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RESEARCH: LABOR ARCHIVES, SF

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# Labor Archives & Research Center



SAN FRANCISCO STATE UNIVERSITY





## Preserving Workers' Stories, Labor's History

Few regions can rival the rich, lively labor history of the San Francisco Bay Area, a history now preserved at the Labor Archives and Research Center at San Francisco State University. With its collections of official files, personal memorabilia, photographs, and ephemera the Center serves the academic community, researchers for films, videos, and museum exhibits, union members researching their own history, and the general public seeking greater awareness of labor's pivotal role in the history of Northern California.

Trade union leaders, historians, labor activists, and university administrators established the Labor Archives and Research Center in 1985. To ensure stable funding and staffing, its founders constituted the Center as a branch of the San Francisco State University library system. The Center shares a building with The Sutro Library near the SFSU campus, easily accessible to the public.

ILWU  
Membership  
Book



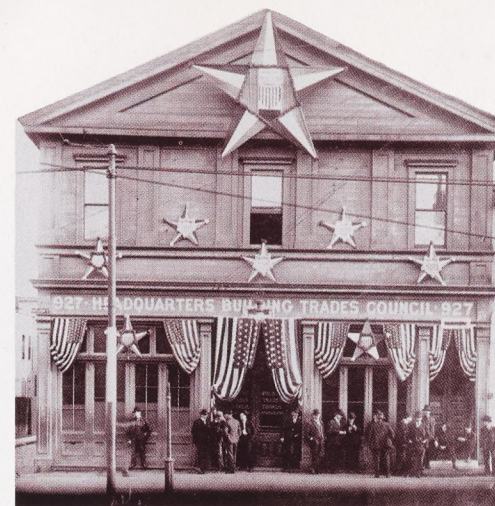
## Collections- Making History Work

The Labor Archives and Research Center actively collects labor-related materials from the counties surrounding the San Francisco Bay, including San Francisco, Alameda, Santa Clara, San Mateo, Contra Costa, and Marin.

Since opening, the Center has collected more than

5,000 feet of material. Many unions have named the Center as the official repository for their historical records – minutes, office correspondence, membership and dues records, publications, and negotiation and contractual materials. Labor leaders, attorneys, arbitrators, and rank-and-file workers have donated their personal papers, books, diaries, scrapbooks, and oral histories.

San Francisco  
Building  
Trades Temple,  
927 Mission St.,  
c. 1910



The Center's provocative graphic materials – photographs, cartoons, posters, lithographs, handbills, picket signs, buttons, and record-album covers – are suitable for exhibition and reproduction. Reading room exhibits highlight the significance of these resources in portraying workers' lives.

Westinghouse,  
Christmas Party,  
Emeryville,  
World War II



## Hours and Services

The reading room of the Center is open Monday through Friday, 1–5 p.m., and by appointment. The staff invites tours and requests that researchers contact the center in advance.



Materials from the Center's collections are non-circulating; select photocopying and photographic reproduction are available.

The Center's staff and advisory board are willing to assist labor organizations with historical projects and with records management and preservation strategies. They will also consult with organizations and individuals on financial donations, estate planning, and the donation of archival collections.

For more information or a list of the Center's holdings, contact:

Labor Archives and Research Center  
San Francisco State University  
480 Winston Drive  
San Francisco, CA 94132  
(415) 564-4010.



## Community Activities

To generate interest in and respect for the area's rich labor heritage, the Center organizes a wide variety of activities. In addition to sponsoring commemorative celebrations for individual unions, the Center also organizes programs with wide public appeal - an afternoon honoring the builders of the Golden Gate Bridge, an exhibit on the 150th Anniversary of Photography, a program and exhibit on Chinese and Japanese workers in California, and a two-day symposium and exhibit "California Women Workers in the Decade of the Forties."

Jung-Sai  
Strike,  
San Francisco,  
1974



Photo by Otto Hagel

## Studying Labor's Past to Shape Labor's Future

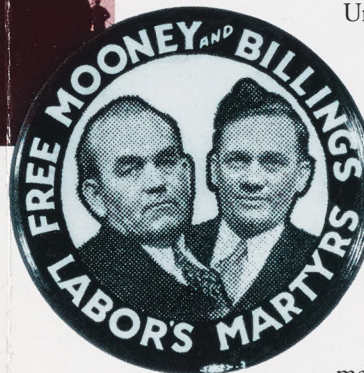
The Labor Archives and Research Center offers primary source materials for numerous in-depth research topics. From Gold Rush immigration to contemporary organizing by teachers and city workers, the wide scope of Bay Area labor activity is represented.

- San Francisco's reputation as a union town is written into the minutes of the Building Trades Council (1911–1914), the Building Trades Council Temple Association (1907–1961), and Shipwrights' Local #1149 (1886–1905, 1942–1985).
- The contemporary history of labor's involvement in civil rights, housing and urban development policies, poverty programs, and

criminal justice reform emerges in the records of the Central Labor Councils of San Francisco and Alameda counties.

- The vibrant culture of working people, broadly based worker education, union training, and the early efforts of radical trade unionists to fight racial and sexual discrimination are depicted in the ephemera and publications of the California Labor School (1936–1956).

- The collections of the Maritime Federation of the Pacific (1935–1942) and the United Electrical Workers (1944–1981) reflect the New Deal Era transition of Bay Area labor from craft to industrial unionism.



