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The new American way—how changes in labour law are increasing inequality

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ABSTRACT

How have changes in labour law affected income inequality in the United States over the last half century? Curiously, even though employers have increased the degree to which they break labour law, workers have decreased their utilisation of the National Labor Relations Board (NLRB) and the strike. How do we understand the unwillingness of labour to utilise the NLRB and the strike when under increasing attack? To answer these interrelated questions, I analyse three central changes in federal labour law and norms from the middle of the 20th century to present: the usage of permanent replacement workers, adjudication of the main federal labour law—the National Labor Relations Act—and change in administration of the NLRB—the body charged with overseeing the National Labor Relations Act.

Income inequality in the United States has increased dramatically since the late 1970s. The income share of the top 1.0 per cent of the population has grown from just under 9 per cent of all income in 1978 to over 22 per cent in 2012, and the income share of the top 0.1 per cent, an even more elite group, has increased from 2.65 to 11.33 per cent over this same period (Piketty and Saez, 2003). Indeed, income inequality has increased so dramatically that the top 1.0 per cent absorbed nearly 60 per cent of growth between 1977 and 2007 (Piketty, 2014). In this article, I seek to better understand these astonishing trends by analysing how changes in federal labour laws and norms since the middle of the 20th century have transformed power dynamics at the firm and ultimately influenced the dramatic rise in income inequality highlighted earlier. I look at the usage of permanent replacement workers, adjudication of the main federal labour law—the National Labor Relations Act (NLRA)—and change in administration of the National Labor Relations Board (NLRB)—the body charged with overseeing the NLRA.

1 THE LITERATURE

The increase in income inequality highlighted earlier has been driven by a dramatic increase in the remuneration of top management relative to the average worker. For example, Piketty (2014) finds that 60 to 70 per cent of the top 0.1 per cent are executives in the real sector (i.e. the non-financial sector of the economy). Bakija, Cole and Heim (2012) show that households headed by 'executives' in the real sector are associated with 44 per cent of the increase in the income share of the top 0.1 and 36 per cent of the increase in the income share of the top 1.0 per cent. Mishel and

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Davis (2014) demonstrate that between 1978 and 2013, executive pay increased by 900 per cent relative to the pay of the average worker. And Song *et al.* (2015) show that between 1978 and 2013, more than 40 per cent of the increase in income inequality between individuals employed at large firms stems from intrafirm variation in wage; remuneration for chief executive officers (CEOs) has increased dramatically while wages in the middle and bottom of the firm's income hierarchy have stagnated or decreased.[1]

There is a growing literature that shows that rents are central to understanding the increase in executive pay. In economics, a rent is defined as pay not justified by marginal productivity. A rent-seeking strategy is a plan of action that pursues such income. For example, stock buyback by a company is an example of a rent-seeking strategy. Lazonick (2014) shows that CEOs pursue buybacks because a substantial portion of their pay is in stock options. Buybacks increase the short-term value of a company's stock but at the expense of investment in research and development and thus the long-term interests of the company and society. Between 2003 and 2012, 449 companies in the S&P 500 index spent 54 per cent of profits, $2.4 trillion, to buy back their own stock.

Another rent-seeking strategy is to increase market share to decrease competition in the industry.[2] Using Census Bureau data, Furman and Orszag (2015) show that consolidation has increased in the non-farm business sector between 1997 and 2007. A Congressional Research Service (2010) study shows that market concentration increased between 1972 and 2002 in the eight agricultural industries it monitors. Vogt and Town (2006) find similar results in hospitals between 1990 and 2003, and Corbae and D'erasmo (2011) show that there has been a marked increase in the concentration of loan providers and demand deposit holdings in the United States between 1976 and 2010.

From a macro-perspective, Bivens and Mishel (2013) show that, between 1978 and 2012, CEOs pay increased by 532 percentage points more than the value of S&P 500 companies. If CEOs were earning a wage that was commensurate with productivity, their wage should only increase as they improve the value of their companies. Because stock valuations can rise because of factors external to a CEO's control, CEO pay should rise more slowly than the valuation of the company if pay is solely driven by

[1] Intrafirm refers to variation within the firm. Song *et al.* define large firms as those with 10,000 or more employees. These firms employ around 30 per cent of the labour force in the United States. However, it is not clear from their exposition if the same can be said for firms employing 5,000 or more or even 1,000 or more employees. If so, intrafirm dynamics would be even more important. It should be noted that Song *et al.* (2015) argue that interfirm dynamics are more important for understanding the increase in income inequality in the United States. Interfirm refers to differences between firms—as opposed to within a given firm. However, even the data they present show that intrafirm dynamics are important. In addition to the statistic highlighted previously, Song *et al.* show that, as one moves up the income ladder, intrafirm differences in wages become more important for understanding changes in income growth. Furthermore, the findings of Song *et al.* under-represent the importance of intrafirm dynamics in several ways. For example, decisions to outsource work are, at least at one point, an intrafirm decision. However, given the construction of the data of Song *et al.*, changes in the wage distribution due to outsourcing would likely show up as interfirm wage variation. Also, the construction of their estimates downwardly bias the importance of intrafirm variation in several ways. For example, the focus in most of their figures on the top 1.0 per cent of individuals using an average of the natural log of individual's incomes in that group shifts emphasizes away from the spectacular growth of top incomes inside the top 1.0 per cent. Also, given their construction, any real growth in income at the firm between 1978 and 2013 would show up as interfirm variation.

[2] The positive relationship among market concentration, market power and rents can be seen through analysis of the Nash equilibrium of an N identical firm Cournot oligopoly.

productivity. Indeed, as seen previously with stock buybacks, CEO pay keeping pace with changes in company valuation due to internal factors can represent a rent. That executive pay has been rising faster than overall stock valuation is evidence of top management earning a rent and of rents becoming more prominent. In a more direct analysis of pay and productivity, Cooper, Gulen and Rau (2014) compared companies' performance with industry competitors for 1,500 large companies over three-year periods between 1994 and 2011. They find that the more CEOs were paid, the worse their companies did. Companies that were the most generous to their CEOs —and whose high-paid CEOs received more of their pay as stock options—did 15 per cent worse on average than their company peers. Again, if pay was driven by productivity, higher pay should be a result of higher productivity—not the other way around.

In terms of change in incentives for top management, Piketty, Saez and Stantcheva (2014) argue that the decrease in top marginal tax rates that started in earnest in 1981 has driven executives to fight for higher pay at the expense of other power brokers at the firm. In 1980, the top marginal tax rate was 70 per cent. Such a high top marginal rate essentially created a wage ceiling because taxes on wages that spilled into the top tax bracket would be almost confiscatory. In the 1980s, the tax landscape began to change dramatically with the top marginal tax rate reaching a nadir of 28 per cent in 1988. This dramatic decrease in taxation for high-earning individuals motivated top management to fight for higher pay—ultimately leading to the income inequality we have today. Parallel explanations have been put forward by Bivens and Mishel (2013), Hacker and Pierson (2010), Reich (2016), Stiglitz (2012) and others who argue that the increase in inequality in the United States is the result of an increase in rent seeking and CEOs' increasing ability to capture those rents.

Top management has increasingly engaged in fights with labour over the distribution of revenue. From a random sample of the full population of all union certification elections with bargaining units of 50 or more individuals, Bronfenbrenner (2009) calculates the frequency of employers engaging in anti-union tactics between 1986 and 2003. She shows that more and more employers have engaged in aggressive anti-labour tactics. For example, between 1986 and 1987, when confronted with a union drive, 38 per cent of employers used five or more anti-union tactics, and not a single employer used more than 10 anti-union tactics. By the early 2000s, when faced with a union drive, 82 per cent of employers used five or more anti-union tactics, and 49 per cent used 10 or more anti-union tactics. The 'overwhelming majority of employers' concludes Bronfenbrenner (2009), 'either under the direction of an outside management consultant or their own in-house counsel—are running aggressive campaigns of threats, interrogation, surveillance, harassment, coercion, and retaliation'.

