

LABOR'S LAST STAND: DISPATCHES FROM THE NEW UNION MOVEMENT IN  
AMERICA

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## **ABSTRACT**

ADAM LINKER: Labor's Last Stand: Dispatches from the New Union Movement in America (Under the direction of Chris Roush, Ferrell Guillory and Thad Beyle)

Labor unions are in an important time of change. As memberships decline, a new organization, called Change to Win, has broken from the AFL-CIO in an attempt to organize new members. This thesis follows this new push to unionize more workplaces. It also examines the legal barriers that thwart organizing drives and new attempts to reform those laws. Finally, it describes the internal battle over forging a cohesive immigration policy. The goal is to explore the new surge in organizing, while also recognizing the internal and external problems that still plague the American union movement.

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## INTRODUCTION

As the influence of labor unions has waned in the past 50 years, mainstream media have devoted less time to following the fortunes of labor organizations. Because newspapers, magazines and television have ignored the changes in national unions, they are underreporting some of the most significant shifts in the labor movement since the AFL-CIO merger in 1955. The purpose of this thesis is to fill that gap.

In 2005, Andy Stern, president of the Service Employees' International Union, led SEIU and a group of other unions out of the AFL-CIO to create a new union affiliation called Change to Win. Stern's move split the labor movement, and Change to Win is devoting its resources to organizing new members by revitalizing old campaigns and launching new union drives, like Hotel Workers Rising, that target entire industries. The strategy of unions and the attempt to remake the American labor movement has important implications for both industry and workers. Nonetheless, because of the way labor reporting itself has evolved, most news organizations are missing this significant story.

The story of working people has always been an important narrative in American history. In his influential book of early labor history *Chants Democratic: New York City and the Rise of the American Working Class*, Sean Wilentz argues that during the Early Republic, workers used the collectivist and class-conscious rhetoric of the American Revolution to demand their rights. Many of the workers' demands went ignored, Wilentz says, as an

entrepreneurial vision of a free market economy developed in the United States. This idea of individual drive and the belief in a workplace meritocracy explain some of the knee-jerk hostility Americans have felt toward unions ever since.

Historian Lizabeth Cohen argues in *Making a New Deal: Industrial Workers in Chicago, 1919-1939* that by the time of the Great Depression, the idea of the liberal society was fully ingrained in workers. Most laborers in Chicago, Cohen says, thought of themselves as partners in the national program to lift the nation out of economic distress. Far from trying to overthrow the government, they worked within Franklin D. Roosevelt's New Deal programs to better their lot.

Despite workers' acceptance of the liberal free-market economy, it is still important to examine the culture and demands of some breakaway union groups. In *We Shall Be All: A History of the Industrial Workers of the World*, for example, Melvyn Dubofsky traces the story of leaders like Eugene V. Debs and Mary Harris "Mother" Jones and their attempts to organize workers around the world. The IWW, Dubofsky explains, was squeezed by government officials and internal wrangling and eventually collapsed under its own weight. Leon Fink in *Workingmen's Democracy: The Knights of Labor and American Politics* contends that the radical third party established in opposition to the Democrats and Republicans challenged the anti-labor stance of the major parties. Fink believes that the middle class aspirations of the Knights of Labor's leadership helped undermine the organization, but some of their policy concerns, like capping work hours and establishing a minimum wage, were adopted by the major parties. Now the radical ideas first pushed by unions and labor parties are routine parts of the American economy.

Historians of labor often record the lives of influential union leaders. Bernard Mandel wrote a favorable biography of Samuel Gompers in 1963, examining his rise from humble cigar maker to a Washington powerbroker as head of the American Federation of Labor. Another important biography is Nelson Lichtenstein's work *The Most Dangerous Man in Detroit: Walter Reuther and the Fate of American Labor*, which discusses how the head of the United Auto Workers union as he employed creative organizing strategies to combat the "Big Three" automakers. Reuther became not only a labor leader but an influential figure in the Civil Rights Movement and other liberal causes.

In the book *Taking Care of Business: Samuel Gompers, George Meany, Lane Kirkland and the Tragedy of American Labor*, Paul Buhle provides a different perspective than many of these sympathetic biographies. Bule argues that many of the nation's important union leaders became like the businessmen they battled. The tendency of union leaders to service existing members, wine-and-dine congressmen and strike deals with industrialists became known as "business unionism." Some argue that this style of leadership left American workers disenchanted with the labor movement. Others say that these outsized personalities in the union movement made labor a force to be reckoned with in Washington.

The centrality of labor's proposals to the American political agenda suggests that unions deserve more coverage than they currently receive. In this tumultuous time for labor, unions are trying to establish new ideas for the global economy. These policy proposals could move from the fringes to the political mainstream, especially as job losses in manufacturing and other sectors highlight the importance of job security. And the success of Barbara Ehrenreich's *Nickel and Dimed: On (Not) Getting By in America* suggests that there is pent up demand for reporting that tells compelling stories about working people trying to

survive. Ehrenreich took a series of low-paying jobs to see if she could make a living working at Wal-Mart, waitressing and cleaning houses. The book was a bestseller, and, according to a Columbia Journalism Review article by Scott Sherman, it elicited a strong reaction from conservative groups who labeled the book “a classic Marxist rant.” If the job of journalism is to provoke, *Nickel and Dimed* proves that labor journalism still has much to contribute.

Scholars of labor reporting often note that the voices of working men and women were excluded from mainstream press outlets since the modern industrial workforce first began taking shape in the early 19<sup>th</sup> Century. According to an article in *Journalism History* by Rodger Streitmatter, when laborers and trade unionists did make news, papers sided with “merchant capitalists and the growth and progress that they symbolized” instead of taking up the cause of unions. This hostility led members of early trade unions in the Northeast to form the fledgling labor press, according to Streitmatter. Two of the earliest, and most significant, labor papers were the *Mechanic’s Free Press* in Philadelphia and the *Free Enquirer* in New York City, both started in 1828.

In an overview of the nascent labor press as part of the “Labor Press Project” at the University of Washington, Karla Kelling wrote that papers founded by the union movement gained social and political capital with readers and potential readers by advocating for a series of reforms supported by working class people. Such papers as the *Mechanics Free Press*, the *Free Enquirer*, and the *Working Man’s Advocate* agitated for shorter working days, laws limiting child labor, establishment of public education and the abolishment of debtors’ prisons.

This tradition of advocacy, and of creating journals specifically for working people, continued into what Kelling calls the “golden age” of working-class newspapers from the late 19<sup>th</sup> century to World War II. Again, these publications were primarily journals published by the Knights of Labor, the American Federation of Labor, local communist and socialist organizations, and the Industrial Workers of the World. Scholars agree that the metro dailies were universally hostile to the labor press and many of the goals of unions. In 1887, according to an article in *Journalism History* by Jon Bekken, the *Chicago Tribune* wrote that members of the union friendly United Labor Party wanted to “confiscate property by form of law and throw revenues of honest enterprise into a common pool for plunder.” In his article Streitmatter notes that dailies called labor press editors “poor and deluded” and “the slime of this community.”

After World War II, labor reporting grew in importance for metro dailies as unions hit their peak in membership and influence. In the 1950s, when the American Federation of Labor merged with the Congress of Industrial Organizations, 36 percent of the U.S. workforce was unionized. The percentage of American workers who are union members has dropped steadily since the merger to less than 13 percent in 2006. Many of the nation’s largest papers like the *New York Times*, the *Los Angeles Times* and the *Washington Post* capitalized on the power of the labor movement, and on social movements of the 1950s and 1960s, by establishing a regular labor beat. According to a *DISSENT* article by Jo-Ann Mort, labor reporters like Abe Raskin of the *New York Times* and Harry Bernstein and Bob Baker at the *Los Angeles Times* reported on the internal workings of the AFL-CIO as an organization.

These early labor reporters also helped transform the relationship of newspapers to organized labor. In a May 4, 2006, *Los Angeles Times* obituary for Bernstein, Jon Thurber

wrote that before Bernstein was hired in 1962 the “paper’s antipathy toward organized labor was historic and deep.” Bernstein did straight reporting on unions and tried to take the management bias out of labor reporting. In the 1960s and 1970s Bernstein’s articles were front-page material. In the 1980s Bernstein began a labor column that appeared in the business section of the paper. In the 1990s the column moved inside the business section. Jo-Ann Mort in her 1992 DISSENT article quotes Bernstein: “My own column continues, and what I write is not censored in any way. But I just don’t know about its future.”

In the 1980s and 1990s as the percentage of unionized workers slipped nationally many papers determined that organized labor was no longer a relevant coverage topic. In the 1970s about 25 percent of the nation’s workforce was unionized. That percentage fell or remained steady every year for the next two decades. Today about 12.5 percent of the workforce is unionized, according to the Bureau of Labor Statistics. Still, 12.5 percent is 15 million workers, and many of those union members are concentrated in large urban areas where many of the metropolitan daily papers are located. Nevertheless, editors do not want to cover a movement that appears to be waning in strength and influence. When William Serrin, Abe Raskin’s successor on the labor beat, left the *New York Times*, the paper transformed its labor coverage into a national “workplace” beat to cover trends in the offices of the new, technology driven, economy.

The rise of the workplace and commuter beats have come at the expense of the labor and poverty beats, assignments that used to cover blue-collar workers. In the past decades few publications have devoted space to labor coverage. Dramatic strikes draw fleeting coverage, but stories are not put in context because the reporters do not understand the organizational implications or strategic importance of particular unionizing campaigns.

Coverage, as many scholars have noted, is also skewed toward reporting the impact of strikes on consumers and company shareholders instead of examining the lives of workers.

In his 2004 book *Framed! Labor and the Corporate Media*, scholar Christopher Martin argues that five dominate frames characterize labor coverage in the mainstream media: the consumer is king, the process of production is none of the public's business, the economy is driven by great business leaders, the workplace is a meritocracy and collective action is bad. Martin argues that the media are anti-union and not simply neglectful of labor reporting. The reason for the hostility, Martin says, is because papers and broadcast outlets are themselves big businesses motivated by profit. Some publishers, like Katherine Graham at the *Washington Post*, even took extreme measures to break unions at their newspapers.