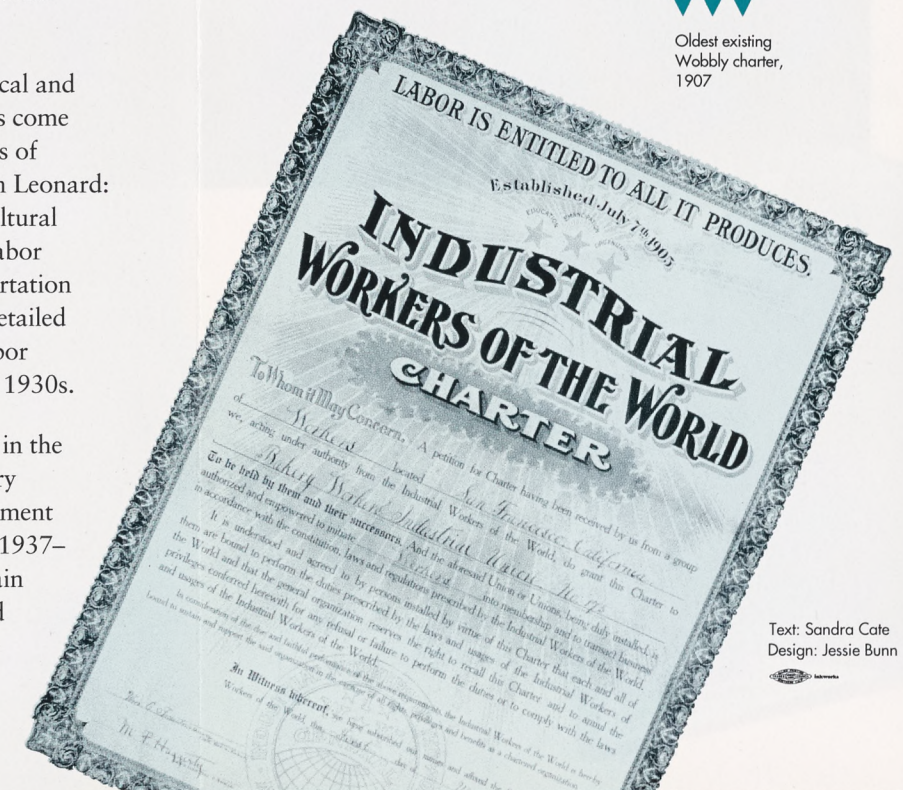
- Key political and legal struggles come alive in the files of attorney Norman Leonard: maritime and agricultural organizing, prosecution of labor leaders under the Smith Act, and deportation proceedings against Harry Bridges. Detailed indices provide information on key labor activists on the West Coast during the 1930s.

- Women workers wrote their history in the records of the Bookbinders and Bindery Women's Union (1902–1970), Department Store Employees Union Local #1100 (1937–1981), Union Women's Alliance to Gain Equality (1971–1982), and Household Workers' Rights (1982–1986).

- The working conditions and treatment of minority workers are documented in the printed materials and files of the Labor Councils, the Asiatic Exclusion League, and the Pacific Northwest Council of the International Ladies Garment Workers Union, which organizes Chinatown sweat shops.

- Several collections constitute a unique visual record of labor history – ironworkers' personal photographs of Golden Gate Bridge construction, the photo morgue of the *People's World* (1930s–1970s), the cartoon collection of journalist and historian David Selvin, and the 900-piece pamphlet collection of attorney Walton D. Phillips.

▼▼▼  
Oldest existing  
Wobbly charter,  
1907



Text: Sandra Cate  
Design: Jessie Bunn



Peoples World Files

Lynn Bonfield  
Executive Director



LETTER TO ED NOV

On The Housing Crisis In S.F. And The Bay Area

by: Lee Brown, Trade Unionist

As a Black Trade Unionist and senior activist, I am writing an article on the housing crisis in San Francisco and throughout the Bay Area. Primarily I am dealing, at this time, with people on welfare and other fixed incomes in the Bay Area. I am asking for housing in the public domain.

~~We feel like~~ poor people, people on fixed incomes, seniors, people on welfare and other poor people ~~and like the poor of the poor~~. We are not being treated fairly here in San Francisco and throughout the Bay Area.

I have studied this problem for a number of years. I am an activist who is out in the slum areas among the fixed income people, the seniors, the poor and poor of poor, living below the poverty level. I emphasize: the housing crisis is a serious matter. And, I feel the poor of poor, below the poverty level, should demand housing in the public domain. We should start with our organizations to write letters to religious, labor, union, city, state, and federal organizations.

It is not a privilege; it is a right that poor people throughout our cities and nation should have shelter: a decent home, reasonable rent, etc. They must have a home they can afford to pay the rent in, so they can raise their families in a decent place. Not with overcrowding, health-hazards, fire-hazards, filled with cockroaches, rats and other pests! These things must be brought to the attention of our leaders. ~~As a Trade Unionist who's been working among people and poor people and low-income and fixed-income people like myself, I'm well-informed about the condition that we should demand in housing.~~

I would also ask and call upon you to write letters to call for a two day conference in San Francisco and ask religious, union, labor political leaders to talk about this most serious problem confronting the people in our nation. ~~Let's start here in San Francisco and the Bay Area to make this issue a top priority. We must lay a base here and bring it to the attention of everyone. We have thousands homeless and on the streets; thousands more on fixed incomes can't even afford the rent. They have nothing to feed themselves or children or buy clothes or send them to school. I think this country is violating human rights and decency for poor people to have to suffer while landlords are exploiting and ripping off the people on fixed incomes and poor people in San Francisco and the Bay Area.~~

~~Furthermore, I feel the poor people don't oppose rent, but they like to have their fair share and decency and protection, so they can survive; not just to pay rent on inferior homes, with pests, fire hazards, all repaired. And we also must demand public housing:~~ decent, secure, safe. In the projects, it is estimated that about some 25,000 people are overcrowded into 5,000 units. ~~And that's so poor people can have a place to live!...~~ We demand it be placed on the frontburner for poor and below the poverty-level, that we must make known the issue, march, and use the power of our votes. We may not have the money for the lobby, but we have the voting power, the people's power! Be sure you get the votes out and vote for those friendly to our cause.

We as poor have sat idly by for years and listened. But, now it's time to act. We must do away with fighting and hating each other, unite together, work collectively as human beings for one issue that's so badly needed throughout this nation and I want to repeat it again: it's decent, reasonable, fair share of houses for the poor and needy. This is the most important issue. As a Trade Unionist who's fought for the rights of the poor, I will repeat it: housing is the issue!

