

“It is no mere coincidence to say that there are fewer than 300 licensed [Black] journeyman electricians in the entire country.”

—Otis E. Finley, NUL Associate Director, November 4, 1961

“We seek not just freedom but opportunity—not just legal equality but human ability—not just equality as a right and a theory, but equality as a fact and as a result.”

—President Lyndon Johnson, June 4, 1965

“I believe that the written and oral test that I took were not scored upon fairly because I believe I passed the oral as well as written.”

—Black electrician Ernest Jackson, filing a discrimination complaint against the IBEW, September 27, 1966

### **CHAPTER THREE** **Grasping at Solutions, 1964-1967**

In 1962 James Ballard, a “twenty-two-year-old Negro Air Force veteran,” applied for an apprenticeship at the office of Sheet Metal Workers Local #28 in New York City. He was dutifully asked to complete an apprenticeship application form. But then he was shown a stack of papers and told “he would just have to wait his turn.” This was irregular; the sheet metal workers had never followed a “first-come, first-served” policy but typically ranked applicants based on what they viewed as their qualifications. Ballard was also advised that in order to qualify, he would have to pass a “General Aptitude Test Battery conducted by the New York State Department of Labor.” Such tests had rarely been used before; clearly Ballard was being put through a more difficult application regimen than usual in order to discourage him from entering the program because of the color of his skin. When Ballard passed the test with flying colors (and indeed received the highest recommendation possible from the Labor Department for “jobs in sheet metal at the trainee or apprentice level”), Local #28 nevertheless did not allow him to enter the next apprenticeship class, and the Joint Apprenticeship Committee concurred. Who actually was admitted? Only white youths, of whom “more than 90 per cent...were sons or nephews of members of Local 28.”<sup>1</sup> Ballard faced the same injustice seen by Thomas Bailey and countless other African-Americans who had attempted to break the racial glass ceiling separating the better-paying skilled construction trades from the less-skilled trowel trades.<sup>2</sup>

---

<sup>1</sup> Herbert Hill, *Testimony on Equal Opportunity Contract Compliance*, December 5, 1968, in *Construction Labor Report* #690 (December 11, 1968); George D. Zuckerman, “Sheet Metal Workers’ Case: A Case History of Bias in the Building Trades,” *New York Law Journal*, September 8, 1969.

<sup>2</sup> See Chapter One for the story of Thomas Bailey.

NUL Associate Director Otis Finley listed the employment problems faced by blacks in Congressional testimony advocating fair employment practices legislation and pointed in particular to the discriminatory practices of the building trades unions:

One has only to observe the virtual absence of skilled Negro workers on building projects in every major city to realize that some forces are operative to prevent their employment in the building and construction trades. It is no mere coincidence to say that there are fewer than 300 licensed [Black] journeyman electricians in the entire country, or that there are fewer than 300 licensed [Black] journeyman plumbers in the entire country.... More often than not, when a Negro applies for apprenticeship training he is told first to get a job in his field to be certified for the course, but when he applies for a job in his field, he is told that he must first have some training...management not hiring Negroes do not sponsor Negro apprentices. Since apprentices often are brothers, sons, and relatives of union members, this places further limitations upon Negroes because of the few represented in some unions.<sup>3</sup>

Such discrimination, Finley said, constituted “a serious threat to our free society.”<sup>4</sup>

Discrimination in apprenticeship in the building trades was one of the most visible ways in which Blacks continued to be excluded from the benefits of a booming economy during the 1960s. And as the federal government increased domestic spending on urban renewal, Model Cities, and the rest of President Johnson’s numerous anti-poverty programs, the lack of skilled Blacks working at construction sites in the nation’s cities represented an affront to all the James Ballards—to every young Black man who had been turned away from a job because of the color of his skin or, just as insidiously, because of the dearth of quality educational opportunities available in the inner city. As long, hot summer followed long, hot summer, the young, Black unemployed collectively proved a tinderbox that exploded with worsening violence. Besieged on “the Negro

---

<sup>3</sup> Otis E. Finley, “Statement before the House Committee on Labor and Education,” November 4, 1961 (NUL II E36 *Finley, House Committee on Labor and Education*).

<sup>4</sup> *Ibid.*

Problem” from both sides of the political spectrum, the Johnson Administration looked for solutions to the President’s Committee on Equal Employment Opportunity (PCEEO) and the Department of Labor (DOL). What they developed was a local-based approach that would differ from city to city and succeed or fail based on local conditions and the relative skills and talents of the federal officers—the mid-level bureaucrats—in charge of implementing each program. These federal officers were motivated by a belief in the inherent importance of racial equality, the ethos known as Great Society Liberalism. But the failure to conciliate—to push the unions and contractors to change on their own—would lead to more dramatic actions.

### **Apprenticeship in the Building Trades**

Although apprenticeship was not the only method of obtaining a skilled trade in building construction, it was the single most popular way for a young man to attain journeyman membership in the unions and the best way for unions to limit the number of skilled craftsmen so as to maintain their high wages.<sup>5</sup>

Most skilled apprenticeship programs in the building trades were administered by a Joint Apprentice Committee (JAC), which consisted of union members and contractors. Apprenticeships could be anywhere from one to four years, but tended to take about three years, with one or two years of evening classes—usually conducted by the JAC at a local public school—while each apprentice worked in the craft alongside six to ten journeymen. Apprenticeship programs certified by the Labor Department’s Bureau of

---

<sup>5</sup> USCM, *Changing Employment Practices*; Linder, *Wars of Attrition*, pp. 113-114.

Apprenticeship and Training (BAT) were eligible for federal funds, use of public facilities for classes, and paid on-the-job training on federally-funded construction contracts. Contractors paid the wages of apprentices, which started at around half the journeyman scale and increased each year to nearly full scale.<sup>6</sup>

The prospective apprentice came from one of several backgrounds. The most common route nationally was through nepotism. For the lucky sons and nephews of skilled construction workers, the father or uncle suggested apprenticeship when the union was accepting applications after the youth had attained a certain age, usually 17 or 18 years. The relative would sometimes take the youth down to the union hall for the first time and introduce him around, virtually ensuring that as long as he had basic mechanical aptitude, an apprenticeship slot would be his.<sup>7</sup>

The second most common way youths found out about apprenticeships was in school or through a community organization. Unions or employer organizations would send representatives to “career day” at the junior high schools and high schools, drumming up interest in the craft among the children and forging relationships with guidance counselors and other administrators so that when they were accepting applications for apprenticeship the counselor could be called upon to refer a few

---

<sup>6</sup> “Jim Crow’s Sweetheart Contract,” *Greater Philadelphia Magazine*, February, 1963; Leonard J. Biermann, *file memo*, February 10, 1965 (Records of the Department of Labor [DOL], Papers of Secretary W. Willard Wirtz [Wirtz], Box 246 *PCEEO*, 3b folder, National Archives and Records Administration, College Park, MD); William C. Webb to Meany, February 15, 1965 (Meany RG1-038 72 12); John F. Henning to David G. Filvaroff, May 3, 1965 (DOL Wirtz 246 *PCEEO*, 5); Hugh C. Murphy to Arthur Chapin, March 2, 1965 (DOL Wirtz 246 *PCEEO*, 3b); and “Employers, Unions Train Apprentices,” *Cleveland Press*, April 16, 1966.

<sup>7</sup> Clifford P. Froehlich, “Career Guidance With Minority Group Youth: A Cooperative Effort,” address to the Youth Training-Incentives Conference, February 4, 1957 (NUL I G7 *PCGC*, *Reports and Miscellaneous Material*); NAACP Press Release, March 7, 1964 (NAACP III A191 *Labor*, *S Miscellaneous*, 1); USCM, *Changing Employment Practices*; and “Employers, Unions,” *Cleveland Press*.

prospects. Religious, fraternal, and community organizations, such as the Roman Catholic Church, the Benevolent and Protective Order of Elks, and the Urban League, also ran vocational or other youth programs that had links with unions and employer organizations and would refer youths. Prospective apprentices from such school and community referrals had the advantage of being from a “known source” to the union, like a school guidance counselor or trusted local priest, but did not usually have the added advantage of a relative already involved in the trade.<sup>8</sup>

Finally, some youngsters found out about apprenticeship openings through advertisements in local newspapers. Youths who applied based on such advertisements were comparatively the least advantaged, ultimately being strangers to the members of the union. The BAT required that the JACs post such advertisements as a prerequisite for certification, but a JAC could try to limit and pre-screen the youths who found out about apprenticeships by carefully selecting the publications in which to advertise.<sup>9</sup>

Prospective building trades apprentices would submit applications and then take a written examination, administered by the JAC. Those who passed would be eligible for an oral interview with a member of the JAC, and then assigned a score, relative to the other applicants, based on the written exam, oral interview, and other criteria such as educational, military, or criminal background, or prior work in construction or another

---

<sup>8</sup> Froehlich, “Career Guidance;” USCM, *Changing Employment Practices*; “Employers, Unions,” *Cleveland Press*; and NUL Brochure, January 18, 1967 (NUL III 134 *Project LEAP, Brochure*).

<sup>9</sup> USCM, *Changing Employment Practices*.

trade. Different JACs and different trades assigned different weights to each of the selection criteria, ultimately offering apprenticeships to the top scorers.<sup>10</sup>

Apprenticeship in the skilled trades, for these lucky few, meant eventual entry into a lucrative trade, membership in a powerful union, and steady—if seasonal—work. But in the short term it usually meant immediate employment at apprentice wages which, even at half-scale, constituted a fine living for a working-class eighteen-year-old.

There were three primary methods whereby Blacks were excluded from apprenticeships. First, the JAC could fail to adequately advertise the pending apprenticeship class in Black communities, placing the recruiting advertisement in newspapers that Black youths were unlikely to read (such as trade publications) or by foregoing such advertisements altogether, relying on word-of-mouth to recruit sufficient white applicants.<sup>11</sup>

Second, the committee could set admission standards unreasonably high, adding qualifications that were irrelevant to the job. If, for instance, a number of the white applicants held high school diplomas while most or all of the Black applicants did not, the JAC could change the weighting of admission criteria so that a high school diploma brought a significant number of additional points, even if such credential was immaterial to an applicant's fitness for apprenticeship in the particular craft. Or applicants with arrest records could be disqualified, even if these arrests had never led to a conviction for any

---

<sup>10</sup> NAACP Press Release, March 7, 1964 (NAACP III A191 *Labor, S Miscellaneous, I*); USCM, *Changing Employment Practices*; and "Employers, Unions," *Cleveland Press*.

<sup>11</sup> See, for instance, "Hit Unions on Hiring of Negroes," *Cleveland Press*, February 19, 1966.

crime—a step which would tend to disqualify more Black applicants than white due to discriminatory policing methods in the inner city.<sup>12</sup>

Third, the JAC could place undue weight on the oral interview, which tended to be subjective (and thereby promote the inclinations of the interviewer, racist or otherwise), and less weight on the more objective written examination. Even some otherwise liberal interviewers might favor white applicants, somehow feeling it necessary to ensure that any Black applicant who passed did so through a more rigorous vetting process.<sup>13</sup>

When all else failed, the JAC or union could simply cancel the apprenticeship class (or never accept applications in the first place). This posed the danger that retirees would not be promptly replaced on “the bench,” but such a danger might be offset, at least for the unions and for the short term, by higher wages or fewer seasonal layoffs. If a union required new members but was unwilling to hold an apprenticeship class out of fear of integration, it could always admit whites directly to journeyman status and give them necessary training and supervision on the job. Such tactics could not be maintained over the long term, but were used as a stopgap measure until any outside integration pressure abated.<sup>14</sup>

---

<sup>12</sup> Jack Adler to Wilkins, January 14, 1965 (NAACP III A190 *Labor, Pennsylvania*); Joseph B. Meranze, “Negro Employment in the Construction Industry,” in Herbert R. Northrup and Richard L. Rowan, Eds., *The Negro and Employment Opportunity: Problems and Practices* (Ann Arbor: University of Michigan, 1965), pp. 199-206; and “Hit Unions,” *Cleveland Press*.

