

## Ed Rainbow's Problem

The sight of workers striking along the waterfront was nothing new to residents of the San Francisco Bay Area. San Francisco was a union town, and many people there had witnessed the longshore strike of 1934 and the general strike that accompanied it. Consequently, the 800 workers protesting outside the gates of the Marinship shipyards in Sausalito just after Thanksgiving in 1943 might not have raised any eyebrows, except for one fact: the workers were all African American. The target of their strike was not the management of Marinship, but the union that represented the workers there: Local 6 of the International Brotherhood of Boilermakers, American Federation of Labor.

The strike was one in a series of events that led to the California Supreme Court's 1944 decision, *James v. Marinship*.<sup>1</sup> In *Marinship*, the court dramatically limited the ability of unions to exclude African Americans from membership. The litigation that led to the decision marked the beginning of an alliance between local civil rights advocates and the Congress of Industrial Organizations (CIO). To the leaders of these groups, the match was made in heaven. It was an interracial alliance to fight racial discrimination and promote economic justice. It was also an opportunity to break the hold that the American Federation of Labor (AFL) had on skilled, industrial jobs on the West Coast. Thus, the *Marinship* decision lived up to their wildest expectations.

Nevertheless, even as the legal victory cemented the relationship, it revealed some of the tensions that underlay it. First of all, the decision undermined the principles of industrial pluralism by demanding

that courts police internal union affairs. It had been barely a decade since unions had succeeded in eliminating the widespread use of the labor injunction, the judiciary's primary tool in its heavy-handed control over union activities since the turn of the century. Yet in *Marinship*, the CIO requested judicially enforced limitations on the autonomy of trade unions. The decision thus chipped away at one of the labor movement's most precious rights: the right to be left alone by courts.

Second, while *Marinship* required formal equality between black and white workers, it did nothing to get African Americans jobs. To do so, the court would have had to have declared void the seniority systems that required the layoffs of thousands of black workers at the end of World War II. Of course, the CIO, with its deep commitment to seniority, did not ask for such a remedy. In 1944, civil rights activists did not either. Later generations of activists would not show the same reluctance, and such demands made many white workers wonder whether giving up their unions' autonomy had been worth it when courts made those unions dilute their seniority systems.

In the middle of the 1940s, however, such disputes were still decades away. Instead, the CIO and African American workers were making common cause, and that fact was creating a real problem for Ed Rainbow.

Nineteen forty-three had not been a great year for Rainbow.<sup>2</sup> A casual observer might have thought otherwise. After all, the union for which Rainbow was the business agent, Local 6 of the International Brotherhood of Boilermakers (IBB), had never had more members. World War II had led to a massive increase in shipyard jobs around the San Francisco Bay – Kaiser, Moore Dry Dock, Bethlehem Steel, *Marinship*, and Western Pipe were all running three shifts. The war had brought more than 240,000 shipbuilding jobs to the region, with about 36,000 of them in Local 6's jurisdiction. Under the "Master Agreement" – an industrywide contract to produce ships for the war effort signed by the U.S. Maritime Commission, the IBB, and the various shipbuilders – each of those shipyards was a closed shop. No one could work in a shipyard on the West Coast without a clearance from the IBB. In San Francisco and just across the Golden Gate Bridge in Marin County, that meant a clearance from Ed Rainbow.<sup>3</sup>



FIGURE 2. Ed Rainbow, business manager of Local 6 of the International Brotherhood of Boilermakers (IBB), contributes to a World War II scrap drive in 1942. The closed shop contract between Bay Area shipbuilders and Local 6 meant that Rainbow's approval was required for any person to work in the San Francisco and Marin County shipyards. His ambivalent attitude toward the IBB's policy of segregated unions led to the *Marinship* case.

Source: Charles Doherty, *San Francisco Examiner*. Courtesy of the Fang Family San Francisco Examiner Photograph Archive, Bancroft Library, University of California, Berkeley, BANC PIC 2006.029 – NEG, box 828, sleeve 105630\_08.