Lee Brown, SAN FRANCISCO



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6  
7  
8 ATTORNEYS FOR Complainant

9 IN ARBITRATION PROCEEDINGS BEFORE  
10 ARBITRATOR SAM KAGEL

11 In the Matter of a Controversy )

12 Between )

13 SAN FRANCISCO LOCAL JOINT EXECUTIVE )  
14 BOARD OF THE HOTEL AND RESTAURANT )  
15 EMPLOYEES and BARTENDERS INTERNATIONAL )  
16 UNION, AFL-CIO, on behalf of MISCELLANEOUS )  
17 CULINARY EMPLOYEES UNION, LOCAL NO. 110, )

18 Complainant, )

19 and )

20 HOTEL EMPLOYERS ASSOCIATION OF SAN )  
21 FRANCISCO, on behalf of JACK TAR )  
22 HOTEL, )

23 Respondent. )

24 involving discharge of Mr. Lee Brown. )  
25 )  
26 )

BRIEF FOR THE  
UNION

27  
28 INTRODUCTION

29 The controversy herein involves the discharge of  
30 Mr. Lee Brown, a member of Miscellaneous Culinary Employees Union,  
31 Local 110, from his employment as a dishwasher for the Jack Tar  
32 Hotel. An Adjustment Board hearing to determine whether this  
discharge was for just cause was held on March 10, 1969 and  
resulted in a deadlock. Pursuant to the parties' collective  
bargaining agreement, the matter was submitted to Mr. Sam  
Kagel, an impartial arbitrator, chosen by the parties.



1 On April 14, 1969 a hearing was conducted before said arbitrator.

2 STATEMENT OF THE FACTS

3 Mr. Lee Brown, hereinafter referred to as the  
4 dischargee, was employed by the Jack Tar Hotel, hereinafter  
5 referred to as the respondent, approximately two years  
6 ago as a dishwasher (Tr. p. 29). After a relatively short  
7 period the dischargee was elected by his fellow workers to the  
8 position of shop steward (Tr. pp. 30, 38). The dischargee's  
9 status as shop steward brought him into frequent, abrasive  
10 contact with representatives of respondent's management  
11 regarding working conditions and the rights of his fellow  
12 employees (Tr. p. 30).

13 On January 28, 1968, the dischargee was given  
14 a written warning alleging that he had been "under the  
15 influence of alcohol" while on the job (Employer Exhibit 1).  
16 On this precise occasion Mr. Brown had submitted a complaint  
17 to representatives of respondent's management (Tr. p. 31)  
18 regarding the maids' working conditions in the hotel (Tr.  
19 p. 32). The dischargee, of course, refused to sign this  
20 spurious warning notice (Tr. p. 11) alleging that it was  
21 untrue (Tr. p. 46). Respondent's admit that Mr. Brown received  
22 no further written notices or warnings until the time of  
23 his discharge.

24 Respondent attempted to allege that Mr. Brown  
25 had been drinking on duty during the one year period separating  
26 the warning from the discharge. However, respondent was forced  
27 to admit that its evidence on this point was second and third  
28 hand hearsay (Tr. pp. 11, 12). Although offered ample  
29 opportunity to produce direct evidence on this fundamental  
30 point, respondent failed to do so. Thus, it is apparent from  
31 this record that Mr. Brown had a clear record for the 13 month  
32 period separating the sole warning from the discharge.



1           On the morning of January 26, 1969, Mr. Brown  
2 arrived at work at the proper time. Since Mr. Mitchell "went  
3 to church" there was no responsible supervisor on duty in the  
4 morning, there is dispute and confusion in the testimony  
5 as to what occurred between the time Mr. Brown arrived  
6 and his discharge on that day. Mr. Brown testified that  
7 he arrived on the job in advance of the arrival of his  
8 supervisor Mr. James Mitchell. Mr. Brown further stated  
9 that there was alleged misconduct of a fellow employee,  
10 "Jefferson," "down with the maids" and after Mr. Mitchell's  
11 arrival, Mr. Mitchell requested that then Mr. Brown come  
12 to see him and then Mr. Mitchell discharged Mr. Jefferson  
13 and Mr. Brown for interfering (Tr. pp. 35-36). Mr. Mitchell  
14 testifies that Mr. Brown approached him in his capacity of  
15 union steward and requested that Mr. Jefferson not be discharged  
16 and that he thereupon discharged Mr. Brown as well as Mr.  
17 Jefferson (Tr. p. 14).

18           Mr. Brown denied that he was intoxicated during  
19 his tour of duty on January 26 and denied that he had a  
20 drink (Tr. p. 35) or even drank (Tr. p. 47) explaining  
21 that his condition of high blood pressure and doctor's orders  
22 precludes drinking (Tr. p. 35).

23           Two of Mr. Brown's fellow employees testified  
24 that they smelled the odor of liquor in the same room where  
25 Mr. Brown and Mr. Jefferson worked (Tr. pp. 21, 24). However,  
26 another fellow employee testified that he stood next to MR.  
27 Brown while the latter prepared for work at the start of  
28 the shift and that he smelled no liquor on Mr. Brown's  
29 breath and Mr. Brown appeared "normal" (Tr. p. 50). A  
30 female acquaintance of Mr. Brown's testified she had been  
31 with Mr. Brown the preceding evening and had accompanied Mr.  
32 Brown to work stating she had not seen Mr. Brown take a



1 drink and he did not appear intoxicated (Tr. p. 47-48).

2 Of course, no one was able to testify they had seen Mr. Brown  
3 take a drink on duty.

4 Mr. Brown and Mr. Jefferson worked off separate  
5 and apart by themselves in a small dishwashing room where no  
6 other employees were regularly stationed.

7 On January 26, 1969, Mr. Brown was informed that  
8 he was being discharged for being drunk on duty and his  
9 discharge was made effective immediately.

10 The sole question to be determined is whether  
11 there exists sufficient evidence to show that Mr. Brown's  
12 discharge for intoxication was justified in light of the  
13 circumstances testified to at the hearing.