<sup>13</sup> California FEPC Press Release, December 31, 1965 (NUL II A34 *Miscellany, A*); “Hit Unions,” *Cleveland Press*.

<sup>14</sup> “Hit Unions,” *Cleveland Press*; Marie Hurley to Vincent G. Macaluso, April 17, 1967 (DOL, Papers of the Office of Federal Contract Compliance [OFCC] Assistant Director for Construction [ADC], 26, *St. Louis Correspondence, 1967*).



Apprenticeship was the gateway to a lucrative career in the skilled building trades, and as such it became the focus of efforts to implement President Kennedy's Executive Order No. 11114, which extended contract compliance enforcement activities specifically to building construction. And the government official most directly responsible for such efforts during the first years after the assassination was Vincent Macaluso.

**Implementing Executive Order No. 11114:  
Vincent G. Macaluso and the Area Coordinator Program**

In June of 1963, President Kennedy responded to outbreaks of racial violence in Birmingham and elsewhere in the country by proposing comprehensive civil rights legislation—his so-called Civil Rights Act of 1963—as well as issuing Executive Order No. 11114. Congress spent a year hemming and hawing over the proposed legislation, with Southern senators threatening a filibuster. Meanwhile, the PCEEO spent the same year developing new compliance machinery for the construction industry. With the death of President Kennedy in late November, President Johnson recommitted the White House to passage of the legislation, while Labor Secretary W. Willard Wirtz took over as *de facto* PCEEO chairman in the absence of a vice president. On June 8, 1964, a cloture motion—to overcome a Southern filibuster—was filed in the United States Senate to consider what would shortly become known as The Civil Rights Act of 1964. That same day, an article appeared in the *New York Times* about the creation by the PCEEO of a 40-person task force to study problems of equality in employment in the construction

industry. It had been a year since Kennedy had submitted the legislation and issued the executive order and now, at last, concrete action had been taken on both fronts.<sup>15</sup>

The PCEEEO divided its new construction industry task force into teams of three to four people each and sent them to cities representing ten local regions around the country. The *New York Times* reported that “with major emphasis on New York, Chicago, Cleveland, Philadelphia, and San Francisco, the teams will visit contractors’ associations, building trades unions and major individual contractors...they will check construction sites and where it is evident that discrimination is occurring, will seek to have it corrected.” Although the legislation—which would end discrimination in all employment, not just federal contracts—had yet to be signed, these PCEEEO teams would also be investigating the non-federal construction work of federal contractors. A federal contract could be revoked (and a contractor debarred) if the contractor was using unfair hiring practices, even if his federal work was technically in compliance.<sup>16</sup>

The project was placed under the coordination of Vincent Macaluso, who had recently been named special assistant to Hobart Taylor, the committee’s executive vice chairman. The following week, Macaluso’s teams fanned out across the nation, and the NUL told Macaluso that the organization was “impressed” with the plan, recommending several Black construction contractors around the country for Macaluso to include in his discussions.<sup>17</sup>

---

<sup>15</sup> John D. Pomfret, “U.S. Will Attack Job Bias In Construction Industry; Two-Part Program to Seek Cooperation of Contractors—Special 40-Man Force will Concentrate on 10 Regions,” *New York Times*, June 8, 1964.

<sup>16</sup> *Ibid.*

<sup>17</sup> PCEEEO Press Release, June 8, 1964 (Meany RG1-078 73 12); Cernoria D. Johnson to Macaluso, June 12, 1964 (NUL II A42 1964, 1).

Vincent G. Macaluso was born in 1922 into the family of a civil engineer and grew up wherever his father could find work building tunnels, including Waterville, Canada; Antwerp, Belgium; and Tuxedo, New York—where he learned to ski. During World War II, Macaluso interrupted his studies at Yale University to serve with the U.S. Army's Tenth Mountain Division, and he saw action in northern Italy during the winter of 1944-45. After the war, he completed college, attended law school, married, and in 1951 took his first job as a civilian employee of the federal government—as a staff lawyer with the National Labor Relations Board (NLRB). He served at the NLRB through 1954, at which point he entered the private sector as a labor lawyer. At the start of the Kennedy administration, Macaluso was working as a staff lawyer for ARMA Corporation, a defense contractor, and when that company joined *Plans for Progress* in 1962, it was Macaluso who drafted the firm's *Plan*.<sup>18</sup>

In September 1963, through a family connection, Macaluso was hired by the White House to serve as Executive Secretary of the President's Committee on Labor-Management Relations, where he became acquainted with Hobart Taylor and Labor Secretary Wirtz. Two months later President Kennedy was assassinated, and Taylor, now a White House aide, recruited Macaluso to work as a staff lawyer for the PCEEO. Macaluso spent the winter and early spring of 1964 investigating discrimination at a defense plant in Huntsville, Alabama, and in the late spring was put in charge of the PCEEO's new construction industry task force.<sup>19</sup>

---

<sup>18</sup> Macaluso interview with the author, January 4, 2008.

<sup>19</sup> *Ibid.*

The task force teams spent the summer and fall of 1964 assessing compliance conditions in their assigned cities, meeting with union representatives, contractor associations, individual contractors, local officers of contracting agencies, and civil rights groups. In December, Macaluso reported to Taylor on the teams' findings. While conditions varied in individual cities, the report stated that opportunities for nonwhites were generally poor, mainly owing to the use of union hiring halls and the racist attitudes of local union business agents. This despite the apparent willingness of many contractors to hire without discrimination in order to get the "best man for the job."<sup>20</sup>

Meanwhile, the Department of Labor continued its work implementing equal opportunity in apprenticeship. Secretary Wirtz issued new guidelines for equal opportunity in existing apprenticeship programs, made effective May 1, 1964. BAT-certified apprenticeship programs would need to exercise equal opportunity in the selection of apprentices. In addition, the BAT began placing apprentices with contractors independently of the JACs, and on July 6, the department announced the graduation of three Black construction apprentices in Washington—an architectural draftsman and two carpenters—who were promptly awarded "certificates of journeyman status" by the BAT.<sup>21</sup>

The Labor Department's work in ensuring equal opportunity in apprenticeship was made all the more important as rioting broke out in several cities, transforming the season of the 1964 Civil Rights Act into the long, hot summer of 1964. By the end of

---

<sup>20</sup> Macaluso to Hobart Taylor, Jr., December 16, 1964 (DOL Wirtz 245 *1a*).

<sup>21</sup> *Plans for Progress* Press Release, May 1, 1964 (DOL Wirtz 154 *5a*); DOL Press Release, July 6, 1964 (NUL II A17 *DOL, 1964, 3*); and PCEEO Press Release, July 16, 1964 (DOL Wirtz 154 *7b*). These men were not, however, accepted into union membership at that time.

August, seven Northern cities had seen outbreaks of violence. Professionals at the BAT and elsewhere in the Labor Department linked the Black unemployment rate—and the idleness and poverty it indicated—with the propensity to violence in the inner city. Black unemployment remained double that of whites, and was increasing among working-age teenagers faster than among their elders. Their work now took on a special urgency. To inform non-white youth about the available opportunities, the bureau opened apprenticeship information centers in eight cities resulting in apprenticeship placements in four of the skilled building trades.<sup>22</sup>

In the fall of 1964, the Department of Labor partnered with the NUL to establish several on-the-job training (OJT) programs aimed at inner-city youth, again bypassing the JACs. After the NUL submitted a proposal, Wirtz agreed that local branches of the league would administer the programs under contract with the Department. The NUL moved quickly to establish OJT programs in four cities, including Cleveland where “350 long-term unemployed workers would have the opportunity to learn a skill.” Finally, using funds procured under the Economic Opportunity Act, the department set up the Neighborhood Youth Corps program to pay “modest wages for part-time jobs” in order to help alleviate the continuing problem of unemployment among inner-city youth.<sup>23</sup>

---

<sup>22</sup> DOL Press Releases, July 27 and August 17, 1964 (NUL II A17 *DOL*, 1964, 4); “The Nation: Now Philadelphia,” *New York Times*, August 30, 1964; and Arthur A. Chapin, “Remarks to the Job Development and Education Council session of the 1964 NUL annual conference,” August 5, 1964 (NUL II F19 1964, A-K). The cities were Washington, Boston, Chicago, Cincinnati, Detroit, Newark, Baltimore, and Cleveland; the trades were the plumbers, steamfitters, electricians, carpenters, and printers.

<sup>23</sup> DOL Press Releases, July 20 (NUL II A17 *DOL*, 1964, 3), October 5 and 12 and November 9, 1964 (NUL II A17 *DOL*, 1964, 4); NUL Press Release, October 9, 1964 (NUL II E34 *October*, 9b). The other cities were Evansville, Indiana, Pittsburgh, Pennsylvania, and the neighborhood of Harlem in New York City.

In tandem with the efforts of the Labor Department and NUL, the PCEEO established a locally-based program in contract construction known as the area coordinator program. During the Spring of 1965, the committee appointed twenty “area coordinators for construction” for selected cities to work, under Vincent Macaluso's direction, with unions, contractors, and local representatives of federal contracting agencies to implement the provisions of the equal employment clause in contracts as well as those contained in Title VII of the 1964 Civil Rights Act.<sup>24</sup> As Taylor put it,

The coordinators will be responsible...for making sure that all federal agencies act as one in regard to equal employment opportunity...each coordinator will conduct discussions and negotiations with contractors, subcontractors, apprenticeship committees, unions, building trades councils, builders' associations, community groups and other interested parties to assure that equal employment opportunity is provided in all employment practices and policies and all relevant training and apprenticeship programs. The coordinator also will keep statistics on the labor force on jobs in his area and will encourage private organizations, unions, schools and other sources to identify minority personnel who are qualified and seek apprentice or journeyman positions.<sup>25</sup>

For the most part, these area coordinators were already federal employees familiar with their assigned locales. The area coordinator for St. Louis, for instance, Woody Zenfell, was the Interior Department's on-site engineer for construction of the Gateway Memorial Arch. Although most of the area coordinators were white, which gave them something in common with white union leaders, some, like Charles Doneghy in Cleveland, were Black, which purported to give them common ground with Black community organizers. Women area coordinators, like Jodie Eggers of Nashville, relied on their knowledge of the government contracting process, but fought an uphill battle to

---

<sup>24</sup> PCEEO Press Release, March 18, 1965 (LBJ, Papers of Presidential Aide [Aides] Lee C. White [White] 4, *Committee on Equal Employment Opportunity, 1964*).

<sup>25</sup> PCEEO Press Release, March 18, 1965.

impress in the hyper-masculine world of construction work. Most of the financing for the program—meaning the salaries of the area coordinators themselves—would be supplied “by the agencies involved in the largest dollar volume of construction.”<sup>26</sup>

On April 21, 1965, Macaluso sent his first memo to the area coordinators, setting out the guidelines for their work. He would expect weekly reports detailing their activities, including the names of people in meetings they attended, the significance of each reported event, appraisals of each contractor’s compliance situation, and projected activities for the following two weeks. He asked that they maintain up-to-date lists of union apprenticeship rolls, hold “kick-off meetings” with pertinent members of their communities, and submit recommendations for how the area coordinator program should function in the future.<sup>27</sup>

Never before had a federal agency engaged in such a hands-on, details-oriented program to ensure compliance with the non-discrimination clause in federal contracts. The PCEEEO was clearly taking construction industry compliance seriously. But unlike the higher-profile *Plans for Progress*, the area coordinator program would see no fancy dinners or signing ceremonies at the White House, and received little press at its inception. This was not a public relations ploy to make it appear as if the administration cared about civil rights; here at last, for critics like the NAACP’s Herbert Hill, was real evidence that the Johnson administration was serious about living up to its own rhetoric

---

<sup>26</sup> Taylor to agency heads, April 26, 1965 (DOL Wirtz 246 4b); PCEEEO Press Release, April 30, 1965 (DOL Wirtz 246 5); Remarks of Woody Zenfell to the Associated General Contractors of St. Louis, May 13, 1965 (DOL OFCC ADC 26 *Newsclips*); PCEEEO Press Release, May 21, 1965 (Meany RG1-038 73 16); and Desmond H. Sealy to NUL Affiliates, May 26, 1965 (NUL II D34 1964-5).