While illuminating, these explanations spawn further questions about income inequality. Was the increase in anti-union tactics solely the result of an increase in motivation from a decrease in top marginal tax rates? Were there changes in labour laws and norms that made such aggression more permissible? Many of the aforementioned authors seem to assume either constant rules governing labour relations or a negative shock stemming solely from globalisation. However, such an explanation makes it hard to explain workers' reaction to the changes highlighted earlier.

A number of the anti-union tactics analysed by Bronfenbrenner (2009)—like firing an employee engaged in union activity or a company demonstrating anti-union bias—

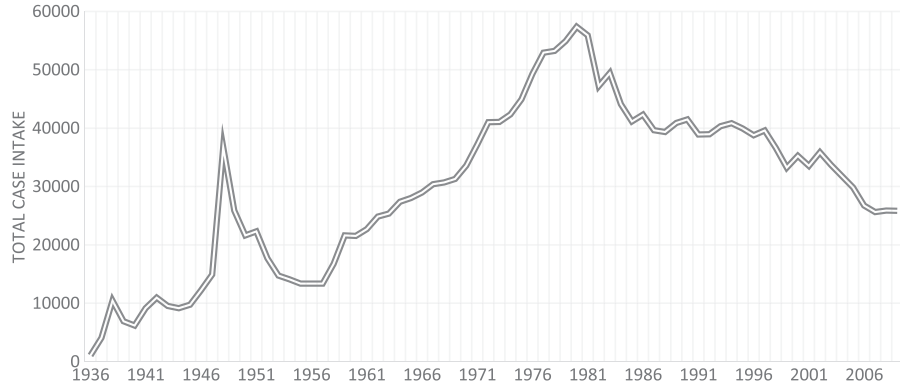
are deemed illegal by the NLRA. If the interpretation and administration of labour laws were constant, such a dramatic increase in anti-union tactics should have increased the degree to which labour sought refuge through the NLRB from activities deemed illegal by the NLRA. However, the exact opposite took place. In Figure 1, I display data on total case intake at the NLRB between 1936 and 2009.

As we can see, beginning in the early 1980s when company aggressiveness dramatically increased, case intake at the NLRB plummeted in absolute terms even though the labour force was increasing throughout this period. It was not just due to a decrease in unionisation. From the mid-1950s to the 1970s, unionisation was decreasing in the United States, but, as we can see, intake at the NLRB was increasing. Why would labour abruptly cease to use the NLRB right when employers were increasingly breaking the law? Were there changes in the understanding of the NLRA or administration of the NLRB that disincentivised labour from turning to the board when under attack?

Also, if employers were becoming more aggressive and labour laws and norms remained constant, strike activity should have increased to resist employer aggression. In fighting for a wage increase, union recognition, work rules or anything else, the strike has long been labour's trump card. It is the tool labour turns to when negotiation and other soft methods of persuasion have failed. In Figure 2, I present data on work stoppages idling less than 1,000 workers in (A) and on work stoppages idling more than 1,000 workers in (B).

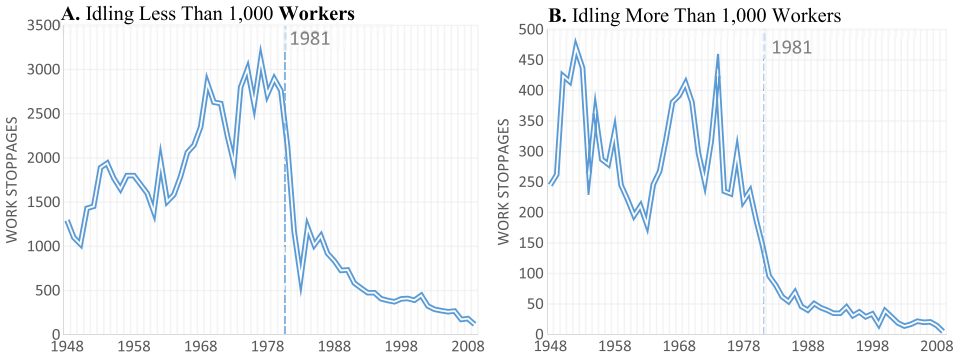
As we can see, there was a dramatic decrease in the usage of strikes after 1981. Work stoppages involving less than 1,000 workers in the five years after 1981 were 62 per cent less than in the five years before 1981, and work stoppages involving more than 1,000 workers fell 67 per cent over the same period. And it was not just a short-term fall. The number of both large and small strikes continued to fall bottoming near zero in the 21st century. How do we understand the unwillingness of labour to utilise one of its most potent weapons when under attack? Was it solely due to globalisation? Or were there some changes in labour laws or norms that make the strike less effective?

These questions are important for better understanding the relative change in remuneration for top management and thus the overall rise in income inequality. In this article, I seek to fill this void by showing how labour laws and norms have



Source: NLRB annual reports

Figure 1: Total case intake at the NLRB



Source: Data on work stoppages idling more than 1,000 workers per year comes from Bureau of Labor Statistics and data on small strikes come from a Freedom of Information Request from the NLRB.

Figure 2: Work stoppages per year. [Colour figure can be viewed at wileyonlinelibrary.com]

changed in the United States over the last three and a half decades and how these changes are affecting intrafirm power dynamics and thus income inequality. While labour was already embattled in the 1960s and 1970s and unions had already begun their slow decline from their 20th century apex, we will see that there was a marked change in labour laws and norms starting in the early 1980s. First, the NLRB and the Supreme Court began to reinterpret the NLRA. Second, the NLRB began to increase processing times in decisions on employer violations of the NLRA and certification of bargaining units and union election outcomes. Third, government actions in 1981 dramatically transformed the social context encompassing employer–employee relations motivating public and private sector employers to increase the frequency in which they hired permanent replacements. It is in this context of changing labour laws, a dramatically different social context and reductions in top marginal tax rates that intrafirm power dynamics have radically changed allowing CEOs to increase their pay relative to the workers below them. Because this change, this new American way, has been pervasive, it has led to an increase in income inequality overall.

2 REINTERPRETING THE NATIONAL LABOR RELATIONS ACT

Since its passage in 1935, the NLRA has been the major federal law governing private sector, non-agricultural employer–employee relations. The NLRA protects labour's collective activities with the intention of promoting industrial democracy and a more equal division of income.[3] From the 1960s to present, the NLRA was only amended once in Congress—in 1974 to place healthcare institutions under its jurisdiction.[4] However, law is malleable. In the 1980s, accusations that the NLRA was being reinterpreted to favour employers flooded the press. 'In only 150 days the new majority [on the National Labor Relations Board] has reversed at least eight major precedents', reported *Business Week* in 1984. 'By some estimates, it has already recast nearly 40 percent of the decisions made since the mid-1970s that the conservatives

[3] 29 U.S.C. §§ 151–169 (2012). See Liebman (2015) for a discussion on the purpose and historical context of the NLRA.
[4] Act of 26 July 1974, Pub. L. No. 93–360, 88 Stat. 395 (1974).