Over the past decade the number of dedicated labor reporters has dwindled. Aaron Bernstein, son of labor reporter Harry Bernstein, provided thorough coverage of the labor movement at *BusinessWeek* since 1983. Stephen Adler became editor of *BusinessWeek* in 2005, and a year later he fired Bernstein. In a critique of Adler's leadership, *The New Republic* labor reporter John Judis noted that *BusinessWeek* once included stories about "labor unions, wages, working conditions, job training, job safety" and was less pro-management than *Fortune* or *Forbes*. Judis concludes that *BusinessWeek* no longer takes labor seriously and "aspires to be the *People* of the business world."

At Labor Media Watch, part of the Labor Resource Center at Queens College, Janine Jackson has long decried the fall of the labor beat. In one article she labeled the workplace beat "a brand of soft, nonpolitical reporting that describes the problems workers face as lifestyle issues, not as economic disputes." Jackson cites a *New York Times* story about wage earners needing two and three jobs to make ends meet. The article focused on the constraints

of working onerous hours, but did not explain the economic reasons that people must find additional jobs.

Besides Judis at *The New Republic*, Harold Meyerson, who writes columns for *LA Weekly*, the *American Prospect* and the *Washington Post*, and David Moberg at *In These Times*, are some of the few remaining journalists who cover the labor movement fulltime. This is during a time when a group of the largest unions left the AFL-CIO to form the Change to Win coalition, a new organization committed to aggressively organizing new members. It was Aaron Bernstein who first covered Andy Stern, president of the Service Employees International Union, and his grievances with his former mentor John Sweeney that led to the split in the labor movement in a Sept. 13, 2004, *BusinessWeek* cover story “Can This Man Save Labor?” Change to Win is now testing new strategies and there are few people left to cover the upheaval.

In the 1984 *Columbia Journalism Review* article “Downtime for labor: Are working people less equal than others – or is labor just a dead beat?” reporter Michael Hoyt quotes longtime labor reporter Abe Raskin as saying that people are no longer interested in the union movement. “It’s just that labor is a much less significant element in terms of shaping policy or even innovating in terms of shaping policy or even innovating in terms of its own problems.” Hoyt argues that people are not interested in labor unions because reporters are unsure how to cover working people. He posits that journalism now attracts more reporters who “grew up viewing labor from the other side of the class fence than it did, say, a couple of decades ago.” The problem with such an argument is that it assumes people on each side of the “class fence” have competing views of the union movement. Hoyt argues that reporters

can solve the lack of interest problem by writing livelier stories that employ creative methods to cover labor.

Since Change to Win began in 2005 by walking out of the AFL-CIO executive council meeting, labor unions are more creative in the way they operate. The new union affiliation is getting more aggressive in longstanding organizing campaigns like the United Food and Commercial Workers drive at the Smithfield Packing plant in Tar Heel, N.C. With the “Hotel Workers Rising” campaign, Change to Win member union Unite Here is attempting to organize the largest hotel chains in a simultaneous, nationwide effort. The problem is that there are few newspapers left that will cover these developments.

Many of the individual Change to Win campaigns have garnered intermittent coverage. A walkout at the Smithfield Packing pork slaughterhouse, for example, drew coverage from local papers such as the *Fayetteville Observer* and *The (Raleigh) News & Observer* as well as national outlets such as the *New York Times* and National Public Radio. Few of the stories, however, put the walkout in an organizational context. Instead they focused on the immigration issue and on problems with the Social Security numbers workers gave to company. But the walkout took place within the context of the UFCW and Change to Win commitment to organize new workers and disrupt the company until managers agree to speak with union leaders or arrange a card count election. The PBS show “Now” featured the Smithfield plant in 2006 in a segment called “Food Fight” and did not mention the Change to Win coalition at all. Because reporters do not regularly cover the labor movement, they have missed how the ruckus at the slaughterhouse is part of a larger strategy that may be employed at other factories if the Smithfield campaign proves successful.

Similarly, the Hotel Workers Rising effort gets local coverage as workers protest hotels in a particular city or contracts are signed at individual hotels. The *Los Angeles Times*, for example, covered a fast by hotel workers to protest working conditions at city hotels. The fast was part of the Unite Here drive, but the *Times* did not make the connection clear and wrote as if the fast were a local phenomenon. The *San Francisco Chronicle* and the *San Francisco Business Times* have done a good job of putting the Hotel Workers Rising campaign in a national context, probably because during a 2004 lockout hotel managers denounced the nationwide union strategy as harmful to local businesses. For example, an article from the July 18, 2006, issue of the *San Francisco Chronicle*, headlined “Hotel contract talks resuming” notes that union officials wanted to coordinate the expiration of hotel workers’ contracts with locals in other cities so that Unite Here could threaten strikes in cities across the country to improve their bargaining power. Coverage in other cities, however, often misses that strategic point.

The goal of this series of articles on the Change to Win coalition and the modern labor movement is to report on some of the attempts by the new organization to revive their unions. By reporting on individual problems and campaigns, and putting those union drives in a national context, I hope to show that labor still has a story to tell. In these articles I will not only put the unions in context, but the businesses as well. It is, after all, the conglomeration of major hotels that has led to Unite Here’s strategy of organizing nationally so that the union can pressure entire hotel chains, instead of individual locations. It is the move by Smithfield Foods to put all of their hog processing operations under one roof that led to the building of a 1 million square-foot factory in rural North Carolina.

Each campaign of the modern union movement involves the strategic dance of business and labor, law and politics. Also there are many intriguing stories to tell of ordinary people trying to do what is best for their families or businesses. As labor reporter William Serrin said: “Covering labor is not writing about Lane Kirkland; it’s writing about a hundred million people in the work force. How can a hundred million people be boring?”

This thesis will be divided into four magazine-length articles. The first article will profile Keith Ludlum, a worker at the Smithfield Packing plant who was fired when he first tried to help the UFCW organize the plant in the early 1990s. Ludlum was recently reinstated to his job and is now working inside the plant and agitating for a new union vote. Change to Win has made the Smithfield drive a marquee campaign and is devoting enormous resources to the campaign. At the same time, Smithfield Foods has grown into one of the largest meat suppliers in the world. This showdown will test the future of labor and business.

The second article will examine labor’s efforts to forge a policy on immigration. Many of the industries organized by Change to Win unions are dominated by immigrants, and the organization currently has a muddled policy that supports guest worker programs. Some rank-and-file members of unions feel that immigrants drive down wages and hurt organizing campaigns, and they take a hard line anti-immigration view. There is also a movement within SEIU, however, called “No worker is illegal” that is trying to get SEIU, the nation’s largest union, and Change to Win to drop their support of guest worker programs and support amnesty. Labor’s policy on immigration could divide the movement and bring the entire Change to Win coalition down.

The third article will discuss the new legislative push by unions to revise the ground rules of organizing. The bill pushed by unions, called the Employee Free Choice Act, would

force employers to recognize a union if a majority of workers sign authorization cards. This chapter will examine the laws currently governing organizing drives, and explore how the Employee Free Choice Act might change those rules. Also, the reaction of politicians and business groups are described as well.

The fourth and final article will assess the long-term viability of Change to Win. Change to Win could represent a minor insurgency meant to jolt the union movement before it returns to the AFL-CIO fold, or it could be a permanent rival to the old organization. What are the implications for the union movement under each scenario, and what is the AFL-CIO doing to respond to the upstart affiliation? Can Change to Win revive the union movement in America or will a divided house of labor weaken the political power of working people?

## **Chapter 1**

### **The Long Drive**

The factory loomed black and boxy in the early morning light as Keith Ludlum strode across the parking lot clutching a poster-board sign and wearing a bright yellow shirt. It was 5 a.m., and Ludlum, a worker at the plant, had arrived before the first shift to encourage employees to stay out of work in protest. He met a few other workers wearing yellow T-shirts as he walked, and they quietly positioned themselves in the halo of industrial light near the front door of the building. Then they waited.

The plant, owned by Virginia-based Smithfield Foods, is tucked into a rural corner of southeastern North Carolina in the town of Tar Heel. Thanks to the recent acquisition of rival Premier Standard Farms, Smithfield is now the world's largest pork company, and its Tar Heel operation is the world's largest hog slaughterhouse. The company has grown rapidly by contracting with local farmers to grow hogs, putting all of its slaughtering and processing units under one roof and by acquiring smaller pork producers. Smithfield now processes nearly eight million hogs a year at the Tar Heel plant, and reaps \$11 billion in revenues company-wide.

And it is in sparsely populated Bladen County—dotted with cotton fields and trailer parks—where forces are converging that will test the future of the labor movement in the United States. Agribusiness companies in North Carolina have consolidated their operations and gained enormous financial and political clout in the past decade. At the same time, a split

in the AFL-CIO labor alliance has created a faction of unions pouring energy and resources into organizing new members. The Smithfield plant in Tar Heel has always been a union target; now it is a central campaign in the desperate movement to give labor new life.

The knot of workers gathered at the plant's entrance on this brisk November morning were not all union supporters; they were there to protest the mass firing of immigrants. Several weeks earlier the company was notified by the U.S. Immigration and Customs Enforcement agency that documents for hundreds of employees at the Tar Heel plant did not match known Social Security numbers. Smithfield gave the workers two weeks to straighten out their papers. The problem was that many of the immigrant employees, who constitute an estimated three-quarters of the plant's 5,000 workers, could not quickly access the paperwork necessary to support their immigration claims. Rumors quickly spread – then panic.

Smithfield finally began firing workers—more than 50 in total—and hundreds of Hispanic workers spontaneously walked out in protest. The 35-year-old Ludlum joined the walkout in solidarity, along with a handful of black workers. The protest drew national press attention, not only to the immigration issue, but also to working conditions at the slaughterhouse.

