halted until the unions on those projects admitted black members.<sup>98</sup> Similarly, it had already begun actions before the NLRB to decertify racially exclusionary unions, thereby depriving them of the protection of the National Labor Relations Act. Finally, Hill said that in industries dominated by all-white unions (or “the Nordic closed shop,” as he colorfully called the Sailor’s Union of the Pacific),<sup>99</sup> the NAACP would encourage the formation of “independent freedom labor unions” to challenge incumbent unions. Such unions, Hill believed, represented “the best traditions and the best spirit of organized labor” and if traditional labor unions did not recognize them, “the Negro community will understand that they are scabs and finks.”<sup>100</sup>

San Francisco’s unions were completely unprepared for the vehemence of this response. At the end of November, the Joint Executive Board of the Hotel and Restaurant Workers Union

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<sup>97</sup> Dick Meister, “NAACP Plans for Negro Unions, Chronicle, December 18, 1966, pp. 1, 18. NAACP Proposes Freedom Labor Movement,” Sun Reporter December 24, 1966, pp. 6, 46. ‘Freedom Unions’ To Fight Bias,” Examiner, December 19, 1966, p. X

<sup>98</sup> Id. See also Correspondence, NAACP Region 1 Papers, Carton 13, Folders 6, and 34.

<sup>99</sup> Freedom Labor Movement,” Sun Reporter December 24, 1966, p. 6.

<sup>100</sup> Id., at p. 46.

held a special meeting to figure out how to respond.<sup>101</sup> Belardi, Johns, and the Board's lawyer, Roland Davis, bemoaned the fact that they were "unable to get any information in the press in defense" of their position. Belardi's explanations were either ignored or "put on the back pages of the newspapers, while [the arguments of the advocates of the agreement] made the front page, distorting the real facts so at the end it caused much confusion." The solution to this problem, it was decided, was to pay for a full page advertisement in the *Chronicle* and the *Examiner* to explain the arbitration decision, and to hold a press conference simultaneously. According to the minutes of the meeting, it was a "must" to take these actions, "not only to protect the [hotel unions], but the labor movement as a whole insofar as collective bargaining agreement is concerned, as this takes our jurisdiction away from us that is ours under law."

In early December, before the ad came out, the arbitration was also the subject of a contentious meeting of the Labor Council.<sup>102</sup> The decision to pursue the arbitration, it turned out, was a divisive one, even within the labor movement. While everyone agreed that the reaction to the arbitration was "hurting us and hurting us badly," there was a lack of consensus on what to do. Some members of the Council used the meeting to "angrily . . . condemn the attacks" that had been launched against the Hotel, Motel, and Club Service Workers Union. Others bemoaned the decision to challenge the 1966 agreement at all, arguing that it put the labor community "on a collision course" with African American residents of the City.<sup>103</sup> These people also used the meeting as a forum to attack the Council (and the ILWU, the Teamsters, and the Building Trades Council) for their opposition to the original version of the anti-discrimination

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<sup>101</sup> Minutes of Special Meeting of the Local Joint Executive Board Held Wednesday, November 30, 1966, p. 1. HERE, Local 2 papers, Box 35, folder 7, LARC.

<sup>102</sup>Dick Meister, "Labor v. Critics On Racial Issue," *Chronicle*, December 3, 1966, p. XX.

<sup>103</sup> *Id.*

ordinance. These members thought that some sort of olive branch should be offered to civil rights groups. Consequently, over Johns' objections, the Council voted, 42 to 35, to invite representatives of various civil rights groups to meet with the Council.