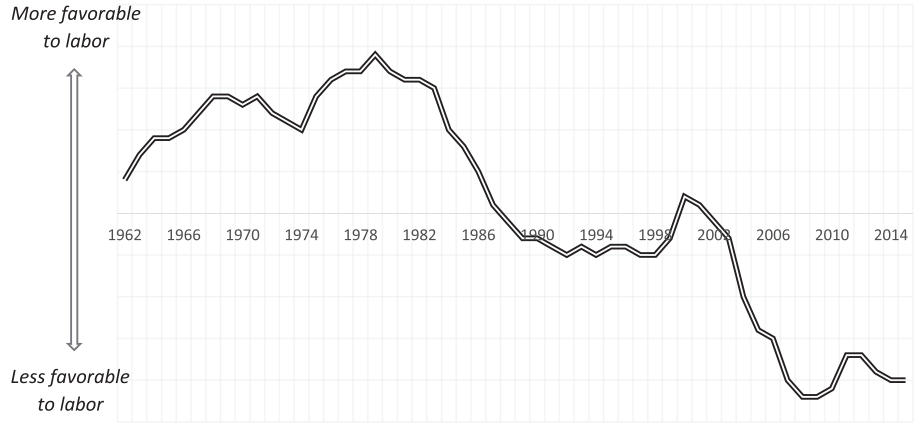
found objectionable.' In response to one such reversal, Donald Dotson, then chairman of the Board, commented that the NLRA 'is still sound … [Instead] one of the problems in the past has been the way previous boards have interpreted it. Of course, the board can change those interpretations without having to urge Congress to change the law'.[5] As put by another NLRB chairman, William B. Gould IV, the 'open-ended ambiguity' of the NLRA makes possible the reframing of employer–employee relations by the NLRB (Gould, 2000).

To have a systematic idea of how the NLRA was reinterpreted, I created an index for each fiscal year starting in 1962 and ending in 2014. The results are presented in Figure 3. In 1961, the index starts at zero. The slope for each year is the sum of scores for all major decisions by the NLRB and the Supreme Court regarding the NLRA. I define major decisions as all those highlighted in the NLRB's annual reports and the Supreme Court and NLRB decisions highlighted in the press. Annual reports are available on the NLRB's website and offer extensive information about decision highlights. I use ProQuest's historical newspaper database searching 12 publications by year to look for changes highlighted in the press.[6] I give a score of one to any judgement by the Board or the Supreme Court that reinterpreted the law or applied the law to a new area with the result of increasing workers' rights, a score of zero to any decision that did not change existing interpretation of the law and a score of negative one to any decision that adjudicated law such to circumscribe workers' rights. In Appendix A, I list positive and negative decisions by year.

As we can see, between 1962 and 1979, there was a general upward trend—meaning that the NLRA was reinterpreted year after year to make it better able to serve its purported function of protecting workers. This does not necessarily mean that between these years, it was easier to form unions or bargain collectively. The 1960s and 1970s witnessed dramatic change in the economy—growing foreign competition, the decreasing importance of manufacturing and the growth of the white-collar jobs. Indeed, between 1964 and 1980, imports as a percentage of gross domestic product (GDP), a common proxy for globalisation, increased by 155 per cent. Similar changes were taking place at home as many former union jobs moved to the West and South where state laws were generally more hostile towards labour. At the same time, some have argued that unions became more complacent during the 1950s, 1960s and 1970s. 'Why should we worry about organizing people who do not want to be organized?' opined George Meany, president of AFL-CIO from 1955 to 1979 (Lichtenstein, 2013). These changes would have worked in the opposite direction frustrating unionisation. Thus, a period where the index has a positive slope shows that, all else equal, federal labour law was made more favourable towards workers.

One of the major decisions that contributed to the labour friendly interpretation of the NLRA between 1961 and 1962 was *Plauche Electric, Inc.* In this decision, the NLRB 'discarded "a rigid rule" that picketing at a multiemployer site was unlawful' and allowed for 'common situs picketing by a union whose signs clearly evidenced that the picketing was directed only against the employer with who it had a dispute'.[7] Between 1969 and 1970, the index has a slope of negative one. One of the major decisions that positively affected the score, but was ultimately cancelled out by

[5] *Business Week,* 'NLRB Ruling That Are Inflaming Labor Relations', Jun. 11, 1984, p. 122.
[6] For NLRB annual reports, see https://www.nlrb.gov/reports-guidance/reports/annual-reports.
[7] See NLRB annual report, 1962, pp. 27–28.



Source: See text.

Figure 3: Adjudication of the NLRA by the NLRB and the Supreme Court

decisions moving law in the other directions, was *Cornell University*, in which the NLRB asserted jurisdiction over non-profit educational institutions. In this decision, the Board departed from its previous policy. In doing so, it expanded the number of institutions under its protective net.[8]

Between the fiscal years of 1979 and 1983, there was not much change in the interpretation of the NLRA. Neither Jimmy Carter, during the end of his presidency, nor Ronald Reagan, during the beginning of his first term, could appoint a majority to the NLRB because of filibuster during congressional appointment hearings. Thus, the board was frozen in a standstill. This limbo ended abruptly in 1983 when Donald Dotson was confirmed as chairman. Moving with the winds of political change, Dotson and the other NLRB appointees rapidly reinterpreted the NLRA. This change was to be expected given Dotson's views on labour. Writing to the *American Bar Association Journal* in 1980, Dotson explained that '[c]ollective bargaining frequently means labor monopoly, the destruction of individual freedom and the destruction of the marketplace as the mechanism for determining the value of labor'.[9]

Between 1983 and 1984, the index fell six units. One of the major decisions that contributed to this score was *Meyers Industries* where the NLRB, overruling a previous finding, decided that a single employee acting for his own benefit, even if relevant to other workers, does not constitute collective actions. In this case, a truck driver reported his employer to state authorities because his truck had faulty brakes, which the company refused to fix. The driver was fired for his action, and the *Meyers Industries* decision denied the driver protection under the NLRA because he had acted individually. Another decision that went into the 1984 score was *St. Francis II* where the NLRB made the bargaining unit at hospitals into two groups: professionals and non-professional. A broader bargaining unit, as in this case, is more difficult to organise because of potential conflicts of interest between workers from different positions.[10]

[8] See NLRB annual report, 1970, p. 22.
[9] *New York Times*, 'New Tone and Tilt on Labor Board', 2 Feb. 1984.
[10] See NLRB annual report, 1984, pp. 21–23.

Although less marked, the NLRA continued to be re-adjudicated to the benefit of employers when George Bush Senior was in the oval office. During Bill Clinton's two terms as president, the downward trend was halted and temporarily reversed. However, these developments look like a short blip compared with what came before.[11] With the beginning of George W. Bush's time in office, the trend dramatically reversed. Indeed, the activities of the NLRB and Supreme Court during W. Bush's presidency were as dramatic as during Ronald Reagan's presidency. One of the decisions that contributed to this negative score was *AMF Trucking & Warehousing*, *Inc.* where the Board found that management does not have to prove financial distress claims during contract negotiation. 'Traditionally, when companies in contract talks say they cannot afford what the unions are seeking', explains Steven Greenhouse in the *New York Times*, 'they are required to provide information detailing their financial condition'.[12] The AMF decision changed precedent creating an important source of asymmetric information between employers and employees. Another major decision tilting the NLRA to the benefit of employers was *IBM Corp.* where the NLRB found that employees in non-union workplaces are not entitled to have a co-worker accompany them to a disciplinary meeting with their employer.[13]

The index presented in this section is far from perfect. For example, some NLRB and Supreme Court decisions had much larger effects than others. Thus, giving all positive and negative judgements the same absolute score affects the form the index takes. Furthermore, some important decisions could have been left out. However, I think the general trends in each of the periods mentioned previously represent a good first quantitative approximation of the change in interpretation of the NLRA and the general inclination of federal labour law during the period.