Despite the protests and the media coverage, Smithfield executives refused to budge. They did, however, agree to meet with a group of Catholic lawyers from Raleigh who had volunteered to work as a third-party liaison between Smithfield and the workers. That night Ludlum met with other sympathetic employees and organizers from the United Food and Commercial Workers Union to plot their next move. The group decided to meet the next morning and continue the protests until the company agreed to rehire the immigrant workers.

Ludlum, a beefy ex-soldier with rounded shoulders, large, square-rimmed glasses, and a salt-and-pepper buzz cut, stood at the plant entrance as the first-shift crew began to arrive and yelled, “You have to stand up for yourself. Don’t work today.” Another worker and union activist from Mexico paced in front of the door saying, “Por favor. Por favor.” Some joined the protesters; others were hostile. One woman snatched a cigarette from her mouth and threw it to the ground saying, “I’ve got to buy Pampers.” By the time the sun had peeked over the nearby pines, the protesters’ ranks had swelled to more than 300 people.

The two-day protest was unexpected, but it was nothing new for Ludlum, who has been fighting Smithfield for many years. The United Food and Commercial Workers International Union began trying to organize the plant in the early 1990s. Eduardo Pena, the lead UFCW organizer on the campaign, says that earlier efforts to organize the plant were bound to fail. “They organized a traditional campaign focusing only on workers and trying to force a union vote,” he says. “Now we are getting the whole community involved.” In many ways the Smithfield campaign is indicative of the new organizing style unions are pursuing. Instead of getting union cards signed and petitioning the National Labor Relations Board for a vote, unions now create a boisterous public relations blitz and enlist the help of other community organizations to pressure companies to bargain with the union without a secret ballot vote.

“Justice at Smithfield” is what organizers call the effort to unionize the hog plant, and the moniker purposefully echoes the name Justice for Janitors. Justice for Janitors, the successful drive to unionize immigrant workers in Los Angeles, pioneered many of the techniques employed by the Smithfield organizers. There is a website for Justice at Smithfield that includes YouTube video clips of workers describing their injuries. E-mail

alerts are sent to listserv subscribers to keep people around the world engaged with the campaign. The campaign has designed distinctive yellow shirts and has shipped workers to New York, Washington, D.C., and Smithfield, Va., to protest working conditions. Workers from the Tar Heel plant even attended the ritzy premier of the movie *Fast Food Nation* in Los Angeles.

Technology is an important new organizing tool employed by modern unions. But the Smithfield campaign also shows the limits of a high-tech mobilization effort. If the UFCW union is to succeed, it will be due mostly to the low-tech advocacy of Keith Ludlum. Ludlum was hired by Smithfield in 1993, a year after the plant opened, to work in the livestock section as a hog driver. Drivers go into the pens with live hogs and drive them into aisles, where the animals are then stunned and killed. Ludlum says that some people clap and yell to drive the pigs. “You’re covered in hog feces,” he says of the work. “Drains are plugged up and stuff splashes in your face. People get skin conditions from it.” The livestock are also dangerous. “You’re dealing with 250-pound hogs.”

Ludlum did not know anything about unions when he began the job. He grew up as an Air Force brat and lived throughout the world. As a young man he was not particularly rebellious, but he always spoke his mind. He joined the Army out of high school because he did not want to follow his father into the Air Force. “After about a week I knew I made a mistake,” Ludlum said. “Then after they sent me to Desert Storm I really knew I made a mistake.”

Before Ludlum was shipped to the Middle East, he says that his drill sergeant, Sergeant Lopez, chose platoon leaders. The day Ludlum boarded a bus bound for the airport the platoon leaders were AWOL, absent without leave. Ludlum says that he climbed the

stairs of the bus and shouted back down, “Hey, Sergeant Lopez, you really know how to pick leaders.”

Ludlum learned valuable lessons in war. While stationed in Saudi Arabia with the 295<sup>th</sup> Supply Company, Ludlum says that he witnessed the abuse of Filipinos by companies in the Middle East. The workers were virtually enslaved, Ludlum says. And their living conditions were filthy. “It was putrid.”

While in Desert Storm, Ludlum also learned that humans can adjust to any conditions. When he first arrived, Scud missiles would explode overhead. At first the soldiers would climb into full-body protective gear with gasmasks to guard against chemical agents. The safety gear contained charcoal filters, so everyone emerged from the suits covered in gray powder. After suiting up several times everyone tired of scrubbing charcoal off their skin and stopped wearing the gasmasks. Eventually when Scuds were shot nearby, everyone shrugged them off, Ludlum says. “We just said ‘Ah, the Patriots will get it.’” They meant the Patriot missiles that were sent to intercept Scud rockets. “It’s amazing how things become normal, and we just adjust and adapt.” Ludlum says that the same mentality prevails in the pork factory. At first workers are outraged by the abuse; then they quietly adjust.

Conservative views of a strong national defense run deep in military families, and Ludlum’s was no exception. Those conservative views trickled into Ludlum’s entire worldview. He had heard little about unions growing up, and he generally thought they were a waste of time. That was before he began working at Smithfield; Smithfield changed his mind.

One day a co-worker of Ludlum’s slipped on the wet, fetid floor and broke his leg in two places. The man was treated, but instead of giving him time off, the managers had him

sit at work so that they could avoid filing a federal injury report. Ludlum watched the middle-aged black man drag himself from the employee parking lot far from the plant everyday just to sit in the break room. Managers denied the man's request for a closer parking space.

It surprised Ludlum that the company did not extend common human courtesies. "That's when I thought we needed to make a change," Ludlum says. Organizers from the United Food and Commercial Workers Union had plans to unionize the packing plant. They sent representatives out to wait for workers in the parking lot and convince them to sign union cards. Ludlum says he began talking to the union, and he eventually signed a card. Then he began soliciting other workers.

Once while Ludlum was in the locker room collecting signatures a manager walked in and told the workers, "Hey I wouldn't do that. You'll get fired." Ludlum told him that they were on break and couldn't be fired for signing union cards. Ludlum even took to standing outside of the plant to hand out cards with organizers. Smithfield security guards, led by Danny Priest, put surveillance cameras nearby to record the union activity. They also followed workers to their cars if they accepted union cards and recorded their license plate numbers.

Within a week Ludlum had convinced everyone in the livestock section to sign a card. Within two weeks Ludlum was fired. Smithfield security guards were also auxiliary sheriff's deputies for Bladen County. When Ludlum was fired the deputies paraded him around the plant after he had been telling workers for days that they could not be fired for union activity. "Now everyone saw that what I said didn't amount to a hill of beans," he says.

Still, enough people signed cards to force a union vote. The union sued Smithfield for improperly firing Ludlum, and because Ludlum had a case pending he was allowed to vote. The union lost the election. Ludlum says it was because of intimidation. Smithfield says workers rejected the union in a clean election.

Ludlum remained active in the union for nine months, handing out fliers in the parking lot. Then he had to find another job. Word spread among many of the large companies that Ludlum was troublesome, and he found it difficult to find employment in this rural stretch of North Carolina. He began doing construction, a field he had some experience in, and eventually landed a lucrative job at a nearby DuPont plant, managing their construction and heavy equipment for \$60,000 a year.

Ludlum was also heartened because the organizing drive continued at Smithfield. Then he won his court case in front of the National Labor Relations Board. Nevertheless, justice moved slowly. “An \$11 billion company can drag out a court case,” he says.

In 1997, the union forced another vote, and Ludlum was again allowed to participate. This time the intimidation was even worse than 1994. The day of the second vote one worker, Chris Council, was ordered to use a new stamp on the hogs. He stamped about 70 hogs as they moved down a conveyor belt before other workers began asking him about the stamp. Council had been pressing a “Vote No” message onto the pigs in the line.

When workers left the plant after voting, sheriff’s deputies were waiting in the parking lot. A fight broke out when two workers and two labor organizers got in a yelling match with dozens of supervisors and deputies. Two of the workers, Rayshawn Ward and John Rene Rodriguez, were beaten and jailed. Ward was knocked unconscious. They were subsequently released from jail after signing an agreement not to sue for false arrest. They

sued anyway and won nearly \$800,000 from the jury. The decision was overturned on appeal because they had agreed not to sue.

The union again lost the vote, but the National Labor Relations Board invalidated the two elections because the company used threats and intimidation, and Smithfield was ordered to rehire Ludlum. The NLRB also sent a representative to the Smithfield plant to gather all of the workers in the cafeteria and read them their rights. The NLRB representative told workers that they had the right to organize a union free of company harassment.

It was a triumphant moment, Ludlum says, and he knew then that the organizing drive would be stronger than ever. To succeed, however, the union would need people like Ludlum—someone who had worked at the plant and was not afraid to stand up to company officials. Ludlum decided to leave his job at DuPont and resume his work at Smithfield, driving hogs for \$11 an hour -- \$20,000 per year.

While Ludlum was at DuPont, shifts in Washington, D.C., also changed the nature of the Smithfield campaign. In 2004, the house of labor began to show cracks. Andy Stern, president of the largest AFL-CIO union, the Service Employees' International Union, began denouncing the AFL-CIO strategy of pouring resources into electoral politics instead of organizing new workers. John Sweeney, president of the AFL-CIO, bore the brunt of Stern's criticism. The attacks cut deep, especially since Stern was once Sweeney's protégé in the SEIU.

On the eve of the AFL-CIO's 50<sup>th</sup> anniversary convention in 2005, SEIU and the International Brotherhood of Teamsters decided to leave the labor coalition and form a new organization called Change to Win. The United Food and Commercial Workers International Union soon joined Change to Win along with the United Farm Workers and the Laborers'

International Union of North America. Now Change to Win has made the drive to organize workers at Smithfield Packing a marquee campaign.

