Work History News

New York Labor History Association, Inc.

A Bridge Between Past and Present

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Five women with "Something to Say" receive Clara Lemlich Awards

The Museum of the City of New York was the site of an in-person ceremony on May 13, 2024, at which the annual Clara Lemlich Award for social activism was presented to five notable women. The event, hosted by Labor Arts, the Puffin Foundation, and the Remember the Triangle Fire Coalition, also honors the memory of Clara Lemlich, the activist and organizer whose call for a general strike of women garment workers in 1909 ("I've got something to say!") precipitated the Uprising of the 20,000 and demonstrated that young women workers could organize!

Honorees Muriel Fox, Estella Vasquez, Dorthaan Kirk, Theodora Lacey and Priscilla Bassett

The evening featured music and poetry, and welcoming comments from Lemlich's great-grandson Michael Miller. The awardees are proud feminists, still vigorous but with many years of activism behind them, namely:

- **Priscilla Bassett**, a librarian who, for seventy years, has had a second career advocating for civil rights and peace and against apartheid, for seniors' benefits, universal health care, and immigrants' rights.
- **Muriel Fox**, a communicator and publicist who co-founded the National Organization for Women (NOW), the NOW Legal Defense and Education Fund and the Women's Forum of New York. Her new book is *The Women's Revolution – How We Changed Your Life*.
- **Dorthaan Kirk**, who managed the career of her husband, the jazz great Rahsaan Roland Kirk. After his death, she played a vital role in the start-up and growth of Newark's great jazz radio station, WBGO, and her service to the community led her to become known as Newark's "First Lady of Jazz" and to be a recipient of the "Jazz Master" award in 2020, from the National Endowment for the Arts.
- **Theodora Lacey,** a science teacher who helped Teaneck, N.J. become the first city in the U.S.A. to voluntarily integrate its public schools and worked with the Fair Housing Council to challenge discriminatory housing practices. Her civil rights advocacy dates back to the historic Montgomery bus strike and boycott of the mid-1950's.
- **Estella Vasquez,** who served Local 1199 of SEIU, the Healthcare Workers Union, for over thirty years as an organizer, Vice President and Executive Vice President, fighting for workers' rights, women's rights and immigrants' rights.

PHILOINE FRIED AWARD WINNER HELPS KEEP THE MUSIC COMING OUR WAY

DARYL GOLDBERG, of Local 802, American Federation of Musicians, was this year's winner of the Philoine Fried Award, which is given annually to a rank-and-file union member who makes outstanding but under-appreciated efforts to support her union. Goldberg is a cellist, so she is not an "unsung" hero, but is definitely not "unbowed." She has been a member for years (now chair) of the New York Pops orchestra committee, helping to guide her union through many committee meetings and bargaining sessions. Local 802's Vice President Karen Fisher, who introduced Goldberg at the ceremony, noted how much time (unpaid) and effort Daryl has contributed over the years, and the importance of the New York Pops negotiations in setting standards for other orchestras. Special thanks to Local 802's Communications Director Mikael Elsila for his role in bringing Ms. Goldberg's achievements to the selection committee for the Fried Award.

Following the award presentation, we enjoyed a book talk by Professor Karen Pastorello of Tompkins Cortland Community College about her 2008 work, "A Power Among Them: Bessie Abramowitz Hillman and the Making of the Amalgamated Clothing Workers of America." Hillman, the mother of Philoine Fried, might be called the "undersung" hero of "the Amalgamated" because of her service in the shadow of husband Sidney Hillman. Pastorello proudly described Bessie Hillman as a "labor feminist," working to elevate the status of women in the union and society throughout her life and unhesitant about pointing out the paucity of women in labor's higher ranks.

Road trip to a company town

By Keith Danish

Before boarding a train from Chicago, Illinois to L.A. last April, your correspondent visited the Pullman National Historical Park in South Chicago. This planned industrial community, built in the 1880's, was where the Pullman "Palace" sleeping and dining cars were built and leased out to railroad companies. On board, service was offered by the iconic Pullman porter, many of whom were "Freedmen" or their descendants. The Pullman visitors' center does not neglect labor history; it tells us how people lived (depending on their status) and worked in the company town, presents the bitter 1894 Pullman Strike and Boycott led by Eugene Debs of the American Railway Union, and recounts the long but successful struggle by A. Philip Randolph and the Brotherhood of Sleeping Car Porters to win recognition as a union.

