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## License to Exclude: Black Barbers in Arkansas<sup>1</sup>

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### Abstract

In the early twentieth century, predominantly white union barbers in Arkansas implemented voluntary regulations that dictated business practices to create a voluntary cartel. Black and other minority barbers who often had more success than white barbers prior to unionization tended to ignore these regulations, destabilizing the union's cartel. Lacking a strong enforcement mechanism, white union members turned to the state to eliminate what they saw as unfair competition. By implementing a licensure law and creating the Board of Barber Examiners in 1937, established barbers were able to give themselves a stark advantage over future entrants into the profession. The law was detrimental to minority barbers. Black barbers failed to pass barber licensure exams at an equivalent rate as their white counterparts, and the number of Black barbers in Arkansas decreased significantly over the decade that the regulations were implemented. In making our assertions, we examine primary sources regarding the Journeymen Barber's International Union of America, while also keeping in mind the data on pass rates, the composition of regulations, and exams that the Board of Barber Examiners implemented. Though scholars often assume that licensure laws harm minorities, we provide a detailed case study to support those claims.

**Keywords:** occupational licensing; Black history; business history; cartel theory; Journeymen Barber's International Union of America.

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## Introduction

During the late nineteenth and early twentieth century, Black Americans and other minorities struggled to access the same economic opportunities that white laborers typically enjoyed (David Bernstein 2001).<sup>2</sup> Though white men had more occupational choices, Blacks established themselves in some industries, such as barbering, in which they enjoyed equal access and notable success. In Arkansas, Black dominance in barbering spanned the late nineteenth and early twentieth century. In Little Rock during the late 1800s, “barbering was not looked upon as a white man’s job”, according to the *Arkansas Democrat*. Indeed, “all the gilt-edged, well patronized shops had only negro barbers”. Occasionally white men would find work in a barber shop, “but the discriminating customer invariably showed a preference for the Black barber”. While Blacks struggled to establish themselves in other occupations, Black barbers, “were the aristocrats of their race” (*Arkansas Democrat* 1922, 7).

Black barbers in Little Rock were more successful than white barbers at the turn of the twentieth century, and this was often the case throughout the country. In *Knights of the Razor*, Douglas Bristol Jr. argues that “Black barbers embraced the respectability that they forged out of white racial stereotypes to cultivate white guardians and establish first-class barbershops”. By playing into the idea of racial privilege, “Black barbers gained an economic independence that would allow them to withstand growing competition from immigrant barbers” (Bristol 2009, 69).

Black barbers and their businesses flourished during the late nineteenth century but lost that favorable status during the Progressive era. In 1890, Blacks made up 21 percent of all barbers and hairdressers nationally. By 1930, that number had fallen to nine percent (Bristol 2009, 160). Though several factors played a role in the decline of Black barbers, the Progressive era fervor for eugenics-driven government protection of public health and safety played an undeniable role. Indeed, from 1900 to 1940, the barber industry in Arkansas and other states underwent great change as the result of increased union influence and state licensure laws (Lawrence Friedman 1965).<sup>3</sup> Specifically in Arkansas, barbers organized, mostly along racial lines, in response to the threat of falling wages and increased competition. In doing so, they sought protection from the General Assembly in the form of a licensure law that would decrease the number of barbers and thus increase their wages (Corley and Witcher 2021).<sup>4</sup>

Though native white Arkansas barbers were mainly concerned with industry protection, the racial attitude of white barbers negatively affected Black barbers and their economic opportunities. Some licensure laws in other states were enacted with the explicit intent to exclude minority workers to the benefit of organized white labor.<sup>5</sup> Other laws, though they were *prima facie* racially neutral, negatively affected minorities since the stringent barriers they

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<sup>2</sup> Bernstein discusses extensively various ways in which Blacks were barred from equal opportunities to work during this period (1890-1920).

<sup>3</sup> Friedman discusses at length the various occupations that became licensed in the US during the Progressive era, the period in which occupational licensing laws began to become common throughout the country. Though Arkansas’ barber license law was enacted later (in 1937), the law and its origins fit the same patterns as those before it.

<sup>4</sup> Corley and Witcher (2021) provide a historical case study into Arkansas and the creation of the barber license law to argue that barbers sought to decrease the number of barbers and thus increase the wages of licensed barbers. Edward Timmons and Robert Thornton (2010) also provide empirical evidence that suggest certain licensing provisions may increase barber earning by 11 to 22 percent.

<sup>5</sup> The classic example that most scholars point to is *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). In one of the Supreme Court’s first equal protection cases, the Court struck down a San Francisco ordinance that required all laundry buildings made of wood to hold a permit. Though the law was racially neutral, it had the discriminatory effect in that 89 percent of laundromats were owned by workers of Chinese descent, and none were issued a permit by the Board of Supervisors.

established impeded entrepreneurial entry. While it is important to point out overt discrimination, historians and other scholars should also consider how regulation and legislation affects minorities, absent the overt intent to discriminate.

Occupational licensure, a field of study only recently garnering the diligence it deserves, has seldom been analyzed for its consequences that harm minority workers. Those who have studied how licensure affects minorities have often, but not always, found striking discrepancies between minority and white laborers. Stuart Dorsey (1983) found that Blacks taking the cosmetology exam in Missouri and Illinois in 1976 passed at much lower rates than whites taking the same exam. While it can be difficult to explain the causal factor that led to disparate outcomes, Dorsey found that even when holding education and training constant in both states, Blacks were still 30 percent less likely to pass examinations (Dorsey 1983, 174-175).<sup>6</sup> Other scholars have sought to point out overt discrimination by crafts and their unions. Bernstein (1994) touches on instances when unions deliberately sought to bar Blacks from various industries and how the courts reacted.<sup>7</sup> Though overt discrimination in the content of licensure laws occurred, Bernstein and others note that even without an overt intent to discriminate such laws would harm Black Americans. Since licensure laws were established during a time when Blacks lacked equal access to education and union membership, “even purely public-spirited licensure laws, if such things actually existed, necessarily harmed Blacks” (Bernstein 1994, 90).