And, as we can see, the beginning of the 1980s marks a systematic transformation in the orientation of federal labour law. In the 1960s and 1970s, there was a general upward trend. During Nixon's time as president, that trend was stalled and was even slightly reversed for a few years. However, the change was a short-term deviation, which was reversed under Gerald Ford and in the beginning of Jimmy Carter's term in office. After Reagan appointees took over the NLRB in 1983, the trend was reversed. From then until present, there is a steep, secular downward trend—the NLRA has been reinterpreted year after year to the detriment of the American worker. During Clinton and Obama's time as president, the downward trend was stalled and was even slightly reversed for a few years. However, these developments, like those when Nixon was in office, were short term and do not detract from the general trend during the period.

3 DELAYS AT THE NATIONAL LABOR RELATIONS BOARD

In the early 1980s, when the Board was in limbo and then after Donald Dotson received congressional approval, an unprecedented case backlog developed at the NLRB elongating the time it took to respond to unfair labour practice and

[11] The inefficiency of Clinton and his Board is not terribly surprising given Clinton was a new centrist Democrat that had intentionally tried to distance himself from labour and other interests traditionally part of the Democratic coalition. Also, the Clinton Board faced intense pressure from Congress. For Clinton's political leanings, see Patterson, James T. Restless Giant: The United States from Watergate to Bush v. Gore. Oxford University Press, 2005, pp. 246–253. For Congressional pressure, see Gould (2000).
[12] *The New York Times*, 'Labor board's detractors see a bias against workers', 2 Jan. 2005.
[13] See NLRB annual report, 2004, pp. 26–29.

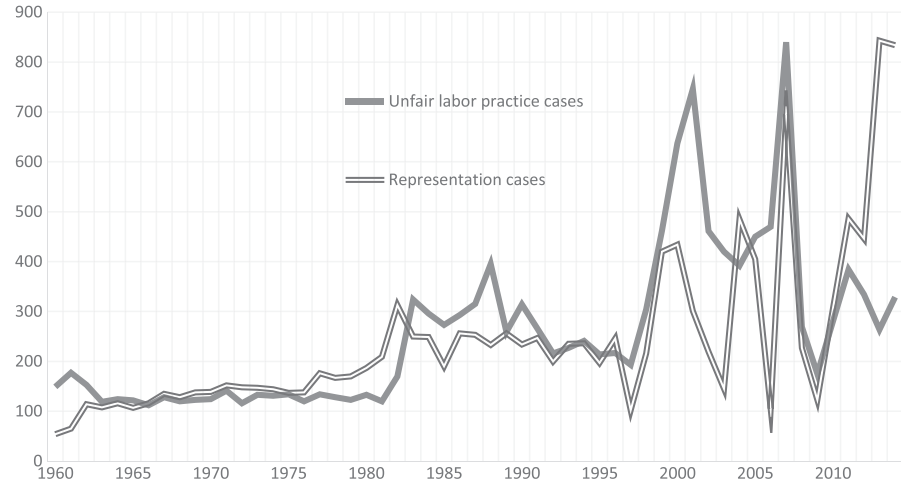
representative cases. Unfair labour practices are defined as actions taken by an employer or union that are deemed illegal by the NLRA.[14] Representative cases deal with certification of bargaining units and election results. Employees trying to form a union must receive approval by the NLRB on their bargaining unit, the group of employees their union will represent. Some bargaining units are pre-approved. However, others, especially in areas traditionally unorganised, like hospitals in the 20th century, need case-specific approval.

Delays in deciding unfair labour practices and representative cases can take the wind out of any union drive—even if the final decision is in favour of the union. The drive to unionise a Cottrell factory in 1985 illuminates this point. The 'biggest obstacle to its organising', explained union representatives from Communication Workers of America, 'was the National Labor Relations Board'. The board dragged its feet slowly deciding unfair labour practice allegations that Cottrell had illegally dismissed an employee who was actively promoting collective bargaining. Bill Kiser, the union organiser, explained that 'foot-dragging' by the NLRB had a 'chilling effect' on Cottrell workers. 'We weren't able to show the workers that they couldn't be fired, and that the company couldn't get away with it if they were fired.' Slow reinstatement of illegally fired workers who promote collective bargaining is an easy way to spread fear among workers. If the union cannot show that such actions will be quickly reprimanded, workers' voting decisions during a union drive will be affected.[15]

Likewise, long delays to certify a bargaining unit can drain workers' motivation to unionise and scare workers away from unions. For example, during the 1980s, many nursing unions won NLRB-supervised elections. However, they had to wait years at a time for the Board to order hospital management to bargain with the union because of unclear rules on bargaining units at hospitals, appeals filed by management capitalising on these ambiguities and an NLRB sympathetic to business. 'Unfortunately, the history of representation cases in the health-care industry', commented James Stephens, chair of the Board in the late 1980s and early 1990s, 'has been delay compounded by delay'.[16] Management at many hospitals used these delays to show employees that unions were ineffective even if supported by a majority of workers.

In Figure 4, I present data on the median number of days it took the NLRB to decide unfair labour practice and representative contested cases.[17] The data were collected through three different sources, a General Accounting Office report on delays, NLRB annual reports and a freedom of information request to the NLRB.[18] As we can see, between 1963 and the late 1970s, the time it took the board to decide contested unfair labour practice cases remained stable between 100 and 150 days. Likewise, the time it took to decide contested representative cases stayed between 50 and 170 days. However, in the 1980s, delays increased dramatically. On average

[14] For example, firing an employee for union activity is illegal and would qualify as an unfair labour practice. The remedy for such a violation is reinstatement of the employee and back pay from the date of the illegal firing to when the employee was reinstated or, if the employee got another job, until the new job started.
[15] *The New York Times*, 'In 50 Years, Unions Move From Fans to Foes of Labor Board', 9 Jul. 1985.
[16] *The New York Times*, 'Why Labor is at Odds with the NLRB', 30 Oct. 1988.
[17] Median days reported from date of administrative law judge decision or close of regional hearing to date of board decision.
[18] General Accounting Office. 1991. Actions needed to improve case-processing time at headquarters.



Source: See text.

Figure 4: Median days for NLRB to decide contested cases

during the 1980s as compared with the 1960s and 1970s, delays in deciding representative contested cases increased by around 85 per cent, and delays in unfair labour practice contested cases almost doubled.

The astonishing fact about Figure 4 is that in the late 1990s and 2000s, delays in deciding contested cases increased even more dramatically. Between 1998 and 2008, on average, the NLRB took more than 330 days to decide representative contested cases. Even more outrageous, during this same period, the Board took almost 500 days on average to decide unfair labour practice contested cases. This latter figure represents more than a 90 per cent increase in delays from the 1980s and almost a 280 per cent increase from the 1960s and 1970s. The increase in delays at the NLRB made ineffective central elements of the NLRA. Combined with reinterpretation of the act looked at in the previous section, the NLRA and the NLRB became more of an obstacle to bargaining collectively than a facilitator of it.

4 PERMANENT REPLACEMENT WORKERS

The social context that surrounds unions and workers also changed dramatically in 1981 when the new president of the United States, Ronald Reagan, fired 11,400 striking air traffic controllers and in the process destroyed the Professional Air Traffic Controllers Organization (PATCO) union. None of the strikers were reinstated even though the Federal Aviation Administration remained critically understaffed through the end of the decade (McCartin, 2011). Employers and workers in the public and private sectors took note. As described by Martin Jay Levitt, a former business consultant for union busting, 'In ninety days, Ronald Reagan recast the crimes of union busting as acts of patriotism' (Levitt, 1993). Employers suddenly became much more willing to use or threaten to use permanent replacements when workers went on strike.

