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**Working Class Hero: A Southern Attorney's Experience in the Labor Movement During
the Civil Rights Era**

The dominant historical narrative of the relation between the civil rights movement and organized labor is one that begins with the March on Washington for Jobs and Freedom in 1963, continues with the passage of the Civil Rights Act of 1964, and ends with the assassination of the Reverend Martin Luther King, Jr. during a sanitary workers strike in Memphis, Tennessee in 1968. In between these prominent events was a long and hard fought for campaign in the South made up of workers, unions and attorneys who sought to achieve full and equal employment and fair treatment for all workers regardless of race. Often the civil rights movement and organized labor clashed in the South, but those who were committed to realizing economic justice did not falter. Cecil Gardner, a labor attorney based in Mobile, Alabama, was one such person.

Mr. Gardner has spent the past forty years of his legal career representing labor unions in Mobile, Alabama, a port city bordering the Gulf of Mexico. Born the son of a coalminer and organizer with the United Mine Workers of America (UMWA), Gardner was inspired by his father to become a labor attorney. “While [my father] died in 1948, early in my life, he still had time to instill in me the principles of fairness and democracy inherent in the trade union

movement,” he recalls.¹ His father’s work with the United Mine Workers of America (UMWA) took place before the passage of the Wagner Act of 1935. Signed into law by Democratic President Franklin D. Roosevelt, the National Labor Relations Act, better known as the Wagner Act, guaranteed the right to employees to form or join unions and obligated employers to collectively bargain with unions chosen by a majority of employees. The Act also established the National Labor Relations Board (NLRB), an independent agency tasked with investigating and remedying claims of unfair labor practices. “[My father] experienced the full impact of working without a labor contract and, finally, with one,” and he “fully knew that legally protected collective action could engender a sense of dignity for even the least of us,” Gardner explained. That sense of dignity---and those principles of fairness and democracy---is what Gardner would work to ensure all workers in Mobile had, spanning every industry and crossing gender and race.

Following the economic boom after World War II, Mobile, Alabama, and the South in general, experienced significant growth in industrial development. The South had become a major industrial power for the North to contend with. According to one historian of the modern South, the number of manufacturing factories in the South grew by more than 200 percent between 1939 and 1972. The South gained 1.7 million employees in the manufacturing industry between 1957 and 1979. After 1960, the growth rate for manufacturing in the South significantly surpassed other regions in the country.² Historians have argued that the rapid industrial growth in the South can best be explained as a successful Southern political strategy to recruit Northern companies to relocate to the South.³ With a developing economy, a growing workforce, and a

¹ Cecil Gardner, e-mail message to author, October 4, 2016 and December 8, 2016.

² Grantham, Dewey W., “The Sunbelt South,” in *The South in Modern America: A Region at Odds* (New York: Harper Collins Publishers, 1994).

³ Cobb, James C., “With Labor Thrown In,” in *The Selling of the South: The Southern Crusade for Industrial Development, 1936-1990* (Urbana: University of Illinois Press, 1993), 96-121.

need for organized labor, Mobile, Alabama became a great place for Gardner to start his lifelong legal career defending labor unions.

Gardner first attended Auburn University in Tuscaloosa from 1957 to 1959. After performing poorly during his first two years at Auburn, he joined the military from 1960 to 1963 and worked for a brief period of time. Gardner returned to Auburn in 1963 to 1965 and during those years he became involved with the civil rights movement which had taken a stronghold in Alabama. While a student at Auburn, he helped coordinate meetings with students at Tuskegee University, the historically black college founded by Booker T. Washington. "I like to think that that sort of thing avoided some of the problems seen in Tuscaloosa," he reflects. When the Reverend Martin Luther King, Jr. led the historic Selma to Montgomery march in 1965, Gardner joined. "I participated (for 10 miles only) in the Selma to Montgomery march while at Auburn and a few other public demonstrations, but not as much as I wish I had," he added. When he went to law school at the University of Alabama School of Law in 1965, Gardner found that the demands of law school left him little time to participate in the civil rights movement as he had wished. "Law school is very demanding, especially for an army veteran from a poor family, who was desperately aware, finally, of the importance of an education." But Gardner would remain committed to economic justice for all and would go on to use his legal education to help achieve it.