Though Bernstein and others have found negative effects of occupational licensure for minorities, some scholars have reached different conclusions. Beth Redbird (2017) argues that the promulgation of licensing laws benefited minority groups. While the data Redbird uses covers a different period than this study<sup>8</sup>, she finds that “there is no aggregate wage benefit to licensure, either through limitation of supply or through a quality-driven increase in demand” (Redbird 2017, 617). Marc Law and Sukkoo Kim (2005) argue that occupational licensing emerged in the Progressive era to mitigate asymmetrical information issues.<sup>9</sup> They find that the implementation of these regulations was, “motivated by a desire to improve the market for professional services” (Law and Kim 2005, 754).

In another paper that looks specifically at occupational licensing and minorities during the period of this study, Marc Law and Mindy Marks argue that licensing regulations overall did not harm Black or female workers (Law and Marks 2009, 364).<sup>10</sup> However, for the occupation of barbering, the authors did find negative effects. In the empirical analysis of the relationship between the prevalence of minority workers and occupational licensing, the authors found that, “the only negative and statistically significant interaction term is found for barbers”. Indeed, they found that licensing requirements for barbers reduced the probability of Black individuals entering the profession by 17.3 percent. The reason for these results, the

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<sup>6</sup> Dorsey examines cosmetologists in Missouri and Illinois in the year 1976.

<sup>7</sup> The example Bernstein uses for barbering is the court case *Chaires v. Atlanta*, 164 Ga. 755, 139 S.E. 559 (1927).

<sup>8</sup> Redbird’s data are from 1983 to 2012. While the research is still significant, it is looking at a much later period than this paper is.

<sup>9</sup> The asymmetrical information hypothesis argues that in professional services, there is an issue in that professionals have more information than consumers as to various aspects of product quality. If these information asymmetries are significant, lower quality goods can drive out higher quality goods in the market. Thus, the authors argue that the emergence of occupational licensing resulted an attempt to solve the information issue (Law and Kim, 2005).

<sup>10</sup> For a critique of the 2009 Law and Marks paper see Daniel Klein, Benjamin Powell, and Evgeny Vorotnikov (2012). In this paper, the authors find issue with the data Law and Marks use and apply falsification test to their findings that damages the results (Klein, Powell, and Vortnikov 2012, 211). Though we agree with many of the authors’ critiques, Law and Marks’ paper is one of the better-known papers on the subject and their findings still suggest a negative effect for our subject matter—Black barbers.

authors argue, is that barbering was a low-skill occupation in which Blacks and whites competed for clientele (Law and Marks 2009, 359). Thus, even if occupational licensing was not detrimental to minority workers overall, barbering appears to be a special case in which Blacks suffered from the emergence of licensing regulations. Furthermore, while scholars like Redbird have found that licensing did not harm minorities, Law and Kim, who argue that licensing was detrimental to Black barbers, provide the best study of the early twentieth century.

Although scholars have studied the economic effects of licensing on minorities, there are surprisingly few historical case studies to support the general claim that occupational licensing harms minority groups. Nor have there been many case studies that demonstrate that excluding minorities from an industry was the motivation behind the implementation of a licensure law. This paper provides historical primary sources and secondary evidence to support such claims. We find that the barber licensure law reduced the total number of barbers in the state of Arkansas at the expense of Blacks. Seven years before the law was passed in 1937, there were 484 Blacks practicing as barbers in Arkansas. Just ten years later that number had fallen to 284, a roughly 41 percent decrease (US Census Bureau 1930; 1940). White barbers fared better, although their numbers fell by 20 percent over the decade (US Census Bureau 1930; 1940).<sup>11</sup> Though the licensure law cannot fully explain the change in the number of barbers, the pass rates for barbers taking the licensing exam supports the claim that the licensure laws disproportionately harmed Black barbers. From 1938 to 1949 (the first 11 years that barbers were forced to pass an exam to enter the industry in Arkansas), Blacks failed the barber exam at a higher rate than their white counterparts. While white barbers passed at a rate of 77 percent, Black barbers passed 63 percent of the time.<sup>12</sup>

The Arkansas' State Board of Barber Examiners (ABBE) received praise from the Journeymen Barber's International Union of America (the JBIUA or "the union" hereafter), the country's main barbers' union, and exhibited close cooperation with the union's local organizations. These features highlight the usefulness of Arkansas as a case study into the barber union and barber licensure laws. It is evident from our research that Arkansas' Barber License Law was implemented in part to combat Black competition that the JBIUA saw as unfair due to Black barbers' unwillingness to follow union regulations. The creation of the law, and the examinations and regulations that followed, contributed to the decline in the number of Black barbers and the effective segregation of barber shops in Arkansas. As with any case study, there are limits to the conclusions that can be drawn. It is possible that Arkansas was an anomaly to the barber industry and the lessons learned here may not apply to the plethora of other licensure laws passed throughout the country.

What is clear is that Arkansas' Barber License Law was seen by the JBIUA as being a perfect model for other states. In a report in the *Journeyman Barber Journal*<sup>13</sup>, the journal used by the JBIUA to distribute union information, Arkansas' initial barber law was seen as, "one of the best, if not the best, barber license laws of any state in the Union". Furthermore, Arkansas' General Assembly was heralded as, "[p]erhaps the most progressive legislature in the history

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<sup>11</sup> In 1930, there were 2,126 white (native) barbers in Arkansas. In 1940, that number fell to 1,720 (including non-natives). In 1930, there were 484 Black barbers. In 1940, that number fell to 284. Census data can be misleading because barbers could declare themselves as barbers without having a license. Thus, the number of Black barbers who were licensed could have decreased even more so, despite some of the barbers continuing to practice illegally without a license. It would be assumed that these unlicensed barbers were cutting hair for lower prices to compensate for not having a license.