The invitation was turned down.<sup>104</sup> Indeed, the Joint Executive Board's ads and the press conference it held on December 5<sup>th</sup>, the day the ads ran, were not designed to create an environment for reconciliation. They were provocative rather than conciliatory.<sup>105</sup> The main goal of the ad and the press conference was simply to explain why the arbitration decision was correct. Apparently, September's rioting had receded enough into the past to allow for direct attacks on the civil rights community. The ad, and the tone of the press conference were, quite frankly, condescending. Black workers did not realize how much the union was doing for them. People who supported the 1966 agreement were dupes, either of "certain professed leaders of civil rights groups" who wished to augment their own power by forming independent unions, or of employers and the Chamber of Commerce who were using the incident to promote right-to-work laws. Similarly, the tone of the ad could not have been less sensitive to sentiment within African American community. Like the arbitration, it drew a distinction between "responsible" civil rights leaders and others. The response to the nullification of the agreement which, even if it was misguided from the union's point of view, should have at least been understandable, was, in fact, "uninformed, prejudiced, loaded with self-interest and misinformation." Furiously mixing its metaphors, the Joint Executive Board claimed that "[t]he fastest lips in the West fired

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<sup>104</sup> "Civil Rights Chiefs Rebut Union Offer," Chronicle, December 7, 1966, p. X..

<sup>105</sup> For the Advertisement see "Jobs and Hotels. 'A Rational and Orderly Way to Better Understanding,'" Chronicle, December 5, 1966, p. X; Examiner, December 5, 1966, p. X. For coverage of the press conference see Dick Meister, "Hotel Union Pledge On Negroes' Jobs," Chronicle, December 6, 1966, p. 2; 'Hotel Pact Decision Praised,' Examiner, December 6, 1966, p. X; "Hotel Culinary Alliance Agrees to 'Peace' Talks," Examiner December 5, 1966, p. X; "S.F. Unions tell Tehir Side of Hotel Civil Rights Tiff," East Bay Labor Journal, December 12, 1966, p. 1; "No Progress in Scuttling Union Pacts, Press Told," San Francisco Labor, December 9, 1966, p.1; "Strange Bedfellows," San Francisco Labor, December 9, 1966, p. 4.

from the hip without pausing to look at any facts.” The Board did not deserve derision. It deserved pity: “The roof fell in. . . . We were clobbered.”

The real solution to black unemployment and under-employment was not quotas that would result in “simply trading jobs” (presumably from white workers to black ones, though no one said this explicitly). Instead, the solution was simply to create more unionized jobs. Indeed, over the next several months, this was a theme that both the Joint Executive Board and the Labor Council touched on repeatedly: federal and state money for infrastructure and slum clearance, as well as private money to bring manufacturing to the City should be combined with job programs, training programs, and apprenticeships aimed at the African American community.<sup>106</sup>

The African American community was, predictably, underwhelmed by these suggestions. Such programs were nothing more than “fraudulent attempt[s] to cool off Negroes,” according to William Bradley.<sup>107</sup> Even Terry Francois, who presumably fell into the Labor Council’s category of “responsible” civil rights leaders (and who, for his trouble, had been called a “cocksucker” who “forgot he’s black” when he tried to calm rioting youths in Bayview that summer<sup>108</sup>) was skeptical of the ability or desire of the Labor Council to bring African Americans into union jobs. In the immediate aftermath of the arbitration decision Francois contacted Belardi, suggesting that he might arrange a meeting to help mobilize community members behind a union organizing campaign in Fillmore-area bars and restaurants.<sup>109</sup> Belardi replied – barely a month after the press conference – with response that managed to be both

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<sup>106</sup> See, supra at XX..

<sup>107</sup> Dick Meister, “Collision Course – Negro vs. Union,” Chronicle, DATE, p.X.

<sup>108</sup> Quoted in Crowe, p. 205.

<sup>109</sup> This exchange between Francois and Belardi is contained in the January 18, 1967 Minutes of the Joint Executive Board, pp.6-7. HERE, Local 2 Papers, Box 35, Folder 8, LARC.

belligerent and defeatist. “I wish to remind you that a little after World War II” and again “some 5-6 years ago” several unions had attended such a meeting, but that their organizing attempts had been stymied by “stubborn resistance from these anti-labor employers.” Francois responded curtly to the implication that somehow employer resistance was not to be expected in the black community, telling Belardi that he needed to do his job: “These employers, like employers generally, would not look with favor upon the prospects of having to pay union wages and observe union working conditions. It seems to me that if the culinary unions really want [to organize African American workers] it will require the use of the type of pressures which organized labor has had to exert historically to improve the working conditions of the laboring masses.”