<sup>27</sup> Macaluso to area coordinators, April 21, 1965 (LBJ Aides White 4, *Committee on Equal Employment Opportunity, 1964*).

on equal employment opportunity and enforcing the non-discrimination clause in federal contracts and Title VII of the Civil Rights Act of 1964.

### **Taking a Stand: Lyndon B. Johnson and Civil Rights, 1965**

The president had already set a high bar with his own rhetoric. In the wake of police violence against civil rights demonstrators in Selma, Alabama, Johnson addressed Congress on March 15, 1965, pushing new voting rights legislation using the very same language of the movement:

What happened in Selma is part of a far larger movement which reaches into every section and state of America. It is the effort of American Negroes to secure for themselves the full blessing of American life.

Their cause must be our cause too. It is not just Negroes, but it is all of us, who must overcome the crippling legacy of bigotry and injustice.  
*And we shall overcome.*<sup>28</sup>

For the president of the United States to recite such a phrase was similar in impact to Abraham Lincoln's meeting with Sojourner Truth and Frederick Douglass in the White House. Whitney Young immediately commended Johnson for what the NUL leader called the "most powerful statement ever made by a President of the United States."<sup>29</sup>

Johnson had traveled a long road to that Congressional address. For much of his vice presidency, Johnson had demonstrated that the PCEEEO would receive little more attention from his office than its predecessor committee had received from Vice President Nixon. He had organized photo opportunities for showpiece programs like *Plans for Progress* and *Union Programs for Fair Practices*, which basically confirmed promises

---

<sup>28</sup> LBJ, "The American Promise: Remarks of the President to a Joint Session of the Congress," March 15, 1965 (LBJ Aides Harry C. McPherson [McPherson] 21, *Civil Rights, 1965*).

<sup>29</sup> NUL Press Release, March 16, 1965 (NUL II E35 1965).



already made by companies and unions not to discriminate. But during his final year as vice president he had hired Hobart Taylor to run the committee and had begun to take his responsibilities toward Black citizens seriously, and in his first year as president, largely in response to the March on Washington and the calls of Whitney Young for a “Domestic Marshall Plan” and Martin Luther King for a “G.I. Bill for Negroes,” he had defined civil rights policy—especially in employment—as being one of the most important policy areas of his administration.<sup>30</sup>

The Civil Rights Act of 1964—passed mainly through Johnson’s legerdemain and clout with his former colleagues in the Senate—devoted nearly half of its text to “Title VII—Equal Employment Opportunity.” The title rendered illegal any act of discrimination in employment or union membership on the basis of “race, color, religion, sex, or national origin.”<sup>31</sup>

As we have seen, however, the passage of the Civil Rights Act of 1964 had failed to prevent the large-scale rioting seen that summer, although it did harden the support of the mainstream civil rights leaders for the president’s re-election campaign. Roy Wilkins, Martin Luther King, Jr., Whitney Young, and A. Philip Randolph issued a manifesto on July 29 (James Farmer of CORE and John Lewis of the Student Nonviolent Coordinating Committee agreed in principle but did not sign) decrying the riots and declaring a

---

<sup>30</sup> On Johnson’s transformation, see Richard C. Wells to Sterling Tucker, December 20, 1961 (NUL II D31 *PCEEO, 1961-2*); PCEEO draft press release, August 20, 1962 (LBJ VP CR 12 *Press Releases*); PCEEO Press Release, November 14, 1962 (LBJ VP Reedy 22 *Press Releases, 1962*); PCEEO Press Releases, January 17 and 23, 1963 (LBJ VP Reedy 23 *Press Releases, 1963*); Todd Gitlin, *The Sixties: Years of Hope, Days of Rage* (Toronto: Bantam Books, 1987), p. 168; and *Op. Cit.* Ch. 2 n. 15. On the Domestic Marshall Plan, see Young, “Domestic Marshall Plan,” *New York Times*, October 6, 1963; and on the G.I. Bill for Negroes, see “Shuffling the Planks,” *Time*, July 17, 1964.

<sup>31</sup> U.S. Congress, “Civil Rights Act of 1964,” H.R. 7152, July 2, 1964.

moratorium on marches and protests until after the election.<sup>32</sup> With the support of the civil rights leaders and most of the nation, Johnson handily won the election. Now he could take concrete steps to enforce his civil rights vision, to live up to his own rhetoric.

Early in 1965, Johnson moved to overhaul the government's civil rights and equal employment machinery, to give it his own presidential stamp. Two major factors influenced his thinking. One was a new vice president, Hubert H. Humphrey, who expected to play a leading role in civil rights, as Johnson had before the Kennedy assassination. The other factor was the new legislation. Title VII of the Civil Rights Act of 1964 went into effect on July 2, 1965.

The vision of President Kennedy on equal employment opportunity lived on in the existing mechanisms under Executive Orders No. 10925 and 11114 as well as Title VII. These were the PCEEO, which oversaw semi-independent programs like *Plans for Progress* and *Union Programs for Fair Practices* and handled complaints of discrimination in federal government and federal contract employment, and the new Equal Employment Opportunity Commission (EEOC), which would receive and conciliate complaints of employment discrimination in the private sector, now illegal under Title VII. In addition, there was the Civil Rights Commission (formed in 1958 to enforce voting rights under the Civil Rights Act of 1957) and the contract compliance and equal opportunity offices of the federal agencies.<sup>33</sup>

---

<sup>32</sup> "Statement of Civil Rights Organization Leaders," July 29, 1964 (NAACP III A73 *Statements*); Clare Booth Luce, "Summit Meeting or Surrender," *New York Herald-Tribune*, August 11, 1964 (NUL II E3 *Title VI, 1964, August*).

<sup>33</sup> U.S. Congress, "Civil Rights Act of 1964," H.R. 7152, July 2, 1964; Matusow, *The Unraveling of America*, pp. 210-11.

On assuming the vice presidency, Hubert H. Humphrey sought to implement his own vision on this federal civil rights machinery. The several agencies, committees, and commissions now constituted an increasingly large arm of the government that Humphrey felt would best operate with unified oversight through his own coordination. To that end, he proposed forming a new body, the President's Council on Equal Opportunity (PCEO), which he would chair. So as to avoid adding to the growing civil rights bureaucracy, the PCEO would have minimal staff and not actually perform any functions except oversight of other agencies. Busy pushing new voting rights legislation and a comprehensive domestic agenda—not to mention fighting the escalating war in Vietnam—Johnson acquiesced to the wishes of his new vice president and created, by executive order, the PCEO as the supreme oversight body on civil rights.<sup>34</sup>

On June 4, 1965, in his commencement address at Howard University, the president defined affirmative action as the key to equal opportunity:

You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say “You are free to compete with all the others,” and still justly believe that you have been completely fair.

Thus it is not enough just to open the gates of opportunity. All of our citizens must have the ability to walk through those gates.

This is the next and more profound stage of the battle for civil rights. We seek not just freedom but opportunity—not just legal equality but human ability—not just equality as a right and a theory, but equality as a fact and as a result....

---

<sup>34</sup> PCEEEO Press Release, January 4, 1965 (DOL Wirtz 245 *1a*); Hubert H. Humphrey to LBJ, January 4, 1965 (LBJ Aides White 4 *President's Council on Equal Opportunity [V.P.]*); LBJ to Humphrey, February 5, 1965 (LBJ, Records of the White House Central Files [WHCF] FG403 *President's Committee on Equal Employment Opportunity, 1/1/65-*); White House Press Release, May 10, 1965 (LBJ Aides Will R. Sparks [Sparks] 8 *Equal Employment Opportunity*). I ask the reader's indulgence in carefully discerning between the new PCEO (President's Council on Equal Opportunity), created for Humphrey, and the older PCEEEO (President's Committee on Equal Employment Opportunity), created by Kennedy. These bodies will only exist simultaneously for a few paragraphs in this one chapter.

To this end equal opportunity is essential, but not enough. Men and women of all races are born with the same range of abilities. But ability is not just the product of birth. Ability is stretched or stunted by the family you live with, and the neighborhood you live in, by the school you go to and the poverty or the richness of your surroundings. It is the product of a hundred unseen forces playing upon the infant, the child, and the man.<sup>35</sup>

The president announced that the following year he would host a White House conference, “To Fulfill These Rights”—consciously recalling President Truman’s 1947 conference “To Secure These Rights”—at which public policy and civil rights professionals would discuss possible solutions to the nation’s continuing racial inequality.

Five days after the president’s Howard University commencement speech, on June 9, 1965, an NUL Press release stated that tensions in the nation’s cities were cooler overall than during the previous summer. The report warned, however, that if tokenism continued, especially in the building trades, riots might erupt again.<sup>36</sup>

Then came Watts.

On August 11, 1965, fierce rioting broke out on the streets of the Watts section of Los Angeles, California. When two white police officers questioned Black 21-year-old Marquette Frye on suspicion of drunken driving, Mrs. Frye came out to scold her son. A crowd appeared, and one of the officers became involved in a “scuffle” with some of the people on the street. The officers called for assistance and the scene erupted into a full-fledged melee. The neighborhood quieted the following day as local ministers and gang leaders attempted to negotiate with the chief of police, hoping that a permit for a street

---

<sup>35</sup> LBJ, “To Fulfill These Rights: Remarks of the President at Howard University, Washington, DC,” June 4, 1965 (LBJ Aides McPherson 21 *Civil Rights, 1965*).

<sup>36</sup> NUL Press Release, June 9, 1965 (NUL II E35 1965).

fair might channel the energies of the neighborhood's young, unemployed Blacks into more peaceful pursuits. The permits were not granted, and the evening of August 12 saw policemen—and any other whites that ventured into the neighborhood—attacked with clubs, bats, and Molotov cocktails. Over the next six nights, businesses were looted and attacks continued against members of the police force. Not until August 19 was the police chief able to declare the situation under control.<sup>37</sup>

In the aftermath of the Watts Riot, police chiefs around the country considered martial plans for quelling future disturbances and conservative commentators excoriated the president for not sending in the National Guard at the first instance of violence. But some moderates, like A. Philip Randolph, specifically called for jobs as the antidote to further incidents, and it was their advice that the president took. Johnson understood that he could not prevent riots in the immediate future any more than he could push back the tide of the nearby Chesapeake Bay, but he felt that through the energetic application of sound and just public policies, he could lessen their likelihood in the long run.<sup>38</sup>

This feeling was soon borne out by the McCone Report—produced by a California commission chaired by a conservative Republican businessman—which blamed the Watts riot on the lack of jobs and proper education in the inner city. The report stated that tokenism would not solve a problem faced by 350,000 unemployed

---

<sup>37</sup> Leonard H. Carter to Wilkins, September 10, 1965 (NAACP III A333 *Watts Riot*). For more on Watts, see Guichard Parris and Lester Brooks, Blacks in the City: A History of the National Urban League (Boston: Little, Brown, 1971), p. 435; Matusow, The Unraveling of America, pp. 196, 360-361.

<sup>38</sup> A. Philip Randolph, "How To Prevent Race Riots," *New York Amsterdam News*, September 4, 1965. On LBJ's response to the riots, see, for instance, Daryl Michael Scott, Contempt and Pity: Social Policy and the Image of the Damaged Black Psyche (Chapel Hill: University of North Carolina Press, 1997) pp. 153, 156-157.