<sup>12</sup> Data compiled from the ABBE's minutes, provided by the Board. Out of 288 Black individuals who attempted the barber exam from 1938-1949, 182 passed (63 percent) while 106 failed. Out of the 932 white individuals who attempted the barber exam from 1938 to 1949, 721 passed (77 percent) and 211 failed.

<sup>13</sup> The journal was published monthly and sent to all union members.

of the state” by the JBIUA after the passage of the barber law (John Robinson 1937, 12).<sup>14</sup> Similarly, after the passage of the law in Arkansas, Robinson reported in the *Journeyman Barber Journal* that, “the Arkansas State Board of Barber Examiners and their two fine inspectors have co-operated 100% in our campaign” (Robinson 1938a, 12). Whether or not the Arkansas’ Barber License Law reflects what every other state in the Union did, it does reveal what the JBIUA ultimately desired: a means to bring Black barbers into compliance with union regulations and an ability to limit the supply of barbers (and hence competition) in the state moving forward. As such, our findings support those of Paul Moreno. In *Black Americans and Organized Labor*, he looks at Blacks in various unions throughout the country during the early twentieth century and concluded that, “white unionists found that race was a convenient basis on which to do what unions do—control the labor supply” (Moreno 2006, 285).

### **The Racist Consequences of Unionization and Licensure**

Though many barbers tended to favor licensure laws, the JBIUA served as the main interest group responsible for getting them passed by state legislatures. Thus, the union wielded influence regarding the details of the laws and how they would be executed. Blacks in Arkansas tended to not trust the union and they had legitimate reasons for not doing so. White union members viewed Black barbers as unfair competition on account of their unwillingness to voluntarily follow the union’s recommended business practices. To be a respectable member of the JBIUA, barbers were expected to adhere to their local union rules that dictated hours of business, prices, Sunday closing, and other general union practices.<sup>15</sup> W.E. Faverty, an Arkansan barber writing into the *Journeyman Barber Journal*, complained that customers would arrive past union hours when the white barber shops were closed and say, “[w]ell, you fellows are forcing me to go to the niggers; they will do the work and they have a shop card just like that one up there” (Faverty 1913, 462-463).<sup>16</sup> Other union organizers found it difficult to advance their union goals because of Black barbers. Joe Pilgreen of Little Rock vented that, “niggers have hampered our progress to such an extent that we are making very poor showings compared with other and smaller locals of the state” (Pilgreen 1914, 179). Because Black barbers resisted voluntary union regulations, they were able to maintain a competitive advantage over union members and as a result were treated with hostility.

The JBIUA required (although they lacked the enforcement mechanisms) these voluntary practices to increase the trade’s returns by reducing industry output to drive up prices. In this way, the union was attempting to create a voluntary cartel within the barber industry. Most cartels that depend on voluntary compliance will be unstable, and eventually collapse because of the cartel members’ incentive to “cheat” the system. Even if price structures and production limitations are agreed upon, if someone can secretly violate the cartel’s limitations, “he will gain larger profits than by conforming to it” (George Stigler 1964, 46). Moreover, when there are no legal barriers to entering a profession, opportunists will enter the trade and charge a price that undermines the cartel price. If entrepreneurs enter the trade, they “weaken the cartel’s ability to charge supracompetitive prices and perhaps eventually force the cartel to disband” (Paul Larkin Jr. 2015, 241).

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<sup>14</sup> For more on John B. Robinson, a southern union organizer, and his role in the implementation of the Arkansas Barber Law, see Corley and Witcher (2021).

<sup>15</sup> Local unions could have slightly different rules (that changed over time) that the union barbers would have to follow, but the JBIUA sought to influence and unify those business practices (most notably through licensure).

<sup>16</sup> Interestingly, Mr. Faverty had his union card taken away in 1905 for keeping his shop open past union hours. When asked why, he claimed that he did so because other shops in Argenta were not following union rules.

Though white barbers typically complied with the voluntary measures encouraged by the union, Black barbers hampered their progress throughout the attempted cartelization of the barber industry. C.F. Foley, a union organizer making a stop in Roanoke, Arkansas, found that while all the white barbers were organized, “not one colored shop [was] organized, which is again the white and colored half-and-half” (Foley 1921, 111). In many southern locations, union organizers found similar situations in which almost all white barbers were unionized while almost all Black barbers would not be unionized. This was often the case because unionized barbers in Arkansas were hostile toward Black competition. Indeed, that sentiment was present in local unions throughout the country. In Texas, one barber complained in the *Journeyman Barber Journal* that while business was doing well, “we do have a string of negro shops to contend with”. Since Black barbers were charging “15 and 35 cents” while the union members charged “25 and 50 cents”, Blacks were seen as unfair cheap labor (Jack Robertson 1917, 373). Another barber writing from Ohio found it impossible to organize “mostly foreigners—Bulgarians, Greeks, Syrians, Polish—and a few colored shops”. The main reason being that “[t]hey would not charge the prices, keep the hours, or pay the wages” (W.E. Boyer 1919, 162). The union saw Blacks and other minorities as unfair competition, and the racial makeup of the main violators of the union’s rules varied by state. In Arkansas, those seen as unfair competitors tended to be Black.