With Francois and Belardi’s bitter exchange, relations between the Labor Council and the City’s civil rights groups settled into a new, hostile equilibrium. As San Francisco’s “Long, Hot Summer” of 1966 passed into the following year’s “Summer of Love,” the disputes over the 1966 agreement and the HRC’s ordinance wended their way to a dismaying, if not surprising, denouement. Labor, civil rights groups, and the HRC made several attempts to construct affirmative actions guidelines before giving up and falling back on piece-meal efforts at targeted training and recruiting that accomplished very little through the rest of the 1960s.<sup>110</sup> In the calmer racial climate of 1967, the Labor Council was able to return to the Board of Supervisors and amend the HRC’s ordinance to add stronger protections for collective bargaining agreements and to shield unions from any legal responsibility for developing programs that promoted

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<sup>110</sup> See “Proposals of the San Francisco Human Rights Commission to the Representatives of Labor On June 20, 1967,” Human Rights Commission, “Proposal on Apprenticeship,” and William Becker to Board of Supervisors, July 12, 1967, each in File Number 297-67, Records of the Board of Supervisors. See also Ernest Rapley, “Negroes to Get Hotel Job Break,” *Examiner*, June 15, 1967, p.1; “Culinary Talks Move Towards Job Program,” January 13, 1967, p x; “Hotel Training Program Proposed,” *Sun-Reporter*, April 8, 1967.

affirmative action in employment, whatever that phrase would come to mean.<sup>111</sup> Even this protection was unnecessary. Underfunded and understaffed, it would be years before the HRC would be able to enforce the ordinance.<sup>112</sup>

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This story of the collapse of the relationship between organized labor and the civil rights community in San Francisco is not an unusual one. The battle between young, militant civil rights advocates who had grown tired of begging the labor movement for scraps, and old, bureaucratized unions that used seniority and exclusive representation to preserve the privileges of white workers happened in city after city in the late 1960s.<sup>113</sup> The conflict has become part of the standard narrative of the end of the “Years of Hope” that 1960s have represented to some observers.<sup>114</sup> As such, it is tempting to see the story as nothing more than a conflict between two groups fighting over the steadily diminishing resources of the Great Society. Indeed, it is difficult to view the statements of the Building Trades Council or Belardi’s remarkably insensitive handling of the hotel arbitration as anything other manifestations of racial (or racist) self-interest.

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<sup>111</sup> Ordinance 340-68, section 12B.5.

<sup>112</sup> It was not until 1970 that the Commission reported pursuing any enforcement actions under the ordinance. Sixth Annual Report, p. 15. Even then, the Board of Supervisors failed to provide the HRC with a separate budget to actually enforce the ordinance requirements meaningfully. Human Rights Commission Sixth Annual Report (1970-1971). p. 4.

<sup>113</sup> Thomas Sugrue has documented these conflicts in a number of cities including Detroit and Philadelphia. See *Origins of the Urban Crisis*, pp. XX-XX; and “Affirmative Action from the Bottom Up,” at XXX;

<sup>114</sup> Todd Gitlin, *Years of Hope, Days of Rage*.