Eduardo Pena, the UFCW organizer in charge of the Smithfield campaign, is a neatly dressed Puerto Rican immigrant with wavy, black hair. He always wears a Blackberry phone clipped to his belt like a young business executive. Pena said that Ludlum makes a big difference in the organizing drive. "It's amazing to find someone who is well-educated and well-spoken. And he has no connection to the union except for volunteering." Pena added that Change to Win will not set a time limit on the Smithfield drive. "These workers are going to be organized."

Ludlum lives only a few miles from the Smithfield plant in a modest house. On one side sits a bungalow with industrial chicken coops behind it. On the other side is a trailer park. When a union organizer recently went to Ludlum's house to retrieve him for a meeting, a caramel colored spaniel appeared at a sliding glass door followed by Ludlum. Ludlum rubbed the dog's head a few times and stepped outside. "My wife's mutt," he said. "Not like my bird dog. I don't have any use for dog that can't hunt."

While riding to the union meeting Ludlum discussed his day with the young organizer. Ludlum clearly relishes his role back at the plant after years of exile. He feels more protected now that he is working due to a court order. He dragged on a Marlboro while talking about a minor rebellion he had caused that morning in the livestock section.

Livestock workers wear canary-colored slickers because they herd pigs from an outside pen into the slaughter room all day, and the work is cold and wet in the winter. Ludlum had emblazoned "UNION" across the back of his slicker with silver permanent

marker the night before and wore it to work. A manager brought Ludlum another jacket and told him to cover up his homemade sign. Ludlum refused.

A second manager came and handed Ludlum a new coat and asked him to wear it. Again, Ludlum refused. Other workers in the livestock area gathered to watch the confrontation. Ludlum gave the jacket back to the second manager and said, "You can go ahead and fire me and we'll see who has better lawyers this time." The manager laughed off the comment, Ludlum says, and they all continued working. At lunch other workers requested that Ludlum make them similar slickers.

In the parking lot of the Smithfield plant, the protesters carried on with a second day of their walkout. Someone brought a microphone, and Ludlum made speeches along with two petite Hispanic women. Everyone's spirits were high from the singing and speechifying when, at noon, a crowd gathered at the plant entrance. After a few minutes a man with white hair, khaki pants and a long white jacket that said Larry on the pocket stepped out into the parking lot. He was Larry Johnson, vice president of Smithfield Foods, and the head of the Tar Heel plant. The crowd fell silent as he asked to borrow the microphone from one of the women. Then he spoke.

"I really hate to be talking to you in this situation," Johnson said. "And it's a bad situation. I know there are a lot of people out here who are scared and nervous." He said that he would meet with the Catholic lawyers, and that there was nothing he could do about the documentation problems. He asked employees to return to work until he could meet with the lawyers. "You are valued employees," he said. "And I love each and every one of you for what you do out here." He added that he had no choice but to abide by the law. "It breaks my heart."

As he spoke, one of the women translated into Spanish, and workers punctuated Johnson's speech with whistles and jeers. Ludlum paced behind the crowd, smiling. "He never seemed so concerned about the letter of the law before," Ludlum commented.

When the Catholic lawyers met with the company, Johnson agreed to see a group of worker representatives. Ludlum, as one of the representatives, brought in a list of demands that included rehiring fired workers and giving immigrants a longer time to prove their residency status. The company agreed to the conditions, but when Ludlum asked if they could regularly meet to discuss conditions at the plant, Johnson rejected the idea. Ludlum says he was heartened by the rally and meeting because the company at least made a small concession.

Since the protests, immigration authorities swept through the plant and arrested a handful of illegal employees. Ludlum calls the raid a setback. Nonetheless, the union has stepped up pressure on the company. Ludlum testified in front of a U.S. House of Representatives committee in favor of the Employee Free Choice Act, a bill that would force companies to recognize a union when a majority of the employees sign cards saying that they want representation. A PBS special was broadcast nationally on the abuses workers suffer at the Tar Heel factory. And now union supporters are staging protests around the Southeast against Harris Teeter grocery stores, whose store brand pork is processed at the Smithfield plant. Union officials say that meat managers at a few stores have said that Harris Teeter is beginning to replace the Smithfield pork with other brands. Harris Teeter declined to comment. But, most importantly, Ludlum is continuing his campaign of quiet diplomacy.

During the walkout this winter a worker on lunch break stood at the edge of the parking lot, quietly watching the protesters. Ludlum approached the man and asked him if he

wanted a union card. The man declined, saying that he had worked in shipping for 10 years and didn't see the need for a union. "I don't want to offend you," the man said. "I just don't see it." Ludlum said he was not offended and asked the man what the union meant to him. The man stammered for a minute, and Ludlum said, "You know the union is not some outside entity coming in. It just means the workers united. If we just stand up, that's the union." The man shook Ludlum's hand and then returned to work. Ludlum did not seem down about the rejection. "He didn't take a card, but I began to change his way of thinking," he said. "That's what it's really about, one person at a time."

## **Chapter 2**

### **Labor's Immigration Problem**

Antonio Da Cruz was at his job on Cape Cod in Massachusetts when he received a disturbing cell phone call from his sister Sandra. "There are police everywhere," she told him. Sandra Da Cruz worked in the blue-collar town of New Bedford, south of Boston, at Michael Bianci Inc., a leather goods manufacturer. Antonio Da Cruz says that he did not take the call seriously, but decided to go check on his sister because she sounded scared. When he arrived at the factory he was horrified by what he saw. "The streets were blocked," Da Cruz says. "It looked like an army was there. There were helicopters flying around."

Da Cruz arrived too late to help his sister. Immigration authorities arrested some 350 workers at the plant as well as the factory owner for knowingly hiring illegal aliens. "They carried her to Texas the next day," he says. "She has been three days without a shower."

Similar raids have been carried out across the country in the past several months. In December some 1,500 illegal immigrants were arrested at Swift & Co. meatpacking plants in six states. A raid of the Smithfield Foods pork processing plant in North Carolina netted 21 illegal workers. In early March, the authorities raided the New Bedford factory. And more than 1,000 illegal immigrants employed at IFCO Systems, the leading manufacturer of wooden pallets, were rounded up in April.

Antonio Da Cruz traveled to Washington in March along with labor organizers, ministers and activists as part of a protest staged by the Center for Community Change, an

organization that says it builds coalitions of low-income people to lobby for policy changes. About 200 protesters marched in front of the Department of Homeland Security carrying poster-size pictures of a crying child with the message “Where is my mom?” emblazoned across the top.

Da Cruz, a short, solid man with a beard, looked like an African revolutionary standing in front of the glass-sheathed Department of Homeland Security building clothed in a green military surplus jacket and matching hat. But Da Cruz describes his life as far from radical. He moved to the United States from the Cape Verde islands 18 years ago. “I came over. I got a green card. I bought a house, and I’ve never been arrested,” he says. Now he is a naturalized citizen. His parents later joined him in Massachusetts, and four years ago his sister made the move. “We didn’t want to be illegal,” Da Cruz says. “We just wanted to be together.”

According to most estimates there are some 11 million to 12 million workers like Sandra Da Cruz in the United States, people who bypassed existing labor laws to be with family or work for higher wages than they can earn in their native countries. And the flow of illegal immigrants into the American workforce, especially those filling the needs of the expanding service sector, is forcing unions into the horns of a dilemma. Do unions take a hard line on enforcing immigration laws and risk alienating a large section of low-wage workers, or do they organize illegal workers and possibly turn legal workers and United States citizens against the union agenda?

Recent raids and arrests at factories across the country spotlight the problem with organizing immigrant laborers. They are vulnerable to deportation, and when a union campaign heats up, factory owners can start asking employees about their immigration status.

If a union has organized a core of immigrant workers, a single sweep by Immigration and Customs Enforcement can undermine the campaign.

Still, faltering unions cannot ignore demographic trends in the American workforce. Immigration, especially in the South and West, is booming. In North Carolina the immigrant population grew 411 percent from 1990 to 2005, the fastest in the country, according to the Migration Policy Institute. Georgia's foreign-born population increased 382 percent, Arkansas' grew 320 percent and Nevada's immigrant population increased 302 percent in the past 15 years.

California still has the largest immigrant population in the country with some 9.6 million foreign-born residents, followed by New York, Texas and Florida. And most of the immigrants moving to the United States are from Mexico. Nationally, 30 percent of the foreign-born are Mexican. In California nearly half of all new immigrants entering the state are Mexican. In North Carolina 40 percent of foreign-born residents are from Mexico, and in Georgia 34 percent of immigrants were born in Mexico.

All of these statistics add up to one conclusion: Mexicans are going to be an important part of the future workforce. And if unions want to reverse the membership declines they have witnessed since the 1950s, they will have to deal with the thorny issue of immigration.

Samuel Gompers, a founder of the American Federation of Labor, was himself an immigrant. The fiery labor leader was born in London, England, in 1850. His family moved to New York City when he was a young man, and he soon took work at a tobacco factory. Gompers flirted with several liberal reformist groups in New York, but it was with the Cigarmakers International Union that he found his calling.

Gompers devoted much of his time to the union and quickly rose through the ranks, becoming the representative of the Cigarmakers at the National Labor Congress. When the National Labor Congress later became the American Federation of Labor, Gompers served as the first president of the new organization.

As both a leader in the Cigarmakers Union and as head of the AFL, Gompers consistently supported restrictions on immigration. One biographer noted that Gompers accused Europe of dumping its masses on American cities where native labor surpluses already existed. To stem the tide of these workers who undercut American workers, Gompers supported the Chinese Exclusion Act and legislation that would have required immigrants to pass literacy tests.

During World War I Gompers chaired several Pan-American Federation of Labor conferences, where delegates from the United States, Central and South America tried to coordinate strategies. Gompers was criticized by Mexican delegates for trying to force an immigration moratorium through Congress, but Gompers explained that capping the number of workers moving into the United States was a matter of self-preservation for unions.