Local unions throughout the country also revealed how union regulations that were made into laws could restrict Black barber competition. A barber writing into the *Journeyman Barber Journal* from San Antonio, Texas, felt it necessary to let ex-members of the union know that “the big negro shop on Houston Street” had been shut down as a result of the Sunday law being enforced. Rather than being an “eyesore to union men” it was turned into a “ten-chair union shop, run by white barbers” (J.D. Ashley 1914, 78). Other Black barbers were treated more favorably by the union—so long as they followed union rules. Indeed, one barber celebrated that the town of Anniston, Alabama, had been completely organized. Even the “colored barbers, as they work according to our rules, and there is much due them for their cooperation” (C.W. Skiles 1920, 118). Though the attitudes of white union members were generally racist, the root cause of white discontent was Black barbers’ market competitiveness.

Though these anecdotes reveal the hostility that Black barbers felt from the union, the number of Black barbers who joined the union is revealing as well. The number of Black union members in the United States fluctuated slightly but peaked in the year 1903 when 1,000 union members were Black. These Black union members made up five percent of all Black barbers in the country in 1903, and only 10 percent of the entire JBIUA (Bristol 2009, 152). There are several reasons that Blacks represented a small percentage of the union. One reason is that white union members could be discriminatory and demeaning, especially in the South. In Scott Hall’s report on the JBIUA, he argued that the general decrease in Black barbers was the main reason for their low numbers in the union. He did concede, however, that “some discrimination does undoubtedly exist, particularly in the South” (Hall 1936, 44). Bristol similarly concluded that the “inability of the JBIUA to overcome prejudice in the union movement and within its own ranks caused Black barbers to dismiss the usefulness of the union” (Bristol 2009, 152).

Many Black barbers nationwide resisted union control because of the negative effects it had on their businesses. Unfortunately, very few Black newspapers in Arkansas from, and around, the year that Arkansas passed its Barber License Law exist. However, Black barbers in other states expressed discontent toward the JBIUA and the licensing laws they lobbied for. In *The Freeman*, George L. Knox argued that “[t]he union is one of the means strongly against him [Black barbers], and now a bill is introduced for the sole purpose of legislating against them”. According to Knox, the barber trade was “the colored man’s trade, but white man, be he competent or not, is fast putting the colored man out of business” (Knox 1903, 4).

It is also worth noting that Blacks ran some of the most successful barbershops before the twentieth century (as judged by consumer preferences), and it can be assumed that some regulations imposed by the union necessarily hurt their businesses. One union regulation that harmed Black barbers was the segregation of shops by race. One barber writing in the *Journeyman Barber Journal* complained that he entered a shop where, “a colored man was shaving a white and a white shaving a colored man” [to this union barber,] “the town was hopeless” (E.W. Holt 1921, 171). Scott Hall found this to be true as well. While the union “readily accepted” Blacks, “it is those working in shops serving the white trade that the union is more interested” (Hall 1936, 43). In fact, segregation can be seen as a more widespread reaction to Black businesses flourishing during this period. Moreno argues that Black economic success in the 1890s “prompted a white reaction, most clearly seen in formal segregation”. As a result of this reaction and the licensure laws and other forms of regulation that followed, “competition gave way to coercion and the progressive search for order limited opportunity for Blacks” (Moreno 2006, 41).

The union worked in other ways to stifle business even when it was not Black barbers breaking union rules. One story recounted in the *Journeyman Barber Journal* was that of a Polish barber in Ohio. This man was a member of the JBIUA, as well as the United Mine Workers Union. After working an eight-hour shift each day at the mines, he would return home to his barber shop, “and do business as long as they kept coming, which made it hard on the union shops”. To handle the situation, the two unions told the Polish worker that he could not be a member of both unions, and “would have to quit one or the other” (C.C. Mercer 1919, 285). It is impossible to know how many other laborers in similar situations, trying to make ends meet by working long hours, were harmed by the JBIUA and its regulations.

Given these various motivations by white union members, it is understandable that many Blacks believed unionization was an attempt by white barbers to stifle Black economic achievement. Even some white union members recognized this. One barber writing from Arkansas noticed that the membership of Colored Local No. 197 was, “growing smaller in numbers; in fact, that seems to be the prevailing condition all [the] way through the South”. While barbering had formerly been “conducted by the colored men”, by the early twentieth century it was now white barbers “getting in control of all business” (A.C. Mendell 1911, 57). Other barbers equated this previous dominance by Black barbers with the ills of the barber industry overall. One barber from Iowa reported that the “membership as a whole seems to be downtrodden,” perhaps because they follow a trade that, “was followed extensively by colored people” (O.B. Eberfuhr 1912, 522).

Since Black barbers and immigrants hindered the union’s attempts at creating a voluntary cartel, the union turned toward licensure to circumvent many of the problems that voluntary cartels face. By creating a licensing board that makes binding decisions, enforced by the state, cartel members can “overcome the hurdle of agreement that ordinarily inhibits cartel formation” (Aaron Edlin and Rebecca Haw 2014, 1133). They are also able to prevent cheating, “by imposing legal and often criminal sanctions—backed by the police powers of the state” (Edlin and Haw 2014, 1133). Various occupations understood this, and the JBIUA was no exception. A barber writing in the *Journeyman Barber Journal* from Colorado explained how, after four years of having a licensure law, “we closed up about six non-union shops, and since the law went into effect there has been only two started” (E. Anderson 1913, 113). Another barber pleaded that the barbers of Ohio should seek a license law, as it would be “some protection to them which they truly need”. The barber believed that the law could protect Ohio barbers from “incompetent men” and “the cheap foreign barbers locating in all our cities” (D.B. Welker 1913, 274).