The NLRA made the strike a protected activity in 1935. However, it left many questions about law pertaining to strikes unclear. In 1938, the Supreme Court answered one of these questions when it ruled, in *Mackay Radio and Telegraph Co.*,

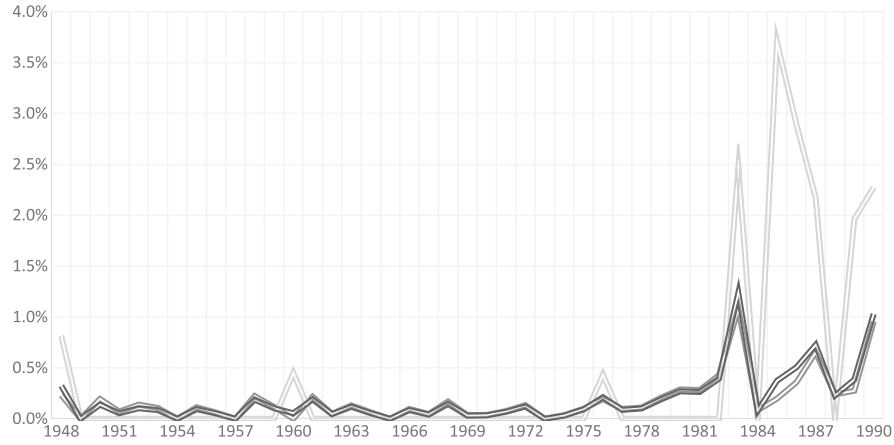
that it is legal for a company to hire permanent replacement workers during an economic strike—a work stoppage that is not wholly or partially motivated or prolonged by the employer committing an unfair labour practice.[19] As mentioned previously, an unfair labour practice can be anything from failure to bargain in good faith, to demonstrating anti-union bias, to firing striking workers. This ruling created a loophole through which employers, if careful not to commit an unfair labour practice, could outmanoeuvre labour's most important weapon. However, the usage of permanent replacement workers remained insignificant until after the PATCO strike in 1981.

To have a systematic idea of the change explained previously, I have compiled yearly data on utilisation of permanent replacement workers between 1948 and 1990 using a Westlaw keyword search of 'Mackay Radio' and 'NLRB' while filtering out all cases that do not apply.[20] Cases are primarily NLRB contested cases, meaning administrative law judges decisions that have been challenged by the employer or the union bringing the case to the NLRB in Washington DC for a decision. However, airline strikes, which do not go through the NLRB because they fall under the Railway Act, are also picked up. In total, over 700 cases were examined; however, only 131 represented economic strikes were the employer utilised permanent replacement workers. For each case, I have collected data on the number of permanent replacements, the categorical size of the strike and the year the strike commenced. There are both benefits and disadvantages to this method. Legal cases have consistent terminology and are generally accurate. However, it is highly likely that the keyword search did not return the entire population of NLRB and Railway Act cases (LeRoy, 1995).

In Figure 5, I display data on the number of struck employers utilising permanent replacements as a percentage of all work stoppages in each year from 1948 to 1990. The dark line includes data for all strikes—large and small. The intermediate grey line is for permanent replacement workers used in strikes idling less than 1,000 workers, and the light grey line is for large strikes only. I present the data as a per cent of strike activity to give a better idea of the relative degree to which employers utilised permanent replacements. It should be noted that these statistics represent a lower bound. They include data on all strikes but not necessarily data on all instances where employers utilised permanent replacements. Cases involving the usage of permanent replacement workers are listed by year in Appendix B.

As we can see, in the decades after the *MacKay* decision, permanent replacement workers were utilised infrequently in both large and small strikes. From 1948 to 1979, only 0.1 per cent of employers faced with a strike hired permanent replacements. As asserted by Greenhouse (2008), Moody (1988) and others, addressing unions during labour-management confrontations was the norm. A détente existed between management and labour. This détente was limited, not completely stable and did not represented labour's chief aspirations during the years of strong union growth in the late 1930s and early 1940s (Lichtenstein, 2013). However, mid-century labour relation norms were starkly different than that which abruptly took its place in the 1980s. Indeed, in the one large strike where permanent replacements were utilised between 1950 and 1970, the employer, United Aircraft, did

[19] *NLRB v. Mackay Radio & Telegraph Co. 304 U.S. 333 (1938)*.
[20] This method is adopted from LeRoy (1995) while examining cases to filter primary search results and to obtain data on the year the strike commenced, size of the strike and number of permanent replacements.



Source: See text.

Figure 5: Usage of permanent replacement workers

not seek to break the union. Instead, it signed a new contract with the union even though it had replaced a substantial number of employees. In contrast to more recent strikes, many incidents of permanent replacements were coincident with destruction of unions.

As we can see in Figure 5, there was a gradual increase in the usage of permanent replacements in 1980 and 1981 with 0.3 per cent of all struck employers hiring permanent replacements. This was purely a phenomenon of small strikes. In those two years, no large private employers utilised permanent replacements. From there, the frequency of permanent replacements in all strikes increased dramatically reaching 1.3 per cent in 1983 and 1.0 per cent in 1990. The interesting development in this period is the increased incidence during large strikes. From 1981 to 1990, on average, 1.5 per cent of employers faced with work stoppages idling 1,000 workers or more utilised permanent replacements—one percentage point higher than the average for all strikes. This is both the result of a dramatic fall in the number of large strikes and an increase in the number of large employers utilising permanent replacements.

5 WHY DID LABOUR STOP STRIKING AND USING THE NLRB?

Coming back to the questions posited in the beginning of the article: did intrafirm power dynamics change solely because of change in top marginal tax rates, which motivated top management to fight for higher pay as described by Piketty, Saez and Stantcheva (2014)? As we have seen previously, there were significant changes in the interpretation and administration of the NLRA and in the overall social context encompassing employer–employee relations. Did these changes affect labour's strategy in responding to the increase in anti-union tactics utilised by management as described by Bronfenbrenner (2009)? Do they also help explain labour's unwillingness to utilise the NLRB—the main federal labour law—and the strike—one of labour's most potent weapons—from the 1980s on? Or did labour stop using the strike because of globalisation?

In Table 1, I report regression results on interpretation of the NLRA, delays at the NLRB, the change in social context from Reagan's response to the 1981 PATCO

Table 1: Changes in the rules of the game for labour

	Case intake at NLRB	Case intake/ labour force	Large strikes	Small strikes	All strikes
Interpretation of	1005.0***	0.008***	−0.016	35.90***	35.88***
$NLRA_{-1\ Year}$	(95.967)	(0.001)	(1.218)	(7.456)	(8.116)
Delays at NLRB	−17.78***	−0.0001***	−0.009	−0.355	−0.364
	(5.336)	(0.000)	(0.068)	(0.415)	(0.451)
1981 *PATCO Strike*	−7221.2**	−0.117***	−162.2***	−1755.6***	−1917.8***
	(2865.804)	(0.022)	(36.360)	(222.644)	(242.363)
Top Marginal Tax	−38323***	−0.215***	70.49	−902.0	−831.511
$Rate_{-1\ Year}$	(8641.178)	(0.066)	(109.634)	(671.332)	(730.789)
Unemployment	139610***	1.266***	−1239.9**	3657.9	2418
	(44457)	(0.341)	(564.049)	(3453.879)	(3759.8)
Globalization $\left(\frac{Imports}{GDP}\right)$	1670.6***	0.003	−11.21***	27.161	15.95
	(322.779)	(0.002)	(4.095)	(25.077)	(27.298)

Source: Permanent Replacement Workers Dummy & NLRA $index_{-1}$ comes from author. Median time to decide ULP contested cases comes from NLRB annual reports, ALJ to Board decision and pre-election hearing to Board decision. Unemployment rate comes from BLS. Top marginal tax rates come from Piketty (2014). Robust standard errors in brackets where as follows:

* indicates statistical significance at the 10 per cent level.