After graduating from the class of 1968 at the University of Alabama School of Law and becoming a new member of the Alabama State Bar, Gardner moved to Mobile in late 1969 to open up his own employment law firm. One of the first clients he accepted, who he still represents today, was the Alabama AFL-CIO. Following the national merger between American Federation of Labor and the Congress of Industrial Organizations to form the AFL-CIO in 1955,

Alabama became the first state to consolidate its chapter. In the following year, the Alabama State Federation of Labor (AFSL) merged with the Alabama State Industrial Union Council (ASIUC) to form the Alabama AFL-CIO and together boasted more than 100,000 members statewide.⁴ The Alabama AFL-CIO represented workers across all of Alabama's industries, from the steel workers of Birmingham to the paper mill workers of Mobile. According to Gardner, Mobile, Alabama actually had the greatest percentage of union workers in the South. "From the standpoint point of a trade unionist, we were fortunate," he recalls. "The large paper mills, the Alabama Dry Docks and Ship Building Company, the nine stevedoring companies at the Alabama State Docks, CIBA Geigy Chemical Company, Alabama Power Company had all been organized," he added. "The larger commercial and industrial building contractors had been organized by the Electrical Workers, Carpenters, Plumbers and Pipe Fitters and other build trades unions."

Although Mobile had a larger percentage of union workers than other regions in the South, the percentage of workers in the South that belonged to unions was still significantly lower compared to the North. The lower percentage of union membership in the South can be explained through examining anti-union laws and policies and the negative attitudes of workers towards unions. In 1947, Congress passed the Labor-Management Relations Act of 1947, better known as the Taft-Hartley Act, which imposed new restrictions on union activities, such as prohibiting unions from compelling non-union members to pay union dues for a union chosen by a majority of employees in the workplace. The legislation had garnered a majority of support from Southern Democrats; 80 percent of Democratic representatives in the South voted in favor of the bill, and when Republican President Harry S. Truman vetoed the bill, 90 percent of

⁴ Taft, Philip and Gary M. Fink, *Organizing Dixie: Alabama Workers in the Industrial Era* (Tuscaloosa: University of Alabama Press, 2007).

Southern Democrats in the House and 77 percent of those in the Senate voted to override his veto.⁵ The Taft-Hartley Act empowered states to enact 'right-to-work' measures modeling the federal mandates. In 1953, the Alabama state legislature adopted its own 'right-to-work' law. By 1970, nineteen states had adopted 'right-to-work' policies either by constitutional amendment or by an act of the state legislature.⁶

While representing labor unions in Mobile, Alabama, Gardner witnessed firsthand the attitudes that led Southern workers to reject unionization. In his experience, Southern workers generally had a negative perception of labor unions which is characterized by the stereotype of the "union thug." "Attitudes towards unions is generally not favorable in the South and Mobile is no exception. Labor continues to suffer from the image of 'big labor bosses' wielding power and calling strikes," he explained. A towering 6-foot-tall man with a stern demeanor, Gardner himself could have easily fit the image of a 'union thug' and inadvertently intimidated the workers he sought to represent. He also observed pervasive racist attitudes among Southern workers which prevented white and black workers from recognizing their shared struggles in the workplace. "Labor organizing depends on workers finding common cause, and Southern workers are more likely to identify with the bosses than with their fellow workers," he added. "This is aggravated by racial differences which, of course, are exploited by management."