Union members in Arkansas similarly understood what a licensure law could do to enforce a cartel. Just two years before the law was implemented in Arkansas, the secretary of the Little Rock local union lamented that “[c]onditions are bad here on account of the cheap

competition". He concluded, however, that if a licensure law was implemented, "we feal [sic.] everything will be better" (R.E. Cook 1935, 13). Since Black barbers were a threat to cartelization in Arkansas, the union moved away from voluntary unionization to enforce their desired cartel. To enforce cartelization, the union needed a licensure law that warranted the police powers of the state and a Barber Board that created rules and enforced penalties against violators. To convince the state to enact a licensure law, the union transitioned to seeking licensure and justified the state action on the grounds of public health and safety (Corley and Witcher 2021). Black barbers often understood the implications of licensure and as a result were at the forefront whenever efforts were made to resist or repeal licensure laws. For instance, in Atlanta, Georgia, a union barber reported in the *Journeyman Barber Journal* that, "[w]e are having a fight on now, as the non-union members and negro barbers are trying to get them to repeal our License Law". The barber promised that they would not let, "them kill the only thing the barber have to protect the trade" (C.B. Keesling 1922, 316).

### **The Union's Role in the Implementation of the Arkansas Barber License Law**

Since asking state legislatures for a licensure law to decrease competition would never work politically, the JBIUA justified the need for licensure in every state on the basis of public health and safety. During the Progressive era (1890-1940), public health and safety was a major concern. This concern allowed union members in Arkansas to push for the Barber License Law on the predication that it was needed to combat unsanitary and disease-ridden barber shops (Corley and Witcher 2021).<sup>17</sup> Regardless of the validity of the argument, licensure contributed to the decrease in Black barber shops and the loss of white patronage to these previously successful businesses. By "claiming the mantle of scientific hygiene", white union members could decrease the fear that citizens had while distinguishing themselves from non-white barbers who were "associated in the public's mind with disease" (Bristol 2015, 154). Though the union sought to decrease the fear of citizens through licensure, they also contributed to the fear that "illness might be lurking in barbershops". Without labeling Black men as unsanitary, the JBIUA took advantage of the fact that white physicians tended to brand Blacks as disease carriers in the late nineteenth century. This likely "triggered associations between Blackness and illness" since Blacks were so prominent in the barber industry (Bristol 2015, 163).<sup>18</sup> The concern for hygiene, stresses of union organization, and the "demands of licensing laws", would all contribute to the "progressive loss of white customers by Black barbershops" (Bristol 2015, 160).

Though creating a barber licensure law in Arkansas was the union's goal after voluntary cartelization failed, the union cared deeply about the structure of the law and how it would be administered. One of the union's main goals during the period when Arkansas administered its first iteration of the licensing exam (1938-1949) was educating barbers. While this seems innocuous, the union did so to reduce non-union market competition. Indeed, one barber writing to the *Journeyman Barber Journal* explained that "the motive for educating the barber may not be entirely devoid of selfishness, but it is the organization's one best means of combating unfair competition" (John Vlaardingen 1945, 241). The barber likely understood

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<sup>17</sup> In this article, we argue that while the union's advocacy for licensure was a form of rent-seeking, they justified the regulations by arguing that barber shops were unsanitary. We argue that the sanitation argument is a myth since we were unable to find any evidence of unsanitary barber shops at the time.

<sup>18</sup> Though Bristol writes on this in his book *Knights of the Razor*, other historians have analyzed the association between race and health. Though broad in scope, Thomas Gossett (1963) explores eighteenth and nineteenth century racial pseudoscience. Similarly, John Haller Jr. (1996) explores how social scientist in the late nineteenth century accepted the argument that Caucasians were genetically superior to other races. See also Linda Clayton and Michael Byrd (2000), John Hoberman (2012), and Thomas Leonard (2016).



that by educating union members, they could differentiate themselves from non-union members who tended to be Black. “Educating the barber” often meant teaching sanitation and new hair styles, but it manifested itself in the most extreme form as the study of “Scientific Barbering”. When the ABBE began administering licensing exams, scientific barbering played a central role. From 1937 to 1948, the first question on the state’s barber licensure exam was to explain the “Scientific Fundamentals of Barbering”.<sup>19</sup>

With scientific barbering playing such a strong role in the union and Arkansas’ licensing exam, it is clear why Blacks did not pass at an equal rate as whites. John B. Robinson, one of the union members responsible for leading the licensing effort in Arkansas, was delighted to “find Barber Science classes going in almost every local [union]” in Arkansas (Robinson 1938b, 14). Despite being competent behind the barber chair, Black barbers tended to miss out on the education that was provided by the union. Indeed, the JBIUA itself furnished union members with books on Barber Science and encouraged classes on the subject (T.J. Pillon 1938, 26). By administering licensing exams that quizzed barbers on the union’s curriculum, the ABBE was able to further the union’s interests and put non-union members at a disadvantage. Black barbers in Arkansas, and throughout the country, tended to not be union members, and for that reason failed to pass licensing exams at a rate similar to white barbers. Furthermore, the question about the science of barbering was the only question on the exam that required the applicant to write an essay (the rest of the test contained short answer questions). Blacks were also unlikely to do as well as whites on barbering exams simply because of the discrepancy in “literacy and examination experience”. Unsurprisingly, Black Arkansans received far less formal education and what they did receive was generally of a lower quality than their white counterparts. “Blacks may have difficulty with written tests because they tend to receive a lower quantity and quality of education” (Dorsey 1983, 173). Indeed, the data on southern literacy rates affirms that Blacks would have struggled more with written examinations as compared to whites. In the South in 1930, 19.7 percent of Blacks were illiterate. For whites, only 3.8 percent were illiterate (Robert Margo 1990, 7). As such, existing institutional racism probably exacerbated the poor performance of Blacks Arkansans on the exam. Not to mention that the quality of an essay response is always subject to the person who is grading and his/her own notions of what is an acceptable and correct answer. Someone who had spelling errors for instance might have scored lower than someone who had received a formal education and could write with less spelling and grammatical errors. Despite being an occupation that does not necessarily require proficient literacy, the licensing exams would require those taking it to be adequately literate to legally work.