** indicates statistical significance at the 5 per cent level.

*** indicates statistical significance at the 1 per cent level.

strike, the top marginal tax rate, unemployment and globalisation on changes in labour strategies from 1964 to 2009. For the change in social context after the 1981 PATCO strike, I use a dummy that is zero in and before 1981 and one after. For delays, I use median days to decide contest unfair labour practice cases presented in Figure 4. For change in adjudication of the NLRA, I use the index presented in Figure 3 lagged one year—because judicial decisions take effect more slowly. For the top marginal tax rate, I use data from Piketty (2014) and lag it one year because tax policy also has a lagged effect on the strategy choices of management and possibly labour, and for globalisation, I use imports as a percentage of GDP. For the dependent variables, which are listed in the top row of Table 1, I look at total case intake at the NLRB, case intake as a percentage of the civilian labour force, work stoppages idling more than 1,000 workers, work stoppages idling less than 1,000 workers and all work stoppages.

In terms of the first two dependent variables, reinterpretation of the NLRA to benefit management is associated with a large decrease in case intake at the NLRB. Likewise, an increase in delays at the NLRB is associated with decrease in case intake, and the dramatic change in the social context encompassing labour relations had a strong negative effect on utilisation of the Board. What is happening? Workers were present to the change in governments' role as an arbitrator of employer–employee relations. They realised the NLRB was being remade to their detriment and thus decreased the degree to which they sought refuge in the Board even though employers were increasingly breaking the law. 'Many of our unions campaign to have employers recognize them without going to the NLRB', explained Lane Kirkland, president of the AFL-CIO between 1979 and 1995. 'It has become an impediment.'[21] Speaking of a ruling by the courts against Bill Clinton's executive order to prohibit federal contracting to employers who utilised permanent replacement workers, Jon Hiatt, the AFL-CIO's general counsel, commented: 'Decisions like this convince unions to give up on the NLRB and the courts, and take to the streets.'[22]

In terms of the last three dependent variables, the change in social context from Reagan's response to the 1981 PATCO strike is the most statistically and economically significant across large, small and all strikes. Employers in the public and private sector realised that the president's actions had made it socially acceptable to hire permanent replacement workers and thus, employers did with increasing frequency. This affected labour's calculation of whether it should utilise the strike to confront management. Many 'unions became less aggressive', explained James Peirce, president of the National Federation of Federal Employees. 'If Reagan can destroy PATCO, he can destroy us, too. People didn't want to stick their neck out.'[23] Speaking of the same change, Director of the Labor Law Action Center at the United States Chamber of Commerce Mark de Bernardo explained in 1990, 'The balance has shifted. Labor's trump card is in a dispute, the strike, is no longer trump.'[24]

Another interesting point from Table 1 is that the effect of globalisation on labour's strategies is weak. It only seems to negatively affect large strikes. This outcome is in harmony with comments made by Reich (2016), Stiglitz (2002) and others: if

[21] *The Washington Post*, 'Organized Labor Toughens Its Stance', 3 Sep. 1989.
[22] *The New York Times*, 'Clinton Order Discouraging Striker Replacement Is Voided', 3 Feb. 1996.
[23] *The Washington Post*, 31 May 1987, p. A1.
[24] *The New York Times*, 'Replacement Workers: Management's Big Gun', 13 Mar. 1990.

managed correctly, globalisation can be a boon for all. However, at present, it is only benefiting some workers abroad and consumers and top management at home. We can see this in the data earlier because globalisation was taking place during the 1960s and 1970s. Imports as a percentage of GDP went from 4.1 per cent in 1964 to 10.3 per cent in 1980—a 155 per cent increase. From 1980 to 2008, the peak in the 2000s, imports increased by 69 per cent. However, during the 1960s and 1970s, globalisation was associated with an increase in case intake at the NLRB. This is because the NLRB was interpreting the NLRA to the benefit of labour and deciding cases relatively quickly. The weak statistical significance of globalisation comes from these two regimes: one regime that was managed much more favourably for workers and the current regime, the new American way, which is not.

The results presented here are far from perfect. They would benefit from a multistate analysis that incorporates differences in state level labour laws and from international comparison. The latter analysis needs to consider change in labour strategies from as many potential channels as possible—as was attempted here by looking at both case intake at the NLRB and large and small strike activity. Reduction in strike activity in Europe, as some have highlighted,[25] could mean labour is applying pressure through other channels. As we have seen here, a reduction in strike activity parallels reduction in usage of the NLRA, and the decline in both labour strategies is highly correlated with change in federal labour law and norms.

6 ADDRESSING INEQUALITY

The results analysed earlier shed light on how changes in the rules that frame employer–employee relations have transformed intrafirm power dynamics and thus the distribution of the gains from economic activity. These results are essential for understanding Piketty, Saez and Stantcheva (2014) who argue that changes in top marginal tax rates have incentivised top management to fight for higher pay; changes in labour law and norms made it possible for top management to win these fights because labour was no longer protected like in the past. Likewise, the results here are central to understanding Bivens and Mishel (2013), Hacker and Pierson (2010), Reich (2016), Stiglitz (2012) and others who argue that the increase in income inequality in the United States is a result of an increase in rent seeking and top managements' growing ability to capture those rents; the ability to capture rents stems from both a change in adjudication and administration of labour law, a dramatically different social context, and lower top marginal tax rates.

In terms of inequality at present, the results from this article show that it is paramount that we protect labour and collective bargaining. Unions are important to maintain a more equal intrafirm power balance and thus a more equal distribution of income—the exact reason for the passage of the NLRA in the 1930s. Initiatives like the minimum wage have the same result of checking employers' economic power. However, a minimum wage does not create political organisations that can defend against future changes in law. As can be imagined from above, changes in labour law stem from the political arena. Thus, it is important to consider political stability in responding to inequality. One of the failures of the past was that unions were not

[25] For example, see Bordogna (2010).

completely national in scope. Southern Democrats during the New Deal and Fair Deal wanted to extend federal aid to their region but were unwilling to compromise Jim Crow. Thus, many New Deal and Fair Deal laws, like the NLRA and social security, were written to exclude African Americans (Katznelson, 2005). This led to a semi-national system and made it harder to resist the flood of political change unleased in the 1980s seeking to disempower the American worker. Consequently, it is important, when remaking laws framing employer–employee relations, to be vigilant to not exclude any workers. This is a difficult task given the state of politics and history with race in the United States. However, it is not impossible, and the consequence to all is great if ignored.