A neighborhood tour

I was most fortunate to be guided through the Pullman neighborhood, which includes a well-restored residential community, by three board members of the Illinois Labor History Society, who were present that day to execute an agreement making their society an official "Interpretive Partner" of the Pullman site.

After visiting the memorial to the victims of the 1886 Haymarket Bombing, a few blocks north of Chicago's Union Station, I boarded the "Southwest Chief" and enjoyed two relaxing days and nights in a sleeping car that carried me to L.A.'s Union Station. Amtrak employs "sleeping car attendants" now (not porters), and the Transportation Communications Union (TCU/IAM) is the largest union at Amtrak, representing over 6,000 ticket agents, red caps, customer service representatives, onboard service personnel, supervisors, carmen, coach cleaners, and others.

Keith with ILHS board members Pope, Spivack and Matejka.

PULLMAN MEN OUT.

Seventy-five Freight Car Builders Start the Strike.

HUNDREDS FOLLOW THEM

Those Who Remain at Work Are Then Locked Out.

DISCHARGES THE CAUSE.

Committeemen Laid Off and Their

Work History News

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Work History News is published twice per year to keep NYLHA members informed about our organization's work and labor history events. For more information, visit us at newyorklaborhistory.org.

A summary look at college athletes, professionalization, and unions

By Robert C. Cottrell

Controversies have long swirled around professionalization of college sports. Not surprisingly, during the fall of 1970, befitting the contentious era historians call the Long Sixties, athletes across America agitated for improved conditions, decrying exploitative, dehumanizing conditions. That December 13, *New York Times* sports reporter Neil Amdur referred to the growing push back against their earlier disinclination to rock the boat, which produced dismissive labels of "animals" or "monkeys." Distressed about racism, Black athletes at Syracuse University boycotted the full football season. At UF Gainesville, sixty athletes established a "union" demanding programmatic changes. Detroit University basketballers refused to abide the coach's "inhuman" behavior.

Early protests

Near the beginning of the ensuing decade, University of New Haven sociology professor Allen Sack, a member of Notre Dame's 1966 national championship football squad turned Center for Athletes' Rights and Education (CARE) project director, insisted college athletes must organize. Both the National Collegiate Athletic Association (NCAA) and the College Football Association, Sacks contended, favored "property rights and profits" over amateur athletes' education. Moreover, annual grants had supplanted four-year athletic scholarships with other benefits curtailed. Consequently, athletes needed "to organize to defend themselves." Ex-UCLA and NFL defensive back Kermit Alexander, CARE's field coordinator, believed college athletes, in various instances, required "direct compensation."

The *Times*' sports columnist Dave Anderson considered Sacks "probably a few years ahead of his time." No matter, Sacks had become "the James Madison of sports," crafting a "bill of rights" to

"organize and protect college and scholastic athletes." "Someday," Anderson predicted, Southern Cal's football squad might strike. An Oklahoma running back might sue regarding payment. A Michigan lineman might seek to transfer to arch rival Michigan State and not have to sit out a year. A Bama linebacking sub might bring a cause of action over medical issues. A third-string defensive back at Penn might demand fully paid tuition for another year.

During mid-1998, Sacks and co-author Ellen J. Staurowsky, another former collegiate athlete and an Ithaca College professor of sports sciences, published *College Athletes for Hire: The Evolution and Legacy of the NCAA's Amateur Myth*. Academic institutions, they argued, exploited Division I athletes, who were hardly the amateurs seemingly exalted by colleges.

In September 2003, *New York Times* legal affairs reporter Marcia Chambers discussed NCAA president Myles Brands's admission that college athletes required greater financial assistance from their home institutions. Brands supported "cash stipends and other new benefits" amounting to as much as $3000 yearly. Emphasizing the NCAA still revered the student athlete, "the collegiate model changes over time," he admitted.