Although some education may be necessary to practice the trade, the licensing exams in Arkansas went far beyond basics. Other questions on the exam included, “Name the types of nerves”, “Describe the heart”, and “What is pericardium?”<sup>20</sup> White union leaders felt that barbers should understand various diseases and how to prevent them, resulting in the typical barbering textbooks reading “much like medical books” (Quincy Mills 2013, 164). In this way, the union was attempting to distinguish themselves, and justify higher prices, from the current market leaders—Black barbers. By assuming the scientific mantle that was in vogue in white US-born Progressive era society, union members deliberately insinuated that non-union or unlicensed barbers, including Black and immigrant barbers, were unprofessional, unscientific, and unsanitary. Since the industry leaders happened to be Black, the insinuation was that Black barbers were unprofessional and unscientific.

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<sup>19</sup> Boone, James C.—Bressinck, R. 6, Arkansas State Board of Barber Examiners—Deceased Barbers, State Records: Barbers, Little Rock: Arkansas State Archives. Barber Examination.

<sup>20</sup> Boone, James C.—Bressinck, R. 6, Arkansas State Board of Barber Examiners—Deceased Barbers, State Records: Barbers, Little Rock: Arkansas State Archives. Barber Examination.

Barber colleges also played a role in furthering the union's goals and decreasing Black competition. In Booker T. Washington's *Negro in Business*, Washington made the claim that, "at this period in history the numerous barber schools spread throughout the north would not accept Negro pupils, and turned out thousands of excellent white barbers, who were displacing Negroes in the finest shops in the country" (Washington 1907, 146).<sup>21</sup> Though Black men could attend Black barber colleges by the time Arkansas' law was passed (1937), the cost of attending could still discourage Blacks without the necessary wealth from pursuing barbering (Mills 2013, 164). Attending barber college would give one an advantage over those who took the apprenticeship route, since the colleges provided, "classroom instruction on the theoretical aspects of barbering and considerable drill on questions found in barber board review books" (Benjamin Shimberg, Barbara Esser, and Daniel Kruger 1973, 153). Furthermore, barber colleges contributed to the marginalization of Black barbering through their practice of segregated instruction. Despite Blacks frequently cutting the hair of white people prior to licensure, barber colleges gave sanction to segregation by, "omitting from the prescribed curriculum any requirements that white students be taught to cut the hair of Negroes and vice versa". The various Barber Boards, in coordination with the colleges had, "apparently been tolerant of the discriminatory practices of training institutions" (Shimberg, Esser, and Kruger 1973, 164).

Though Black and white barbers in Arkansas passed licensing exams at significantly different rates, this only occurred from 1938 to 1949. After 1949, more barbers passed the exam and the racial disparity declined.<sup>22</sup> Part of the reason for this is that the ABBE created a new licensing exam in 1948. The new exam decreased the number of questions from fifty to twenty-five, omitted the scientific barbering essay question, and focused more on basic sanitation and barbering practices.<sup>23</sup> The reason for this is not clear. Part of the explanation could be that, by 1948, the ABBE had decreased the number of barbers so much that it was hurting its revenue. One aspect of the barber law was that the ABBE relied on licensed barbers paying annual fees as a part of their budget. Perhaps the ABBE made exams easier to increase their funding. It could have also been that, by 1948, the ABBE had met its goal of limiting Black barbers and barber shops. If the "unfair competition" had been eliminated, the ABBE could ease off on its own efforts to avoid failing competent white barbers. Another possible explanation for the transition is that the ABBE may have genuinely realized that the initial exam was too difficult and that some of the questions were irrelevant and simply decided to transition to a test that better reflected proficiency in the industry.

### **How Regulatory Changes Furthered Union Goals in Arkansas**

The members of the ABBE and their decisions could also harm Blacks and other minorities. This is perhaps unsurprising considering the composition of the ABBE. Like most states, successive governors of Arkansas appointed union members to the ABBE. These barbers would have a special interest when it came to union goals and could attempt to influence the ABBE in that direction. Governors also failed to make the ABBE representative of the state or even the barber industry.<sup>24</sup> Not until 1953 did the ABBE include any Black barbers (ABBE

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<sup>21</sup> While it is unclear if Washington's comment applies to Arkansas given the different period (and geographical area), it is clear from the quotation that he abhorred the development of barber colleges.

<sup>22</sup> Very few barbers did not pass their exam after 1950. Furthermore, the ABBE stopped their practice of marking a (C) next to Black barbers in 1967, making differentiating pass rates by race difficult.

<sup>23</sup> L.A. Noble to Mr. Bechtelheiner RE: Enoe Bowie, April 16, 1943, Camden Arkansas. Microfilm: State Records. MG06307 AHC, Arkansas State Board of Barber Examiners, Deceased Barbers—Boon-Bressnick. R. 6.

<sup>24</sup> Through email correspondence with the ABBE, we were told by an employee that they had never been aware of any Black Board Members (just inspectors).

1953, 212). Even when it did employ two, they were made inspectors and given the task of inspecting the “colored people” (ABBE 1953, 213). Perhaps because Blacks did not have much of a say on the ABBE, the white members could harm minority barbers regardless of whether that was their intent. For instance, on one occasion the ABBE refused to re-issue a license to a barber named Garner Robinson despite being eligible for his license. Having failed to issue the license to this Black barber in 1944, the ABBE corrected its mistake in 1947, admitting that the action was illegal (ABBE 1947, 126). For three years Mr. Robinson was not allowed to work through no fault of his own. It is impossible to quantify how often simple bureaucratic mishaps or private prejudices might have hurt qualified barbers in Arkansas.