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APPENDIX A. NLRB AND SUPREME COURT MAJOR DECISIONS

NLRB major decisions

1962	*Hot Cargo*	−1	1975	*Trustees of Noble Hospital*	1
	Sheffield Corporation	1		*Mercy Hospitals of Sacramento*	1
	Ideal Electric and Manufacturing Company	1		*Alleluia Cushion Co.*	1
	Blinne, Charlton, Stork, and Crown	1		Total	3

(Continues)

(*Continued*)

NLRB major decisions

	Plauche Electric, Inc.Plauche Electric, Inc.Plauche Electric, Inc.	1	1976	*Trading Port*	1
	Quaker City Life Insurance Company	1		*Rhode Island Catholic Orphan Asylum*	1
	Total	4		Total	2
1963	*General Cable Corp.*	1	1977	*Foley, Hoag & Eliot*	1
	Houston Chapter, AGC	1		*Florida Steel Corp.*	1
	Isis Plumbing & Heating Co.	1		*Shopping Kart Food Market*	−1
	Total	3		Total	−1
1964	*Fafnir Bearing Co.*	1	1979	*Westinghouse Electric Corp., East Dayton Tool & Die co*	1
	Total	1		*General Knit of Calif.*	1
1965	*Garwin Corp. et al.*	1		Total	2
	Maintenance, Inc.	1	1982	*Bruckner Nursing Home*	−1
	Total	2		*Materials Research Corp*	1
1966	*Excelsior*	1		Total	0
	Total	1	1983	*Gulton*	−1
1967	*Perma Vinyl Corp*	1		Total	−1
	Holiday Inn	1	1984	*Meyers Industries*	−1
	Total	2		*St. Francis II*	−1
1968	*Local 447, United Assn. of Journeymen, etc.*	1		*Rossmore House*	−1
	Butte Medical Properties	1		*Gourmet Foods Inc.*	−1
	Total	2		Total	−4
1970	*Southwestern Pipe*	−1	1985	*Ducane*	−1
	Cornell University	1		*Holyoke Water Power Co.*	1
	Burns Detective Agency	1		*Indianapolis Power & Light Co.*	−1
	Total	1		*Sears, Roebuck & Co.*	−1
1971	*C.W. Post Center of Long Island University*	1		Total	−2
	Total	1	1986	*Gordon Construction*	−1
1972	*IAM [Lufthansa]*	−1		*Res-Care, Inc.*	−1
	Total	−1		*Kokomo Tube Co.*	−1
1973	*Jubilee Manufacturing Co.*	−1		Total	−3
	Total	−1	1987	*Station KKHI*	−1

(*Continues*)

(Continued)

NLRB major decisions

1974	*Steel-Fab*	−1		*New Horizons for the Retarded*	−1
	Total	−1		*Young Men's Christian Assn.*	−1
				Harter Equipment	−1
				Total	−4

NLRB major decisions

1988	*E. I. duPont & Co.*	−1	2002	*MV Transportation*	−1
	Steelworkers	1		Total	−1
	Jean Country	−1	2003	*Postal Service:*	−1
	Total	−1		*Alexandria Clinic, P.A.*	−1
1989	*Nickles Bakery of Indiana*	−1		Total	−2
	Power piping co.	−1	2004	*Saint Gobain Abrasives, Inc.*	−1
	Indianapolis Power II	1		*Brown University*	−1
	Total	−1		*IBM Corp.*	−1
1991	*A & L Underground*	−1		*Martin Luther Memorial Home, Inc.*	−1
	Hospital Employees 1115 Joint Board	−1		*H.S. Healthcare L.L.C.*	−1
	Healthcare bargaining units	1		*AMF Trucking & Warehousing, Inc.*	−1
	Total	−1		*Bunting Bearings Corp.*	−1
1993	*Electromation, Inc.*	1		Total	−7
	Total	1	2005	*Harborside Healthcare, Inc.*	−1
1995	*Management Training Corp.*	1		*Crown Bolt, Inc.*	−1
	North Macon Health Care Facility	1		*St. Joseph News-Press*	−1
	Driftwood	−1		*Bath Iron Works Corp.*	−1
	Total	1		Total	−4
1996	*Sunrise Rehabilitation Hospital*	1	2007	*Dana Corp.*	−1
	Speedrack Products Group	−1		*The Guard Publishing Company*	−1
	Total	0		*BE & K Construction Co.*	−1
1999	*Central Transport, Inc.*	−1		*Oil Capital Sheet Metal, Inc.*	−1
	Production & Maintenance Local 101	1		*Jones Plastic & Engineering Company*	−1

(Continues)

(Continued)

NLRB major decisions

	TNT Skypak, Inc.	1		Total	−5
	St. Elizabeth Manor, Inc.	1	2010	*Jackson Hospital Corporation*	1
	Total	2		*J & R Flooring, Inc.*	1
2000	*Boston Medical Center Corporation*	1		Total	2
	Family Service Agency:	−1	2011	*NLRB v. American Medical Response*	1
	Epilepsy Foundation of Northeast Ohio	1		*Specialty Healthcare*	1
	Office Employees Local 251	1		*Lamons Gasket Co.*	1
	New York University	1		*UGL-UNICCO Service Company*	1
	M.B. Sturgis	1		Total	4
	Springs Industries, Inc.	1	2012	*D.R. Horton, Inc.*	1
	Total	5		Total	1
2001	*Levitz*	1			
	New York State Nurses Assn.	−1			
	Total	0			

Supreme Court major decisions

1964	*NLRB v Fruit & Vegetable Packers*	1	1994	*National Labor Relations Board v Health Care & Retirement Corporation of America*	−1
	Total	1		Total	−1
1965	*American Ship Building Co. v. NLRBc*	−1	1997	*Allentown Mack Sales & Service v. NLRB*	−1
	Textile Workers Union v. Darlington Mfg. Co.	−1		Total	−1
	Total	−2	2001	*NLRB v. Kentucky River Community Care*	−1
1970	*H. K. Porter Co., Inc. v. NLRB, 397 U.S. 99*	−1		Total	−1
	Boys Market	−1	2002		−1

(Continues)

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Supreme Court major decisions					
				Hoffman Plastic Compounds, Inc. v. National Labor Relations Board	
	Total	−2		Total	−1
1972	*Granite State*	−1	2006	*Ledbetter v. Goodyear Tire & Rubber*	−1
	Total	−1		Total	−1
1975	*NLRB v. Weingarten, Inc.*	1	2008	*Chamber of Commerce v. Brown*	−1
	Total	1		*Gross v. FBL Financial Services*	−1
1980	*NLRB v. Yeshiva Univ.*	−1		Total	−2
	First National Maintenance Corporation	−1	2010	*New Process Steel, L.P. v. National Labor Relations Board*	−1
	Total	−2		Total	−1
1981	*National Maintenance Corporation v. the NLRB*	−1	2011	*Harris v. Quinn*	−1
	Total	−1		Total	−1
1984	*NLRB v. Bildisco*	−1	2013	*Vance v. Ball State University*	−1
	Total	−1		*University of Texas Southwestern Medical Center v. Nassar*	−1
1988	*Communications Workers of America v. Beck*	−1		Total	−2
	Total	−1	2014	*National Labor Relations Board v. Noel Canning et al.*	−1
1989	*TWA v. Flight Attendants*	−1		Total	−1
	Total	−1			
1992	*Lechmere v. National Labor Relations Board*	−1			
	Total	−1			

