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Assistant Attorney General
Civil Rights Division

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Meeting between representatives of the United Steelworkers of America, AFL-CIO, and the Department of Justice, Civil Rights Division, on August 27, 1967, to discuss U.S. v. H.K. Porter, Company, Inc.

Representing the Department of Justice:

John Doar, Assistant Attorney General
Thomas Ewald, Attorney
Barry Weinberg, Attorney

Representing the Union:

Bernard Kleiman, General Counsel (Pittsburgh)
Winn Newman, Associate General Counsel (Pittsburgh)
Alex Fuller, Director of Civil Rights (Pittsburgh)
Mike Gottesman, Attorney for the United Steelworkers, (Washington)
FNU Bredhoff, Director of the Washington office of the United Steelworkers (Washington)
Howard Strevel, Director of District 36 (Birmingham)
FNU Thrasher, Director of Sub-District 36 (Birmingham)
Jerome Cooper, Local Counsel (Birmingham)

Duration: 9:15 a.m. to 12:00 p.m.

Place: Office of Bob Owen, First Assistant
Washington, D.C.

I. Discussion while you were present, 9:15 a.m. to 11:15 a.m.

Bernard Kleiman, Union General Counsel, began the discussion, stating the Union International has an affirmative policy against racial discrimination which it exercises

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within the confines of its organizational limitations. Pursuant to this policy, he said, International representatives had visited Porter's Connere Works in Birmingham, and from that investigation had developed programs of relief they wished to present to us. Kleiman said the Union wanted to know our position on Title VII discrimination and the discrimination we found in Porter.

You then spoke, first to our present practice of not naming unions as defendants in suits against employers, and the possibility that position may be changed in view of a union's indispensable nature in these cases. The union understood both positions.

Then you outlined our findings on the company's practices, all of which were briefly discussed.

1. Discrimination in assignment of employees to Departments.

The union said generally this was mostly without its responsibility. Specifically, they were eagerly interested in instances where standards of admission to departments were discriminatorily administered, saying this is a type of act they can and should correct under their bargaining agreement with the company, through the grievance procedure. They were almost disinterested in discrimination involving dissemination of information to employees and the company's ability standards for qualification.

2. Discrimination in testing.

The union chorused their position of complete abolition of testing except tests which are directly connected with jobs, i.e. on-the-job training-testing, and then only when strictly controlled and objective. Seniority, they said, should be the only job-progression standard, "the senior man should get first crack at a job vacancy."

3. Discrimination in job seniority.

Your statement that Negroes received less opportunities for advancement than do white employees, brought a negative, rather condescending response from the union. Kleiman explained generally how the International accepted seniority programs in given plants as they existed at the time of unionization, and many were narrow and illogical. He said

the International was first able to require minimum standards in collective bargaining agreements in 1962, based on the President's Executive Order, thereby forcing companies to adjust their systems away from the prevailing situation of a man being trapped by the fortuities of where he was placed when he was hired.

During the course of discussion on this area, four types of seniority programs were mentioned as standard throughout the industry: (a) line of progression seniority, (b) company seniority, (c) departmental seniority, and (d) job seniority. Kleiman emphasized a seniority program found in one plant, no matter its hybrid quality, can be found duplicated at many plants throughout the country. He appeared to be pointing out a system of seniority, no matter its particular rationale, cannot be called discriminatory because such was not the reason for its origin; that seniority systems would result in discrimination only through their misuse and abuse. We later learned the union was misinformed of the type and effect of Porter's system.

4. Discrimination in the use of departmental and company seniority.

The union was again eager to obtain specifics on abuses correctable through their grievances procedures, here with reference to transfers. They emphasized the universality of loss of departmental seniority upon transfer.

At this point the union, mainly through Cooper and Strevel, directed the discussion toward their suggested relief based upon discrimination as found by their investigation:

(a) Move the catcher's job from Mill Auxiliary to Mill Tonnage since it is the same job as layover. Problems of seniority transfer, bump-back, future progression and the affect on Mill Auxiliary had not been resolved.

During the discussion of this suggestion the union said seniority lines such as Mill Auxiliary were common throughout the industry, and are called "service lines." As such, the union said, they are not discriminatory. Though you repeatedly said it was the filling of such lines of departments on the basis of race to which we object, the union appeared unimpressed, and continually stressed the valid functional difference of service lines and skill lines. It is my opinion this attitude was part of the union's position on the unalterability of present seniority lines.

(b) Move the Roll Change Helper's job from the Mill Auxiliary to Mill Tonnage. Discussion on this point followed the same pattern as Catcher-Layover.

Kleiman summarized the union's thinking and said their remedies are based on their position that job-to-department classifications should be made only if a departmental division is functionally justifiable.

You answered the union's request for specific facts by referring to our intermediate position between investigation and summarization for our amended complaint. On seniority, you explained we had not yet defined our position, and will use care to do so in light of the many facets of the problem as it affects different seniority situations.

II. Discussion after you left, 11:15 a.m. to 12:00 p.m.

Gottesman began summarizing the prior discussion liberally using the phrase, "the most senior man." We asked him how he would define the phrase, and as he began, it became evident the union's conception of Porter's seniority system was wrong, and one of a type we had hypothesized, among ourselves, might result in effective relief. They thought, while a man must advance from job to job through a line of job progression, departmental seniority governed which man in job A would advance to job B, i.e. a Negro with a great deal of departmental seniority would advance to a white job in a department, and though he would work that job with white employees who had been on that job longer, the Negro, by virtue of his departmental seniority, would be the most senior man for an opening in the next higher job.

We explained Porter's system would force the Negro in the above example to wait until the white employees moved into higher jobs. The Union was visibly surprised; they began talking among themselves, many of them changing seats to reexamine the union-company agreement and discuss the seniority system. When everyone resettled, some men began commenting Porter's system would require a much longer time for Negroes to progress to formerly white jobs, at which point Kleiman assumed the reins and quickly reiterated the International took seniority lines as it found them, and directed the conversation to their need for grievance-type facts.

We asked the union the extent to which they had considered their proposed relief. Cooper and Strevel emphasized they had investigated and made a proposal, but admitted they had not thought out the problems created by shifting jobs.

Newman asked our opinion of the company's proposals as made in a letter to the Assistant Secretary of Defense, dated April 15, 1966. We had not known such a letter existed, and were told it included a proposal to alphabetically reassign all lockers in now segregated bath houses. (Jack Ruzicho is currently searching for that letter and all other communications received or sent from Department of Defense.)

When we raised the problem of racial departmental assignments, the union said that problem is one which confronts them throughout the country. They confessed no solution to the problem and seemed not to be interested in further discussion on the point.

Newman said the union had, in their brief for the Muldrow appeal, taken the position U.S. v. H. K. Porter Company, Inc., moots their involvement in Muldrow in as much as the facts would be tried in the present case.

We restated your position on giving them specific facts and restressed the problem of seniority lines. The meeting then terminated.

III. Conclusion

The union came to this meeting thinking no real areas of disagreement existed between us, and we were uneducated and/or uninformed in our characterization of the facts. They left with the prospect of a seniority issue forcing them to litigate this case, or alternatively, reforming their plans on the speed and nature of a settlement, and a similar realization toward settlement on the Mill Auxiliary-Mill Tonnage bifurcation.