In addition to the ABBE potentially being discriminatory, there is evidence of some corruption and greed among the ABBE members. For instance, in 1953, a legislative audit of the ABBE revealed that two members were getting paid as inspectors though that was not their job. The same members were also found to be drawing expense money from trips that never occurred and resigned after being requested to do so by Governor Francis Cherry (*Hope Star* 1953, 4). The ABBE also made blatant attempts to further protect their industry and went to absurd lengths to prevent competition long after the barber law was passed. For instance, after receiving complaints that women were cutting men’s hair in 1971, the ABBE tried to argue that only men could cut men’s hair under the law. After discussing the matter, the Attorney General’s office announced that there was nothing in the law preventing men from receiving haircuts from women (*Northwest Arkansas Times* 1971, 14). While there is evidence of harm being done by the ABBE, historians may never know the full extent to which it negatively affected poor and minority entrepreneurs.

While the initial impact of licensure on Black barbers was significant, given their previous dominance in the industry, the barber licensure law continued to negatively affect other minorities, women, and immigrants over time. The ABBE used its regulatory authority to restrict the number of barbers not only by instituting examinations, but also by promulgating new regulations over the years that protected native white barbers. Indeed, though some barbers found the law of 1937 too draconian, union members tended to find the original licensure laws too weak. Getting the licensure law passed was the JBIUA’s main goal, but increasing its regulatory strength was advocated by barbers and their state and local unions that wanted even less competition (Hall 1936, 88). One barber writing in the *Journeyman Barber Journal* attempted to relate the barbers’ situation to that of lawyers and doctors. Rather than complaining about regulations, doctors and lawyers were, “trying to improve their laws to make it harder for anyone else to become doctors and lawyers”. As such, he believed that barbers should continue to protect themselves to keep, “every Tom, Dick, and Harry from learning our trade and overrunning the country with would-be barbers” (H.C. Wenzel 1915, 508).

The ABBE was preeminently positioned to further raise barriers to entry into the occupation as desired by the union. The initial law of 1937 stipulated that barbers receive 1,000 hours of training, pay a licensing fee, and pass an exam. However, by 1950, Arkansas barbers were required to have 1,500 hours of training during a nine-month period of continuous instruction, while working no more than eight hours in any working day (ABBE 1950, 177). Board regulations also required barber colleges to further restrict the supply of barbers. For instance, in 1946, the ABBE restricted the number of students per barber instructor to 25, though they increased it to 30 in 1954 (ABBE 1954, 227). The ABBE also passed a motion as recently as 2015 that stipulated that no barber school be located within a 50-mile radius of another school (ABBE 2015, 774). Though having nothing to do with barber competency and sanitation, the regulations would protect established barber colleges at the expense of potential new entrants, and generally limit the number of barbers.

The ABBE made other efforts to protect established barbers as well. Licensed barbers in Arkansas and other states restricted the number of apprentices to one per shop. The ABBE

adopted this measure in 1949, likely to prevent barber shop owners from employing numerous apprentices who were willing to work for less money (ABBE 1949, 166). Around this time, more than half of the states limited the number of apprentices in each shop, usually to one (Hall 1936, 62). In 1954, Arkansas's Board also adopted the practice of not allowing out-of-state barbers to receive a shop certificate to open a barber shop until they had resided in Arkansas for one year (ABBE 1954, 228). As recently as 1996, the ABBE established that felons similarly could not attend barber college until they had been out of prison and remained out of trouble for one year (ABBE 1996, 624). Another blatant barrier to entry that the ABBE established was requiring those who failed the barber exam to receive 500 additional hours of schooling before they could retake the exam (ABBE 1964, 351).<sup>25</sup> It would be hard to defend these regulations as being for the protection of consumers, but they certainly protected those barbers who were already established in Arkansas.

### Barber Licensing and the Courts

Though occupational licensure laws and particularly Arkansas' barber license law negatively affected minorities and poor laborers, the courts mostly ignored protests over their constitutionality. Arkansas barber H.C. Beaty challenged the barber license law in Arkansas' Supreme Court in 1938. In *Beaty v. Humphrey*, despite Beaty's claim that the law created a "virtual monopoly of the barber trade", the court found no constitutional issues (Beaty 1938). In fact, in every state supreme court decision on the issue, the court has found barber licensing to be constitutional.

While the Arkansas Supreme Court upheld the barber license law, it did not uphold every license law. For instance, in 1924, Arkansas' Supreme Court struck down a plumber license law in the case of *Replogle v. City of Little Rock* on the grounds that the power wielded by the Plumber Board could be used in a discriminatory way (Bernstein 1994, 97). Despite raising important questions in 1924, the court failed to consider the same in 1938. Likely, part of the reason is that by 1938, Arkansas was one of the last states to implement a barber license law, and every other court had upheld the legality of barber licensure.

The law of 1937 also did not mention race. In some states that implemented licensure laws earlier than Arkansas, barber regulations were not even overtly racially neutral, and the courts did protect minority workers from discriminatory laws. For instance, in Georgia, barbers overtly attempted to exclude Blacks though the implementation of a barber licensure law and it resulted in the case of *Chaires v. Atlanta* in 1927. After the city of Atlanta, Georgia, passed an ordinance requiring barbers to only serve members of their race, Black barbers and sympathetic whites caused an uproar. Responding to the criticism, the city modified the ordinance to only keep Black barbers from serving white women or children under the age of fourteen. To avoid criticism, the Chamber of Commerce provided lawyers to fight the law in courts. In the impending case, *Chaires v. Atlanta*, the Georgia Supreme Court struck the ordinance down as a violation of equal protection, property rights, and substantive due process (Bernstein 1994, 99-100). In the similar case of *Templar v. Board of Barbers* in 1902, a Michigan court struck down a law banning undocumented immigrants from becoming licensed barbers (Bernstein 1994, 131). What these cases suggest is that while state courts often upheld economic regulations and laws that impacted an individual's right to make a living, the courts did strike down regulations that were overtly racially motivated. Thus, even if Arkansas

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<sup>25</sup> While established barbers may argue that additional education requirements serve the purpose of screening out bad barbers or improving the productiveness of barbers, we find reason to believe otherwise. In a paper looking at the relationship between CPA educational requirements and candidate performance, Brian Meehan and Frank Stephenson (2020) found that there was no relationship between performance and educational requirements. The only relationship found was a negative relationship between additional education requirements and the number of candidates.

barbers wanted to exclude Blacks from the industry, it is unlikely that they would have overtly included those motivations in the law. If barbers in Arkansas wanted to exclude minorities, they had to do it through a *prima facie* racially neutral law to pass constitutionality.