Racial discrimination permeated every aspect of employment in the South. In Mobile, Alabama, industrial factories were organized into "lines of progression" within departments. Black employees were relegated to unskilled and low-paying positions such as "laborer" while white employees were given the opportunity to advance to higher positions such as "welder" or

⁵ Friedman, Tami J. "Exploiting the North-South Differential: Corporate Power, Southern Politics, and the Decline of Organized Labor after World War II." *The Journal of American History* 95, no. 2 (2008): 323-48.

⁶ Newman, Robert J., *Growth in the American South: Changing Regional Employment and Wage Patterns in the 1960s and 1970s* (New York: New York University Press, 1984).

“pipefitter.” Gardner observed this discriminatory practice when he accepted one of his first AFL-CIO clients, an all-black local of the International Longshoremen’s Association (ILA), which represented black dock workers in Mobile. “The less skilled, but most numerous, black employees did the work of loading and unloading cargo,” while the “white employees performed the more skilled work, consisting of cargo 'checking', which involves keeping up with the paperwork as cargo is loaded or unloaded,” he explained. Once black employees had secured a job at an industrial factory, they were paid significantly less than their white counterparts and denied the opportunity to advance in the lines of progression. Such was the case at the International Paper Company and Scott Paper Company in Mobile, Alabama, which later became the target of class action lawsuits for racial discrimination.

Racial discrimination in the workplace and unions had become a key issue for the civil rights movement by the 1950s. Civil rights leaders saw labor unions as a means to achieve equal opportunity in employment, and organized labor saw racial integration as critical to building a strong and unified labor movement. In 1956, the national American Federation of Labor and Council of Industrial Organizations (AFL-CIO) established a Committee on Civil Rights. The leading labor organization had committed to supporting a civil rights agenda and vowed to oppose attempts by the Ku Klux Klan and White Citizens Councils to create racial strife and undermine the labor movement. The AFL-CIO lent its financial support to the Montgomery Bus Boycott, the Freedom Riders, voter registration drives, and other civil rights actions across the South. In 1957, Barney Weeks was elected to serve as president of the Alabama AFL-CIO affiliate, the Alabama Labor Council, and he stood behind the national AFL-CIO stance on civil rights.⁷ At the time, Alabama state law mandated segregation in meetings, so Weeks organized

⁷ Norrell, Robert J., "Labor Trouble: George Wallace and Union Politics in Alabama," in *Organized Labor in the Twentieth Century South*, ed. Robert H. Zieger (Knoxville: University of Tennessee Press, 1991), 250-269.

integrated union meetings outside of Alabama until the Governor of Alabama, James “Big Jim” Folsom, allowed him to hold meetings in state buildings. Weeks frequently held educational workshops on civil rights and invited civil rights experts to present at the meetings.⁸ However, the national AFL-CIO and Weeks encountered massive resistance from white locals and workers in Alabama who opposed racial integration and made up a large portion of union members. By 1964, the Alabama Labor Council had lost 30,000 members.⁹

Local branches of national trade unions representing workers had long been racially segregated. In December 1958, the Labor Secretary of the NAACP Herbert Hill sent a memorandum to the AFL-CIO citing widespread racial discrimination within its rank and file.¹⁰ The memorandum found an “institutionalized pattern of racial discrimination and segregation in many affiliated unions,” such as the exclusion of black members, segregation of members on the basis of race, and the disparity in wages and benefits between black and white workers. Most segregated locals were located in the South. Prominent historian of the South, Timothy J. Minchin, details the segregation of the Southern paper industry in his book *The Color of Work: The Struggle for Civil Rights in the Southern Paper Industry, 1945-1980* where he notes that the paper industry held the distinction of having more segregated locals than any other industry in the South.¹¹ At the time, the International Brotherhood of Pulp, Sulphite and Paper Mill Workers (IBPSPMW) had fifty-two separate black locals including two in Mobile, Alabama.¹²

⁸ Ibid.

⁹ Ibid.

¹⁰ Frymer, Paul, “The NAACP Confronts Racism in the Labor Movement,” in *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton: Princeton University Press, 2008), 44-69.