The *Times*' Joe Nocera's column titled "A Union Stands Up for Players," dated March 5, 2012, referred to DeMaurice Smith, the National Football League Players Association executive director. Both Nocera and Smith considered change necessary, notwithstanding the NCAA's determination to maintain athletes "in their current shackled state."

NLRB gets involved

Within two years, Northwestern University football players reached out to the National Labor Relations Board (NLRB), receiving support from the United Steelworkers and the just created College Athletes Players Association. That organization's president, Ramogi Huma, earlier a UCLA linebacker, insisted, "College athletes need a labor organization that can give them a seat at the table." NLRB regional director Peter Ohr, on March 26, 2014, proclaimed athletes to be university employees, possessing the right to form unions and engage in collective bargaining. He ruled, "It cannot be said that the employer's scholarship players are primarily students."

Some universities again guaranteed four-year scholarships. The NCAA stopped demanding athletes authorize employment of their names and images "for promotional purposes." However, the drive to safeguard college athletes' rights slackened during the late summer and early fall of 2015 when the NLRB overturned Ohr's finding, and the U.S. Court of Appeals for the Ninth Circuit discarded a federal judge's proposal to allow annual payments as high as $5,000.

During the fall of 2015, students conducted "Racism Lives Here" protests, while University of Missouri football players, backed by head coach Gary Pinkel, threatened to boycott a game to

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An Overview of the Wagner Act and the NLRB – as they approach their 90th anniversary and are under attack as "unconstitutional"

By Joe Doyle

NYLHA board members Keith Danish and Steven Davis organized and presented a superb spring Zoom labor history conference on May 9, 2024, about the 1935 Wagner Act and the National Labor Relations Board that was created pursuant to the Act. The Board is currently facing the most serious court challenge to its right to existence since the Supreme Court decided (in the NLRB's favor) the 1937 *Jones & Laughlin* case. Panelists brought a wealth of hands-on experience to a wide-ranging discussion of why the NLRB was created in the 1930s, how it is structured, how it's currently doing – trying to referee fair union elections – and why its future is in imminent peril.

Channeling worker unrest

Retired Bloomfield College history professor Steve Golin led off the conference. Golin recalled dramatic confrontations in the 1930s that spurred President Roosevelt to create the NLRB: sharecroppers organizing (and being immediately attacked), unemployed councils forming, San Francisco longshoremen pulling off a dramatic general strike, Toledo Auto-Lite workers, Minneapolis teamsters, and many other workers waging highly visible – and successful strikes. Golin credited labor leaders of widely different political backgrounds – A.J. Muste, Harry Bridges, the Dunne Brothers, and A. Philip Randolph for blazing the way. And he cited 1937 as the year American labor erupted most spectacularly: blind workers sitting down to demand recognition, 450 young women sitting down in tea rooms – and winning a 25% raise. Hundreds of thousands of workers sat down: auto workers, oil workers, trash workers, National Guard members, housewives refusing to make meals.

Golin said the Wagner Act gave American workers the courage to improve their working conditions. But the NLRB set limits: ruling that sit-downs were illegal. The Supreme Court subsequently outlawed sit-down strikes. AFL leaders had long frowned on sit-down strikes – and most union leaders were uncomfortable with the raw energy of a movement they weren't controlling. Golin opined that's why sit-downs were so popular – they made workers feel like they were in charge. Of course, it made business owners hate sit-downs even more. After WWII, business interests lobbied Congress for the Taft-Hartley Act, which Golin said should be called the anti-Wagner Act. Communists were purged from local and national union leadership. Taft-Hartley made secondary boycotts illegal. Congress limited, weakened, and, ultimately, changed the militancy of post-WWII labor. But, Golin concluded, there still is life in the Wagner Act.

NLRB practices

Retired Administrative Law Judge Steven Davis introduced Ellen Dichner, who put in more than 30 years at the NLRB, first as a trial attorney. During the Obama Administration, she served as Chief Counsel to the Chairman of the NLRB. She is currently a Distinguished Lecturer at the School of Labor and Urban Studies, CUNY.