14 The parties collective bargaining agreement provides,  
15 in relevant part, as follows:

16 Basic Agreement - Section 3. HIRING:

17 (h) An employee who feels he has been unjustly  
18 discharged shall have the right to appeal to the  
19 Adjustment Board as provided for in Section 10  
20 of the Basic Agreement, provided he reports such  
discharge to the Union within three (3) days of  
the date of discharge, excluding Saturdays,  
Sundays and holidays.

21 If, in the opinion of the Union, such discharge is  
22 unjust, an attempt shall be made by the Union with  
23 the hotel or the Association, to settle the case.  
24 In the event no settlement can be reached between  
25 the hotel or the Association and the Union, the  
Union shall be free to file a complaint with the  
Adjustment Board, provided such complaint is filed  
within ten (10) days from the date of discharge,  
excluding Saturdays, Sundays, and holidays.

26 Section 7. DISCRIMINATION:

27 There shall be no discrimination against any employee  
28 on account of membership in, or activity on behalf  
of the Union.

29 General Rules - Section 13: SHOP STEWARDS:

30 Shop Stewards shall report to the Union violation  
31 of contract and complaints by members of the Unions.  
32 Said Shop Stewards shall not interfere with the  
management of the business or substitute for the  
Business Agents of the Union in handling complaints.



1 Shop Stewards shall not be discharged for performance  
2 of their duties provided such activity does not  
interfere with his regular duties as an employee.

3 ARGUMENT

4 The employer has stated his position that Mr. Lee  
5 Brown was discharged from his position as a dishwasher  
6 "...for being drunk while on duty." (Tr. p. 4). Since  
7 there is no allegation that Mr. Brown was otherwise insubordinate,  
8 defiant or remiss in the performance of his duties, the  
9 employer's substantiation that there existed "just cause"  
10 for Mr. Brown's discharge within the requirements of the  
11 parties' collective bargaining agreements must rest on  
12 its allegation of intoxication while on duty.

13 Mr. Brown's immediate supervisor, Mr. James Mitchell,  
14 testified that when he (Mitchell) finally got back to work  
15 he was notified by Mr. Brown that another employee, Mr. Jefferson,  
16 was acting improperly around the maids (Tr. pp. 9-10). Mr.  
17 Mitchell testified that he formed the conclusion that Mr. Brown  
18 was intoxicated because he smelled "liquor" on Mr. Brown's  
19 breath and saw him "staggering" (Tr. p. 10). Mr. Mitchell  
20 admitted that he had not seen Mr. Brown take a drink or  
21 have alcoholic beverages in his possession (Tr. p. 15).

22 Mr. James Lacy, a fellow dishwasher at the Jack  
23 Tar Hotel, testified at the hearing admittedly at Mr. Mitchell's  
24 request (Tr. p. 21). Mr. Lacy initially testified that Mr.  
25 Brown had liquor on his breath but on cross-examination  
26 admitted that Mr. Brown acted normal stating that Mr. Brown's  
27 conversation was normal and that he didn't notice anything  
28 out of the ordinary about Mr. Brown (Tr. pp. 20-21).

29 Notably, Mr. Lacy testified that Mr. Jefferson,  
30 whose discharge for drunkenness is not in question in this  
31 proceeding, was in the same room as Mr. Brown and at the  
32 time Mr. Lacy allegedly smelled the odor of liquor. When



1 so asked, Mr. Lacy testified that the smell of liquor could  
2 have come either from Mr. Brown or Mr. Jefferson (Tr. p.  
3 21).

4 Mr. Charles Smith, a cook at the Jack Tar Hotel,  
5 testified that on the day of Mr. Brown's discharge, he  
6 smelled liquor on Mr. Brown's breath (Tr. p. 24). Mr. Smith  
7 also testified that Mr. Jefferson was in the same dressing  
8 room as Mr. Brown about 20-30 feet away when he allegedly  
9 smelled the liquor on Mr. Brown's breath (Tr. p. 24).

10 In direct opposition to the hazy and indefinite  
11 testimony of respondent's witnesses, the grievant and his  
12 witnesses not only gave credible testimony refuting each  
13 major statement of respondent's witness, but also established  
14 a possible and entirely probable explanation for the events  
15 of the morning in question.

16 Mr. Brown, the dischargee, testified that he  
17 had had nothing to drink the previous day, evening or on  
18 the day of the discharge (Tr. pp. 34-35). In fact, Mr. Brown  
19 testified that his present physical condition of high blood  
20 pressure precludes his consumption of liquor (Tr. p. 35).

21 Mrs. Grace Oliver, an acquaintance of the dischargee  
22 for some eight years (Tr. p. 48) testified that not only  
23 did she not see Mr. Brown take a drink the evening before  
24 reporting for duty, but she had never seen him take a drink  
25 in the eight years she had known him. It was Mrs. Oliver's  
26 direct opinion that Mr. Brown was "sober" when she left  
27 him on his way to work the morning of January 26, 1969  
28 (Tr. p. 47).

29 Mr. Walter Robinson, a cook at the Jack Tar Hotel,  
30 testified that he encountered Mr. Brown in the Jack Tar's  
31 dressing room before their work commenced and that Mr. Brown  
32 did not appear to have been drinking (Tr. p. 50). Under



1 cross-examination, Mr. Robinson explained further that Mr.  
2 Brown appeared "normal" and that he smelled no liquor on Mr.  
3 Brown's breath (Tr. p. 50).

4 In this discharge case, as in any discharge arbitration,  
5 the employer has the clear burden of proof as to the justification  
6 for the discharge. T-K Roofing Mgf. Co., 44 LA 577; DuMont  
7 Laboratories, 44 LA 1143; Warren Board of Education, 50  
8 LA 813.

9 This burden of proof is clearly applicable in  
10 discharges premised upon alleged "intoxication" on the  
11 job. Continental Conveyor and Equipment Co., 46 LA 109;  
12 Holland Die Casting and Plating Co., Inc. 48 LA 567.