Yet Rainbow found that the increase in membership was a decidedly mixed blessing. The war was turning the union upside down. By the end of 1942, the U.S. Manpower Commission had forced him to give authorizations to women workers, despite union rules (since repealed) prohibiting their membership.<sup>4</sup> The number of workers from out of state also made running the union difficult. Workers flooded into the Bay Area from all over the country. A large number were “Okies,” poor whites fleeing depressed agricultural regions in Oklahoma, Texas, and Arkansas. As far as Rainbow was concerned, these folks were really the bottom of the barrel. They were frequently illiterate, ignorant on most matters, and, most significant

from Rainbow's perspective, unfamiliar with and uncommitted to trade unionism.<sup>5</sup>

Rainbow's biggest headache, however, came from the African American workers at the Marinship shipyard in Sausalito. Thousands of black workers had been arriving in the Bay Area since early 1942.<sup>6</sup> In March of that year, Rainbow had received a visit from representatives of the War Production Board, who asked him to start giving clearances to African Americans.<sup>7</sup> Black workers had been allowed to join the IBB only since 1937, and only in separate auxiliaries in any case.<sup>8</sup> J. A. Franklin, the president of the IBB, asked Rainbow to talk to Tom Crowe, the IBB business agent in Portland, about the auxiliaries he had set up, but Rainbow dragged his feet.<sup>9</sup> He did not believe that such subordinate unions were a great idea. There was a danger, he thought, that they would simply be poached by the CIO or taken over by communists (or both), as had happened in Oakland.<sup>10</sup> This was a significant risk because the African American workers were likely to be dissatisfied with the auxiliary arrangement. Each auxiliary would be "sponsored" by an all-white local. The sponsoring local negotiated and adjudicated grievances on behalf of the auxiliary's members, who had no say in how the white local was run. Even if you put aside the strategic problems with the auxiliaries, Rainbow, himself a Cherokee Indian, was not sure that excluding workers from fully participating in the union on account of their race was fair.<sup>11</sup>

Rainbow had raised these concerns with the leadership of the International in the fall of 1942, but had gotten no response.<sup>12</sup> It was at this point, he later admitted, that he screwed up. Rather than chartering an auxiliary, as the locals in Portland, Los Angeles, and the East Bay had done, he simply kept giving African American workers clearances, allowing them to work in the shipyards without joining the union or paying dues. This had been a mistake.<sup>13</sup> Many of the new white workers had little affection for the union. Without a background in trade unionism, they believed that Local 6 was simply a racket – taking their dues money in exchange for giving them a job. Furthermore, coming from the South, their attitudes toward the black workers were hostile, at best. The idea that African Americans were getting jobs without paying dues or being forced to join the union did not go over well with them. Similarly, the old-timers in the union, who were inclined to think of black

workers as strike breakers, were dissatisfied about the number who were getting clearances.<sup>14</sup>

In response to these resentments, Rainbow changed course. In February 1943, he asked the African American workers at the Marinship facility in Sausalito to send initiation fees and dues to the International, and started the process of establishing the auxiliary.<sup>15</sup> At this point things spiraled out of control. A group of black workers showed up at the hiring hall and tried to join Local 6. When they were told that they were to join the auxiliary once it was established, most refused. By May, a group of workers calling themselves the San Francisco Committee against Discrimination and Segregation began distributing handbills accusing Local 6 of being “a dictatorial big shop who controls your job.” The handbill provocatively went on to ask: “Sounds like a Nazi ‘labor front,’ doesn’t it?”<sup>16</sup> When the auxiliary was finally chartered in August, many African American workers again refused to join. By late November, push finally came to shove. Local 6 requested that Marinship dismiss the 430 black workers who had refused to join the auxiliary. A closed shop was a closed shop, after all. Most of these workers had been working there for more than a year without joining the union. Their continued employment was inflaming an already tense racial situation.

The management of Marinship complied with the union’s request and all hell broke loose. Marinship’s African American workers went on strike and staged a massive protest in front of the gates of the shipyard on November 27, the day after the layoff. The next day there was another rally, this time in the predominantly African American Fillmore District of San Francisco. The strike destroyed whatever residual sympathy Rainbow might have had for the position of the black workers. The “Nazi” remark five months earlier couldn’t have pleased the World War I veteran whose beloved nephew was currently serving in the army. But the events at the end of November – when even African American workers whose clearances had not been revoked refused to work – was the final straw. A work stoppage in the middle of the war was unforgivable: “I can never get out of my mind [the workers’] action of November 27, 1943 when ... they divorced themselves from employment at [the] Marinship yard because they were not in favor of an auxiliary organization.... I condemn their anti-American spirit wherein they actually stopped work.”<sup>17</sup>