Ellen Dichner opined that the NLRB has not been this relevant since the 1930s. There has been an upsurge in labor activism and union organizing. More workers are utilizing the NLRB's election process to obtain union representation. More workers are seeking NLRB protection from unfair labor practices. They're finding the NLRB receptive to their complaints, under General Counsel Jennifer Abruzzo, who has aggressively prosecuted unfair labor practices. The NLRB is issuing pro-worker decisions. Simultaneously, however, there has been an increase in the commission of unfair labor practices by employers. And employers are backing lawsuits to have the NLRB declared unconstitutional.

Dichner outlined the structure of the NLRB. It has an office of the General Counsel (a prosecutor) and a board of five members – appointed by the President and confirmed by the Senate. Dichner explained that the NLRB's General Counsel sets policy and oversees 25 regional offices across the country. Regional offices conduct local union representation elections and investigate charges of unfair labor practices brought by the public. The NLRB is neutral in its fact-finding investigations. When a regional office finds merit in an accusation of an unfair labor practice, it issues a complaint. Many of these cases settle. If the complainant and management can't settle, the regional office prosecutes the unfair labor practice. (Dichner often prosecuted unfair labor practices in hearings before Judge Davis.) The NLRB's office of the General Counsel defends NLRB decisions in federal courts, and it seeks injunctions against employers who have been found guilty of unfair labor practices.

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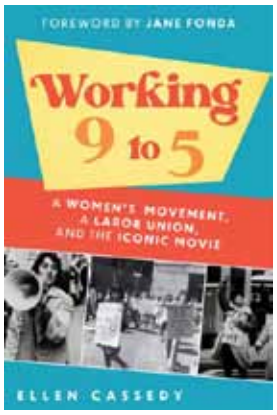
New trends in organizing

Our association wrapped up its programming for the first half of 2024 with a timely event called "New Trends in Organizing: From 9 to 5 to the Emergency Workplace Organizing Committee (EWOC)," offered over Zoom on June 5, 2024. With co-sponsorship by Labor Arts, The Tamiment Library/Robert F. Wagner Archives, and the CUNY School of Labor and Urban Studies, the program was organized and moderated by our board member Debra Bergen, whose own experience includes organizing and representing hospital and home care workers, physicians, university and office workers, organizing for "WOW" (Women Office Workers), volunteering with EWOC, and serving as Director of Contract Enforcement for the "PSC." So, Debra was a de facto panelist at this event and a valuable contributor to it.

Ellen Cassedy, the first speaker, was a founder of "9 to 5," the organization that made the "invisible woman office worker" very visible and built solidarity to achieve both material and cultural gains for the "WOW". Ms. Cassedy recounted how the movement was built from the ground up, using publicity, education, pressure, shaming, changing of minds, legal tactics, and the development of a collective consciousness as well as a Bill of Rights for women office workers. The 1980 film "Nine to Five", starring Jane Fonda, Lily Tomlin and Dolly Parton, taking on Dabney Coleman as their sexist, bigoted, egotistical boss (guess who won?), was inspired by a movement started early in the 1970's by women clerical workers in Boston. In 1975, Local 925 ("nine two five") of SEIU was formed in Boston, and in 1981 SEIU granted a national charter to "District 925."



Professor Eric Blanc, an assistant professor of labor studies at Rutgers University, spoke about worker-to-worker organizing, which he described as a low-cost, scalable organizing model with workers taking on responsibilities traditionally reserved for union staff (and less staff means less organizing expense). The W-to-W strategy has been used in a variety of situations, such as in seeking affiliation with an established union, or in working through a new entity (like the Amazon Labor Union), or in unions that delegate more responsibility to workers (like UE), or external actors like EWOC. The press has noted such worker-centric and rank-and-file intensive movements; much more can be learned about them in Prof. Blanc's forthcoming book, *We are the Union: How Worker-to-Worker Organizing is Revitalizing Labor and Winning Big*.