African Americans. The solution lay in the systematic, long-term education and training of all Americans on an equal basis.<sup>39</sup>

As a first step, the president moved to reconsolidate the civil rights machinery of the federal government.<sup>40</sup> Although ostensibly requested by Humphrey, the resultant changes in fact represented Johnson's wishes rather than those of his vice presidential "civil rights czar."<sup>41</sup> Executive Order No. 11246, issued September 24, 1965, abolished Humphrey's PCEO as well as the older PCEEEO. *Plans for Progress and Union Programs for Fair Practices*, already semi-independent entities largely run by their corporate and union signers respectively, were moved to the Labor Department. Because the new EEOC could only attempt conciliation of complaints and had no real power, but the PCEEEO could revoke contracts and debar contractors, contract compliance—including Vincent Macaluso's area coordinator program for construction—was moved to the DOL as well, where the programs would continue to enjoy executive powers as the new Office of Federal Contract Compliance (OFCC) under the leadership of Edward C. Sylvester.<sup>42</sup>

Since the EEOC was without real enforcement authority, the most promising area of President Johnson's civil rights agenda remained, as when he had been vice president, in the field of contract compliance. And within the OFCC, the billions of dollars being spent annually on federal construction, and the rampant discrimination being practiced by the building trades in their apprenticeship programs, gave Vincent Macaluso's

---

<sup>39</sup> Alfred Friendly, "Official Watts Riot Report Pulls No Punches," *Washington Post*, December 13, 1965. Matusow also discusses the McCone Report in *The Unraveling of America*, p. 361.

<sup>40</sup> Lee C. White to LBJ, September 20, 1965 (LBJ Aides White 4 *President's Council on Equal Opportunity [V.P.]*).

<sup>41</sup> Humphrey to LBJ, September 24, 1965 (Meany RG1-038 73 14).

<sup>42</sup> LBJ, *Executive Order No. 11246*, September 24, 1965 (Meany RG1-038 73 14); Wirtz, "Secretary's Notice No. 94-65," October 5, 1965 (DOL OFCC ADC 18 *Wirtz, Correspondence with*).

construction area coordinators program the most potential. If the Johnson administration could integrate one of the most visible areas of employment discrimination, perhaps future rioting could be averted. But, like turning back the tides, integrating skilled building construction would be no easy task.

### **The Construction Area Coordinators in Action: Three Cities**

With the establishment of the OFCC within the Department of Labor in October 1965 and the dissolution of the PCEEO, Vincent Macaluso's construction area coordinators program was transferred from the oversight of Hobart Taylor to OFCC Director Edward C. Sylvester.

Macaluso's new boss was from Detroit, like Hobart Taylor. But unlike Taylor, Sylvester was a native of that city, and attended Wayne State University, where he studied engineering. During World War II, Sylvester was promoted from army private all the way up to first lieutenant, serving in the Pacific theater as well as in Europe. For most of the 1950s he served as a civil and structural engineer in Detroit, and by 1958 Sylvester was president of a timber company in Liberia. He returned to the United States in 1960 to work on the national staff of presidential candidate Stuart Symington, and ultimately went to work for the Kennedy Administration in 1962, serving in Wirtz's Labor Department as Deputy Administrator at the Bureau of International Labor Affairs. As a

young Black administrator, he impressed the secretary and when Johnson issued Executive Order No. 11246, Wirtz tapped Sylvester to head the new OFCC.<sup>43</sup>

With 41 employees and a \$700,000 annual budget, Sylvester's OFCC was but a small cog in a great machine, responsible for implementing compliance with the non-discrimination clause in contracts totaling approximately \$35 Billion. The area coordinator program dovetailed nicely with the overall methodology of the Labor Department's OFCC, which differed greatly from that of the EEOC. The EEOC, a quasi-independent body whose members served at the pleasure of the president, received major press coverage and waited for complaints to be filed by individuals and groups, like the PCEEO's old contract compliance program. The OFCC, on the other hand, as a bureaucratic agency within a large federal department, received little press but was proactive: instead of acting on complaints, the OFCC initiated programs to seek out and eliminate discrimination in government contracts. And whereas the EEOC, created by statute, had only conciliation as a weapon, the OFCC, created by presidential executive order, had the president's imprimatur for an arsenal which included the power to revoke contracts, withhold funds, and debar contractors from doing business with the government in the future.<sup>44</sup> At the PCEEO, Macaluso had been Taylor's "special

---

<sup>43</sup> Matt Schudel, "Labor, Hill Official Edward Sylvester Dies," *Washington Post*, February 18, 2005; Wirtz, "Secretary's Notice No. 94-65."

<sup>44</sup> Wirtz, "Secretary's Notice No. 94-65;" Donald Slaiman, *Labor News Conference*, October 24, 1965 (NAACP III A178 *NAACP*, 1965); Robert Dietsch, "Bans Hiring Bias on U.S. Contracts," *Cleveland Press*, February 10, 1966.



assistant.” Now at the OFCC, Macaluso took the position of OFCC Assistant Director for Construction.<sup>45</sup>

With threatened protests at job sites in Cleveland and San Francisco over discrimination in hiring, and boycotts by unions in St. Louis over the hiring of non-union Black construction workers, Sylvester moved quickly to develop a “1966 Federal Contract Construction Program.” Based on Macaluso’s reports from the activities and experiences of the area coordinators, and in consultation with the heads of contracting agencies engaged in construction, Sylvester’s 1966 program consisted mainly of the requirement that all contractors submit “written Affirmative Action Programs” to the contracting agencies and the OFCC. These affirmative action programs might contain a variety of options, but Sylvester’s program strongly suggested they include minority outreach for apprenticeship opportunities (which could include establishing relationships with high school guidance counselors in Black and Hispanic communities or funding programs to speak about construction to junior high school classes); the hiring of a specific number of Black apprentices (and the maximum possible number of apprentices overall, so as to make room for them); a vigorous recruitment search for Black journeymen both inside and outside the unions; the establishment of centralized hiring procedures and a pledge that such procedures would be based on the principle of non-discrimination; the training of foremen in non-discrimination practices; and the promise to enforce the same program among subcontractors.<sup>46</sup>

---

<sup>45</sup> Macaluso to Edward C. Sylvester, November 4, 1965 (DOL OFCC ADC26 *Correspondence, 1965-1966*).

<sup>46</sup> Macaluso to Sylvester and Ward McCreedy to Sylvester, November 4, 1965; Biermann to Sylvester, November 22, 1965 (DOL OFCC ADC26 *Correspondence, 1965-1966*); OFCC *Suggested Programs*,

Although the construction area coordinator program involved fifteen area coordinators assigned to twenty-two cities,<sup>47</sup> it was the experiences of three area coordinators in particular that most influenced the thinking of Edward Sylvester in the development and evolution of the 1966 program. These were Woodrow W. Zenfell, area coordinator for Kansas City and St. Louis, Missouri; Charles Doneghy, area coordinator for Cleveland and Columbus, Ohio; and Robert Magnusson, area coordinator for San Francisco, California. The varieties of experience these three area coordinators accumulated helped Macaluso and Sylvester understand how best to approach the thorny problem of integrating the unions and the jobsites.

*St. Louis: Woody Zenfell*

In 1960, World War Two veteran and Vicksburg, Mississippi, native Woodrow W. Zenfell was working as an engineer on the Blue Ridge Parkway in Tennessee. An employee of the National Park Service, Department of the Interior, he was asked to become the Chief Structural Engineer for the Gateway National Expansion Memorial, known colloquially as the St. Louis Arch. Zenfell immediately relocated to St. Louis.<sup>48</sup> During his five years working on the arch, Zenfell acquired a wealth of local experience and technical knowledge and was even exposed to the issue of equal employment opportunity:

---

December 22, 1965; F.V. Helmer to Paul McDonald, February 2, 1966; F. Peter LiBassi to Sylvester, Richard M. Schmidt to Sylvester, Clyde C. Cook to Sylvester, and Paul McDonald to Sylvester, February 3, 1966; Richard F. Lally to Sylvester, February 9, 1966; Harry S. Traynor to Sylvester, February 14, 1966; Jack Moskowitz to Sylvester, February 23, 1966; and Alfred S. Hodgson to Sylvester, February 25, 1966 (DOL OFCC ADC19 *Federal Contract Construction Program*); and Sylvester to agency heads, June 8, 1966 (DOL OFCC ADC18 *Transition*).

<sup>47</sup> Dietsch, "Bans Hiring Bias."

<sup>48</sup> Donald Janson, "Arch in St. Louis Inching Skyward," *New York Times*, August 30, 1964.

Woody's job as Park Service engineer was to serve as liaison between the builders and the National Park Service. He was in the thick of just about every decision made regarding the Arch. Media liaison? That was his job. Dealing with dignitaries that would come around from time to time? That was his job, too.

The day two men scaled the Arch in protest of the lack of minorities on the job? That was up to Woody to handle.

And handle it he did, with Southern charm and a soft, Mississippi drawl.<sup>49</sup>

Clearly he was the right man for the job of OFCC area coordinator for construction, and his appointment went into effect on April 30, 1965.<sup>50</sup>

As area coordinator for construction, Zenfell had his work cut out for him. In 1965, St. Louis had “173 federally-involved construction projects (\$50,000 or more) having a total valuation of \$500,000,000.” None of the skilled trades had even a single Black youth enrolled as an apprentice, and four of the skilled trade unions—the pipefitters, plumbers, electrical workers and ironworkers—had no Black journeymen either. Zenfell spent the summer and much of the fall of 1965 trying in vain to get the ironworkers to lower their apprenticeship standards, which he felt were too high.<sup>51</sup>

Perhaps the most visible of the federal construction projects in St. Louis was the one at which Zenfell had recently been employed. Intended as a grand entranceway to the American West, the arch had been completed earlier in the year, as had the edifice of the visitors' center. In the Fall of 1965, the General Contractor opened the bidding process for a plumbing subcontractor to work on the visitors' center interior.<sup>52</sup>

---

<sup>49</sup> Leslie McCarthy, “Arch Memories,” *Webster-Kirkwood Times*, October 21, 2005.

<sup>50</sup> PCEEO Press Release, April 30, 1965 (DOL Wirtz 246 PCEEO, 5).

<sup>51</sup> Zenfell to Macaluso, August 27 and 31, 1965 (DOL OFCC ADC26 *Correspondence, 1965-1966*) and September 24, 1965 (DOL OFCC ADC 25 *Unions Practicing Discrimination*).

<sup>52</sup> Macaluso to Sylvester and Ward McCreedy to Sylvester, November 4, 1965; Paul Boyajian to Ward McCreedy, November 9, 1965; and Biermann to Sylvester, November 22, 1965 (DOL OFCC ADC26 *Correspondence, 1965-1966*).