## Conclusion

The Arkansas Supreme Court, Journeymen Barber's International Union of America, and Arkansas Board of Barber Examiners all deserve criticism for their role in creating and perpetuating the barber license law that harmed Black barbers. The JBIUA and white barbers in Arkansas had multiple goals and aspirations in pushing for the barber license law. Yet, union leaders agreed that achieving those goals would only be possible by passing a licensure law that would reduce the total number of barbers in each state and the nation overall. Indeed, when the Arkansas State Association of the JBIUA met in 1939, it was newsworthy to report that, since 1937, there were roughly 800 less barbers in Arkansas, "due to the passing of the law" (Cook 1939, 4). It is not abundantly clear as to whether barbers in Arkansas had the desire to push Blacks out of the barber industry, but the passage of legislation that they supported and promoted resulted in significantly fewer, and less successful, Black barbers.

Though the main goal of the barber licensure law was to reduce the number of barbers in Arkansas, the ABBE perhaps underestimated how successful their efforts would be. In 1974, the ABBE met with Eaton Barber College to discuss low enrollment numbers and how they might increase the number of barbers in Arkansas. Though they did not speculate as to why there was a "critical shortage of barbers", they did make plans to do things such as, "going into high schools on career days and giving lectures and demonstrations and upgrading the school curriculum" (ABBE 1974, 463). Fifteen years later in 1989, the issue of low barber numbers remained. During a meeting on the matter, the Executive Secretary reported that there had been a decline of 946 barbers over the previous 17 years, and then "there was a lot of discussion as to why" (ABBE 1989, 574). Despite being the institution most responsible for decreasing the number of barbers in Arkansas, the ABBE remained ignorant as to why the supply of barbers was decreasing in Arkansas.

There are several reasons for the decrease in barbers in Arkansas and the country overall. Part of the reason is that the profession changed because of technological advancements. In the period we analyze (1890-1940), men got haircuts and shaves in barber shops frequently. Since the personal razor started to become more popular in 1903, barbers mostly lost that element of their business, resulting in a smaller supply of barbers to meet the demands of consumers (Mills 2013, 199).<sup>26</sup> It could also partially be explained by the influx of female laborers who entered the profession of cosmetology. In a world of changing cultural norms and habits, men are more likely than ever to visit a cosmetologist. Nonetheless, barbers in other states came up with their own explanations for why the supply of barbers was decreasing. For instance, in 1970, the Secretary-Treasurer of a local union in Chicago complained that "[t]he number of barbers in Chicago has been trimmed by the long-hair fad". To combat this issue, the barber encouraged his union members and even his wife, "not to patronize long-hairs". He even went as far as to say that the government should do something such as, "kick these long-hairs out of school, as dirty as some of them are. This is a national problem, it's hurting barbers all across the country" (Associated Press 1970, 6). The ABBE never considered these factors, but more importantly they never considered the most important factor—their own barriers that discourage entry into the profession.<sup>27</sup>

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<sup>26</sup> In *Cutting Along the Color-Line*, Mills explains that while the safety razor had already been invented before 1903, King Gillette streamlined the production of safety razors in 1903, making them more affordable and common.

<sup>27</sup> Research by Joshua Hall and Shree Pokharel (2016) supports the claim that there is a negative relationship between licensing exams and the number of barber shops per capita. Darwynn Deyo (2017)

While the barber law in Arkansas historically had a negative effect on minorities, there is reason to believe that the law continues to harm minorities today. Many scholars have found that states with burdensome occupational licensing requirements put minorities at a disadvantage in the labor market. With the current climate and concern for racial inequality, reducing some of these burdens might be a way of closing the gap. For instance, an Arkansas study done by Thomas Snyder (2015) found that a two-thirds reduction in the number of jobs that require a license would reduce poverty among Blacks by 15.6 percent. There's also reason to believe that reducing licensing burdens would benefit immigrants. Stephen Slivinski (2017) found that states with lower licensing burdens had 14 percent higher immigrant entrepreneur rates. On the other hand, states with higher burdens had rates 11 percent lower.

Though reforming occupational licensure laws and regulations is often met with opposition from those who are already a part of the licensing scheme, doing so could benefit those who struggle the most in the labor market. In considering these regulations, we believe that the historical motivation behind those who originally pushed for the law should be considered. It is evident from our research, that the barber licensure law in Arkansas was pushed by mostly white union members who wanted to decrease Black competition. The implementation of the Arkansas Barber License Law resulted in benefits to organized white labor, while consumers, immigrants, and Black barbers bore the greatest burden in their loss of employment and market competitiveness.

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finds that states with licensing exams have less competition and overall lower quality of service. Alicia Plemmons (2019) demonstrates that states with strict occupational licensing requirements have less employment and fewer firms. Although they examine cosmetology and not barbering, Frank Adams, John Jackson, and Robert Ekelund (2002) find that increases in licensing regulations result in a smaller workforce, wage gains for those who are licensed, and deadweight losses.

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