However, a closer examination of the story of San Francisco labor's terrible year suggests a more complicated story. First of all, the BTC and Belardi were not the only ones willing to stick up for labor's rights in opposition to the desires of the City's civil rights community. The Labor Council was made up not only of Belardi and staid middle-of-the-roaders like Johns, but also of a mixed race group of genuine progressives like Anne Draper, Dan Jackson, Leon Olson and Harry Lumsden.<sup>115</sup> Similarly, the active participation of Bridges and his colleagues at the racially egalitarian ILWU in protecting union prerogatives indicates that something other than simple race-based rent seeking was going on. Indeed, the fact that the ILWU had had some success in using hiring halls to integrate all-white workplaces in the 1930s and 1940s suggests that Bridges' belief that exclusive representation and union security promoted fair employment practices was genuine.<sup>116</sup> Furthermore, it is remarkable how the internal documents of both Belardi's Joint Executive Board and the Labor Council indicate complete surprise at the hostile reaction that their defense of collective bargaining rights generated.<sup>117</sup> They seemed genuinely stunned that "responsible" civil rights leaders, some of their strongest allies for the last two decades, were outraged at the arbitration decision.

In fact, the stories of the ordinance and the Hilton dispute indicate that most of the participants believed they were acting in good faith while the "other side's" motives were

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<sup>115</sup> Draper, Jackson, and Olsen objected to some of Johns' stronger language attacking the Hilton agreement, but all three voted to support it. "Affirmative Action in Council Policy statement Defining Contract Status," San Francisco Labor, November 14, 1966, p. 5; [check in minutes of mid November, 1966 meeting]. Lumsden thought that the arbitrator's decision was incorrect and that the Belardi had shown bad judgment in bringing the case, but he also supported the Labor Council's stand on the sanctity of collective bargaining agreements. "Union Role in Killing Rights Pact Criticized," East Bay Labor Journal, , November xx, 1966, pp. 1,7

<sup>116</sup> For details of the ILWU's use of hiring halls and the closed shop to force recalcitrant employers to hire African American workers, see "Louis Goldblatt: Working Class Leader in the ILWU, 1933-1977," Regional Oral History Office, Bancroft Library, p. XXX; and Quan-Wickham, "Who Controls the Hiring Hall," pp. 132-39. Quan-Wickham demonstrates that ILWU leadership frequently had trouble getting the white rank and file to agree to use the hiring hall in this manner.

<sup>117</sup> See supra notes XX and XX.

suspect. From labor's perspective, trade unions had been among the most stalwart allies of the Civil Rights Movement. Certainly the previous decade's fight over fair employment practices legislation had demonstrated that, as had the routine inclusion of non-discrimination clauses in the contracts that the City's unions negotiated. Look how Local 283 had handled the grievances of the Hilton's maids, they would say. Every grievance but one resolved in favor of the maids within 24 hours. With respect to the broader issues at stake, the solutions the labor movement was suggesting to the problem of African American unemployment – the requirement of race neutrality in employment decisions, job creation, and the protection of all workers' rights with collective bargaining agreements – were not only made in good faith, they were the same solutions that civil rights groups like the NAACP, the Urban League, and SCLC had been advocating for years. Thus, the sudden attacks on these principles – advocating proportionalism, disregard of collective bargaining agreements, support for right-to-work, the creation of rival “freedom unions” – demonstrated either that elements of the Civil Rights Movement had become dupes of labor's traditional enemies, or that they wished to divide workers along racial lines, presumably because of their commitment to “irresponsible” nationalist ideas. In any event, the outcome was the same: it allowed big business to divide and conquer America's workers.

The view from the other side was much different. African Americans, many in the Civil Rights Movement believed, had been the best allies that labor movement had ever had. They voted for labor's candidates, they rejected right-to-work legislation, and, when given a chance, they joined unions in droves. Yet what had they gotten for that support? Jim Crow unions still locked them out of jobs. The unions they were allowed into treated them like second class citizens. Politically, union leadership could not even turn out their white members to vote in the interests of African Americans. California's union leadership might have opposed Ronald

Reagan and Proposition 14,<sup>118</sup> but the white rank and file supported both. By 1966, the patience of many within the Civil Rights Movement had run out. If the labor movement was not going to hold up its end of the bargain, then African Americans would withdraw their support. What good was a CBA if you weren't allowed in the union? What good was seniority if you never gained it? What good was arbitration if your interests were not represented at the table?