Granting a subcontract to a plumber proved difficult, as several area plumbing companies withdrew their bids when they became aware that the OFCC would be scrutinizing the Arch project for compliance. The contractors had exclusive hiring-hall contracts with the local plumbers' union, which required that only union plumbers be allowed to work on any given project. The plumbers union had no Black members, and not a single Black apprentice out of a class of 100 youths. In neighboring East St. Louis, the plumbers' apprenticeship program was seen as so discriminatory that the BAT decertified the program. Zenfell engaged in meetings with interested parties, and the award ultimately went to Elijah Smith Plumbing, a black-owned business from East St. Louis. The owner was active in the local NAACP and a member of the St. Louis Commission on Human Relations. He employed plumbers from an integrated (but mostly Black) plumbers' union affiliated not with the AFL-CIO but with the Congress of Independent Unions (CIU), a local umbrella organization.<sup>53</sup>

The decision to award the plumbing subcontract to Smith was greeted with disdain by the St. Louis Area Building Trades Council, AFL-CIO, which unanimously voted on December 27, 1965, to walk out of the electric job and any other construction jobs related to the Arch as long as non-AFL-CIO plumbers were employed by Smith on the project. The walkout, which occurred on January 7, 1966, effectively shut down the

---

<sup>53</sup> Hugh C. Murphy to Joseph W. Beetz, November 30, 1965; Leroy R. Brown to Zenfell, December 23, 1965 (DOL OFCC ADC26 *Correspondence, 1965-1966*); "AFL-CIO Unions Deny Arch Boycott; Long Legal Battle Opens Over Practices on Visitor Center," *St. Louis Globe-Democrat*; and "Tells of Effort to Get Firm at Arch to Quit; Witness Says Union Council Made Plea to U.S. on E. Smith," *St. Louis Post-Dispatch*, February 4, 1966.

project, for there were no electricians to even string temporary lights so that the CIU-affiliated plumbers could work.<sup>54</sup>

Coordinating the OFCC's response in Washington, Edward Sylvester asked his men on the ground, including Macaluso and Zenfell, to prepare all their documentation of the situation with the plumbing subcontract. This paperwork was then turned over to U.S. Attorney General Nicholas Katzenbach with the request that he file the first-ever "pattern or practice" lawsuit under Title VII of the 1964 Civil Rights Act. At the same time, the case was submitted to the NLRB for investigation of the walkout as an illegal "secondary boycott." Under the Taft-Hartley Labor Relations Act of 1947, no union could boycott a jobsite or an employer for reasons unrelated to its own membership. In essence, the OFCC was asking the NLRB to determine whether the AFL-CIO electricians' walking off the job in protest of the employment of the CIU plumbers (or, put more succinctly, the non-employment of the AFL-CIO plumbers) constituted an illegal "sympathy strike." The Justice Department and the NLRB pursued the matter in a combined case in St. Louis Federal District Court, where on February 8, 1966, the judge found that the walkout by the Building Trades Council constituted an illegal secondary boycott and issued a temporary injunction, ordering the electricians back to work on the Arch visitors center.<sup>55</sup>

---

<sup>54</sup> Arthur A. Hunn, *Policy Statement*, December 27, 1965 (DOL OFCC ADC26 Correspondence, 1965-1966); Ted Schafers, "Dispute Stops Riverfront Visitor Center Project Work," *St. Louis Globe-Democrat*, January 12, 1966; "A Principle at Stake," Editorial, *St. Louis Post-Dispatch*, January 22, 1966; and "U.S. Charges Bias to AFL-CIO Unit; Labor Department Requests Action in St. Louis Dispute," *New York Times*, January 23, 1966; Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy* (NY: Oxford University Press, 1990), pp. 285-286; and MacLean, *Freedom Is Not Enough*, pp. 92-93.

<sup>55</sup> Sylvester to agency heads, January 5, 1966; Sylvester to Thomas D. Morris, January 7, 1966; Sylvester to Wirtz, January 20, 1966; Sylvester to Nicholas deB. Katzenbach, January 21, 1966; Sylvester to Franklin

The fallout from the District Court decision in St. Louis was quick and positive. Unable to strike against non-union contractors and fearing they would lose their lucrative hiring contracts over equal employment opportunity, the St. Louis building trades unions embarked on a campaign to integrate their membership and apprenticeship rolls. IBEW Local #1 signed a working agreement with a local Black electrical contractor, making his projects officially “union” projects, and opening the door for his mostly Black employees to successfully apply for journeyman membership in the union. Said the contractor, “I guess the Arch fight is bringing about a change all around.”<sup>56</sup> By early March 1966, Zenfell was pushing the sheet metal workers to decrease their journeyman-to-apprentice ratio, thereby paving the way for a large apprenticeship class, and by the end of the month, he had succeeded in getting the St. Louis Lathers to admit the first two Black apprentices in the union’s history.<sup>57</sup> But the union which took the matter most seriously was the heretofore all-white Pipefitters, who created a six-month “crash” program for ten skilled Black pipefitters to go straight to journeyman membership in the union.<sup>58</sup> The “lily-white” St. Louis building trades, threatened by Zenfell’s activities, had thrown down

---

D. Roosevelt, Jr., and Sylvester to Stewart L. Udall, January 24, 1966 (DOL OFCC ADC26 *Correspondence, 1965-1966*); “St. Louis Union Group Accused of Interfering With Race Hiring Law; Labor Agency Requests Action Against the Area’s Building Trades Council of AFL-CIO,” *Wall Street Journal*, January, 1966; “AFL-CIO Unions Deny Arch Boycott,” *St. Louis Globe-Democrat*, February 4, 1966; “Unions Charged; Justice Department Files First Job Bias Suit,” *Cleveland Plain Dealer*; “U.S. Charges Unions Deny Negroes Jobs,” *St. Louis Globe-Democrat*, February 5, 1966; and “End Secondary Boycott, Union Told in St. Louis; Racial Charges Pending,” *Wall Street Journal*, February 8, 1966.

<sup>56</sup> Ted Schafers, “Negro Contractor, IBEW Sign Pact,” *St. Louis Globe-Democrat*, February 21, 1966.

<sup>57</sup> Hurley to Zenfell, March 10, 1966, and Hurley to Macaluso, March 31, 1966 (DOL OFCC ADC26 *Correspondence, 1965-1966*).

<sup>58</sup> Maury E. Rubin, “Pipefitters Local 562 Gives Advanced Job Opportunities To 10 New Negro Members Now Working On The Job In Training Program,” *St. Louis Labor Tribune*, February 17, 1966; “Steamfitters’ Crash Program Enrolls 10 Negroes; Men Will Be Paid Journeymen’s Wages Throughout Training Project,” *St. Louis Argus*, February 18, 1966.

the gauntlet. The OFCC had taken it up, and—aided by a sympathetic court decision—won a decisive victory.

*Cleveland: Charles Doneghy*

In April, 1966, the United States Civil Rights Commission (CRC) held hearings in Cleveland on the state of civil rights in the city and environs. The CRC had been established by the Civil Rights Act of 1957 mainly to investigate disenfranchisement in the South, but in 1964 President Johnson delegated the commission to investigate and report on all civil rights issues by holding public hearings in cities throughout the nation. If the EEOC had little power, the CRC had even less. The OFCC could revoke contracts and debar contractors, and the EEOC could conciliate with offenders and recommend cases for prosecution by the Attorney General, but the CRC could only hold hearings and write reports. The public announcement for the Cleveland hearings stated that they would be “part of an in-depth study of civil rights problems in areas of education, employment, housing, health and welfare, and police-community relations.”<sup>59</sup>

The CRC devoted one full day of their week-long hearings to discrimination in the building trades. One witness, a Black plumbing contractor, “had tried from 1933 to 1963 before he got any of his Negro workers into Local 55 of the Plumbers Union,” according to a newspaper account. After three decades, he had succeeded in obtaining union membership for only two of his Black employees, who together constituted more

---

<sup>59</sup> “LBJ to Get Area Report on Rights,” *Cleveland Press*, March 24, 1966; Doris O’Donnell, “City Gets Rights Mandate,” *Cleveland Plain Dealer*, April 10, 1966.

than half the Black union plumbers.<sup>60</sup> There were only three Black union plumbers in all of Cleveland!

A staff researcher for the commission testified that only 2.4 per cent of whites in the building trades were unemployed, whereas the figure for Blacks was 8.9%, almost four times as high. He went on to say that five skilled construction unions in Cleveland—the IBEW, the sheet metal workers, the ironworkers, the plumbers, and the pipefitters—had a total of 7,786 journeymen members, of whom only fifty-three were Black, with only eight employed in the building trades (slightly more than one-tenth of one percent). These same unions also had a total of 367 apprentices, of whom only one was Black. Of the five trades singled out at the CRC hearings, only the IBEW lacked an apprenticeship class.<sup>61</sup>

In the face of such overwhelming evidence of discrimination, construction area coordinator Charles Doneghy resolved to integrate one of the most discriminatory trades in the city: the electrical workers. He identified the biggest government contractors first with the intention of pushing the union to admit Blacks afterwards. One such contractor was Lake Erie Electric, which held a contract with the National Aeronautics and Space Administration (NASA) for a seven-month, \$78,000 project. The company had an exclusive hiring agreement with IBEW Local #38, which had no Black members. Threatening possible debarment, Doneghy pressed Lake Erie to sign a pre-award affirmative action agreement. The agreement contained the following four provisions:

---

<sup>60</sup> Julian Krawcheck and Don Baker, “Rights Probers Told of Racial Hiring Practices,” *Cleveland Press*, April 6, 1966; O’Donnell, “City Gets Rights Mandate.”

<sup>61</sup> Krawcheck and Baker, “Rights Probers Told;” O’Donnell, “City Gets Rights Mandate;” William O. Walker, “Down the Big Road: ‘This Has Been A Sorry Story,’” column, *Cleveland Call & Post*, April 16, 1966; Biermann, *file memo*, February 10, 1965 (DOL Wirtz 246 PCEEO, 3b).



- Contractor understands that “affirmative action” under the EEO [equal employment opportunity] clause in his contract in this situation means that his firm will actively recruit minority group employees for work in the trades where they are not now independently represented.
- Contractor understands that mere reliance upon union referral does not satisfy the EEO clause in his contract.
- Contractor understands that his “affirmative action” under the EEO clause in his contract requires that he actively seek minority group candidates for apprenticeship classes through local public school administrators and teachers and local civic and church leaders, and through newspaper advertisements and all other media which effectively reach the minority groups.
- Contractor understands that the EEO clause in his contract means that he will instruct his subcontractors to take the same kind of “affirmative action” that he is taking, where it is appropriate, and that the compliance of the subcontractors is his continuing responsibility.<sup>62</sup>

Lake Erie checked each of the four boxes, indicating acceptance of all of the provisions. Doneghy told Macaluso that the head of the company said, “if it were necessary to integrate his work force” to avoid contract cancellation, “that is what he would have to do.”<sup>63</sup> And so Doneghy set to work with the company on the details of an affirmative action plan which would comply with the provisions listed in the pre-award agreement.

With the pre-award agreement in place, Doneghy turned his attention towards IBEW Local #38, so that Lake Erie and other electrical contractors could draw from qualified Black electrical workers in order to meet their affirmative action obligations. Local #38 had no Black members and did not even have an apprenticeship class. Using the threat of BAT de-certification of their JAC and the possibility that jobs would dry up without federal dollars, Doneghy was able to convince the union to call a new

---

<sup>62</sup> Charles Doneghy, *Area Coordinator's Log*, January 13, 1966 (DOL OFCC ADC2, *Cleveland, 1966*).

<sup>63</sup> Doneghy, *Area Coordinator's Log*, January 14 and 25, 1966 (DOL OFCC ADC2, *Cleveland, 1966*).

apprenticeship class and even announce publicly that it was seeking Black applicants.

The Cleveland Urban League immediately referred thirty-one graduates of its Manpower Advancement Program (MAP), a local pre-apprenticeship training program.<sup>64</sup>

Then came Hough, the worst riot in Cleveland's history. On July 18, 1966, after a white bartender refused to serve a glass of water to a Black patron, the Hough neighborhood (pronounced "huff," as in "Rough Hough") erupted into violence. For seven days, the area between Superior and Euclid Avenues, stretching west for one and a half miles from Rockefeller Park, was akin to a war zone. The governor deployed the Ohio National Guard in an attempt to quell the disturbance, which resulted in four deaths, and at least thirty injuries. Two hundred and thirty-five residents were arrested (but none was charged with any crime). Three of the dead were Black, including one woman who was apparently killed in a spray of police gunfire while leaning out of her second-floor window, and a man who was killed by a white mob while waiting in a car near his job in a neighboring Italian-American neighborhood. Due to a delay in mobilizing the National Guard from an air base in Kentucky, the violence only ended with heavy rains on July 24. The need for more skilled employment for Cleveland's Black youth had never seemed more urgent.<sup>65</sup>

---

<sup>64</sup> "Electrical Groups Seek to Train Negro Youths," *Cleveland Press*, June 28, 1966; Harry A. Lenhart, Jr., "U.S.-Aided Negroes Pass Union Exam," *Cleveland Plain Dealer*, July 29, 1966.