Rainbow had no idea how to handle the situation. He explained to his nephew, with remarkable candor, his usual approach to wildcat strikes, particularly during the war:

We have not permitted one single work stoppage by any of our members even though it becomes necessary occasionally to get a little rough. That is, I mean physically rough with some of these birds who attempt to create trouble and friction on the jobs and occasionally it becomes necessary, and my pleasure, to perform the necessary act to keep these babies in their place. I hope you know what I mean. If you don't, this is it. A whack on the kisser when they make certain statements that are not to the best interests of the war effort and then to see that they are picked up by the proper authorities. This procedure keeps the others from going off the deep end.<sup>18</sup>

Such tactics, however, were not available to him now. Race riots earlier that year in Detroit and Harlem were on everyone's mind as the African American workers gathered in Sausalito and the Fillmore.<sup>19</sup> Busting heads was simply not an option. So, Rainbow was stuck between a rock and a hard place: black workers refused to join the auxiliary; white workers resented free-riding black workers; the International would not let the black workers into the Local; and now he had a wildcat strike on his hands. It had been a bad year indeed.

Although Ed Rainbow might have been loath to acknowledge it, it had also been a difficult year for Joseph James, the primary organizer of the protests against Local 6. James was not a typical African American worker at Marinship.<sup>20</sup> First of all, he had not come to the Bay Area looking for war work. A professional singer, he had arrived in 1939 to sing baritone in the "Swing Mikado" at the Treasure Island Exhibition. He and his wife, Alberta, had liked the Bay Area, so they decided to stay, renting a flat in the Fillmore. Additionally, while most of the workers, white and black, who migrated to the Bay Area for war work were Southerners with relatively little education, James was from Philadelphia and had studied at both Boston College and Claflin University, a black college in South Carolina. Nonetheless, as was breezily recounted in an article about James in the National Association for the Advancement of Colored People's (NAACP) magazine, *The Crisis*, "it takes time to get into the big money singing," so after the war began, James took a job as a welder's helper at Marinship.<sup>21</sup> He quickly rose through the ranks, becoming a journeyman within two months and then, by the

middle of 1943, "a member of the select 'Flying Squadron' of expert stinger welders who are sent wherever they are needed most."<sup>22</sup> He also regularly sang at the Marinship launching ceremonies.

James was deeply committed to the fight for civil rights. Appalled by the inaction of the "moribund" local NAACP branch, he started the San Francisco Committee against Segregation and Discrimination to fight the IBB's discriminatory policies.<sup>23</sup> The situation with the auxiliaries was intolerable. Under the closed shop provision of the Master Agreement, a person had to join the Boilermakers to work at any shipyard on the West Coast. Both black and white workers paid an initiation fee and monthly dues, but that was the only nondiscriminatory thing about the auxiliary arrangement.<sup>24</sup> In every other respect, the auxiliaries were a pale imitation of a labor union. A given auxiliary was supervised by a white local. That local would bargain on behalf of the auxiliary and process its grievances. The white local had to approve the promotion of African American workers. The supervising local could disband the auxiliary at will, thereby depriving all the auxiliary members of their jobs. Yet despite the total control that the white local had over the terms and conditions of employment of the auxiliary's members, those members had no way to influence the governance of the supervising local. They could not vote for its officers. Nor were the auxiliaries allowed to participate in the governance of the International union: they could not send a representative to IBB conventions nor were its members allowed to vote for the representative that its white, supervising local would send.<sup>25</sup> James was an ardent supporter of the labor unions, but, as far as he was concerned, the auxiliaries were not actual unions. Instead, they were "a racket and a scheme and a device whereby the Boilermakers exact tribute" in exchange for jobs in the shipyards.<sup>26</sup>

Despite his obvious anger at the auxiliary system, James was no radical, and he maintained, publicly at least, an optimistic attitude about race relations. During the summer of 1943, with race riots fresh in their mind and Local 6 forcing the issue of segregated auxiliaries, the management of Marinship created a "Negro Advisory Board" and devoted an issue of its in-house periodical, "The Marin-er," to a celebration of the accomplishments of the company's African American workers.<sup>27</sup> James, a member of the Advisory Board, was a key part of the company's public relations offensive.