Thus, by the middle of the 1960s, San Francisco's unions and its civil rights community were talking past each other, rather than to each other. Assertions that seemed perfectly reasonable to one group ("all workers gain from strong collective bargaining agreements," or "unions should take affirmative action to promote minority employment opportunities") were seen as malicious attacks by the other ("affirmative action is an attack on collective bargaining agreements," or "seniority systems were designed to keep unions lily-white"). As the conflict surrounding the ordinance and the Hilton agreement continued, the disconnection between the two groups, and their belief in one another's bad faith grew and grew, spiraling out of control.

The legal regimes under which each group furthered their rights reinforced this disconnection. The doctrine of exclusive representation and ironclad protections for the rights created by collective bargaining agreements were the foundations upon which San Francisco's labor movement (and the labor movement nationally) had built its strategy for furthering an egalitarian social order. Only the power of the group, which manifested its desires through majoritarian processes within the union, could counterbalance the economic and political strength of business. Part and parcel of this strategy was a belief that government involvement in the relationship between management and labor was risky for working people. Each opening

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<sup>118</sup> [Proposition 14 was a 1964 initiative that repealed California's landmark fair housing law. Though labor unions opposed it, their opposition was rather anemic. Furthermore, the vast majority of white union members voted for it, just as they voted, against their unions' wishes, for Ronald Reagan in 1966. Civil rights groups felt betrayed by both these votes, particularly in light of the support that African American voters had given to union political priorities. Chapter 4 of *Forging Rivals* discusses the campaign against Proposition 14 in detail.]

for state meddling was an opportunity for management forces to undermine the primary mechanism by which working people could balance the power of the wealthy – collective strength manifest through a collective bargaining agreement that was enforced not by the state, but by the parties to the contract.

Civil rights advocates, on the other hand, sought social justice and economic empowerment through a completely different set of rights and institutional mechanisms. The groups-basis of union power had to bend to the anti-discrimination imperative. When fair employment practices law interacted with labor law, it did so based on counter-majoritarian premises. The desires of the majority of people in the workplace – the very basis for union strength -- had to be limited to remedy present and past discrimination. Additionally, fair employment practices law explicitly and emphatically rejected the premise of private ordering that underlay labor law. The use of state power to remedy discrimination was central to the strategy of equal employment opportunity advocates. Nationally, that meant the use of courts and the EEOC to enforce Title VII, and the Department of Labor to enforce executive policies such as E.O. 11246. For the San Francisco civil rights community, that meant the City Human Rights Commission policing City contracts and demanding the alteration (or abandonment) of collective bargaining agreements.

These competing conceptions of rights could not help but generate mutual suspicion between the labor movement and civil rights advocates. Were contract rights, created by majority rule and enforced privately, the basis for the economic empowerment of the working class and their rise to middle class status in the years following the Second World War, or were they the recipe for the continuing economic despair of millions of African Americans? Were individual employment rights, enforced through an increasingly powerful array of courts and

administrative agencies, the solution to the plight of the black underclass, or were they the first step towards the reintroduction of an individualist concept of labor relations in which each worker had the right “to bargain in majestic and poverty-stricken aloofness for the wages for his services?”<sup>119</sup> As the 1960s drew to a close, the institutions of postwar liberalism – the Democratic Party, labor unions, civil rights groups, and liberal lawyers in courtrooms, agencies, and legislatures throughout the country -- would have to determine whether these questions could be answered in a manner that accommodated the interests of both unions and civil rights groups. In November of 1967, a year after the arbitration that voided the Hilton hotel agreement, a series of events that began in front of a ritzy department store on Market Street, just three blocks south of the Hilton, and ended in the United States Supreme Court, would demonstrate that they could not.

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<sup>119</sup> IBB brief, p. 61, quoting Newman, “The Closed Union and the Right to Work,” 43 *Columbia L .Rev.* 42, 43 (1943).