13 A similar allegation to that herein was made  
14 in Holland Die Casting and Plating Co., Inc., supra, p.  
15 110. In his decision, the arbitrator remarked:

16 "Being under the influence" is not synonymous  
17 with having had a drink or two, nor with having  
18 a smell on the breath.

19 In discharges involving allegations involving  
20 offenses or acts involving moral turpitude, the employer's  
21 burden of proof is by proof "beyond a reasonable doubt."  
22 St. Joseph Lead Company, 29 LA 781; U.S. Steel Corporation,  
23 29 LA 272; Cannon Electric Co., 28 LA 879; Aladdin Industries,  
24 Inc., 27 LA 463; Martin Rockwell Corp., 24 LA 728; General  
25 Refractories Co., 24 LA 470; American Saw and Tool Co.,  
26 23 LA 534; Fruehauf Trailer Co., 21 LA 832; Amelia Earhart  
27 Luggage, 11 LA 301; Atlas Freight Lines, 39 LA 352; Skaggs-  
28 Stone Inc., 40 LA 1273.

29 An allegation of intoxication just as an allegation  
30 of theft involves moral turpitude because it connotes habitual  
31 intemperance and low moral character and because public  
32 drunkenness is also a violation of the State Penal Code



1 (Section 647 Cal. Pen. Code). Therefore, not only does  
2 the employer have the burden of proof in this instance,  
3 but his burden is a most significant one. Plainly, the  
4 employer has here failed to meet the burden of proof.

5 In fact, the employer has shown only that three  
6 employees, including the employee who discharged Mr. Brown,  
7 believed that they smelled liquor on or near Mr. Brown.  
8 Two of these three even suggest that the odor may have  
9 come from another employee, whose discharge for intoxication  
10 is not in question. The only additional offer of proof  
11 of an intoxicated condition is Mr. Mitchell's uncorroborated  
12 and denied statement that Mr. Brown "staggered" once in  
13 the mensroom.

14 There is no showing that Mr. Brown either drank  
15 on duty or consumed alcoholic beverages before coming to  
16 work. Respondent has failed to show that Mr. Brown's work  
17 performance was diminished, that his physical presence  
18 was indicative of intoxication or that Mr. Brown showed  
19 any of the signs or attributes of intoxication.

20 The respondent's proof by way of "witnesses"  
21 testimony falls far short of a preponderance of the necessary  
22 evidence much less evidence beyond a reasonable doubt of  
23 the dischargee's intoxication.

24 A mere suggestion that an employee has liquor  
25 on his breath in circumstances showing the proximity of  
26 another intoxicated employee and the lack of other attributes  
27 and signs of intoxication of the dischargee does not meet  
28 the employer's burden of proving the discharge was for  
29 just cause.

30 In addition to showing that the respondent has  
31 failed to meet his burden of proof, the evidence goes one  
32 step further and establishes a likely explanation for



1 the respondent's willingness to get rid of Mr. Brown as quickly  
2 as possible.

3 Mr. Brown's own testimony (Tr. pp. 31-33) coupled  
4 with that of Mr. Brown's supervisor, Mr. Mitchell (Tr.  
5 p. 13) establishes that Mr. Brown had quickly been elected  
6 to the position of shop steward and because of his position  
7 he was often involved in conflicts with management over  
8 working conditions, meals, etc. (Tr. pp. 31-32). In fact,  
9 a recent complaint to management by Mr. Brown regarding  
10 meals was followed by temporary improvements in meals (Tr.  
11 p. 32) as well as an admonishment to "lay-off" complaints  
12 (Tr. p. 33). Moreover, Mr. Mitchell had testified that  
13 he knew Mr. Brown was an advocate of black militancy. (Tr. p. 13)

14 Q. [by Mr. Bowe] Now, Mr. Brown was the union  
15 steward on the job. Is that correct?

16 A. [by Mr. Mitchell] Yes sir.

17 Q. And you also knew that Mr. Brown was very  
18 active in connection with the Black Militant  
Movement?

19 A. Yes, I did.

20 Q. On occasion he wore a button?

21 A. Yes sir.

22 Q. And he passed out literature?

23 A. Yes sir.

24 Q. And he complained in his position as union  
25 steward concerning the food that was being served  
the dishwashers?

26 A. Yes.

27 Thus, the testimony quite plainly indicates that Mr.  
28 Brown was an outspoken advocate of black peoples' immediate  
29 progress and improved working conditions, whose outspoken  
30 views and complaints were causing uneasiness on the part of  
31 the employee. Mere disagreement with ones' political views  
32 or ones' attempts to improve working conditions does not



1 justify the discharge of that individual based upon a flimsy  
2 unsupported allegation of intoxication.

3           The testimony of respondent's witnesses is not  
4 beyond challenge. Mr. Lacy and Mr. Smith were both testifying  
5 in the presence of their supervisor and the vice president  
6 of the Hotel (Tr. p. 21). Mr. Lacy admitted that he was  
7 testifying at Mr. Mitchell's request (Tr. p. 21) and when  
8 asked whether he had smelled liquor on Mr. Brown's breath,  
9 he did not reply verbally, as he had in response to other  
10 questions, but only "nodded" his head.

11           Q. (By Mr. Mark Sullivan) Did you notice anything  
12 peculiar about Mr. Brown?

13           A. Like I say, I didn't notice anything. He  
14 talk that way all the time.

15           Q. Did you smell liquor on his breath?

16           A. I could smell liquor.

17           Q. You could smell liquor on his breath?

18           A. (Nodding affirmatively.)

19           MR. MARK SULLIVAN: I have no further questions.

20           THE CHAIRMAN: All right.

21           Mr. Smith evidenced his innate hostility towards  
22 the dischargee by his hostile reply to dischargee's counsel's  
23 questions (Tr. pp. 23-24).