“No one at Marinship is better known, or better liked than ... Joe James,” the paper’s editors wrote introducing his article entitled “Marinship Negroes Speak to Fellow Workmen.” The article, like the editorial that preceded it, was a paean to wartime pluralism with a profoundly Pollyannaish tone. It seemed designed to assure white workers that they didn’t have anything to fear from the African Americans who were trying to join their union. James admitted that “events of recent weeks have forced us to give serious, level-headed thought to the problems of achieving and maintaining racial harmony.” However, James believed that Marinship was itself proof that such interracial harmony was the rule, not the exception. In the article, illustrated with a picture of a white doctor and nurse caring for an African American baby, James listed examples of blacks and whites working together, culminating in the greatest project of all: “A heterogeneous mass of people ... built this nation ... and now struggles to remove every vestige of oppression from the earth!” James then laid out as uncontroversial a claim to civil rights as could be imagined. America had yet to achieve its “undreamed potentialities.” Americans could do so by “turn[ing] our hatred, instead of against each other, against fascism”; by extending “democracy to ... ALL”; and “by releasing ourselves from prejudices and suspicions that now encumber us.”<sup>28</sup>

Yet James’ optimism belied the difficult position he was in as the leader of the Committee against Segregation and Discrimination. Opinion in the African American community was sharply divided over what to do about the IBB’s discriminatory practices. Thurgood Marshall, the NAACP’s special counsel, reported to NAACP President Walter White that “a large group of Negroes in the Bay Area ... are in favor of auxiliaries in the Boilermakers union.”<sup>29</sup> Indeed, the East Bay auxiliaries thrived, initially supported by local civil rights organizations. After all, they were a substantial improvement over that which had previously existed: total exclusion from the IBB and shipyard jobs.<sup>30</sup> James’ position, supported by the NAACP, was that workers should boycott the auxiliary without repudiating the IBB generally and without stopping work. Others, however, thought more dramatic action was called for. Indeed, the November 27 strike, which caused Ed Rainbow so much distress, illustrated the problems that James faced steering a middle course between those who were willing to accept Jim



Crow unionism and those who saw the IBB, and perhaps labor unions in general, as irredeemable.

Shortly after the strike, Mary Lindheim, a Bay Area artist and civil rights activist, wrote to Walter White that “resentment against this particular Local is being fanned by certain elements – both Negro and white – into anti-union sentiment.”<sup>31</sup> James’ experiences with the striking African American workers corroborated Lindheim’s impression. After the workers walked off the job at the end of November, James met them at the gates of Marinship and asked those who still had work authorizations from the union to return to work.<sup>32</sup> Other members of the Committee disagreed, telling the workers “to stand pat and not return to work.”<sup>33</sup> James claimed, in a letter to Marshall, that he had succeeded in preventing a further work stoppage despite the “unwise and imperfectly considered statements” of some protesters that “contributed to the difficulty of getting” people back to work.<sup>34</sup> Yet the dispute within the Committee was not over. At a mass meeting the next evening in the Fillmore, James rallied the workers, urging them to affirm their support for trade unionism even as they fought against discriminatory unions.<sup>35</sup> The next step in the fight, it was decided, would not be direct action. Instead, the Committee approved the use of a legal strategy. The Committee’s lawyers would go to court the next day and seek an injunction requiring Local 6 to issue work clearances to all workers, regardless of whether they had joined the auxiliary. Yet, like the previous day in front of the gates of Marinship, this decision was not unanimous. Eugene Small, another leader of the Committee, instead called for African Americans to wash their hands of the labor movement altogether and suggested that they seek work that did not require union memberships.<sup>36</sup> The Committee was embarking on James’ strategy, but the divisions within the community had been laid bare for all to see.

Throughout 1943 and 1944, James corresponded frequently with Marshall about the situation at Marinship. Indeed, by early 1944, James had become president of the San Francisco NAACP branch, which dissolved the Committee and took over the campaign against Local 6 and the IBB. Yet the NAACP’s lawyers were not able to take a large role in the litigation that ensued after the strike. In 1943 and 1944, the NAACP Legal Defense Fund consisted of only three