Unions are still haunted by Gompers' opposition to immigration, and by the racist language he used. Biographer Bernard Mandel notes that Gompers authored a pamphlet on the Exclusion Act, a piece of legislation that prohibited Chinese immigration, titled "Meat vs. Rice: American Manhood Against Asiatic Coolieism – Which Shall Survive?" And, according to Mandel's biography, Gompers told Congress that "maintenance of the nation depended upon the maintenance of racial purity and strength." Labor unions have struggled against the impression that they are exclusive, racist institutions since Gompers made these pronouncements.

Few would argue, however, that Mexican-American organizer Cesar Chavez was racist. But Chavez fought against many forms of immigration to the United States. The founder of the United Farm Workers was born in Yuma, Ariz., in 1927. Chavez worked for many years as a migrant farmer when his family lost their farmland during the Depression. After a stint in the United States Navy during World War II, Chavez became active in the Community Services Organization, a self-help group that fought against economic discrimination and encouraged voter registration. Eventually Chavez quit the CSO to organize farm laborers full time.

Chavez was not anti-immigrant. But his union contended with temporary workers brought from Mexico under what was called the “bracero” program. Braceros, or guest workers, were meant as a temporary fix for labor shortages in agriculture during World War II. Agribusiness grew addicted to the cheap labor, however, and convinced Congress to continue the program. Once Chavez started organizing workers in 1962, he quickly saw that braceros were used to cut wages and break strikes.

Because of the bracero program Chavez advocated for strict enforcement of immigration laws. In a 1968 speech at Calvary Episcopal Church in New York, reprinted in the 2002 book *The Words of Cesar Chavez*, he said: “Even today, as I stand here talking to you, we cannot choke off production on the great farms for one simple reason. The regulations on immigration are not being enforced. Our own government is the biggest strikebreaker against the union. The biggest weapon in the hands of growers is the ‘green card’ commuter.”

The change in attitudes of unions toward immigrant workers did not come until the 1990s with the Justice for Janitors campaign in Los Angeles.

The Service Employees International Union's "Justice for Janitors" campaign was a turning point in the relationship between organized labor and undocumented workers. In 1990 SEIU launched an initiative to organize janitors in Los Angeles. Duke University law professor Catherine Fisk, who has written an analysis of the campaign in the 2004 article "Justice for Janitors in Los Angeles and Beyond: A New Form of Unionism in the Twenty-First Century?", says that for many years, janitors in Southern California were mostly African-American. By the 1990s black janitors had been replaced by Latino workers, many of them undocumented. "The union realized that if they wanted to organize janitors they would have to organize immigrants," Fisk says.

As Fisk's article about Justice for Janitors notes, during the 1980s buildings began contracting with cleaning firms instead of employing janitors directly. Building owners could cushion their bottom lines when unions pressed them for higher wages. But for cleaning contractors, labor was their major cost. And if one janitorial service was unionized, the building owners could easily cancel the contract and hire a nonunion cleaner. Fisk writes of the Justice for Janitors campaign, "JfJ [Justice for Janitors] tactics aim at building owners and managers, even though the formal employer of the janitors is the cleaning service contractor. The object is to pressure owners or managers to use union contractors paying union-scale wages."

Organizing janitors was also seen as difficult because they were mostly Mexican immigrants. Most observers were skeptical that Mexicans could be organized, according to Ruth Milkman, sociologist and director of the Institute of Industrial Relations at the University of California, Los Angeles. She writes in her book *L.A. Story: Immigrant Workers and the Future of the U.S. Labor Movement*: "Could these impoverished, poorly educated

newcomers be organized into labor unions? At first, both unionists and outside observers presumed that the answer was an unequivocal no.”

Through a highly publicized effort, however, SEIU was able to organize the immigrant janitors and win contracts across the city. Instead of an impediment to unions, immigrants were now seen as a potential growth market for unions. Many of SEIU’s leaders in the campaign gained power and prestige from their successful drive. The former head of the SEIU, John Sweeney, was elected to lead the AFL-CIO. Sweeney’s protégé in Los Angeles, Andy Stern, became the new head of SEIU. And at the 2000 AFL-CIO conference in New Orleans, labor leaders reversed their historic opposition to illegal immigrant workers. They released a statement favoring amnesty for undocumented laborers in the United States and announced their intention to organize all workers regardless of legal status.

The Service Employees International Union remains the staunchest supporter of immigrant rights. It has consistently pushed for immigration reform, to allow more visas, family reunification provisions and some mechanism to open a path to citizenship for the estimated 12 million workers in the country illegally. And in the 2006 elections, SEIU contributed more than \$1.6 million to Democratic candidates to advance their agenda, according to the Center for Responsive Politics.

In 2006, senators John McCain and Ted Kennedy introduced a comprehensive immigration reform bill that included many of the provisions supported by SEIU. As the bill progressed through committee and underwent numerous rewrites, it lost most of its protections for workers, made amnesty an onerous process and increased “guest worker” programs that allow immigrants only temporary residence in the United States and tether

workers to a single employer. Most unions and immigration advocates withdrew their support for the bill, and it languished from inaction until time ran out.

In January, SEIU executives sent Kennedy a letter that read in part: “However, many of the provisions in the Senate bill that passed during the 109<sup>th</sup> Congress, S. 2611, failed to reflect our principles, and fortunately died.” The letter explains that voters in last November’s election sent a message that Americans want a more humane immigration system. “Voters know that deporting 12 million individuals is unrealistic and morally repugnant.”

SEIU and other unions forwarded a list of principles they support to members of Congress. The key provisions include border security, earned legalization for illegal immigrants currently in the United States, family reunification, and a program to control the future flow of immigrant workers into the United States. Congress seems to have heeded the desires of unions as legislation recently introduced by Republican Arizona representative Jeff Flake and Democratic Illinois congressman Luis Gutierrez called the STRIVE Act, a hopeful acronym meaning Security Through Regularized Immigration and a Vibrant Economy, largely adheres to SEIU’s principles.

Although the text of the reportedly 600-page bill is still unavailable, a lengthy summary of the STRIVE Act written by the American Immigration Lawyers Association describes its major points including: increased border patrol, expand number of immigration detention facilities, boost employment verification, provide a path to citizenship for illegal aliens and their families, and construct a new visa program that allows a total of 400,000 new workers to enter the United States. That visa cap can be raised in the future depending on the labor needs of the country. Perhaps most importantly for unions, the new bill includes the

ability of workers to leave their job without leaving the country. And whistleblower provisions are included, so that employees who complain about unfair working conditions will not find themselves subject to deportation.

Eliseo Medina, the first Mexican-American executive at SEIU who began his career working with Cesar Chavez and the United Farm Workers, hailed the new legislation in a recent conference call as the balm for a broken structure. “Nothing shows the insanity of the current system more than the last couple of months,” he says. “When we look at what has happened at raids of food processing plants and in New Bedford, these raids cost the taxpayers money. They also tie down law enforcement officials who could be doing something else rather than arresting cooks and maids and janitors. It also left hundreds of children not knowing where their parents are.” Medina adds that SEIU has not read the details of the 600-page bill, but that in summaries he had not seen any deal-breaking provisions. “Overall we believe this takes the right approach.”

Not everyone agrees. As unions have increasingly organized more illegal immigrants and have supported general amnesties, at least one pro-labor voice, Vernon Briggs, has consistently opposed any increase in the number of undocumented workers. Briggs is an economics professor at Cornell’s respected School of Industrial and Labor Relations. He marched in the Civil Rights Movement and worked with Chavez along the Texas and Arizona borders organizing farm laborers.

Briggs says in an interview that current immigration reform proposals are based on two faulty premises: that there is a labor shortage in low-wage jobs and that American citizens will not do the dirty work that illegal immigrants do. If there were labor shortages in low-skilled jobs, Briggs says, then basic economics tells us that wages should be soaring in

those industries. But that is not happening; instead wages are stagnant. Also, he says, there is no low-skilled job category in the United States where immigrants are the majority of the workers, including agriculture. That proves that there are no jobs Americans will not do. “I’m very pro-labor,” Briggs says. “But I’m appalled by the leaders of SEIU.”

Briggs has been called to testify in front of Congress several times throughout the years as new immigration policies are proposed. He says that every piece of legislation, starting with the major immigration reform of 1986, have had tough enforcement language. Every year, however, visas and guest worker programs bring more people into the American workforce while ignoring provisions that prohibit the hiring of illegal immigrants. “Every time I went to Congress it was me testifying on one side, and eight people on the other side. But they’ve lied so often for 25 years that no one who is serious about American workers believes the government will get real on enforcement.”

The problem with the STRIVE Act is that it grants 12 million workers amnesty and then allows 60 million family members to come in on their coattails, said Briggs. “What possible interest do American workers have in mass amnesty? They’re at war with the American workforce. You’ve got unions and SEIU looking to gain members in Nevada and California while selling out workers in the rest of the country.”

During the 1990s, Briggs says, union leaders became part of a larger progressive movement. It used to be that unions took the side of American workers. Now, Briggs said, unions are willing to compromise on core issues to build larger coalitions. “The same thing is happening with civil rights leaders.” He insists that black workers, and especially black high school dropouts, are the most hurt by illegal immigration. “It’s appalling that civil rights leaders are selling out their own interests. Black workers can’t compete with illegal

immigrants. And the fact that labor unions are a part of all this is one of the most sorrowful comments I can make on modern society.”

Briggs struggles with the same primary issue that concerns labor leaders: how to build the future of the labor movement. Most unions, especially heavily immigrant unions like SEIU and the United Food and Commercial Workers Union, believe that to increase their membership they must organize the people who currently have the low-wage jobs, regardless of their residency status. Simply increasing their numbers should not be the goal of labor unions, said Briggs. Unions should fight to increase wages and benefits. If unions concentrate only on increasing membership then they will have members but will not be able to accomplish anything, Briggs says. “The future of the labor movement depends not on increasing membership but on gaining the confidence of American workers.”