Patrick Cate, the national organizing coordinator of "EWOC," the Emergency Workplace Organizing Committee, recounted the beginnings of the organization in 2020 when conditions in the "COVID" workplace were of special concern, and its focus since then on worker autonomy and self-empowerment. After workers reach out to EWOC, it seeks to educate worker-leaders to decide how best to solve workplace problems (not necessarily through a union) and share knowledge about what works and what does not. EWOC is now a partnership between the DSA (Democratic Socialists of America) and the UE (United Electrical, Radio & Machine Workers of America), and it has supported many organizing campaigns. Its website declares: "Democratize Your Workplace."

Are these "new trends in organizing" revitalizing the U.S. labor movement? Can they evolve as needed to stand up to a post-post-industrial "AI" economy? The story is still being written but it is heartening to see how workers are attempting to devise new strategies and/or adapt older ones like the "shop floor" movement, to bring more justice to the 21st Century workplace.

UFT MEMBERS CAN "ASK GEORGE"

MEMBERS of the United Federation of Teachers can now visit a Member Hub on the union's website, hub.uft.org, to learn about their union rights and benefits, get forms or seek other information. The interactive site was launched earlier this year and is named "George," to honor union co-founder George Altomare who passed away in 2023. George was the beloved Vice President of our association for many years, and we are happy to see his name associated with such a useful venture. Perhaps the UFT can add a link to an audio or video track of George playing his guitar and singing "Solidarity Forever."

"George" icon on UFT website

A summary look at college athletes, professionalization, and unions

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display support for Jonathan Butler. The graduate student had initiated a hunger strike to protest the administration's failure to address racist events on campus. As demanded by the football team, UM system head Tim Wolfe resigned.

On January 31, 2017, NLRB general counsel Richard F. Griffin presented Memorandum GC17-01, indicating Northwestern scholarship football players could be considered employees due to the compensation they received and the revenue they generated for the university. Later that year, Griffin's replacement under the Trump administration, Peter Robb, discarded his evaluation.

Several states, with California taking the lead through the Fair Pay to Play Act, explored legislation enabling college players to receive compensation "for use of their names, images and likenesses (NIL)." The U.S. Supreme Court fueled the campaign to compensate student athletes through its unanimous decision, *Alston v. NCAA*, issued on June 21, 2021, deeming college athletics "a profit-making enterprise" and denying the organization's antitrust defense rooted around amateurism.

Scoring gains

Almost immediately, college athletes inked endorsement contracts. And in late September 2021, Jennifer Abruzzo, the NLRB's general counsel, declared that various athletes at academic institutions "perform services for institutions in return for compensation and subject to their control." This made them "statutory employees" possessing "the right to act collectively to improve their terms and conditions of employment." That December, Horns with Heart proclaimed a readiness to provide $50,000 annual payments to University of Texas offensive linemen who assisted charitable undertakings through usage of "their name, image and likeness."

By early 2023, the U.S. Court of Appeals for the Third Circuit listened to oral arguments tendered in *Johnson v. NCAA* involving a contention by several ex-Division I athletes that the organization should acknowledge student-athletes were employees entitled to federal minimum wage payments. Athletic scholarships, the NCAA countered, amounted to compensation for time and services rendered. An attorney for the NCAA, Christopher R. Deubert, subsequently contended that proclaiming student athletes to be employees would enable them to unionize, receive health insurance, and be eligible for workers' compensation. They would also be subject to taxation and, potentially, termination as employees should they perform poorly on the playing field.

In September 2023, Dartmouth College basketball players filed a petition with the NLRB, seeking to unionize. On February 5, 2024, NLRB regional director Laura Sacks ruled, "Because Dartmouth has the right to control the work performed by the Dartmouth men's basketball team, and the players perform that work in exchange for compensation, I find that the petitioned-for basketball players are employees within the meaning of the (National Labor Relations) Act." Prior to its last game of the current campaign, the Dartmouth team, on March 5, voted 13-2 to join the Service Employees International Union Local 560. What this portends has yet to be determined.