24           Respondent's vice president and general manager  
25 Mr. Edward Sequeira testified that Mr. Brown had been given  
26 a prior written warning for being intoxicated on the job  
27 (Tr. p. 26, Employer Exhibit 1). However, this warning  
28 was not signed by Mr. Brown (Tr. pp. 45-46). Additionally,  
29 Mr. Brown denied its truth (Tr. p. 46) and there was no  
30 direct evidence adduced that anyone had ever actually seen  
31 Mr. Brown intoxicated on the job. Mr. Sequeira stated  
32 that he felt Mr. Brown had a drinking problem but apparently  
he had no personal knowledge of its existence and was



1 assured that Mr. Mitchell could "straighten him out" (Tr.  
2 p. 26).

3           Given Mr. Sequeira's predisposition towards the  
4 belief that Mr. Brown had a drinking problem and Mr. Mitchell's  
5 expressed opinion that Mr. Brown was drunk on January 26,  
6 1969, the employer sought to discharge Mr. Brown, an activist  
7 and outspoken advocate of employees, and black peoples' rights.

8           Mr. Edward Sequeira testified that Mr. Brown  
9 went to his office to request his job back on the day of  
10 his discharge (Tr. p. 26). It must be assumed that Mr. Sequeira  
11 had the opportunity to observe and smell the person and  
12 appearance of an intoxicated person; yet Mr. Sequeira was  
13 asked nothing on direct examination, and, of course, offered  
14 nothing regarding Mr. Brown's physical condition on that  
15 occasion. Certainly, if Mr. Sequeira had observed an intoxicated  
16 condition he could and should have been called to testify  
17 regarding such a condition. It is unrealistic that respondent  
18 would rely on the testimony of fellow employees, hurriedly  
19 preparing for work, to testify regarding the dischargee's  
20 conduct and not discuss the same point with the respondent's  
21 vice president to whom Mr. Brown admittedly went to see  
22 regarding his just prior discharge for "intoxication".

23           Such inconsistencies and ambiguities as those  
24 outlined above clearly indicate that Mr. Brown was not  
25 popular with management because of his outspoken beliefs  
26 and unpopular activities. The respondent unquestionably knew  
27 that it could not openly discharge a man for his unpopular  
28 beliefs and protected expressions. Thus, it becomes especially  
29 significant that the respondent was not more careful to attempt  
30 to substantiate Mr. Brown's alleged intoxication than by  
31 the testimony of two interested members of management and  
32 only two fellow employees (out of a much larger number



1 of employees on duty on the day of discharge). The testimony  
2 of all respondent's witnesses is , at the least, inconclusive.

3 Critically important in this case is the actual  
4 protection that is or is not to be given the job of a Black  
5 Union Steward. This Union Steward has become the Union  
6 representative most directly responsible for the protection of  
7 the other culinary employees' interest. More than with any  
8 other employee the employer must demonstrate with meticulous  
9 care that it has not discriminated against shop stewards.

10 From the earliest days of reported awards, arbitrators  
11 have been firm on this point. For example, in the matter of  
12 John Deere Tractor Co., 12 LA 302, 303, Arbitrator Clarence  
13 Updegraff laid down some basic guide lines on this issue which  
14 have since been followed by other arbitrators. In that case  
15 the arbitrator stated:

16 ...Even unintentional indirect pressures which  
17 might discourage men from accepting union  
18 representation duties should be avoided lest  
19 in their cumulative effect they undermine  
and effectually discourage collective bargaining or  
any of its established, proper consequences.

20 In Bendix-Westinghouse Corp., 30 LA 621, Arbitrator  
21 John J. Sembower quoted with approval from the John Deere  
22 opinion, supra, and significantly noted that: "Malice, on  
23 the part of mangement is not an indispensable ingredient in an  
24 instance such as this." (p. 622).

25 Thus, even if it could be argued in the present  
26 case that the employer acted without intent or malice, which  
27 is plainly not the case, nevertheless there plainly was not  
28 that "meticulous care" nor the avoidance of "unintentional  
29 indirect pressure" to discourage acceptance of "union  
30 representation duties" found by arbitrators to be necessary  
31 in handling such situations. Other illustrations of the  
32 doctrine of extreme vigilance in reviewing allegations of



1 discrimination against union stewards and of its underlying  
2 rationale are contained in the opinions in Sears Roebuck and Co.  
3 35 LA 757 and Bamford Motor Coach Lines, 32 LA 753.

4       The effect on other employees of the removal of an  
5 active Union Steward may be even more significant than the  
6 effect on the steward himself.

7       In summary, the issue here is whether mere lip  
8 service is to be paid to the fundamental concept of extreme  
9 vigilance in protecting a Union Steward in the active prose-  
10 cution of his Union duties or whether meaningful and viable  
11 protection is actually to be given.

12       In the absence of credible proof that Mr. Lee  
13 Brown was intoxicated while on duty January 26, 1969, the  
14 respondent has, of course, failed to show that he was discharged  
15 for just cause, therefore, Mr. Brown should be reinstated  
16 with full back pay plus interest. Holland Die Casting  
17 and Plating Co., Inc., supra; Special Metals Inc., 39 LA  
18 3; Kroger Co., 12 LA 1065; The Thor Corp., 13 LA 319.

19       In conclusion: (1) Respondent produced no direct  
20 confrontable evidence of any improper conduct of grievant for  
21 in excess of one year; (2) no written warning was given  
22 as to the event in question; (3) the employer's failure to  
23 have supervision available on the day in question which in  
24 itself would undoubtedly have encouraged the type of conduct  
25 alleged and which led to confusing and unconvincing presentation  
26 of evidence; (4) no one saw grievant take a drink; (5)  
27 Grievant denies being drunk; (6) another employee admittedly  
28 was drunk and causing trouble; and (7) grievant's belief in,  
29 and attempt to carry out, his functions of a shop steward were  
30 admittedly a sine qua non to the discharge. Thus, on a full  
31 weighing of all the equities, it is respectfully submitted  
32 that Mr. Lee Brown's discharge on January 26, 1969 was too



1 harsh and was not for just cause and that he therefore  
2 be reinstated, with full restoration of back pay and benefits  
3 to the date of reinstatement, plus interest thereon.