Ruth Milkman, director of the Institute of Industrial Relations at UCLA, argues that Briggs has it backwards; the future of the American labor movement requires more organizing among immigrant groups, not less. “Immigrants are 10 percent of the workforce,” she said in an interview. “And it’s a group that’s ready for unionization. They need it too, because they are the most vulnerable to employer abuses.” She argues that immigrants are actually more primed to join unions than native-born American workers for three reasons: they have stronger community networks, they have greater class consciousness, and they are more unified because they are stigmatized by the general community.

During the Justice for Janitors campaign, Milkman notes, several leaders who emerged had experience in the Salvadoran liberation struggle. There are few American workers with that sort of experience organizing social justice movements. She also dismisses the idea that immigrants lower wages and undermine unions. In Los Angeles among janitors,

Milkman said, other factors such as contracting with cleaning services eroded labor unions. It was only after the unions died out that wages fell and immigrants filled the janitorial jobs. Immigrants did not kill the unions, in other words. The death of the unions preceded the immigration influx into Los Angeles.

Unions like SEIU that have organized immigrants are not simply joining a larger progressive movement, Milkman says. They organized the people who had the janitorial jobs, and now they are pushing for amnesty because they are representing their constituency. “Immigrants are so desperate for some way to become citizens that they are willing to compromise,” Milkman says. “Medina and the SEIU are just doing a good job of representing the interests of the people in their unions.”

Despite being only a few blocks from the U.S. Capitol, arguments about immigration policy and unions seem remote to Antonio Da Garza, who is waiting to hear from his sister again. When she was arrested by immigration authorities, he was left to take care of her 15-month-old baby. “I don’t even know how diapers work, and I’m left changing the baby’s diapers,” he says.

Da Garza says that people should not be arrested for trying to make their lives better in the United States. “Give people a chance to work,” he says. “Give them a chance. If she’s never done anything wrong, let’s give her a chance.”

## **Chapter 3**

### **Ground Rules**

In March of 2006, Errol Hohrein was hired by Front Range Energy in northern Colorado to work in its \$50 million ethanol plant. Before starting at Front Range, the 57-year-old Hohrein had been a boilermaker for 20 years. His father, he says, was a boilermaker, as was his grandfather. Conditions and pay at the plant were substandard, Hohrein says, and another worker at the plant who had been a Teamster at his previous job asked Hohrein if he would help start a union. Hohrein agreed, and the pair asked the United Steelworkers to organize them.

The workers at the plant gathered enough signatures to authorize a National Labor Relations Board vote. Hohrein says that before the election the company put enormous pressure on workers. Managers would not allow other workers to speak with Hohrein. And, he says, company officials called the ex-Teamster into a private meeting. The man emerged from the management office looking pale. Hohrein says that he asked the man why he was nervous; his friend responded, "I need my job."

A secret ballot election was held and, while many employees abstained, the final tally was 12 votes for the union and 11 against. Hohrein says that a few days after the vote an anti-union night shift employee ignored his orders to change the propane in the boiler to maintain its temperature. The boiler froze, and Hohrein was called to fix the problem. A manager asked Hohrein and the night-shift worker what had happened. The manager claims Hohrein

raised his voice when saying that the night worker had let the boiler freeze. Hohrein says that he explained the situation and that he always speaks loudly because of the profound hearing loss he suffered while serving in the Vietnam War. What is certain is that Hohrein fixed the boiler and was then fired for insubordination.

Through his full beard and thick glasses, Hohrein is still shaken when describing the episode – and still defiant. He told a portion of his story in front of a U.S. Senate committee considering a new bill called the Employee Free Choice Act. The law is meant to streamline the process for employees who want to organize a union in their workplace. Wearing a denim shirt and Western bolo tie under his suit, Hohrein looked frustrated by the political theater of a congressional hearing. Senators swept in and out of the room as he spoke, or huddled with aides, pausing only briefly to acknowledge Hohrein. After describing how he was fired from his job and living on unemployment, Johnny Isakson, a Republican senator from Georgia said, “Your testimony shows that the process works pretty well.”

The Employee Free Choice Act is the most significant piece of labor legislation proposed in 60 years and is certainly the first bill since the National Labor Relations Act of 1935 to make it easier for unions to organize. The Employee Free Choice Act passed the House in March, 241 to 185 with only 13 Republicans voting for the bill, and two Democrats voting against it. Now that the bill has made its way to a Senate committee, Republicans say they will filibuster once it reaches the floor, and President Bush says that he will veto the legislation if it arrives on his desk.

Getting union representation at a workplace is a laborious and Byzantine process. Employees often contact an established union when they want to organize, and a representative meets with workers. On their own time employees must then get the signatures

of at least 30 percent of their colleagues declaring their desire to seek union representation before the workers petition the National Labor Relations Board. To prevent retaliatory firings, the early stages of the organizing process are usually kept quiet as a core of leaders within the company is established. Then the organizers take the campaign public and openly solicit the signatures of fellow workers. By openly touting the union, employees block the company's claim that managers did not know a fired worker was a union supporter.

Then the real battle begins. After workers petition the National Labor Relations Board, an election date is established. It is during this gap that employers hire "union busting" firms – consultants who advise the company on how to undermine the unionization effort. Employers are allowed to educate their workers about unions, but this sometimes turns into "captive audience" meetings – sessions that employees are compelled to attend where managers show anti-union videos and denounce the organizing campaign. It is also during this time that union organizers recruit members, often making house calls to discuss working conditions with employees.

In 2005, the National Labor Relations Board conducted 2,649 elections, compared to 2,719 in 2004, according to its annual report. Unions were successful in 1,504 elections in 2005, or about 56.8 percent of the time. There were also 24,720 charges filed with the NLRB alleging unfair labor practices and retaliatory firings during election campaigns, down 9 percent from 26,894 complaints in 2004. The NLRB ordered that more than \$84 million be doled out in back pay for illegal firings in 2005.

Although the numbers sound impressive, for any given company the fines for illegal activity are paltry. Virginia-based Smithfield Foods, for example, was ordered in January of 2007 to pay \$1.1 million plus interest to workers illegally fired in two union elections during

the 1990s. For a company with a \$3.36 billion market cap this is hardly a deterrent.

Sometimes, if violations are particularly egregious, the NLRB will invalidate an election result and order another secret ballot vote. Many workers at the Smithfield plant, including fired employees Keith Ludlum and Chris Council, say the intimidation by the company was worse in the second election. And in exchange, Smithfield was able to thwart a union drive at the largest pork production plant in the world.

Elections are not the only way to gain union representation. Companies and workers can sign what is called a “neutrality agreement” when gauging employee support for a union. Cards are then distributed to workers, and if a majority of the employees sign, then the union is recognized by the company. This “card check” system of elections is used by some large employers like Kaiser Permanente and Cingular Wireless to avoid the expense and bad publicity of conducting anti-union campaigns. During the Service Employees International Union’s 1990 campaign to organize janitors in Los Angeles, the union decided that the NLRB system was too cumbersome and risky. They conducted an aggressive public relations campaign complete with street rallies and marches to pressure cleaning contractors to conduct card checks. The companies agreed, and unions pursued the strategy of forcing a neutrality agreement ever since. The shift in strategies could account for some of the drop in NLRB supervised elections.

Despite the creation of a new organizing model, NLRB secret ballot elections are still the norm. The Employee Free Choice Act would change that. With the rules of the new bill, Congress would make the card check the dominant system for recognizing unions. Many unions and scholars believe the new law would greatly boost the number of people joining unions. The AFL-CIO says a poll conducted by Peter D. Hart Research Associates shows that

50 percent of workers would join a union if given the option, whereas 12 percent of the workforce was unionized in 2006, according to the Bureau of Labor Statistics.

Republican senators in the morning committee hearing were fixated on the secret ballot. Sen. Isakson said that the secret ballot election, not a card check, is the cornerstone of a democratic society. “Thousands of people have died for the right to vote,” he said.

Tennessee Sen. Lamar Alexander argued that Congress used the secret ballot to choose its leaders. And Wayne Allard from Colorado said, “I support what everyone has said about the secret ballot. I think it protects employees from coercion from both sides.”

New York University law professor Cynthia Estlund, sitting next to Hohrein at the hearing table, objected to the comparison of NLRB elections to a senate vote. Addressing Rhode Island Democratic Sen. Jack Reed she said, “Imagine that in your first run for office the incumbent employed all of the voters and got to jawbone them everyday about why they should vote against you.” Hohrein agreed. “The employer is a potentate,” he said. “They have all of the power.”

If the importance of the Employee Free Choice Act can be gauged by the reaction of the business community to its introduction, then the bill is truly revolutionary. Lobbyists for the International Franchiser’s Association, a powerful business group, filled the Senate committee room. And groups founded by the conservative bomb thrower Richard Berman have declared war on the legislation. Bret Jacobson, senior research analyst at Berman’s Center for Union Facts, said in an interview, “We oppose this legislation because it’s a pure power grab by labor bosses.” Unions inflate the problem of companies firing pro-union workers, Jacobson said. “A lot of people will sign a card to get the union off their back,” he said. “The unions know that cards aren’t a good way to go.” He also argued that the bill

would increase the pressure companies put on employees because every business would always assume an organizing campaign was underway.

The Center for Union Facts has also launched a series of aggressive ads. One features a class election where a thuggish kid says that the teacher has agreed that there is not going to be a secret ballot election for class president this year; instead everyone will write on a card which candidate they prefer. While one student is filling out his card the thug student, replete with shades, black T-shirt and a New Jersey accent, rips the ballot away and asks, “You sure about that?”

With a full beard and narrow reading glasses, Lawrence Mishel, president of the liberal Economic Policy Institute, looked the part of a prototypical academic. He was also the most relaxed, as he regularly treks to Capitol Hill for congressional hearings. And he gave a spirited lecture to the assembled senators on the value of unions and the necessity of the proposed legislation. He began by noting that as a boy growing up in Philadelphia he learned that Carpenter’s Hall, a guild building, sits next to Independence Hall. And it was in Carpenter’s Hall that the first Continental Congress met. Unionism has always been a crucial part of American democracy, Mishel said.