<sup>65</sup> "The Riot's Real Causes," Editorial, *Cleveland Press*, August 10, 1966; Marc E. Lackritz, *The Hough Riots of 1966* (Cleveland: Regional Church Planning Office, 1968); "Hough Riots," *Encyclopedia of Cleveland History*, <http://ech.case.edu/ech-cgi/article.pl?id=HR3>, and "Hough Heritage," <http://www.nhlink.net/ClevelandNeighborhoods/hough/history.htm>, accessed December 24, 2007; *Report of the United States Civil Rights Commission*, March 1, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); and Transcript, Ramsey Clark Oral History Interview IV, 4/16/69, by Harri Baker, Electronic Copy, LBJ Library, pp. 1-2, 8.

A week after the riots ended, newspapers reported that thirty of the NUL-MAP applicants for IBEW apprenticeship had successfully passed the written exam.<sup>66</sup> But Doneghy's hopes were dashed in September 1966, when the NUL-MAP applicants were rejected by the IBEW following a series of oral interviews with union leaders. As had happened so often in the past, the interviewers had ensured that the Black applicants did not advance into apprenticeship with the union. "They asked question [sic] that didn't seem to tie in with electricity," reported one applicant.<sup>67</sup> Said another, "I believe that the written and oral test that I took were not scored upon fairly because I believe I passed the oral as well as written."<sup>68</sup> Yet another wrote carefully:

I, Kenneth D. Roberts, a student of Manpower Advancement Program, took on July 9, 1966 a Written Examination For an electrical apprenticeship [sic], given by the Electrical Workers Union Local 38. And also received a notice to take an oral exam which was given at the Elec Workers Union Local 38, in which I also took. And on a later date I received a notice stating that I did not qualify. But I, with a considerable reasonable doubt, I believe that I successfully qualified on both examinations, and declaring that a discriminatory act was produced by the Electrical Workers Union Local 38, against me because of race or color.<sup>69</sup>

While the writing skills of these applicants clearly were not perfect, nevertheless their written statements conveyed the earnestness of their belief that they were indeed qualified and had in fact been fraudulently kept from apprenticeship opportunities due to racism. These and other statements were collected by the NUL, sworn and notarized, and forwarded to the EEOC in Washington.<sup>70</sup>

---

<sup>66</sup> Lenhart, "U.S.-Aided Negroes;" "Negro Apprentices," Editorial, *Cleveland Plain Dealer*, July 30, 1966.

<sup>67</sup> Wilbert Baker to EEOC, September 27, 1966 (NUL III 137 EEOC, 1965-9).

<sup>68</sup> Ernest Jackson to EEOC, September 27, 1966 (NUL III 137 EEOC, 1965-9).

<sup>69</sup> Kenneth D. Roberts to EEOC, September 27, 1966 (NUL III 137 EEOC, 1965-9).

<sup>70</sup> These complaints would ultimately become part of a DOJ lawsuit, *U.S. v. IBEW Local 38*, 59 L.C. 9226 (1969). The district court held that the union was not required to seek minority members, although this decision was soon rendered moot by the Fifth Circuit Court of Appeals in *Local 53, International*

While Doneghy succeeded in getting contractors like Lake Erie Electric to agree to integrate, he suffered a setback in the battle to increase Black apprenticeship in the IBEW. Part of the reason may have been his own color: unlike white southerner Woody Zenfell, Doneghy could not easily move among the lily-white leadership of the local unions. But Doneghy was also trying to get the unions to exercise change from within, whereas Zenfell had the advantage of a Justice Department lawsuit.

Meanwhile, Macaluso and Sylvester were working on a comprehensive program for Cleveland which would address apprenticeship, journeyman membership, and actual contract hiring, but first they would try out a version in San Francisco.

*San Francisco: Bob Magnusson*

In 1966, San Franciscans were constructing new post office buildings in several area communities, several hospitals, an atomic energy laboratory, and a handful of housing projects, all fully- or partially-financed by agencies of the federal government. But the largest project under construction at the time was the new Bay Area Rapid Transit System (BART).<sup>71</sup>

BART was financed in part by the federal government's Department of Transportation and in part by a public bond issued by the three affected counties—San Francisco, Alameda, and Contra Costa.<sup>72</sup> The system had four major legs, terminating in the northeast at Concord, in the north at Richmond, in the southeast at Fremont, and in

---

*Association of Heat and Frost Insulators and Asbestos Workers v. Vogler*, 59 L.C. 9195 (1969). For more on these cases, see Moreno, *From Direct Action to Affirmative Action*, pp. 257-259.

<sup>71</sup> *Federally Financed Construction*, November 4, 1966 (DOL OFCC ADC13 *San Francisco Related Material*, 2).

<sup>72</sup> One of the branches had a terminus in San Mateo County, just south of the border with San Francisco County, but San Mateo did not participate in the management of or fundraising for the system.

the west at West Portal in San Francisco and in Daly City in San Mateo. There were major hubs in Oakland and central San Francisco, and the most labor-intensive (and expensive) component of the project was the trans-bay tube, connecting the two. The projected cost was \$350 Million, which would pay over eight thousand workers to dig ditches and tunnels, lay tracks, build trestles and viaducts, and construct stations.<sup>73</sup>

The problem was that public funds (both from the bond issue as well as from the federal government) were being used to finance projects on BART that employed all-white union labor. As the head of the local NAACP put it to Secretary Wirtz,

We have been extremely critical of BART for its minority hiring practices but, we are growing increasingly convinced that a greater share of the blame rest with the subcontractors who are doing most of the construction work and who have to use union members.

I wish to advise you that as the building of BART progresses, the bitterness of unemployed Negro workers will grow and we can anticipate possibly disastrous confrontations between Negroes and white persons before the construction has been completed....

Several building trades unions involved have very poor records of hiring minority workers and unless drastic action is initiated, their ranks will remain for the most part "lily" white.<sup>74</sup>

The number of skilled construction workers needed for BART was so large that at various stages of construction, the three participating counties would not be able to produce sufficient union journeymen in particular crafts to fully staff the project. To meet their projected needs, contractors sought additional workers in particular skilled crafts from unions in the surrounding counties, despite the fact that there were trained Black non-union journeymen in those crafts in San Francisco, Alameda, and Contra Costa.

---

<sup>73</sup> Tom O'Leary, "Rapid Transit Hits Rough Spot," *Christian Science Monitor*, November 11, 1965; "Now Under Construction: Rapid Transit for the Bay Area," Brochure, Winter, 1967 (DOL OFCC ADC13 *San Francisco Related Material, 1*).

<sup>74</sup> Leonard H. Carter to Wirtz, January 13, 1967 (DOL OFCC ADC12 *San Francisco Correspondence, 1967, January-March*).

Advocates of local Black construction workers resolved to fight this, forming an organization called Job Opportunities-BART (JOBART). What JOBART mainly lobbied for—with local elected officials, BART officials, federal officials, and even the construction unions—was the implementation of a single principle: that hiring for BART exhaust the lists of qualified construction workers in the three counties paying for the bond—union and non-union alike—before turning to unions in neighboring counties.<sup>75</sup>

Soon after his appointment, Department of Housing and Urban Development (HUD) officer-turned OFCC Area Coordinator for Construction Robert C. Magnusson held initial meetings with Macaluso and Sylvester at separate times in San Francisco in the spring and early summer of 1966. BART was clearly the most important project on Magnusson's desk, but very little of its funding came from the federal government, and California's fair employment practices law did not have a strong enforcement regime. Sylvester's "1966 Federal Contract Construction Program" was now in effect. The program required that all federal contractors attend pre-award meetings with the contracting agency and area coordinator to discuss various affirmative action activities. Magnusson felt that equal opportunity could be achieved throughout BART construction by requiring that federal contractors meet Sylvester's standards (and those of President Johnson's Executive Order No. 11246) on all their contracts, including those not funded by the federal government, and the area coordinator went to work drafting a standard affirmative action plan which would be offered to contractors willing to "play ball." Sylvester, Macaluso, and Magnusson were gambling that the contractors would not

---

<sup>75</sup> O'Leary, "Rapid Transit," *Christian Science Monitor*, November 11, 1965; JOBART to BART, March, 1966 (DOL OFCC ADC3 *San Francisco*).

simply throw up their hands at union recalcitrance and forgo their federal contracts. With Bay Area construction having already come under fire from local grassroots organizations like JOBART, the OFCC officers hoped that the contractors would agree that integration was inevitable, and decide not to fight it. As in Cleveland, the OFCC was relying on conciliation to effect change from within, and did not have a Justice Department lawsuit in the works to force compliance as they had in St. Louis.<sup>76</sup>

Nevertheless, they won the bet. On October 1, 1966, the General and Specialty Contractors' Association of Berkeley, CA resolved to favor local residents for employment on BART and other publicly-financed contracts. Three weeks later, the general manager of BART said “there are no particular problems for [BART] in participating in a specific, forceful, affirmative action program as long as it is not placed in a competitive disadvantage in obtaining bids.”<sup>77</sup>

With BART management and Bay Area construction contractors willing to entertain affirmative action plans, Magnusson, Macaluso, and Sylvester began working on a comprehensive program to tailor the nationwide “1966 Federal Contract Construction Program” to the specific needs of the San Francisco area. In particular, the program would consider the fact that despite the size of the BART project and others, union unemployment in the construction industry was higher in 1966 than it had been in the previous thirty years, with Alameda County alone registering a thirty per cent

---

<sup>76</sup> “Fair Hire Meeting Set,” *Daily Pacific Builder*, March 11, 1967; Robert C. Magnusson to Sylvester, July 1, 1966; and Magnusson to Macaluso, August 22, 1966 (DOL OFCC ADC3 *San Francisco*). For more on grassroots civil rights organizing in the Bay Area, see Robert O. Self, *American Babylon: Race and the Struggle for Postwar Oakland* (Princeton, NJ: Princeton University Press, 2003).

<sup>77</sup> General and Specialty Contractors' Association *Resolution*, October 1, 1966; Ray Dones to LBJ, October 10, 1966 (LBJ WHCF BE16 *Construction*); and B.R. Stokes to Robert C. Weaver, October 21, 1966 (DOL OFCC ADC3 *San Francisco*).

unemployment rate (this was possible despite BART employment due to the different stages of construction which employed many workers in the individual crafts, but only for short periods of time).<sup>78</sup> Meanwhile, the overall unemployment rate in San Francisco's Black and Hispanic neighborhoods was skyrocketing to nearly fifty per cent (when those who had given up the job search were counted).<sup>79</sup> Magnusson understood that the San Francisco unions would fight tooth and nail any proposed growth in their journeyman membership. A more feasible route for San Francisco lay in apprenticeship, where the willingness of contractors to implement affirmative action plans could be exploited to hire and train the maximum number of Black youths. If the union-controlled JACs didn't approve, they could be de-certified.<sup>80</sup> On December 22, 1966, Sylvester sent a preliminary order to the heads of contracting agencies with projects in the San Francisco area, advising them of BART's willingness to cooperate in affirmative action, and setting forth the basic conditions that would, after several drafts, become the "Operational Plan for San Francisco Bay Area Contract Construction Program."<sup>81</sup>

---

<sup>78</sup> "Construction Unions Warn of Job Crisis," *San Francisco Chronicle*, February 24, 1967.

<sup>79</sup> "S.F. and Oakland Poverty Areas; Survey Finds Bleak Job Picture," *San Francisco Chronicle*, February 16, 1967.

<sup>80</sup> Rubin, "Pipefitters Local 562," *St. Louis Labor Tribune*, February 17, 1966; Macaluso to Sylvester, February 14, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); "S.F. and Oakland Poverty Areas," *San Francisco Chronicle*, February 16, 1967; "Construction Unions Warn," *San Francisco Chronicle*, February 24, 1967; Magnusson to Macaluso, February, 1967 (DOL OFCC ADC24 *Monthly Reports, 1967, January-June*); "Apprentices Should Get The Same Draft Break College Students Receive, Labor Sec. Wirtz Says," *St. Louis Labor Tribune*, April 7, 1967.