4 Dated: May 5, 1969.

5 Respectfully submitted,

6 DAVIS, COWELL & BOWE

7  
8 By PHILIP PAUL BOWE /s/  
9 Philip Paul Bowe



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In the Matter of a Controversy

between

SAN FRANCISCO LOCAL JOINT EXECUTIVE BOARD  
OF THE HOTEL AND RESTAURANT EMPLOYEES and  
BARTENDERS INTERNATIONAL UNION, AFL-CIO,  
on behalf of MISCELLANEOUS CULINARY EM-  
PLOYEES UNION, LOCAL NO. 110,

Complainant,

and

HOTEL EMPLOYERS ASSOCIATION OF SAN FRANCISCO,  
on behalf of JACK TAR HOTEL,

Respondent  
-----

Complaint No. 1969-2

OPINION AND DECISION OF BOARD OF ARBITRATION

SAM RAGEL, Chairman

ELIZABETH KELLEY, Appointed by Local Joint  
Executive Board

*Joe Belardi*  
~~ELIZABETH M. KELLEY~~, Appointed by Local Joint  
Executive Board

JOSEPH D. SULLIVAN, Appointed by Association

JOHN B. GALLO, Appointed by Association

San Francisco, California

June 2, 1969



ISSUE:

"Whether or not Leo Brown was discharged for just cause?"

The relief sought by the Union is reinstatement and back pay with 7% interest.

BASIS FOR DISCHARGE:

Mr. Leo Brown was discharged from his employment at the Jack Tar Hotel on January 26, 1969 by the Chief Steward for being drunk on the job.

PRIOR RECORD:

On January 23, 1968 Mr. Brown was given a written warning which stated that he was "under the influence of alcohol while on duty." At that time the Union Business Agent was called in and a discussion was had with the Personnel Manager of the hotel concerning Mr. Brown. Mr. Brown was told that the next time he came on the job drunk that he could be fired.

(Tr.pp. 7, 8)

According to Chief Steward Mitchell, after the written warning, he had to warn Mr. Brown on a number of occasions for drinking on the job; that once he sent Mr. Brown home to avoid firing him; that he did this in order to give Mr. Brown another chance to rehabilitate himself. (Tr. p. 8)

THE INCIDENT OF JANUARY 26, 1969:

On that date, a Sunday, according to Mr. Mitchell, Mr. Brown was in the morning acting kind of strange; that Mr.



Mitchell left the hotel at 10:29 to go to church; that upon returning from church about 12:45 or 1:00 p.m., he observed Mr. Brown and another then employee, Mr. Jefferson, in an uproar; that they were talking loud and acting strange; that he, Mr. Mitchell, could smell alcohol on Mr. Brown's breath and on Mr. Jefferson's breath; that later a telephone operator called him (Mitchell) downstairs and said that Mr. Jefferson is downstairs acting strange as if he had been drinking; that Mr. Brown met Mr. Mitchell at the elevator and stated he wanted Mr. Jefferson fired; that he didn't want to work with him any more; that Mr. Mitchell then informed Mr. Brown that he was going to fire him (Brown) too "...because you are drunk." (Tr. p. 10) According to Mr. Mitchell, Mr. Brown stated that he was not drunk, but according to Mr. Mitchell, Mr. Brown was staggering and he concluded that Mr. Brown was in fact drunk; that Mr. Brown told him he was "sick", but Mr. Mitchell claimed that he could smell alcohol on Mr. Brown's breath.

Witness Lacy, a dishwasher and a member of Local 110, testified that on the day Mr. Brown was discharged that he, Mr. Lacy, was working supplies and that he smelled liquor on Mr. Brown's breath, and on Mr. Jefferson's breath. (Tr. p. 22)

Witness Smith, a cook at the hotel and a member of Local 44, testified that he talked to Mr. Brown at about 1:45



p.m., when he (Smith) was checking out and that he smelled liquor on Mr. Brown's breath. (Tr. p. 23)

Mr. Brown testified that he had nothing to drink on the Saturday night prior to reporting for work on the Sunday in question; that he rode on the bus that morning with Mrs. Oliver; that he had nothing to drink on the bus coming to work; that he had nothing to drink in the locker room before he went to work; that he did not see Mr. Mitchell until 5:00 p.m. on the afternoon in question and that it was Mr. Mitchell who called him and told him that he (Mitchell) had trouble with Mr. Jefferson who Mr. Mitchell claimed was drunk and that he wanted to fire Mr. Jefferson; that Mr. Brown said that he didn't think that Mr. Mitchell had the right to fire Mr. Jefferson; that then Mr. Mitchell stated "I'm going to fire you too, I'm going to fire both of you." Mr. Brown claims that he had nothing to drink at all on the Sunday in question; and that in fact he does not drink alcoholic beverages, because of health problems.

Mrs. Oliver testified that she was with Mr. Brown at a gathering on the Saturday night before the discharge and that as far as she could tell he had nothing to drink on Saturday night; that on Sunday morning she rode part way to work with him; that this was between 6:00 and 7:00 a.m., and that she did not observe him drinking; that in her opinion Mr. Brown



was sober; that she had known Mr. Brown for eight years and that she had never seen him take a drink.

Mr. Walter Robinson, Sr., who was employed as a cook at the hotel stated that he came to work shortly before 7:00 a.m.; that Mr. Brown was in the dressing room and that in his opinion Mr. Brown had not been drinking at that time; that he did not see Mr. Brown later in the day.

Brown's claim as to Reason for Discharge:

Mr. Brown contends that he was discharged because he was a Union Steward and that he brought certain complaints to management concerning the serving of food to employees and other matters.

SUMMARY:

On January 23, 1968 Mr. Brown was warned in writing for being under the influence of alcohol while on duty. He made no appeal of this warning through the grievance procedure. Therefore, it is entitled to weight as a prior warning.

The testimony of Mr. Mitchell that subsequent oral warnings as to drinking on the job by Mr. Brown followed stands uncontradicted in the record.