¹¹ Minchin, Timothy J., “Segregated Locals and the Turn to the Federal Government,” in *The Color of Work: The Struggle for Civil Rights in the Southern Paper Industry, 1945-1980* (Chapel Hill: University of North Carolina Press, 2001), 99-115.

¹² Ibid.

On the national level, civil rights leaders and organized labor were pushing for the integration of locals and garnering support from political allies. President John F. Kennedy and Vice President Lyndon B. Johnson had set the civil rights agenda as a priority in their administration. In November of 1962, President John F. Kennedy held a joint press conference with the AFL-CIO on issues on civil rights in organized labor and one of the key issues was the prevalence of segregated locals.¹³ The President of the IBPSPMW, John P. Burke, sent a letter to the heads of black locals urging them to merge with white locals. Although most separate locals began merging after 1962, some resisted and did not integrate until ordered to do until the 1970s, including two in Mobile, Alabama.¹⁴ The white Local 423 of the IBPSPMW in Mobile was unwilling to integrate with the black Local 613 and rejected all proposals to merge, and as late as October 1970, the white local had blocked black union members from entering their meetings. Not until November 1972 did the locals merge and it was only after the white local had been placed under the trusteeship of the international union.¹⁵ Similarly, Local 604 in Mobile refused to merge with the white local until the international union had seized its charter. White locals and workers opposed merging because they saw racial integration as a threat to their privileged status. But for black locals, their opposition to merging was out of concern that the newly integrated locals would not provide fair representation to black workers. Their fears were realized when the new locals refused to appoint blacks to positions of leadership and negotiate on behalf of black workers.¹⁶

Organized labor and civil rights leaders pressured on in hopes of achieving full and equal opportunity. In March of 1961, President John F. Kennedy issued Executive Order 10925 and

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

announced the establishment of the President's Committee on Equal Employment Opportunity (PCEEO). The order required contractors with the federal government to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." The following May, President Kennedy met with labor leaders to discuss how organized labor could aid his administration's civil rights agenda. In November of 1962, President Kennedy announced the Union Program for Fair Practices (UPFP). Under the UPFC, unions signed statements pledging to adopt nondiscrimination policies, remove racial restrictions in membership, work towards desegregating locals, and to negotiate for equal treatment in collective bargaining.¹⁷ After JFK's assassination in November 1963, President Lyndon B. Johnson vowed to preserve Kennedy's civil rights legacy and subsequently issued Executive Order 11246 establishing the Department of Labor's Office of Federal Contract Compliance (OFCC) and tasked the Labor Secretary with investigating claims of employment discrimination.

In 1964, Congress passed Title VII of the Civil Rights Act of 1964 which made it an unlawful practice for an employer or labor organization to discriminate on the basis of sex, race, color, national origin, and religion. Title VII encompasses all aspects of employment, including hiring and discharging and setting the terms and conditions of compensation and benefits. The Act established the Equal Employment Opportunity Commission (EEOC) which is vested with the authority to investigate discriminatory practices and resolve claims of discrimination through internal measures. In 1972, Congress enacted the Equal Employment Opportunity Act, which extended the authority of the EEOC to file lawsuits and seek legal remedies.

¹⁷ MacLaury, Judson, "President Kennedy's E.O. 10925: Seedbed of Affirmative Action," *Federal History* 2 (2010): 56.

In 1970, there were 350 pending federal cases involving employment discrimination claims under Title VII; by 1975, the number of federal cases had rose to 1500 cases, and by 1983, that number had reached 9000 cases.¹⁸ The majority of employment discrimination claims filed with the EEOC came out of the South. As a result of Title VII litigation, between 1960 and 1971, the percentage of black workers employed in the Southern textile industry increased from 5 percent to 25 percent. In 1960, textile factories in three Southern states employed 8,500 black workers, and by 1980, they employed 76,600.¹⁹ The civil right movement's public policy agenda and litigation strategies had proven to be an extremely effective tool.