<sup>81</sup> Sylvester to agency heads, December 22, 1966 (DOL OFCC ADC3 *San Francisco*).



As expected, the plan's nine provisions charged each contractor to work hardest at integrating apprenticeship, and emphasized cooperation with unions.<sup>82</sup> The program expected contractors to

- (1) cooperate with the unions with which it has agreements in the development of programs to assure qualified members of minority groups of equal opportunity in employment in the construction trades;
- (2) actively participate individually or through an association in Joint Apprenticeship Committees to achieve equality of opportunity for minority group applicants to participate in the apprenticeship programs;
- (3) actively seek to sponsor members of minority groups for pre-apprenticeship training;
- (4) assist youths with minority group identification to enter each apprenticeship program;
- (5) improve opportunities for the upgrading of members of the construction force;
- (6) seek minority group referrals or applicants for journeymen positions;
- (7) make certain that all recruiting activities are carried out on a non-discriminatory basis;
- (8) make known to all of its subcontractors, employees and all sources of referral of its equal employment opportunity policy;
- (9) encourage minority group subcontractors, and subcontractors with minority group representation among their employees to bid for subcontracting work.<sup>83</sup>

Sylvester formally issued the order, called "The San Francisco Plan" for short, on February 6, 1967. Unfortunately for skilled and aspiring Black San Francisco construction workers, the OFCC quickly deemed the plan a failure.<sup>84</sup> The emphasis on cooperation, which was clearly all Magnusson could expect given the overall employment situation, allowed contractors to get away with little more than lip service and tokenism. At HUD, the largest federal contracting agency in the Bay Area, senior officials marginalized the San Francisco Plan as well as Magnusson himself. Still on the

---

<sup>82</sup> Robert A. Sauer to Department of Housing and Urban Development, January 6, 1967 (DOL OFCC ADC12 *San Francisco Correspondence, 1967, January-March*).

<sup>83</sup> Sylvester to agency heads, February 6, 1967 (DOL OFCC ADC12 *San Francisco Correspondence, 1967, January-March*).

<sup>84</sup> Sylvester to Agency Heads, June 29, 1967 (DOL OFCC ADC12 *San Francisco Correspondence, 1967, April-June*); and Graham, *The Civil Rights Era*, p. 286.

HUD payroll, Magnusson was placed in a shared 8-foot by 10-foot office without access to a secretary; for several weeks, until Sylvester was able to prevail upon Magnusson's supervisor, the San Francisco area coordinator was reduced to submitting hand-written reports and making frequent visits to the HUD mailroom.<sup>85</sup> By early July, with virtual contempt from the contractors, unions, and government officials responsible for implementation, the San Francisco Plan had failed to produce any tangible results.

The experiences of the area coordinators during 1966 proved to Macaluso and Sylvester that different employment conditions in different cities outweighed their similarities when it came to crafting a comprehensive integration program for the building trades. In St. Louis, sufficient trained Blacks could be moved directly into journeyman status due to unions' fear of continued federal court actions. In Cleveland and in San Francisco, integration in apprenticeship seemed to be key, but the different experiences of Doneghy and Magnusson with their local JACs showed that these cities required different approaches as well. Unlike in St. Louis, no federal lawsuit accompanied the work of Doneghy or Magnusson. The inability of Doneghy and the NUL to place trained pre-apprenticeship graduates with the IBEW, and the downright hostility faced by Magnusson at HUD in San Francisco, led to a growing frustration at the OFCC. Stronger measures were required.<sup>86</sup>

---

<sup>85</sup> Adrian Dove to Sylvester, July 25, 1967 (DOL OFCC ADC12 *San Francisco Correspondence, 1967, July-September*).

<sup>86</sup> Sylvester to Agency Heads, February 10 and March 15, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

### **The Cleveland Plan**

Whereas the San Francisco Plan focused on apprenticeship and conciliation, confronted by high unemployment both inside and outside the construction unions despite the presence of the \$900 Million BART construction project, the drafting of an Operational Plan for Cleveland posed different problems altogether. In January 1967, during a season normally slow for the industry, union unemployment in construction was extremely low and dropping. This trend continued as the winter deepened, and by mid-February Area Coordinator Doneghy reported that “the bench is bare,” a circumstance which Macaluso immediately likened—in a reverse metaphor, given the season—to “snowballs in July.”<sup>87</sup>

Unlike in San Francisco, where much of the work was in the single major project, Cleveland was rife with smaller—but nevertheless substantial—construction projects. In addition to the NASA project, Western Reserve University was constructing new campus buildings; the University of Akron was constructing a Cleveland campus; and there were senior citizens’ homes, a hospital, and several housing complexes on their way up—all relying, in whole or in part, on federal funds.<sup>88</sup>

Several grassroots organizations were operating to train Black youths for apprenticeships in Cleveland. As we have seen, the NUL had its MAP Program, which had successfully trained youths for the written IBEW apprenticeship exam the previous

---

<sup>87</sup> Doneghy to Macaluso, January 16, 1967; Macaluso to Sylvester, February 14, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

<sup>88</sup> Ted B. Sennett to Ben D. DeJohn, April 13, 1967; Thomas Ruble to Federation Towers, Inc., May 3, 1967; Dove to Sylvester and Clifford E. Minton to Howard L. Graham, June 7, 1967; Nick J. Mileti to Robert D. Sauer, June 19, 1967; and H.D. Conant to DeJohn, August 7, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); Mileti to Sauer, July 20, 1967 (DOL OFCC ADC9 *Cleveland Correspondence, 1967, July*); and Sam Chambers to Doneghy, September 6, 1967 (DOL OFCC ADC9 *Cleveland Correspondence, 1967, September-December*).

summer. Fresh from his success training youths for construction apprenticeships in Brooklyn, New York, Ernest Green (of the *Little Rock Nine*) brought his Workers' Defense League (WDL)-sponsored apprenticeship training program to Cleveland in early 1967. And Philadelphia Rev. Leon Sullivan's Opportunities Industrialization Center (OIC) opened up a branch in Cleveland in April of that same year. These programs gave the lie to union and contractor claims that no qualified Black youths were available for apprenticeship.<sup>89</sup>

Based on the overall unemployment rate, Doneghy's experience with the local IBEW, and the presence of minority-oriented training programs, Sylvester and Macaluso resolved that Cleveland was an opportune place to launch a more aggressive plan, and the Cleveland Operational Plan was just that. It called for the now-usual pre-award conferences between contractors and federal contracting agencies, and expected all bidders to meet Labor Department criteria for equal opportunity certification and submit an affirmative action plan. But unlike the San Francisco Plan, it was confrontational in style: building on the affirmative action plan agreed to by Lake Erie Electric, contractors were expected to hire journeymen from non-union sources if the unions could not provide significant non-white employees, and apprenticeship programs without Black apprentices would be de-certified.<sup>90</sup>

In the midst of implementation of the Cleveland Plan, a major court case pushed the OFCC to take even more direct action. On May 17, 1967, a federal district judge in

---

<sup>89</sup> Doneghy to Macaluso, April n.d., 1967 (OFCC ADC24 *Monthly Reports, 1967, January-June*); William F. Miller, "Negroes in Trades Is His Goal," *Cleveland Plain Dealer*, August 24, 1967.

<sup>90</sup> Sylvester to Agency heads, March 15, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); Graham, *The Civil Rights Era*, p. 286.

Columbus ruled in the case of *Ethridge v. Rhodes* that construction on a particular project be stopped until the trade unions working on the project, or the general contractor and his subcontractors, integrated. The next day, spurred to action by the court ruling, Macaluso ordered that \$48 Million in federal funds for a variety of Cleveland projects be withheld until each contractor could demonstrate that he had integrated his workforce, announcing that the OFCC would make a decision on an additional \$60 Million within three or four weeks. For the first time, all federal construction expenditures in an entire city were halted for non-compliance with the non-discrimination clause.<sup>91</sup>

The stoppage of funds by Macaluso represented a major step forward in the long-term progression of compliance activity. During the 1950s, when the non-compliance clause was first added to federal contracts, the signature of the contractor was deemed sufficient to release funds. In 1960, as we have seen when McCloskey & Co. put “a chap on the payroll” on the southwest Washington, DC, redevelopment project, token compliance became necessary to continue to receive funds. With Sylvester’s Federal Contract Construction Program for 1966, successful bidders were expected to at least pay lip service to the ideals of equal opportunity by attending a pre-award meeting and submitting a plan for affirmative action, but little follow-up was required and few such plans were fully implemented; in any event, the money always continued to flow. Now the OFCC was taking compliance a step further. The default position of the federal expenditures was reversed. Instead of having to make promises to keep the money

---

<sup>91</sup> Antony Mazzolini, “U.S. Stops Funds on Projects Here,” *Cleveland Press*, May 18, 1967; “U.S. Stalls \$43 Million in Projects Here, Citing Unions’ Bias,” *Cleveland Plain Dealer*, May 19, 1967; “Union Bias Halts Projects, Cleveland,” *San Francisco Chronicle*, May 19, 1967; and Wilkins, *News Conference Statement*, June 27, 1967 (NAACP IV A21 *Civil Rights, Wilkins*).

flowing, contractors would now have to demonstrate compliance to *start* the money flowing. And until they did, the federal government would not spend a dime on construction in the seven-county Cleveland area.

Predictably, the skilled craft unions opposed Macaluso's decision. They had achieved their goal of full employment, which would be lost if they were forced to accept new Black members or share construction employment with non-union men. Full employment meant not only that all union members were employed—and that they could depend on significant overtime pay—but that the unions could successfully demand that contractors accelerate wage increases. If additional workers were allowed onto the jobsites, union or not, the swelled numbers would mean that pay increases would probably slow down. And the boom times were almost certainly temporary; few expected the bench to remain bare for long. If there was a time to avoid increasing membership, this was it. The plumbers, for instance, were specifically not starting a new apprenticeship class and would not replace members who retired. Rather than comply with the Cleveland Plan, the plumbers sought to focus work on non-federal jobs until the federal money started flowing again (which they and others predicted would happen eventually whether the jobsites were integrated or not). The union began referring newly-available members to the non-federal construction projects of Republic Steel of Cleveland. But even Republic Steel was not immune to the Cleveland Plan; they had

some contracts with the GSA, and Sylvester wrote the agency to plug this potential plumbers loophole.<sup>92</sup>

Contracting parties had mixed reactions to the Cleveland Plan. Some, like Western Reserve University, whose federal construction funds came from the Department of Health, Education, and Welfare (HEW), welcomed the opportunity to force integration on contractors and unions alike. Others, like Federation Towers, a housing project being built by the local AFL-CIO with funds from the Department of Housing and Urban Development (HUD), challenged the decision as changing “the rules of the game” after contracts had already been signed. And one hospital with a HEW-funded construction contract complained to Ohio Senator Frank Lausche in the hopes that the Senator’s office would convince the OFCC to restore funding (the senator was placated after Sylvester wrote that the contractor for the project had failed to submit an acceptable affirmative action plan).<sup>93</sup>

Most contractors welcomed the decision, one seeing it as an opportunity to “get his house in order.”<sup>94</sup> Some also saw it as an opportunity to weaken the stranglehold the unions had on hiring.<sup>95</sup> But there was still the question of demonstrating results: how could a contractor effectively prove to Macaluso that he had integrated his workforce when the funds weren’t flowing and the work wasn’t being done?

---

<sup>92</sup> Sylvester to Wirtz, June 27, 1967; Sylvester to Harry R. Van Cleve, Jr., June 28, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

<sup>93</sup> Harold S. Stern to HUD, May 24, 1967; Minton to Graham, June 7, 1967; Doneghy to Minton, June 14, 1967; Earl B. Raymer to Frank J. Lausche, June 16, 1967; Ray M. White to Raymer, and Lausche to Sylvester, June 19, 1967; Sylvester to Lausche, June 30, 1967; and Conant to DeJohn, August 7, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

<sup>94</sup> Doneghy, *File Memo*, June 22, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

<sup>95</sup> George Hudak to Mechanical Contractors’ Association of Cleveland, Inc., May 25, 1967 (OFCC ADC9 *Cleveland Correspondence, 1967, July*).