During the day of January 26, 1969 the evidence of Mr. Mitchell, Mr. Lacy and Mr. Smith, establishes clearly that Mr. Brown had been drinking on the job. Mr. Brown denies this, but his witness Mrs. Oliver was with him between 6:00 and 7:00 a.m., and therefore what occurred at the hotel after



Mr. Brown reported for work is not reflected in her testimony. The testimony of Mr. Robinson, Sr., is not entitled to any weight since his testimony is that he was with Mr. Brown at approximately 7:00 a.m. for about five minutes.

The evidence does establish that Mr. Brown reported to work on January 26, 1969 not having had any alcoholic drinks. But the evidence of three fellow workers on the job establishes that he had imbibed alcoholic drinks while on the job. The testimony of these fellow workers must be believed over the denial made by Mr. Brown. And Mr. Mitchell's testimony that Mr. Brown was in fact drunk on the job must be accepted.

This testimony taken together with the prior written warning which related to drinking on the job establishes that the Employer was justified in discharging Mr. Brown on January 26, 1969. He had been told that further conduct of this type could result in his discharge.

The claim that the discharge of Mr. Brown was related to his activities as Union Steward is not sustained in any regard. Similarly, the claim that the discharge was because of Mr. Brown's outspoken views concerning black militancy were not sustained by anything in the record at the hearing. The fact that Brown was a Union Steward requires of him an even higher standard of conduct than might be required of an employee who was not a Union Steward.

The Union suggests that having drunk of alcohol, as



opposed to being actively drunk so that job performance was impaired, does not justify discharge. Given the nature of Mr. Brown's employment in the food service industry with its requirement of protection for the public, as well as Mr. Brown's own safety, the Employer is justified in requiring its employees be sober prior to reporting to the job and not to drink on the job.

It must be assumed that Mr. Brown was well aware of the fact that an employee could not work while under the influence of alcohol or having drunk any alcoholic beverages while on the job. Since Mr. Brown had already been warned concerning such conduct once before, he was on clear notice that such conduct was not acceptable to the Employer. And as a Union Steward he certainly must have been aware that employees could not be retained on the job after having taken alcoholic drinks.

**DECISION:**

The discharge of Lee Brown was for just cause.

**BOARD OF ARBITRATION:**

<u>Sam Kugel</u> Chairman		
<u>Joe Belardi</u> Union Member	<u>We Dissent</u> Concur/Dissent	<u>6-2-69</u> Date
<u>Elia Kelley</u> Union Member	<u>We Dissent</u> Concur/Dissent	<u>6-2-69</u> Date
<u>BT Zele</u> Employer Member	<u>Concur</u> Concur/Dissent	<u>6-2-69</u> Date
<u>W. W. Hall</u> Employer Member	<u>Concur</u> Concur/Dissent	<u>6-2-69</u> Date



## Dispute Over Firing At Jack Tarr Hotel

Lee Brown has been in the trade union movement for 30 years. Through the years he has endeavored to improve working conditions for black people in the hotel industry, and openly criticized discrimination against blacks. His particular concern has been for culinary workers and maids, who, he says, "are often harassed and intimidated by the hotel management. I'm not going to stand by and watch people get hurt," he said.

Brown's most recent job was at the Jack Tarr Hotel, where he was elected Union Shop Steward. On January 26 he was fired from his job on the grounds that he "reported to work drunk." Brown denies this allegation, believing he was fired because of his union activities and because he "voiced opposition to poor working conditions." The management, he said, "did not want to hear my grievances and I was told to mind my own business."

A list of demands, drawn up by Brown, include the following points: Stop mistreatment and unfair discharges of maids; free meal tickets for maids in all hotels; organize hotel and restaurant workers throughout the nation into unions; and end all



discrimination against black people in the hotel and restaurant industries.

The executive steward of the Jack Tarr, a Mr. Mitchell, has refused to comment on the Brown firing. "I'm not allowed to tell anyone about it," he said. "You'll have to talk to the union."

Sam Daniels, the business agent of local 110, the culinary workers union of which Brown is a member, stated that the matter will be heard by the Adjustment Board. "I will defend Brown," Daniels said, "but discrimination and working condi-

tions have not entered the case." Daniels said that the four-man Adjustment Board will make a decision on the case after hearing testimony from both the labor representative and the hotel management.

The date for the hearing has not been determined yet. Meanwhile, Brown said, he intends to seek support for his position from the black community. Brown, the Minister of Labor for the Ad Nip Party, said he "hopes to set up an investigating committee to see what's really happening in the hotels."

*Vote for me Lee Brown  
For Executive Board Member - 15-A*



IF they would bring  
in someone w without going  
through the hall I would  
wake them. Live up to the  
Agreement AND call the hall.

They don't want

I wouldn't believe it  
myself if someone had told  
me. I would have said,  
"MAN THAT'S NOT WHAT'S GOING  
ON."



Some of the niggers are  
AFRID to go to the UNION

discharge on stealing  
hamasman

majority of the restaurants  
in hotels have no black workers.

Charged with DWINK AT  
FAIRMONT -



ADJUSTMENT

HEARING

MARCH 19

NEXT Wednesday

SAM KAGEL

Chosen ARBITRATOR

MISCELLANEOUS

LOCAL ~~110~~ 110 COLANARY WORKER

AFRICAN DESCENDANT  
NATIONALIST INDEPENDENCE  
PARTITION PARTY

SERVED THREE YEARS UNDER TAFT-HARTLEY  
IN 1957 FOR COMMUNIST PARTY MEMBERSHIP

WORKING OUT OF



Filed with STATE FEPC.

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Left TEXAS '60

Went LA.

Came to S.F. IN '60

~~FAIRFAX~~

FAIRMONT

to JACK TAR 67.

Not being upgraded in jobs



20 whites out + 2000  
WAS ONCE VP. OF LOCAL ZOY  
11 years IN NEW ORLEANS.

SERVED IN TEXACANA, TEXAS.

~~THE~~ IN 1963 Appointed  
shop steward  
AT FAIRMONT

shop steward IN 1968  
AT JARTAR.

IN CONTACT WITH DREM.