APPENDIX B. PERMANENT REPLACEMENT CASES

Year of work stoppage	Case	Year of work stoppage	Case
1948	Nashville Corp., 94 NLRB 1567	1972	Bio-Science Lab., 209 NLRB 796
1948	The Cincinnati Steel Castings Co., 86 NLRB 592	1974	Methodist Hosp. of Ky., 227 NLRB 1392
1948	Mackay Radio & Tel. Co., 96 NLRB 740	1975	Markle Mfg. Co., 239 NLRB 1142
1948	Celanese Corp. of Am., 95 NLRB 664	1975	Charles D. Bonnano Linen Serv., 229 NLRB 629
1948	Belmont Radio Corp., 83 NLRB 45	1975	Eagle Int'l, Inc., 223 NLRB 29
1950	The United States Cold Storage Co., 96 NLRB 1108	1976	Crossroads Chevrolet, Inc, 233 NLRB 728
1950	The Office Towel Supply Co., 97 NLRB 449	1976	Heritage House, Inc., 245 NLRB 242
1951	Bartlett-Collins Co., 110 NLRB 395	1976	Pittburgh & New Eng. Truck. Co., 238 NLRB 1706
1952	Oklahoma Furniture Mfg. Co., 104 NLRB 771	1976	Windham Community Hosp., 230 NLRB 1070
1952	Kerrigan Iron Works, Inc., 108 NLRB 933	1976	Atlantic Creosoting Co., 242 NLRB 192
1952	Kerrigan Iron Works, Inc., 108 NLRB 933	1976	Atlantic Creosoting Co., 242 NLRB 192
1953	Broward Marine, Inc., 112 NLRB 1443	1976	M.C.C. Pac. Valve, 244 NLRB 931
1953	California Date Growers Ass'n, 118 NLRB 246	1977	Forest Beverage Corp., 265 NLRB 285
1955	Belton Smelting & Refining Works, Inc., 115 NLRB 4	1977	Standard Metal, Inc., 237 NLRB 1136
1955	Economy Stores, Inc., 120 NLRB 1	1977	Randall Burkhart, 257 NLRB 1
1956	Bob Saunders Co., 118 NLRB 415	1978	Superior Nat'l Bank, 246 NLRB 721
1958	Jackson Mfg. Co., 129 NLRB 460	1978	Burlington Homes, Inc., 246 NLRB 1029
1958	Crookston Times Printing Co., 125 NLRB 304	1978	Associated Grocers, 253 NLRB 31
1958	Shook & Fletcher Insulation Co., 130 NLRB 519	1979	Brinkerhoff Signal Corp., 265 NLRB 348
1958	Mission Mfg. Co. 128 NLRB 275	1979	Champ Corp., 291 NLRB 803

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Year of work stoppage	Case	Year of work stoppage	Case
1959	Barney's Supercenter Inc., 128 NLRB 1325	1979	Carruthers Ready Mix, Inc., 262 NLRB 739
1959	Erie Resistor Co., 132 NLRB 621	1979	Delta Macon Brick & Tile Co., 289 NLRB 830
1960	United Aircraft Corp., 192 NLRB 382	1979	Garrett R.R. Car, 275 NLRB 1032
1961	American Optical Co., 138 NLRB 940	1979	Lone Star Indus., 279 NLRB 78
1961	Titan Metal Mfg., Co., 135 NLRB 196	1980	Gem City Ready Mix Co., 270 NLRB 1260
1961	Albritton Eng'g Corp., 138 NLRB 1482	1980	Harvey Eng'g, 270 NLRB 186
1962	Redwing Carriers, Inc., 137 NLRB 1545	1980	Lehigh Metal Fabricators, 267 NLRB 568
1963	Crown Coach Corp., 155 NLRB 625	1980	Whisper Soft Mills, 267 NLRB 133
1963	Empire Terminal Warehouse Co., 151 NLRB 1359	1980	Kurz-Kasch, Inc., 286 NLRB 876
1964	Local Union 8280, UMW, 166 NLRB 271	1980	Aqua-Chem, Inc., 288 NLRB 1108
1966	Laidlaw Corp., 171 NLRB 1366	1980	Rapid Armored Truck Corp., 281 NLRB 371
1966	Georgia Highway Express, Inc., 165 NLRB 514	1980	Overhead Door Corp., 261 NLRB 657
1967	International Van Lines, 177 NLRB 353	1981	Armored Transfer Serv., 287 NLRB 1244
1968	Ace Drop Cloth Co., 178 NLRB 664	1981	Hydrologics, Inc., 293 NLRB 1060
1968	Downtowner of Shreveport, 175 NLRB 1106	1981	Barry-Wehmiller Co., 271 NLRB 471
1968	American Photocopy Equip., 186 NLRB 172	1981	Chromalloy Am. Corp., 286 NLRB 868
1968	Laher Spring & Elec. Car Corp., 192 NLRB 464	1981	TNS, Inc., 309 NLRB 1348
1969	Southwest Engraving Co., 198 NLRB 694	1981	Johns-Manville Sales Corp., 289 NLRB 358
1970	Montgomery Ward & Co., 202 NLRB 593	1982	Denver Hilton Hotel, 272 NLRB 488
1971	Service Protective Covers, Inc., 199 NLRB 977	1982	Service Elec. Co., 281 NLRB 633

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Year of work stoppage	Case	Year of work stoppage	Case
1971	Food Serv. Co., 202 NLRB 790	1982	Brandy-Stannard Motor Co., 273 NLRB 1434
1972	CYR Bottling & Co., 204 NLRB 527	1982	P & C Food Mkts., 282 NLRB 894
1972	Woodland Hosp., 233 NLRB 782	1982	Southwest Merchandising Corp., 296 NLRB 1001

Year of work stoppage	Case
1983	Gaywood Mfg. Co., 299 NLRB 697
1983	Wilder Constr., 276 NLRB 104
1983	Ford Bros., 294 NLRB 107
1983	Harriosn Ready Mix Concrete, 272 NLRB 331
1983	Sunbelt Enters., 285 NLRB 1155
1983	Wright Tool Co., 282 NLRB 1398
1983	Gilmore Steel Corp., 291 NLRB 185
1983	O'Neill v. Air Line P. A., 886 F.2d 1438 (5th Cir.)
1983	USWA v. Phelps Dodge, 865 F.2d 1439 (9th Cir.)
1984	Reichold Chem., 288 NLRB 69
1985	Tile, Terrazzo & Marble Cont. A., 287 NLRB 79
1985	ALP Ass'n v. United, 802 F.2d 886 (7th Cir. 1986)
1985	Geo. A. Hormel & Co., 301 NLRB 12
1985	Chicago Tribune, 304 NLRB 259
1986	Waterbury Hosp. (The), 300 NLRB 992
1986	Christopher Constr., 288 NLRB 1272
1986	Outboard Marine Corp., 307 NLRB 1333
1986	Mike Yurosek & Son, Inc., 295 NLRB 304
1986	Alaska Pulp Corp., 296 NLRB 1260
1986	TWA v. Ind. Fed. of Flight Attendents, 489 US 426
1987	Transport Serv. Co., 302 NLRB 22
1987	Concrete Pipe & Prods. Corp., 305 NLRB 152
1987	Mohawk Liquer Co., 300 NLRB 1075
1987	Solar Turbines, Inc., 302 NLRB 14
1987	Textron, Inc., 302 NLRB 660
1987	Grocers Supply Co. (The), 294 NLRB 438
1987	International Paper Corp., 309 NLRB 31
1988	Daniel Finley Allen & Co., 303 NLRB 846
1988	Sunland Constr. Co., 309 NLRB 1224

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Year of work stoppage	Case
1989	Page Litho, Inc., 311 NLRB 881
1989	R.E. Dietz Co., 311 NLRB 1259
1989	Harvey Mfg. Co., 309 NLRB 465
1989	Eastern Airlines v. Air Line Pilots Ass'n, 744 F.
1990	Conway Central Express, 305 NLRB 837
1990	Sunol Valley Golf Club & Rec. Co., 310 NLRB 357
1990	Laidlaw Waste Sys., Inc., 313 NLRB 116
1990	Medite of N.M., Inc., 314 NLRB 183
1990	Auto Workers, Local Union 695, 311 NLRB 1328
1990	J.M.A Holdings, Inc., 310 NLRB 1349
1990	S & F Enters., Inc., 312 NLRB 123
1990	Greyhound Lines, Inc., 319 NLRB 76