On Thursday, May 23, 2024, the NCAA and the power conferences – the Atlantic Coast, Southeastern, Big Ten, Big 12, and Pac-12 – came to a revenue-sharing agreement approximating $2.75 billion. Slated to begin during the fall of 2025, it would allow for schools in those conferences, at their discretion, to hand out $20 million annually to athletes with that amount possibly to rise through subsequent television contracts. Around 14,000 present and former players, including those having competed from 2016-2021, would receive payments to be determined by a sports economist; moneys would be drawn from the NCAA, the Power Five, and, controversially, the other Division I conferences. All of this remains contingent on its approval by U.S. District Court Judge Claudia Wilken. Left up in the air were the impact of the agreement regarding Title IX's mandate that academic institutions afford equal opportunities to male and female athletes. Also, yet to be determined is the impact on sports other than college football and basketball and 27 non-power division I conference institutions, which are required, under the agreement, to pony up nearly $1 billion.

Steve Berman, an attorney for the plaintiffs, contends, "This landmark settlement will bring college sports into the 21st century, with college athletes finally able to receive a fair share of the billions... that they generate for their schools." By contrast, Big Sky Conference commissioner Tom Wistrcill laments, "We didn't get a say in this, and now we're paying this tax... and we had nothing to say about it, nothing to do with it, and certainly our former student athletes aren't benefitting from this." While expressing support for the prevention of an extended trial that could have proven "catastrophic for college athletics," Metro Atlantic Athletic Conference commissioner Travis Tellitocci offers, "I would say the most disheartening thing for me" involves budgetary reductions that "will negatively impact the student athlete experience" during the next decade.

Robert C. Cottrell, Professor Emeritus of History at California State University, Chico, is the author most recently of *The Year Without a World Series: Major League Baseball and the Road to the 1994 Players' Strike* (2023).

An overview of the Wagner Act and the NLRB

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Dichner described the NLRB's five-member board as quasi-judicial. It issues final decisions in union representation elections and unfair labor practice cases, directing that the losing party take certain actions such as offering reinstatement and paying back pay, but those decisions and orders are not self-enforcing. The NLRB must go to a federal court to have its orders enforced.

The original language of the Wagner Act in the 1930s directed appeals courts across the U.S. (in deciding appeals from losing parties) to defer to NLRB decisions "if they are supported by substantial evidence." The Supreme Court's 1937 *Jones & Laughlin* decision found this to be constitutional. The Supreme Court decision in the *Chevron* case of 1984 reinforced that principle (which has been known since that time as "the Chevron doctrine") that reviewing appeals courts cannot substitute their own view of the facts and the law. In other words, appeals courts can't reverse NLRB decisions – even if they don't like them, even if the appeals court can justify an alternate conclusion.

Challenges to NLRB

Dichner emphasized that all federal agencies function on this principle – Congress drafts statutes broadly. It cannot anticipate all the matters that will arise under the law. Rather than have some random appeals court judge make crucial decisions, a regulatory agency like the E.P.A., E.E.O.C., S.E.C., or the NLRB – should have the final say, if reasonable, on the meaning of the statute it is charged with enforcing.

The Supreme Court will decide a case (*Loper Bright Enterprises v. Raimondo*) before the current term ends that may reverse ninety years of judicial restraint. Conservative judges don't like deferring to federal regulatory agencies. They rail against it. The current Supreme Court has made clear its hostility towards regulatory agencies, the so-called "administrative state." "The Chevron doctrine" of

deferral to the findings and interpretations of regulatory agencies has, for decades, been a primary target of conservative legal organizations like the Federalist Society. It is widely expected that the Supreme Court will weaken or eliminate deferral to the judgments of regulatory agencies.

Dichner said we haven't seen a direct attack on the Chevron doctrine since 1984 – or on the legitimacy of NLRB since the 1937 *Jones & Laughlin* case. But right now, large, well-funded corporations are committing resources in an all-out effort to eliminate the NLRB's authority.

Why now? We've seen large successful strikes in the last year – in auto, teamsters, SAG/AFTRA, Writers Guild. There's a surge in organizing: Starbucks, Amazon, Trader Joe's, higher education. Polls show the strongest public support for unions in 50 years. In the first half of 2024, the number of union petitions for NLRB elections increased 35%. And the union's win rate is 80%.