In Mobile, Alabama, several class action lawsuits had been brought by black employees and black locals challenging discriminatory employment practices. The two major cases were against the largest paper mills in the region, Scott Paper Company and International Paper Company. In *Watkins v. Scott Paper Co.*, a group of black employees filed a class action lawsuit against Scott Paper Company alleging racial discrimination under Title VII of the Civil Rights Act of 1964.²⁰ Scott Paper Company had segregated jobs on the basis of race from the time of its opening in 1940. The Department of Labor's Office of Federal Contract Compliance (OFCC) sought to bring Scott Paper Company, along with the International Paper Company in Mobile and other plants in the South, into compliance with President Johnson's Executive Order 11246 by entering into a Memorandum of Understanding.²¹ The memorandum assured black employees that they would have opportunities to advance in the formerly white lines of progression and be automatically considered for transfer across departments. It also assured black employees that

¹⁸ Frymer, Paul, "Affirmative Action in American Labor Unions: Necessary but Problematic for the Cause of Civil Rights," *Revue Française D'études Américaines*, no. 111 (2007): 73-87.

¹⁹ Zieger, Robert H, "Affirmative Action and Labor Action," in *For Jobs and Freedom: Race and Labor in America since 1865* (Kentucky: University Press of Kentucky, 2007), 175-207.

²⁰ *Watkins v. Scott Paper Co.*, 530 F. 2d 1159 (5th Cir. 1976).

²¹ *Ibid.*

they would not be subject to higher educational or training requirements compared to those imposed on white employees at the same time of hiring.²²

However, Scott Paper Company deliberately obfuscated the memorandum. The company required a high school diploma and a passing score on the Kopas Aptitude Test and the Wonderlic Aptitude Test which had been previously shown to have a discriminatory impact on black employees. In December 1972, only six black employees were among the ranks of the more than 450 employees in the craft maintenance department and only three had successfully transferred to maintenance jobs.²³ The company had employees sign forms waiving their rights to automatic consideration for transfer. The black employees who had signed the waivers had testified that they had not been informed of their right to automatic consideration for transfer, the changes in educational requirements, or that they were signing a waiver at all.²⁴ After considering historical racial discrimination and the disparate impact of educational and training requirements on black employees, the Fifth Circuit Court of Appeals (which had jurisdiction over Alabama at the time) ruled in favor of the black employees, finding that they had sufficiently demonstrated that Scott Paper Company engaged in racial discrimination.²⁵ The case preceding the Scott Paper Company case had nearly been identical.

The discrimination cases involving the paper mills in Mobile occurred before Gardner began representing the paper unions in Mobile in 1979. “I was, of course, aware of the cases. The theory of both cases, as I recall, principally hinged on the practice of maintaining separate lines of seniority progression,” he recalls. “In 1982, IP and UPIU were sued again in a much

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

smaller class action arising out of another part of the IP operation and we litigated that case to a consent order that addressed other discriminatory practices.” he added. Since the resolution of the cases, however, Gardner says he is of the opinion that “the large industrial unions represented in the paper mills around the South (UPIU and IBEW) over the years have been better than many institutions in trying to overcome discriminatory practices.” The greater willingness of black and white union members to set aside racist attitudes may be in part due to the decline in union membership and the power of the labor movement in the South, he thinks. Southern workers may be seeing the need to recognize their common struggles after all.

Although Gardner had not been on the frontlines of the civil rights movement, nor had he been the lead counsel in Title VII cases, his work defending labor unions in Mobile was still a significant part of the story of civil rights and organized labor in Alabama. His father’s experiences as a coalminer before and after the passage of the Wagner Act showed him how important of a role the law played in improving the lives of working men and women and inspired him to become a labor attorney. Gardner’s vision of economic justice saw beyond the prevailing racist attitudes of his time and place and led him to advocate on behalf of all unions and workers regardless of their race, often representing those who others refused to represent.

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