The solution was adding a column to the manning table. The manning table was essentially a list of employees in each craft for a given project (or subcontractor's portion of a project), and was a long-established practice in contract construction reporting. Fred Kerr, of the Gillmore-Olsen Company, general contractor on the NASA project, proposed adding the total number of non-whites in each craft:

...we intend to provide...Negro and Spanish surname representation in the crafts specified below in accordance with the following:

<u>CRAFTS</u>	<u>TOTAL REQUIRED</u>	<u>TOTAL MINORITY</u>	<u>APPROXIMATE MONTHS ON THE JOB</u>
Operating Engineers	5	2	5
Plumbers	4	1	4
Iron Workers	6	1	5
Electricians	7	2	12
Sheet Metal Workers	2	1	3
Steam Fitters	4	1	4

The minority representation will be employed in craft-type jobs; i.e. pre-apprentice, apprentice, journeyman or supervision.<sup>96</sup>

This particular manning table went far beyond mere tokenism. NASA immediately agreed; Macaluso and Sylvester concurred; and the project funds were released to Gillmore-Olsen. Other contractors—both in order to demonstrate compliance and ensure that they did not lose bids to contractors providing the new affirmative action manning tables—quickly followed suit. By June 27, the federal funds were again flowing to four of the thirteen Cleveland-area contractors, and two more had meetings with their respective agencies scheduled for the next week, at which they would present new affirmative action plans—and amended manning tables.<sup>97</sup>

<sup>96</sup> Fred M. Kerr to Sherwood Holman, June 1, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*).

<sup>97</sup> Sylvester to Wirtz, June 27, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); Graham, *The Civil Rights Era*, pp. 286-7. The use of manning tables to demonstrate compliance with the equal opportunity clause in federal contracts would later be decried as a quota system by politicians, union leaders, and



Kerr's manning table concept represented an entirely new paradigm for affirmative action. Prior to its introduction, affirmative action meant taking concrete, race-conscious steps to help Blacks and Hispanics compete on an equal footing with whites—or, to paraphrase President Johnson's Howard University address, to allow them to compete under the same conditions from the same starting line. Affirmative action, frankly, was difficult to accomplish. It took work. It meant funding scholarships and training programs, creating jobs, and engaging in follow-up and oversight to monitor each program's progress. For a JAC, it meant advertising apprenticeship opportunities in Black newspapers, forging and maintaining social relationships with Black community leaders, actually visiting Black neighborhoods. For a union, it meant seeking trained Black craftsmen to admit as journeymen, thus enlarging the local and risking a fuller bench. And for a construction firm—as seen in the affirmative action agreement with Lake Erie Electric—it meant breaking exclusive hiring agreements with lily-white unions at the risk of not having an adequate supply of trained workers or, worse, a strike.

The manning table—for all its convenience in terms of reporting (which federal officials like Macaluso and Doneghy certainly appreciated) represented the easy way out. On the one hand, the contractor could simply break his promise, fulfill his other obligations under the contract and collect his money, and later claim there were no trained Blacks to meet the projection—or that the union had failed to provide them. On the other, if the contractor hired the promised number of Black craftsmen, that ended

---

journalists who generally lacked an understanding of how common such forms had been prior to their use for this purpose and how their use was initially proposed by the industry, as seen here, and not by government officials, who agreed to it (and would later require it) as evidence of compliance for each construction project, not as a list of quotas for future contracts.

his—and the OFCC’s—larger responsibility for long-term improvements. The contractor was not required to post advertisements or forge long-lasting relationships in the Black community, let alone provide training opportunities to prevent the next generation from slipping back into segregation. In short, the manning table, which led to goals and ranges, then to quotas, and ultimately hiring decisions that could quite plausibly be called “reverse racism,” subverted President Johnson’s vision that held affirmative action as akin to equal opportunity. The manning table rendered a laudable moral goal with the potential to reshape American race relations into a simple matter of hiring the minimum necessary to keep “big brother” happy so the federal funds kept flowing.

Following on the heels of Macaluso’s order withholding funds for Cleveland, the NAACP, at Herbert Hill’s behest, launched a nationwide campaign to get the government at all levels and in all localities to stop funding segregated construction. The organization notified local branches of the federal court decision and asked them to investigate employment conditions at local construction sites, and Executive Director Roy Wilkins telegrammed forty-two state governors asking them not to let any construction contracts with state funds until the building trades or contractors in their state integrated, sending a similar telegram to Labor Secretary Wirtz asking that all federal construction funds be stopped.<sup>98</sup> Clearly, they felt, a turning point had been reached. Unions and contractors had failed to adequately integrate the skilled trades after OFCC conciliation; only tougher measures—the withholding of funds, the debarment of contractors—would result in serious changes to the racial makeup of the workforce.

---

<sup>98</sup> Wilkins to State governors, and Wilkins to Wirtz, June 27, 1967 (NAACP IV A40 *Labor, Ohio*).

For his part, Wirtz wasn't sure nation-wide action ought to be directed at the building trades. While the secretary was aware that discrimination existed in the skilled building trades in a number of localities, and certainly supported the activities of Sylvester and Macaluso in fighting it, he knew that neither federal construction nor the unions—the majority of whom, he felt, were not engaging in discrimination—would be served by a blanket withholding of funds. The building trades included some of the most visible examples of discrimination, but also included unions—like the Laborers—who were majority-Black. They didn't deserve, as he put it, “finger-pointing.”<sup>99</sup>

He may have had a point. The secretary had in his hands a report he had commissioned from University of Texas professors F. Ray Marshall and Vernon M. Briggs, entitled *Negro Participation in Apprenticeship programs*:

It is our conclusion that pre-apprenticeship programs designed to compensate disadvantaged youngsters for their deficiencies are effective means of both providing opportunities to these youngsters and supplying qualified applicants to apprentice programs.... We are persuaded...that racial discrimination continues to be an important problem, we are convinced that its relative importance has declined in recent years and that measures to recruit, train, and counsel qualified applicants currently are much more important.<sup>100</sup>

George Schultz, dean of the University of Chicago Graduate Business School (and later Wirtz's successor as Labor Secretary during the Nixon administration), agreed, noting that apprenticeships in the construction trades tended to produce future foremen, contractors, and union leaders, rather than rank-and-file workers. As seen in the direct

---

<sup>99</sup> “A Significant But Little Publicized Report,” Editorial; and “The Press Paid No Attention to This Report,” *Construction Craftsman*, Vol. 6, No. 5 (July-August-September, 1967).

<sup>100</sup> F. Ray Marshall and Vernon M. Briggs, Jr., *The Negro and Apprenticeship* (Baltimore: Johns Hopkins Press, 1967), quoted in *ibid.*

admission of Black journeymen plumbers in St. Louis, there were other integration routes available.<sup>101</sup>

The road ahead, as far as Wirtz and Sylvester were concerned, lay not in blanket sanctions of the entire industry, which the NAACP was asking at the state and federal level, but the continued city-by-city approach, with individual plans tailored to different localities. But the conciliatory San Francisco Plan, in a high-unemployment area, had had little impact, as was arguably the case with another local plan for St. Louis, where the big moves towards integration had occurred a year earlier, after the Arch walkout. In Cleveland, the confrontational style in a low-unemployment area had worked only when a District Court decision prompted Macaluso to pull the plug on federal funds.

Cleveland Area Coordinator Charles Doneghy was finding himself incredibly busy during the summer of 1967, meeting with unions, contracting parties, and federal contracting agencies, attending pre-award conferences, and reviewing manning tables and affirmative action plans from anxious contractors. The OFCC detailed an intern to Cleveland and Nashville Area Coordinator Jodie Eggers temporarily moved to Cleveland to help out as well. But Doneghy found time in July to travel to another city to give a report. Doneghy presented his experience with the Cleveland Plan, and the success of the manning tables, to a group of federal officials preparing a comprehensive affirmative action program for construction in Philadelphia.<sup>102</sup>

---

<sup>101</sup> "A Significant But Little Publicized Report;" Howard G. Foster, "Nonapprentice Sources of Training in Construction," *Monthly Labor Review*, February, 1970. Graham concurs in *The Civil Rights Era*, p. 280.

<sup>102</sup> Sylvester to Wirtz, June 27, 1967 (DOL OFCC ADC8 *Cleveland Correspondence*); Bennett O. Stalvey, Jr. to Macaluso, July 14, 1967; Stalvey to Philadelphia Federal Executive Board Subcommittee on Contract Compliance in Construction (FCCCS), July 25, 1967 (DOL OFCC ADC14 *Correspondence, July-October*).

\* \* \*

The development of federal civil rights policies demonstrated that government, when managed effectively, could serve to improve the lives of its citizens in areas other than the common defense. When elected leaders—in this case President Johnson—can identify and give voice to the needs of society—in this case the rising demands for true equality of opportunity—they can influence appointed officials and bureaucratic civil servants alike in the service and development of those policies. And when the bureaucracy is effectively motivated, as was the case in St. Louis, or when conditions are ripe, as was the case in Cleveland, the government can foster positive change. When conditions are poor and bureaucrats are uninterested, as was the case in San Francisco, the system breaks down, and government fails.

As the Kennedy administration’s civil rights “tsar,” Lyndon Johnson ascended to the presidency at the peak of the civil rights movement. By 1963 the cause of civil rights, as seen in activities like the freedom rides and the Birmingham protests, had come to enjoy widespread sympathy in the white community outside of the Deep South and was gaining ground legislatively. With his ascension, Johnson elevated civil rights within the federal government from a vice presidential issue—something that was fobbed off by Eisenhower onto Nixon’s portfolio, and by Kennedy onto Johnson’s—to a truly presidential matter. And it was that leadership—presidential leadership—which helped make possible the groundbreaking 1964 Civil Rights Act, the single most comprehensive and important piece of civil rights legislation since Reconstruction. Then, in 1965,

President Johnson embarked on a truly revolutionary course, defining affirmative action as key to equal opportunity and telling his beleaguered nation that “we shall overcome.”

It was from the statements and direction of President Johnson that the officers of the federal government’s civil rights machinery took their cues. Johnson set a tone and established a mood—Great Society Liberalism—that made officials like Ed Sylvester and Vince Macaluso understand the importance of creating a society where the experiences of men like James Ballard—who never did become an apprentice sheet metal worker—would be the exception rather than the rule. Through trial and error, they set about fulfilling the president’s promises to the nation.<sup>103</sup>

But at the very moment Johnson was achieving such personal success as the civil rights president, the nation turned a corner in race relations—and not for the better. Civil rights without economic results bred resentments, and the new laws and executive orders were not reversing the alarming trends in unemployment. As white unemployment decreased while Black unemployment increased, the economic gap replaced the older social divide of *de jure* segregation. With tensions high over the escalating war in Vietnam and an unfair national draft policy, the nation’s slums erupted into violence, from Watts in Los Angeles to Hough in Cleveland—to Newark—to Detroit—to Chicago.<sup>104</sup>

The momentum of the civil rights movement, which had achieved its greatest successes with the sympathy and support of liberal whites, began to lose steam,

---

<sup>103</sup> Zuckerman, “Sheet Metal Workers’ Case,” *New York Law Journal*, September 8, 1969.

<sup>104</sup> For more on the political impact of the riots see Gitlin, *The Sixties*, pp. 168, 221, 302; Kearns, *Lyndon Johnson*, pp. 259-60; Matusow, *The Unraveling of America*, pp. 215-16; and Kevin Mumford, *Newark: A History of Race, Rights, and Riots in America* (2007: NY: New York University Press, 2007), pp. 125, 149-50, 173.

threatened as much by a northern white backlash against urban violence as by unreconstructed Southern racists. As one summer followed the next and riot was followed by riot, each seemingly worse than the last, the backlash threatened to derail all of the precious achievements of the previous decade.