Why now? Workers see a very responsive, pro-worker NLRB. The NLRA/Wagner Act is not a neutral statute. Its stated purpose is to encourage collective bargaining and to protect the rights of workers to organize to improve their terms and conditions of employment. The agency is neutral in the way that it carries out enforcement of the act.

Corporations are out to undermine the legitimacy of the NLRB. They are launching appeals in federal courts to stop ongoing NLRB prosecutions. The day after the NLRB issued an unfair labor practice complaint against Elon Musk's SpaceX company, Space X filed a lawsuit in a Texas federal court – where everybody is going when they want to stop the act of a regulatory agency – accusing the NLRB of being unconstitutionally structured: 1) Its administrative judges can only be removed for cause. This allegedly conflicts with the constitutional authority of the President to remove federal personnel at will. 2) The NLRA violates the 7th Amendment – since it doesn't allow jury trials. (That argument, Dichner says, is specious since the *Jones & Laughlin* decision specifically rejected a similar 7th Amendment demand for jury trials.) 3) NLRB board members abrogate to themselves executive, legislative, and judicial powers in the same administrative proceedings, therefore violating the due process clause of the Constitution.

Organizing tactics

Dichner noted that the NLRB can legitimately be criticized for responding too slowly to unfair labor practices. An injunction is needed to force companies to rehire workers fired for trying to organize a union. The proposed PRO-Act (*Protecting the Right to Organize)*, currently stalled in Congress, would eliminate this employer stratagem – giving the NLRB authority to compel employers to immediately reinstate such employees. Dichner noted that a second criticism of the NLRB is that its remedies are too weak. The PRO-Act would eliminate delays by employers and impose fines – stronger, more meaningful remedies. But ... the PRO-Act currently has no viable path to becoming law, and, alarmingly, pending Supreme Court cases have the clear goal of eviscerating the NLRB.

The final speaker was Grace Reckers, Senior Organizer for OPEIU, Office and Professional Employees International Union. Reckers spoke of organizing workers who have never been unionized before. At OPEIU, she has run a dozen organizing campaigns that have won union recognition.

Many employees she works with experience workplace violations. Reckers found she can provide a degree of protection for workers by asking the NLRB for a union election immediately.

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Inside

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Although sections 7 and 8 of the Wagner Act assure workers they have the right to talk to their fellow workers about organizing a union – many employees don't realize they have that right. And employers often break the law and immediately fire an employee actively recruiting for a union. It's illegal. It's an unfair labor practice. But they still do it.

Reckers works with a number of employers in the non-profit sector. They claim to be pro-labor – until employees start organizing a union – then they do everything in their power to quash a union. That's where a quickie election (taking place within 21 days) is advantageous: by decreasing the time between filing and actual election, there are fewer opportunities for management to propagandize employees at captive member meetings. Reckers says union activists gather evidence of unfair labor practices to push back.

Reckers says when a shop wins union recognition through NLRB elections, collective bargaining discussions with management are normalized. Throughout the process, however, there are many opportunities for employers to delay, appeal, and file motions – with the clear intention of delaying signing a contract. If, for example, an employer can demand a hearing, it can easily take six months for that hearing to happen. That's six months for the employer to pick people off – and, sometimes, fire many employees.

The NLRB's 2023 ruling in the *Cemex* case says that if employees have sufficient pledge cards to demand a union election, and the employer takes more than two weeks to respond, the NLRB can order an election. An audience member expressed doubts, however, given the track record of the Justices currently sitting on the Supreme Court, that the court will allow the *Cemex* case to stand.

Reckers noted that a fundamental change is taking place right now in the way workers organize their workplace. Organizing is being done in individual workplaces – it's not happening in giant factories. Traditionally, labor organizers directed their efforts at the company itself. They didn't go to individual workplaces. Reckers noted that corporate structures have completely changed since the 1930s and 40s. Employers have intentionally broken things up, for example, making each Starbucks store its own entity – in part, to make union organizing harder. She suggests labor can rise to the challenge, but it will simply have to learn to organize in a different way.