From there his soaring rhetoric came back to earth as he plowed into the numbers. “Most Americans are working harder and smarter than ever before, but they fear their efforts are not being recognized and rewarded,” he said. Unions are good for employees, employers and society, he argued. From 2004 to 2006, 28 percent of coal miners worked in union mines, he noted. But during that time period, only 14 percent of fatalities occurred in union mines. “The odds of dying in a non-union mine were more than twice as great as in a union mine.

Sometimes a union is a matter of life or death,” he said. And, Mishel said, 30 years of research shows that unions do not hurt the productivity of firms.

Harvard economist Richard Freeman, a director at the National Bureau of Economic Research, echoed Mishel’s conclusions in an interview. “Productivity in the country has risen wonderfully even further back than 1990,” he said. “But the average wage of workers hasn’t risen at all.” Freeman has tried to study the impact of a weak labor movement on wages. He says that as an economist he likes to keep his estimates conservative, and his conservative take is that a quarter of income stagnation is directly attributable to facile unions. If there were higher wages for union workers and unions were more widespread, he says, there would be some boost to non-union wages. But he did not take that effect into account in his study.

If the Employee Free Choice Act fails in Congress or is vetoed by the president, Freeman believes that it could be an issue in the next election. He is also optimistic that some businesses could see an advantage in card check elections. “Unions and companies spend extraordinary amounts of money fighting each other,” he said. “These are expensive operations.” And, he argues, election battles are a waste of resources because keeping out a union does not greatly benefit a company’s bottom line.

In fact, some companies have decided that fighting unions is not worth the effort. During the Senate hearing law professor Cynthia Estlund cited the case of Cingular Wireless. The AFL-CIO also handed out materials touting the neutrality agreement signed by Cingular with the Communication Workers of America. One Cingular call center representative, Teresa Joyce, tried to organize a union at AT&T in rural Virginia, but the company blocked her efforts. “They treated us like we were troublemakers,” she said. “They spied on us. They used cameras to take our pictures.” In 2004 when Cingular Wireless acquired AT&T, Joyce

said that the CEO of Cingular allowed a card check to see if workers wanted representation. Joyce said that the tone of the workplace changed as union supporters were even allowed to set up a table in the cafeteria to educate other employees.

In advocating for the Employee Free Choice Act, Joyce said that the bill would give workers the chance to vote without the fear of being retaliated against. “Let Cingular be the model,” she said, “because we’re the highest profitable wireless company there is.” Although there is no evidence to suggest that card check elections have led to Cingular’s continued profitability, the company and the union are pushing the idea that the company believes in social justice. Cingular stores now have union stickers to advertise that they are a union shop, and the Communication Workers of America has posted a website, [cingularswitch.com](http://cingularswitch.com), to encourage people to use Cingular.

The last person to provide testimony to the Senate committee was Peter Hurtgen, an attorney appointed by former President Clinton to serve on the National Labor Relations Board from 1997 to 2002. While agreeing that the entire process of unionization must be overhauled to match the modern economy, Hurtgen argued that the Employee Free Choice Act is a bad fix. The NLRB takes seriously its duties to conduct fair elections and sanction employers who cheat, Hurtgen said. “As the Board and the Supreme Court have acknowledged, the use of authorization cards to determine majority support is the method of last resort,” he said. Abuses of employees in the days just before an election are rare, Hurtgen said. The bill is simply a ploy by organizers to stop the decline of unionization in America. But, he said, employer abuses are not the reason that the labor movement is weak. Hohrein, sitting a few places away from Hurtgen, watched him skeptically as he testified.

It is understandable that business groups and government officials used to the current system would express reservations about the overhaul that the Employee Free Choice Act represents. When President Franklin Delano Roosevelt signed the National Labor Relations Act into law in 1935 it was meant to protect the rights of workers. Among other provisions, it guaranteed an employee's right to organize and bargain collectively, it allowed workers the ability to strike and protest wages and it established the National Labor Relations Board, a body that could investigate corporate wrongdoing and hold elections to determine the will of employees. The purpose of the Act was originally to move labor conflicts out of the street and into the courtroom. For the first years after the law was passed, companies ignored its mandates and rejected it as unconstitutional. The Supreme Court, however, upheld the fundamental principles of the law in 1937, and the National Labor Relations Act has provided the basic framework for labor law ever since.

The findings section of the National Labor Relations Act states that the purpose of the bill is to mitigate some of the "inequality of bargaining power" between employees and employers. The Labor Management Relations Act of 1947, sometimes called the Taft-Hartley Act, had a different purpose. Ohio Sen. Robert A. Taft made it his political mission to roll back the New Deal policies of Franklin Roosevelt, and one of those programs was the National Labor Relations Act. After World War II, the 80<sup>th</sup> Congress, dominated by conservative Republicans, passed the Taft-Hartley Act, which Sen. Taft said was to "equalize the bargaining power of employer and union" by increasing the employer's power over the process. President Truman vetoed the bill, but Congress overrode the president's rejection. Even the findings of the bill differ dramatically from the National Labor Relations Act. The bill passed in 1935 uses the language of worker protection. The 1947 Act says that the

legislation will “protect the rights of the public in connection with labor disputes affecting commerce.” In other words, the consumer is king.

And the provisions of the 1947 bill did subvert many of the protections for unions included in the earlier legislation. It banned, for example, the secondary boycott, which has become a major strategic hurdle for unions. While organizing nonunion cleaning contractors in Los Angeles in the 1990s, unions picketed at night to protest the cleaners because it was illegal for them to boycott the businesses that hired the nonunion cleaning service. It forbade government employees from going on strike, which became an issue when President Ronald Reagan replaced air-traffic controllers who walked out in 1981. In his 1991 memoir *Confessions of a Union Buster*, Martin Jay Levitt writes: “Executives and their labor consultants knew that with the Taft-Hartley amendments in place, employers would enjoy great freedom in combating worker organizations. Management always had the upper hand, of course; they had never lost it. But thanks to Taft-Hartley, the bosses could once again wage their war with near impunity.”

Perhaps most importantly the new law allowed states to pass “right-to-work” statutes that banned “union shops.” In a union shop workplace the union bargains on behalf of all employees, and all employees must eventually join the union. In an “open shop” workplace the union still bargains on behalf of all employees, but employees are not required to join the union. In many workplaces open shop unions must fight a constant battle with employers to maintain members. There is scant incentive for employees to pay union dues when they can get the higher wages and better health care associated with union workplaces without actually joining the union. Many states rushed to pass right-to-work legislation in the late 1940s, and currently 22 states are open shop, mostly in the South and West.

After the congressional hearing was finished, Cynthia Estlund said in an interview that the Employee Free Choice Act will help businesses and unions work together. “My feeling is that something has to be done to turn the tide a bit so that unionization gets to be normal again,” she said. Companies often discover that a union campaign is underway and they reflexively resist the drive, she said. Because most businesses are not unionized, existing companies do not have a model for how a management team might cooperate with a union to govern more effectively. “The social norms have to change,” she said.

In an interview Hohrein said he is struggling now without a job. Although his wife knew that Front Range Energy was upset with him, Hohrein said that telling his wife that he was fired was difficult. And every perspective employer asks Hohrein what happened at his last job. He doesn’t want to say that he was dismissed for insubordination without explaining the situation; on the other hand, employers are not thrilled to hire a union activist. For now he is taking up the cause of the Employee Free Choice Act and living on unemployment payments. He shrugged before leaving the empty committee room. Then he added: “When that runs out I’ll probably be flipping burgers.”

## **Chapter 4**

### **The Future of Labor**

The labor movement in the United States has waned over many years. In 2006, only 12 percent of employees were union members, according to the Bureau of Labor Statistics. That number is down 0.5 percentage points from 2005. In 2006, 326,000 less workers were union members than in 2005.

In some sectors the news is even worse for labor. While 36.2 percent of government workers were union members in 2006, only 7.4 percent of private industry employees were represented by a union. Financial services employees are the least represented in the labor movement – only 1.9 percent of workers are organized – while 23.2 percent of transportation workers are union members.

The decline in union membership is not a new phenomenon. In the 1950s, the number of union workers was one-third of the workforce. In 1973 union members constituted nearly a quarter of the American workforce. And that number held steady throughout the 1970s. The 1980s, however, brought steep drops in union density. In 1980, 20 million workers were represented by unions, or 23 percent of workers. By 1990, there were only 16.7 million union workers, or 16 percent of the workforce.

If unions want to have a future in the United States, new leaders will have to develop new strategies. The search for new strategies is why the Change to Win coalition – a group of progressive unions – broke from the AFL-CIO in 2005. Andy Stern, head of the Service

Employees International Union, decided that labor needed to expend a majority of its resources on organizing new members. The goal of Change to Win member unions, Stern said after the break, was to put 60 percent of their budgets into organizing.

Some doubt that unions can organize their way out of their membership crisis. It was John Sweeney, Richard Trumka and Linda Chavez-Thompson – the current leaders of the AFL-CIO – who swept into power on a reformist ticket in 1995, defeating the old-guard unionists who were not committed to organizing. These reformers, who called themselves the “New Voice” slate, promised to “organize at a pace and scale that is unprecedented” if elected. Indeed, the New Voice leaders did create innovative programs like the Organizing Institute that trains young people to organize and guarantees them a job, and the “Union Summer” campaign, which allows young activists to participate in an organizing drive during summer break.

These innovations made labor part of a broad progressive coalition, but they did not halt the decline in union density. In 1995, when the New Voice leaders assumed control of the AFL-CIO, there were 16.3 million union members in America, or 14.9 percent of the workforce. In 2005, when Change to Win broke from the AFL-CIO, there were 15.6 million union members, or 12.5 percent of workers. Now Stern and the Change to Win executives sound like the new New Voice ticket.

Most scholars and activists agree that something must be done, because the labor movement is too important to abandon. As Lawrence Mishel, president of the Economic Policy Institute, has noted, “In unionized settings there is much less inequality as people doing similar work are similarly paid, as race and gender differentials are less, as occupation differentials are less, and as the wages of frontline workers are closer to that of managerial

workers.” Mishel also argues that a strong labor movement is important for non-union employees. German and Japanese automakers in the United States, for example, have paid United Auto Worker wages for the past 25 years, even in the rural South, to reduce the incentive to organize. And, according to the Bureau of Labor Statistics, full-time workers who were union members had median weekly earnings of \$833, compared to a median of \$642 for non-union employees in 2006.

A few outspoken voices think the way for unionism to succeed is to fall back on its traditional base – workers who are American citizens. Vernon Briggs, a Cornell professor of labor economics, is the best-known advocate of this view. He said in an interview that American workers are giving up on unions because unions are seeking to join a larger progressive movement. Advocating for workers, he said, will not always allow unions to take liberal positions. Nonetheless, unions should put workers first, regardless of political correctness, he said. “I think you fight the cause of working people,” he said. “That’s what the union movement is all about.” Briggs also shrugged off the suggestion that unions might be associated with the xenophobic organizations that lead the charge against immigration. “Just because the devil quotes scripture doesn’t make it bad scripture,” he said.

Another labor economist, Lynn Duggan, said that Briggs makes some good points, but he takes his position to the extreme. “He’s been saying this for so long that he’s kind of wedded to his theory now,” she said. Still, she said, illegal immigrants probably do undermine labor’s agenda to some extent. For example, unions have always advocated raising the minimum wage. But the minimum wage remained low for so long because there is a limitless supply of cheap workers. The federal minimum wage has held at \$5.15 an hour for nearly ten years. Duggan said that when economists try to analyze the effects of immigration

on wages and the union agenda they are shut down by other progressive intellectuals. “They censor us because they want to be nice people,” she said. “And I want to be a good person too, but I want to see the whole picture.”

But most theorists who consider the future of the labor movement think unions should embrace immigrants and participate in broad, community-based, progressive movements. In other words, it is in the union movement’s interest to not always put its interests first.

In *Poor Workers’ Unions: Rebuilding Labor from Below*, labor activist Vanessa Tait argues that unions should work with organizations that are spontaneously formed in poor communities to advocate for better services. Tait cites cases of people marching for more generous welfare benefits and walkouts by immigrant day laborers as activities where unions should have been more active. She labels these protests “social justice” organizing. Groups of poor people, she writes, are less likely to join a union and more inclined to join “identity groups,” organizations based on civil rights, women’s right and environmentalism. Unions, Tait says, can help these groups with their enormous logistical skill and financial resources. In turn, the community organizations could help pressure local non-union employers. It would also make the individuals in some of the identity groups more likely to join a union if given the chance.

Other labor intellectuals agree that unions must broaden their base if they are to have any influence in the future. Sociologists Rick Fantasia and Kim Voss argue in their book *Hard Work: Remaking the American Labor Movement* that unions have to work in creative ways outside of the National Labor Relations Board context. The legal environment for unions is so hostile, they write, that labor should concentrate not on getting NLRB elections, but on broader campaigns that get away from traditional organizing models.

Living wage campaigns, Fantasia and Voss note, are the sort of grassroots effort unions should embrace. Living wage regulations set a minimum standard for companies who do business with a particular municipality. The idea is that in certain cities the minimum wage is much too low to live. With a living wage those organizations contracting with the city – providing services to the poor for example – would have to pay a certain wage, usually set much higher than the minimum wage. Fantasia and Voss write, “It represents the kind of effort that most union leaders would have disparaged in the past, both because the idea for it came from activists outside the labor movement and because they would have feared that a mandated wage rate might undercut workers’ need and support for collective bargaining.”

Fantasia and Voss argue that there are many such activities that labor unions can join to create a larger movement. Anti-sweatshop protests on college campuses present an opportunity. Labor can join with students to urge campuses to divest in companies that abuse human rights, and students in turn can fight for janitorial and cafeteria employees. Churches and other organizations can be brought into the fold as well. In Stamford, Conn., for example, churches and other organizations of low-wage workers joined with unions to stop the city from demolishing public housing complexes.

Divestment, living wage campaigns, and affordable housing coalitions are the future of the labor movement, said Fantasia and Voss. Such a strategy would allow unions to exert pressure on large corporations and government officials without using the old tools of NLRB elections and collective bargaining. Progressive mobilization efforts will have the added benefit that groups usually suspicious of the labor movement will gain a deeper appreciation for workers’ strikes and boycotts.

Kim Voss also edited a book, along with Ruth Milkman, a sociologist at the University of California, Los Angeles, titled *Organizing and Organizers in the New Union Movement*, that suggests another reason unions should reach out to the community -- namely, it is a good place to find organizers. In an article "Against the Tide: Projects and Pathways of the new Generation of Union Leaders, 1984-2001," a group of scholars examined the mid-level organizers and leaders in the union movement to uncover their past experiences and understand why they joined the labor movement. The study found that only 16 percent of leaders joined the labor movement for personal advancement reasons, whereas 53 percent joined because they had a background in some social reform organization and they were attracted to the progressive potential of unions. One United Farm Workers organizer the researchers interviewed said he was a campus activist and anti-war campaigner when he heard about the UFW struggles in California. His friends convinced him to join the UFW by telling him, "You were always Mr. Protest and making us go to demonstrations and everything. Why don't you go work with them?" Whether through church or civil rights activism, researchers found many organizers had backgrounds in social justice, and they suggest that strengthening those ties might lead to a new generation of activist leaders.

Unions should join progressive causes, Harvard economist Richard Freeman said in an interview, but they will also have to restructure to regain their relevance. Freeman said that he does not know what future unions may look like, but he is sure a young, visionary leader will create a new model to adapt to a global economy. "Andy Stern has a little of that energy," he said. "But John Sweeney was 70-years old when he was born." Freeman said that new leadership would be needed. The problem is that unions are still tradition-bound and

bureaucratic, he said. That discourages young people who might join because it is difficult to get ahead in unions, much more difficult than in business, he said.

Future unions may look more like professional organizations, Freeman said. “The American Medical Association has been one of the most anti-union forces around,” he said. “But now the AMA collectively bargains for their members.” The problem is that traditional models of organizing too often pit unions against businesses in a resource fight, Freeman said. “Unions pull out their millions, and businesses turn around and pull out their billions,” he said. “Unions can’t win in a resource fight.”

Historically unions have grown in spurts, Freeman said. That is why he is optimistic that labor will make gains once again. Unions advance, he said, when people get fed up or a social crisis forces businesses to prioritize something other than saving on labor costs. During World War II, patriotism and work shortages encouraged corporations to take a softer approach toward unions, he said. And during the Great Depression there was a general revolt against low wages and anti-union legislation because people were pushed to their limit. Freeman thinks another such crisis is inevitable.

Cornell professor Harry C. Katz, in the afterward to *Rekindling the Movement: Labor’s Quest for Relevance in the Twenty-First Century*, agrees with Freeman that unions grow in spurts, but he is less sanguine about the future of labor. He sees the linking of unionism with other progressive causes as a positive development, but he thinks community-based movements will have less impact on skilled trades and high-wage workers who want to organize. “High-wage and high-skill employees derive bargaining leverage with their employers from their willingness to improve workplace performance,” he writes. “Yet, taking advantage of this leverage requires that these high-wage employees fashion

participatory relationships with their employers in contrast to the more traditional job control unionism or the rank-and-file organizing approach.” Katz cites the neutrality agreement that the Communications Workers of America signed with Cingular Wireless as an example of how high-wage employees can succeed in organizing. But, he writes, it is not clear that high-skilled workers can win a union drive if they are met with employer intransigence.

The other reason for skepticism, Katz notes, is globalization. Most large companies stretch across national boundaries now, and free trade agreements allow corporations to move easily throughout the world. Unions, however, are not so flexible. “The problem now confronting labor movements all over the globe is that they confront the need for cross-national unionism, yet their efforts to create such unionism face incredible barriers,” he writes. Workers in different societies have language, legal and cultural barriers to organizing transnational unions.

Still, a recent article in the Southern California Law Review by Fordham University law professor Jennifer Gordon suggests a way forward. Her idea of “transnational labor citizenship” is causing some buzz among those who think about the future of the union movement. The heart of Gordon’s idea is a network of organizations that stretch across the U.S.-Mexico border. Businesses would notify these labor organizations that they need workers. The unions would then hold meetings with Mexican workers to explain U.S. labor laws and introduce them to transnational labor organizations. Along the way, labor rights would attach to the individual worker and would not be related to an immigrant’s specific workplace.

In Gordon’s vision, individual transnational unions would be linked to a larger organization that she calls “the Transnational Worker Collaborative” with offices in the U.S.

and Mexico. This larger body would operate like a hybrid of the AFL-CIO and the United Nations, pulling together smaller organizations and advocating for the rights of all workers regardless of race or national origin. The employees of the Transnational Worker Collaborative would also work with business and government officials to ensure that visa rules are followed and to ferret out fraud by workers trying to rig the system.

International labor citizenship is not unprecedented, Gordon writes. She describes the scene from a May 2005 trip to Monterrey, Mexico, when she traveled with labor recruiters from North Carolina to grant visas to temporary workers. Recruiters were not the only people making the trip; labor organizers were there as well. The organizers warned the workers against farmers who abuse immigrants, and told the Mexicans about their rights in the U.S. After describing the hopeful workers, Gordon writes, “Before week’s end they will be thinning tobacco plants in the hot Carolina fields. For the first time in history, guest workers are about to cross the border into the United States as union members.”

Gordon admits in her paper that her ideas for transnational labor rights are far-fetched. Indeed, businesses are likely to resist because they like the flow of cheap labor into the U.S., and politicians are likely to resist because anything “transnational” hints at the abdication of power to another country or some super-national organization. But, Gordon writes, unions must think of new strategies to engage globalization. “What *can* workers do?” she asks. Then she answers her own question: “They can recognize that the best insurance against unfair competition comes not from the deployment of immigration law but from worker solidarity.”

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